

Civilian Review and
Complaints Commission
for the RCMP



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

ANNUAL REPORT
2018 - 2019

The Civilian Review and Complaints Commission for the RCMP (the Commission) is an agency of the federal government, distinct and independent from the RCMP.

VISION: The CRCC will become the national leader for independent review of policing activities through the provision of a relevant, timely and transparent complaint process.

MISSION: Deliver a robust complaint process which holds the RCMP accountable for its activities and the conduct of its members.

MANDATE: As set out in Parts VI and VII of the *Royal Canadian Mounted Police Act*, the mandate of the Commission is to:

- receive complaints from the public about the conduct of RCMP members;
- conduct reviews when complainants are not satisfied with the RCMP's handling of their complaints;
- initiate complaints and investigations into RCMP conduct when it is in the public interest to do so;
- review specified RCMP activities;
- report findings and make recommendations; and
- promote public awareness of the complaint process.

STRATEGIC OBJECTIVES:

- Strengthening the public complaint process.
- Strengthening the Commission's review and investigative capacity.
- Enhancing relations with provincial and territorial governments, as well as police and federal review bodies.
- Conducting specified activity reviews of RCMP programs, policies and practices.
- Increasing outreach, public education and engagement efforts.

The Civilian Review and Complaints Commission for the RCMP can be found online at:
www.crcc-ccetp.gc.ca or www.complaintscommission.ca.

Telephone from anywhere in Canada: 1-800-665-6878

TTY: 1-866-432-5837

Minister of Public Works and Government Services

The Honourable Ralph Goodale, P.C., M.P.

Minister of Public Safety and Emergency Preparedness
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister,

Pursuant to section 45.52 of the *Royal Canadian Mounted Police Act*, I hereby submit the annual report of the Civilian Review and Complaints Commission for the RCMP for the 2018–2019 reporting period for tabling in Parliament.

Yours truly,

A handwritten signature in white ink, appearing to read "Ms. Lahaie", written in a cursive style.

Micheline Lahaie
Chairperson

June 2019

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MESSAGE FROM THE CHAIRPERSON



Civilian review of policing is an essential aspect of maintaining the public trust in the nature and quality of policing in Canada. Without such trust, the rule of law that underpins a successful democracy is at risk.

Members of the public with complaints against the RCMP need to have confidence that the Commission will handle their complaints objectively, transparently, and fairly.

To that end, the Commission is focusing efforts on its most fundamental functions, beginning with addressing the current backlog of review requests, as well as strengthening its investigative capacity to allow for more robust investigations to be carried out by Commission investigators.

Through increased stakeholder engagement the Commission is working to gain a broader understanding of the policing challenges in provinces and territories that contract for RCMP services. Additionally, the Commission is meeting with community stakeholders in an effort to address real or perceived barriers that may prevent certain groups from using the public complaint process.

As the review body for Canada's largest and most diverse policing service, the Commission will also maintain its role in bringing the law enforcement oversight community of practice together to address the issues that shape the future of policing and police accountability mechanisms in Canada.

I look forward to continuing the work my colleagues and I have undertaken since my appointment in January 2019 to make the Commission an increasingly credible and effective review body.

THE COMPLAINT & REVIEW PROCESS

THE PUBLIC COMPLAINT PROCESS

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 complaints are investigated in the same manner as a complaint from a member of the public.

A complaint must be made within a year of the alleged conduct occurring.

Requests to review the RCMP's handling of a public complaint must be made within 60 days of receiving the RCMP's formal response to a complaint.

THE REVIEW PROCESS

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.

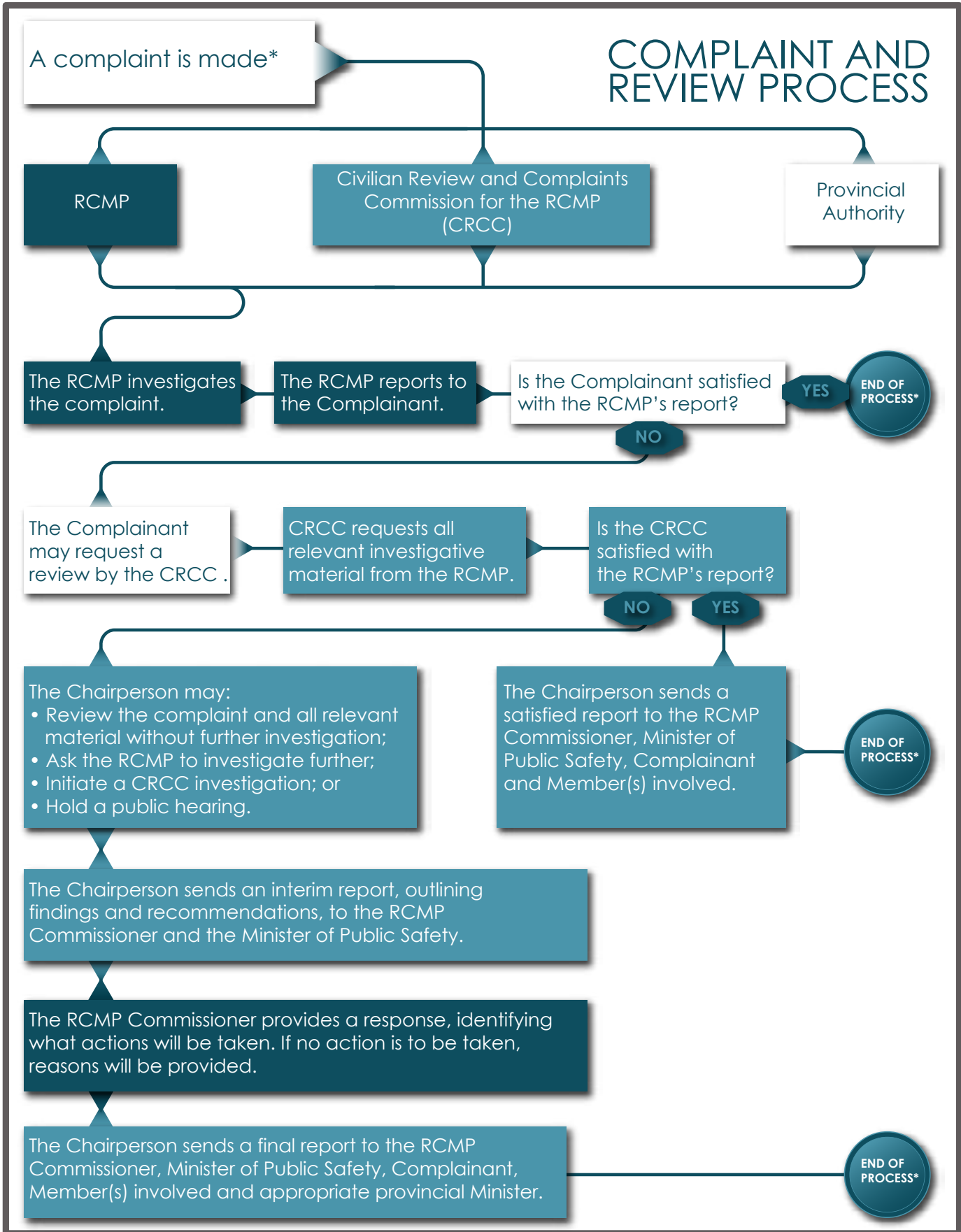
If the Commission is satisfied with RCMP's investigation, the Chairperson issues a **Satisfied Report**, thereby ending the review process.

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

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.



* The Chairperson can initiate a complaint. In addition, at any stage of the process, the Chairperson may institute an investigation or a hearing where it is considered in the public interest to do so.

2018 • **YEAR IN REVIEW** • 2019

Complaints

The public lodged **2,988** complaints

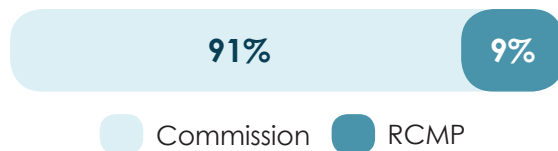
2,352

of those complaints met the criteria laid out in section 45.53 of the *Royal Canadian Mounted Police Act*

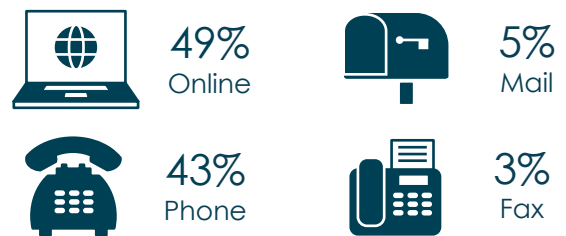
The public lodged **13%** more complaints than the previous year



Complaints lodged with the Commission vs. with the RCMP



How does the Commission receive complaints?



SERVICE STANDARDS

94% of complaints were sent to the RCMP within the **4-day** service standard

44% of Satisfied & Interim reports were completed within the **120-day** service standard

88% of Final reports were delivered within the **30-day** service standard

TOP ALLEGATION CATEGORIES

- Improper arrest
- Neglect of duty
- Improper attitude
- Mishandling of property
- Improper use of force
- Irregularity in procedure

2018 • **YEAR IN REVIEW** • 2019

Reviews

The Commission issued

255

review reports



The RCMP Commissioner accepted approximately

80% of Commission **recommendations**

84% of adverse Commission **findings**

ONGOING INVESTIGATIONS

The Commission has the following public interest investigations and systemic reviews underway:

- RCMP's Investigation of the Death of Colten Boushie
- RCMP's Policies and Procedures regarding Street Checks
- RCMP's Policies and Procedures regarding Strip Searches
- RCMP Use of Force against Elderly Couple
- RCMP's Bias-Free Policing Model
- RCMP's Crime Reduction-Type Units
- RCMP's Implementation of Justice O'Connor's Recommendations concerning National Security Activities

To learn more, visit the Commission's website

The Commission received **272** requests to review the RCMP's handling of public complaints

TOTAL EXPENDITURES

Salaries	6.2 M
Operating Costs	2.8 M
Employee Benefit Plans	0.9 M
Total	9.9 M

Note: Numbers represented are in millions

SAMPLE REVIEW FINDINGS

The public complaint process entitles complainants who are not satisfied with the RCMP's investigation and handling of their complaint to have it independently reviewed by the Commission.

The following are examples of findings and recommendations made by the Commission during the last reporting year.

RCMP MEMBER USE OF PERSONAL DEVICE AND CONFLICT OF INTEREST

A man filed a public complaint concerning an RCMP investigation that resulted in a criminal charge being laid against him. The man provided the name of a witness in support of his public complaint.

The RCMP member assigned to follow up with the witness was involved in the incident that led to the charge against the man.

The member recorded the witness' statement using his personal cell phone. When asked at a later date to provide a transcript of the recording, he could no longer locate the file on his personal cell phone.

This led to a second public complaint being filed by the man, alleging that the RCMP member neglected his duty by misplacing the recording, and had intentionally sabotaged the evidence.

The RCMP investigation into the complaint did not support these allegations.

Following its review, the Commission found that:

- there was an apparent conflict of interest when the member obtained a witness statement in relation to a public complaint concerning a matter he had been involved in;
- it was unreasonable for the subject member to use his personal cell phone to record a witness statement; and
- the member's handling of the digital recording was careless, unreasonable, led to a loss of evidence, and was inconsistent with RCMP national policy.

The Commission made a number of recommendations, including that the RCMP provide the complainant with an apology and that the member be provided with operational guidance concerning conflicts of interest, the use of personal equipment in police investigations, and the proper handling and retention of evidence.

The Commission also recommended that the RCMP consider amending its national RCMP policy to prohibit the use of personal devices (e.g. cell phones, cameras) to capture evidence in police investigations except in exigent circumstances.

The RCMP agreed with the Commission's findings. The RCMP generally agreed with all recommendations and noted that a number had already been implemented.

RCMP CONDUCTED AN IMPROPER SEARCH AND FAILED TO ACCEPT A PUBLIC COMPLAINT

A man asked an RCMP member patrolling a provincial beach if it was legal to have alcohol on the premises. The member responded that it was not, and proceeded to search the man for alcohol. None was located.

The man called the local RCMP detachment to make a public complaint against the member. The member on the phone refused to take his complaint.

The man then filed a public complaint directly with the Commission alleging that the member who searched him did so without legal authority and failed to provide his name when requested. The man's complaint also alleged that the member at the detachment refused his public complaint, and was argumentative and defensive.

The RCMP investigation into the public complaint only supported the allegation that the member at the detachment had failed to take the public complaint. The member was provided with operational guidance to ensure she understood her obligation to receive public complaints.

The Commission's review found that, while there was insufficient information to conclude that the first member failed to identify himself, the search for alcohol was unreasonable, as the member did not have probable grounds to do so.

With respect to the allegation concerning refusal of the public complaint, the Commission found that it was unreasonable for the member at the detachment to do so. The Commission's review also supported the allegation that the member was argumentative and defensive when dealing with the complainant.

The Commission recommended that the member who conducted the search be provided with operational guidance concerning the need to have reasonable and probable grounds before conducting a search for alcohol under the authority of the *Liquor Control and Licensing Act* of the province. The Commission also recommended that the RCMP member apologize to the complainant for the improper search and for being argumentative and defensive when dealing with him.

The RCMP agreed with three of the Commission's findings and two of its recommendations, but did not agree that the second member was argumentative and defensive when dealing with the complainant.

At the member's choosing, her statement to the public complaint investigator concerning the interaction with the complainant was not documented. As such, the Commission was unable to review it and could not give equal weight to the member's version of events when contrasted with the complainant's consistent version documented in his various statements.

Therefore, the Commission disagreed with the RCMP and reiterated its recommendation.

RCMP'S SEARCH OF MAN'S RESIDENCE LEADS TO HIS ARREST ON PROVINCIAL HIGHWAY

RCMP members executed a search warrant at a residence while the owner was not at home resulting in a warrant being issued for the owner's arrest. The man was located by RCMP while driving on a highway, was stopped and arrested, and his vehicle towed and impounded.

The man filed a public complaint alleging that RCMP members:

- conducted an improper search of his residence;
- conducted an improper arrest;
- illegally confiscated his vehicle after his arrest;
- failed to return his property; and
- refused to provide him with an email address to enable communication regarding the return of his personal items.

The RCMP investigation into the complaint did not support any of the allegations.

When executing a search warrant police are required to knock or ring the doorbell, identify themselves as police, and state their lawful reason for entering before they may force entry into a residence. Once the announcement has been made, the police must give the potential occupants a reasonable amount of time to answer the door. Where the announcement has been made and the police receive no answer, they are entitled to enter the home by force.

RCMP policies dealing with the procedures to obtain and execute a warrant and the authority to conduct searches require that searches be authorized by law. In this case, a judicial authorization was obtained for the search warrant, making it "authorized by law".

The Commission's review found that the search of the residence followed existing law as well as RCMP policies and procedures. Further, photographs taken of the residence prior to the search do not support the owner's allegation that it was disturbed in an unreasonable manner by RCMP members.

With respect to the man's arrest, the Commission found that the RCMP member patrolling the area was notified of the arrest warrant, stopped the vehicle, advised the man of the warrant, read him his rights and placed him under arrest.

Finally, the Commission found that the RCMP made reasonable efforts to arrange for the return of the complainant's personal items and the items were ultimately successfully returned.

RCMP IMPROPER USE OF FORCE

Two RCMP members responding to a disturbance complaint arrived at the scene to find that a man accused of assaulting several people had fled. The man was also the subject of an unrelated arrest warrant.

The following day, the RCMP received a call from a third party advising them that the man was with him, and wanted to turn himself in.

The two members arrived at the man's location to find him in a shed, intoxicated and unwilling to leave.

The RCMP members informed him he was under arrest, attempted to handcuff him, and a struggle ensued. A conducted energy weapon was deployed and force was used to subdue the man. As a result, he was left with soft tissue injuries, including a bruise on his face, and bruising to his hands and legs.

The man received medical attention and was taken to the RCMP detachment. He was later convicted of assaulting a peace officer.

The man filed a complaint alleging excessive use of force. The RCMP investigation into his complaint did not support his allegation.

The Commission's review found that, during the public complaint investigation, the complainant could only recall police attending the shed. He did not remember what occurred between their arrival and his being placed in detachment cells. The third party involved also had minimal recollection due to his level of intoxication.

In the absence of any other witnesses, the Commission accepts the RCMP members' consistent statements, notes and reports as accurate accounts.

The Commission's mandate is not to determine if the amount of force used was excessive, but rather, to determine if the force used was reasonable in the circumstances, and consistent with acceptable practices and RCMP policy.

The complainant's history of violent conduct, for which an arrest warrant had been issued, as well as his intoxicated state and access to weapons of opportunity in the shed, would have impacted the members' risk assessment of the situation.

The RCMP's Incident Management/Intervention Model (IM/IM), which is used to train and guide members in the use of force, promotes risk assessment and depicts various levels of behaviours and reasonable intervention options. The guide promotes the use of verbal interventions wherever possible, both to defuse potentially volatile situations and to promote professional, polite and respectful attitudes to all. These guidelines are based on situational factors when determining whether to use force and what amount of force is necessary in the circumstances. Key to understanding situational factors is appreciating the perception of the member involved.

The Commission found that a reasonable person would assess the risk to the officers as being very high, and concluded that the force used was reasonable in the circumstances.

RCMP IMPROPER ARREST DURING A RELIGIOUS PROTEST

A man engaged in a peaceful religious demonstration on a public street was approached by an RCMP member and told he must leave or would be arrested.

The man began recording audio of the interaction on his cell phone. The member placed a handcuff on the man's wrist and informed him he was under arrest for mischief and disturbing the public.

The man was uncooperative and protested the arrest. The member used force to put the man on the ground and handcuff him.

The man filed a public complaint alleging that the RCMP member had insufficient grounds to arrest him for mischief, used unnecessary and excessive force, and deleted the recording from the man's cell phone.

The RCMP investigation into the public complaint supported only the complainant's allegation concerning the deletion of the recording from his cell phone. The member received operational guidance.

Based on notes and statements from the arresting member, the man had previously been issued warnings on multiple occasions not to bother people or interfere with flow of foot traffic at the same location. When the man refused to move out of the way, citing his rights as a Canadian, the member arrested him.

The Commission found that the RCMP member lacked reasonable grounds to arrest the man for the criminal offence of mischief. The man was entitled to stand where he was. Consequently, the arrest and subsequent use of force were unreasonable in the circumstances.

Additionally, the Commission found that the member unreasonably deleted the recording from the complainant's cell phone and failed to properly document his actions.

The Commission recommended that the member or the RCMP issue an apology to the complainant for the arrest and use of force. The Commission further recommended that the RCMP provide operational guidance to the member concerning the offence of mischief and the proper documentation of his actions.

The RCMP agreed with the Commission's findings and supported the recommendations. The RCMP also noted that the member's supervisor did consider initiating a code of conduct process in this case. However, after the member received operational guidance, it was determined that he understood the inappropriateness of his actions.

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