



Royal Canadian Mounted Police External Review Committee

Post-Complaint Management - Consultation Report



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Management
- Consultation Report**

**Royal Canadian Mounted Police
External Review Committee**

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The Committee is publishing a series of discussion papers to elicit public comments to assist the Committee in the formulation of recommendations pursuant to the Royal Canadian Mounted Police Act (1986). The views expressed in this paper are not necessarily the views of the Committee.

Comments are invited; they should be addressed to:

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Discussion paper 4

Post-Complaint Management -

The Impact of Complaint Procedures on Police Discipline

Discussion paper 5

Employee Assistance Programs - Philosophy, theory and practice

Employee Assistance Programs - Consultation Report

Discussion paper 6

Disciplinary Dismissal - A Police Perspective

FOREWORD

The fourth discussion paper published by the RCMP External Review Committee entitled "Post-Complaint Management - The impact of Complaint Procedure on Police Discipline" was distributed for consultation in 1990 to several federal and provincial government agencies, federal, provincial and municipal police forces and selected Canadian corporations.

The Committee thanks those who took time to comment on the issues raised in the discussion paper. The information provided in the responses was extremely interesting and very useful to the Committee. As in previous consultation reports, all comments published in this report remain anonymous.

In the Committee's continuing research program, work is currently underway on four discussion papers on off-duty conduct, principles of sanctioning, special events and the evolution of police management.

Simon Coakeley
Executive Director
RCMP External Review Committee

POST-COMPLAINT MANAGEMENT CONSULTATION REPORT

1. Consultation

(a) Method and Objective

In preparing the report on its fourth research topic, "Post-Complaint Management -- The Impact of Complaint Procedures on Police Discipline", the External Review Committee has continued to use an approach consisting of two phases.

The first phase consists of the preparation of a study by a consultant. In this case the Committee published the discussion paper, as submitted by the consultant, Dr. Clifford D. Shearing, Professor, Centre of Criminology, University of Toronto. The views expressed in the discussion paper are those of the author and do not necessarily reflect a position on the part of the External Review Committee.

The second phase of the process is a report on the views, ideas and impressions of a predetermined readership on the contents of the discussion paper. In order to preserve confidentiality, the sources of quotations remain anonymous. The role of the Research Directorate of the Committee in these consultations is to gather feedback on the form and content of the discussion paper and use this feedback to complete its discussion of the issues examined. As well, it may be presented with models or options other than those presented in the discussion paper.

In publishing its series of discussion papers, the Committee is attempting to stimulate discussion, not to take a position on the issues. In the material contained in the discussion paper, "PostComplaint Management -- The Impact of Complaint Procedures on Police Discipline", it is clear that there are regional differences in the public complaints systems in effect across Canada. The views of the author were not intended to favour one over another or to suggest that any changes be made to existing legislation. Rather, one of the key messages of the paper is the promotion of the idea that those involved should work within the existing legislation and develop consistent and cohesive attitudes, so that discipline cases initiated by public complaints are treated in the same way as those initiated by an internal procedure.

To gather the material for this consultation report, the Committee consulted the Deputy Attorneys General and Deputy Solicitors General of the Provinces and Territories, the Commissioner of the RCMP and the National Executive of the RCMP's division staff relations representatives. A large number of police forces, as well as a representative number of members of the Canadian Association of Chiefs of Police and the Canadian Police Association, were also consulted. In the federal sector, the Committee also sought the views of the Public Service Commission, the Department of National Defence and the Department of the Solicitor General. Selected Canadian corporations were also canvassed for their views or comments. In all, 165 individuals and organizations, representing both employers and employees, were provided a copy of the discussion paper for consultation purposes.

As with other reports, the Committee did not limit its consultation solely to police organizations as this would have limited the variety of responses and ideas. It was important to get feedback from all types of organizations to broaden the views explored in the paper.

(b) Response Rate

When research is conducted on a problem touching many police forces, the material will not meet the objectives of all forces at all times. As a result of this, the rate of response varies considerably from paper to paper, as does the amount of detail in the replies.

In the case of this discussion paper, the number of respondents was not as great as with some previous papers; however, most of those who replied made lengthy substantive comments. Comments were received from the RCMP, provincial police forces, municipal police forces, provincial ministers and government officials, as well as senior officials in federal departments.

Response figures were as follows:

<u>Organization</u>	<u>Percentage of Respondents</u>
Government	
· Federal	26.7%
· Provincial	20.0%
· Municipal	0.0%
Police	
· Commissions	0.0%
· Forces	53.3%
· Members' Associations	0.0%
Private sector	0.0%

(c) General Comments

The comments received during the consultation process are a great source of information both to the Committee and to the police community. Both benefit from the views of those police forces and government departments which responded.

The Committee received a large number of general comments on the discussion paper, referring to the overall quality of the discussion paper and of the interest generated by it.

This is by far the most balanced and objective paper I have come across on the issue of police complaints and its candour on sensitive issues is refreshing. The style is succinct and I commend

the drafters for their efforts to make this a most readable document. The External Review Committee has provided a meaningful contribution to the Canadian police community through preparation and publication of this report.



A review of this comprehensive and informative report was enlightening.



The document on Post-Complaint Management raises several salient issues that may not be immediately apparent to Police managers, but are critical factors in the administration of discipline.



... the document provides an awareness of what is happening in police organizations today.



The paper is very well done, interesting and informative. It very accurately describes the traditional police management approach to discipline, voluminous rules and procedures, and top-down judgements on wrongdoing by police officers.



... we found this paper to be most informative and certainly thought provoking.



I am confident that such a discussion paper will assist in developing alternative ways to deal with disciplinary issues, to the satisfaction of the public and the police forces.



I think the information in the report is both timely and important and will be useful to the police community and their governing

authorities.

A few respondents referred specifically to interest in receiving this consultation report.

I look forward to reading the consultation report that will be published with respect to this subject.



I appreciate the opportunity to respond to your discussion paper and look toward to viewing the results of the survey.

The Committee was pleased to receive these views, expressing interest in the issue of post-complaint management. Respondents expressed interest and appreciation for the opportunity to receive the Committee's research paper and to participate in the consultation process.

2. Commentary on Content

(a) Public Complaint Systems

Most of those who responded made substantive comments on the content of the discussion paper. Some commented on the overall value of public complaint systems.

... I believe that the existence of a complaint system is consistent with the growing trend towards increased accountability of all our institutions to the public. The police have been at the forefront of public scrutiny because of the crucial role they play in maintaining law and order. Other institutions such as medicine, law and engineering are being extensively lobbied to increase their public accountability.

The challenge of all these institutions is to develop mechanisms which allow the public to feel that their concerns are being fairly addressed without alienating those subject to scrutiny. In the policing context this challenge can be met if management commits itself to an integrated strategy including training officers who act inappropriately, and -- as part of an overall commitment to change -- identifying and responding to systemic problems which are highlighted by an individual officer's misconduct.



The commentaries with regard to the tendency of public complaints systems to emphasize punishment, rather than the remedies is true.

This is probably due to the fact that the punitive approach satisfies those complainants who want a 'pound of flesh'.

A number of respondents made more specific comments on the public complaints systems currently existing in their provinces, and on how the police should interact with those established systems to ensure that they continue to meet the objectives for which they are established.

The present public complaint system is designed to give the public an opportunity to voice their concerns about police conduct. However, the complaints process has also provided the impetus for several long term management initiatives such as employment equity, community based policing and race relations training.

The emphasis on addressing these systemic issues will, presumably, create police forces which are trained to be more responsive to the concerns of the public. In turn, we would hope and expect to see complaints of serious misconduct diminish.

Viewed in this context the issues of ombudsman versus internal investigation of complaints raised by Dr. Shearing are secondary. The primary question is whether or not, given the current problem with public confidence in policing institutions, there needs to be a complaint system. If the answer is yes, and I would suggest that it is, the next question is: How can police management implement innovative management strategies within a system which requires them to objectively respond to public complaints?



This paper represents an excellent and useful exposé of the complaint system, the reforms and models which were proposed over the years, as well as the present ways of handling public complaints made against the Royal Canadian Mounted Police.



Because of the political and societal impact, the complaint process must be fair, responsive and impartial both in fact and perception.

For this reason, we in the Police community must be dynamic and aggressive in pursuing this objective, initiating not responding to extraneous pressures.



To ensure a system that is responsive to all, we must constantly review the process, initiating change where necessary.

The above comments indicate a positive attitude that, by reacting to public complaints systems in an active progressive manner, all involved will benefit from the system that evolves. We can also see from these comments some of the advantages that result from an effective public complaints system.

(b) Punitive vs Remedial Approach

A large number of responses commented on the view expressed in the paper that the tendency to equate police management with discipline is strengthened when the issue initiating managerial interest is a complaint or, in other words, that complaints by their nature tend to reinforce the tendency within police organizations for managers to manage via discipline.

... the discussion paper is thought-provoking and is of value to ... management for it points out the great danger of police managers succumbing to the inherent frailties and pressures of the complaint process and to take the path which is analogous to the criminal investigation/prosecution which they are the most familiar with - thereby losing sight of the remedial side of police discipline.



The two styles of management can be recognized in many police forces. The problem with the discussion paper is that it presents a clinical sterilization approach by trying to serve the two functions, tradition vs progress and punitive vs remedial, in presenting its argument.

This discussion paper does not acknowledge discipline as having a positive or constructive side, and the remedial approach has not been given any definition or scope.



With respect to your findings on the punitive nature of police discipline I find I must agree and for the very reasons you outline in the paper. It is hoped that in the future we, in the police community, will study at greater length alternate approach to police discipline.



Dealing with matters originating from a citizen's complaint, strictly on a remedial approach, would have inherent risks to an organization such as ours. While there may be an attitude problem or interpretation at the organizational level, individual deviance must be appropriately addressed as well, not all problems are structural.



This paper also very appropriately points to the fact that commitment to discipline has very deep roots that will require a considerable shift, not only in police thinking, but also in police organizational forums and public attitudes.

While agreeing with the author that there is a need for remedial resolution of issues, a number of respondents expressed the view that there remains room for a punitive approach as well, and that the nature and severity of the action should determine whether punitive or remedial measures should be taken.

It is true that punishment is not necessarily synonymous with corrective measures. However, in the most serious disciplinary matters at least, I submit that the best corrective action that can be taken is punitive in nature. Therefore, in some circumstances punishment and remedial action coincide.



With regard to complaints that relate to the police officer's misconduct, a greater distinction could be made between the minor and major breaches of the code of conduct and serious wrongdoings by officers. However, a remedial approach may be more effective in correcting minor wrongdoing.



I submit that the appropriateness of remedial action as opposed to a punitive response is determined by the nature of the impugned behaviour. The more serious the disciplinary default, the more fitting it is to impose some sort of punishment.



It would seem that an organization which has a blend of managers

and management styles would be more organizationally viable in providing suitable checks and balances to ensure any complaint system adjudicates those complaints fairly. Further, the nature of police organizational structure and the services provided indicate the need for the directed or autocratic style of management at appropriate times to ensure procedures are followed, for the protection of both police and public.

A few respondents had specific views on the author's comment that the traditional complaint system, because it links complaints with discipline, has tended to take an individualistic, punitive approach to discipline that militates against the identification of systemic problems that require an organizational rather than an individual response.

A salient and most interesting commentary of the paper is the need for police managers to look for systemic, organizational problems that led to wrongdoings on the part of officers; the need to look for "managerial feedback" from complaints, but more importantly, the need for police managers to go to the real root of a problem and to deal with it effectively.



I can understand Dr. Shearing's perspective on the difficulty of rationalizing punishing individuals with the need to pursue discipline which addresses systemic issues and promotes long term results. However, whether a disciplinary process is triggered by an internal procedure or a public complaint, management can respond by both punishing an officer and proposing solutions to any systemic problems which may have been identified. The power and discretion vested in police officers suggest that discipline is just as necessary for them as for all other employees.



In order to attend to this problem, the development of a dual internal response to citizen complaints is advocated. This strategy would apparently incorporate both a somewhat traditional approach to discipline as well as a program which would focus on remedial action and preventive measures that could be taken relative to police service policy and procedure. I assume this would involve a routine critical examination to be undertaken by management personnel of the internal workings of the police force with a view to determining whether existing policy and procedure

or the lack thereof in any way contributed to the commission of the relevant misconduct.

If this is the kind of dual internal response to complaints which is anticipated in this Discussion Paper, then it is an idea worthy of serious consideration. There is great merit in critical self-analysis, especially when it may lead to preventive measures being taken so as to preclude future misconduct by police members.



... I believe that [police forces] would be remiss in not recognizing that systemic/organizational problems may be at the root of certain misconduct matters, and that management should always be encouraged to be introspective in order to ensure that policies, practices, procedures and circumstances over which a member has little or no control have not contributed to the member's behaviour. When such is found to be the case the matter should be dealt with accordingly, and those policies, practices, procedures and circumstances be addressed instead of/as well as taking punitive action against the member.

(c) External Review and the RCMP

The author was asked to present his paper based on an overview of all police forces, not only the RCMP. Therefore, the comments made by the author in his discussion are not focused on the RCMP. Most of the material on the question of police discipline following a public complaint was looked at in the abstract before commenting on any particular jurisdiction.

It is probably worthwhile to point out that the External Review Committee's research material, while written primarily for the Committee, is widely distributed within the Canadian police community. In fact, some copies are distributed outside Canada. As a result, while the emphasis of the research is often the RCMP, the focus of, the research is definitely not limited to the RCMP.

As an important element of his discussion of external review and the RCMP, the author detailed the ombudsman concept, and respondents commented both on the ombudsman concept and specifically on the RCMP review bodies.

I personally support the Ombudsman or external review concept for a variety of reasons. We ... have employed a Citizen Complaint Monitor in this capacity for the past several years and are committed to this process. We would encourage other agencies to pursue this course, and strongly suggest that consistent guidelines be applied throughout the Police community when selecting and employing monitors.



How Force management responds to complaints is subject to review by two external review bodies (E.R.C. & P.C.C.) both of which can be expected to take an objective outside look at how complaints are handled and hopefully offer sufficient checks and balances to ensure the proper application of remedial and punitive responses by management.

In relation to the information provided in the author's chapter on external review and the RCMP, one respondent correctly noted an omission of information to indicate that, within the RCMP, the formal discipline sanctions offer the same remedial non-punitive sanctions available under informal discipline.

3. Conclusion

The comments received indicate that the discussion paper on post-complaint management elicited a good deal of interests within the Canadian police community. Further, they indicate that the key points made by the author are critical issues in the discussion.

Respondents were generally in agreement with the author's description of the traditional preferred police management style which tended to rely on disciplinary punishments. Although many feel that a remedial approach similar to that proposed by the author is now part of the contemporary management style, some were reluctant to withdraw entirely from the punitive approach to discipline, seeing a role for it in responding to more serious cases.

Many respondents commented generally on the value of public complaint systems and on the fact that these systems are now an integral part of the legislation of most provinces. Others had specific views to express on the public complaint systems in their own jurisdictions and on the need to continue to assess the existing legislation and procedures to ensure they continue to meet the objectives for which they were designed.

Those who commented on the author's discussion of the ombudsman idea in the development of the external review models, and particularly on the complaint processes that have been established for the RCMP, seemed to be generally supportive of both the theory of the ombudsman concept and of the system that has been put into effect.

This consultation process has demonstrated that there is a high degree of awareness of the reality of, and need for, a public complaints process. The respondents believe that their organizations are adapting to new realities and new approaches to management theory. What remains unclear from this process is the degree to which the existence of a public complaint affects the discipline imposed on a member of a police force. As the discussion paper pointed

out, regardless of the model of public complaint system under which a police force is operating, the credibility of the system depends on a fine balancing of competing interests.

The External Review Committee wishes to promote the idea that those involved in the public complaints/discipline systems should work within the existing legislation in their jurisdictions to develop consistent attitudes towards discipline cases, regardless of their sources. To this end, the Committee will soon publish a Discussion Paper on the subject of the principles of sanctioning. This paper will consider the role that various factors should play in arriving at an appropriate penalty for a police officer who has been found to have contravened an applicable code of conduct.

As demonstrated by the post-complaint management paper, the Committee's Discussion Paper and Consultation Reports form a valuable vehicle for the exchange of ideas about human-resource management issues in the police community. The External Review Committee subscribes to the following comment from one of the respondents:

The paper is typically a vehicle for making people aware of what is going on around them ... it is also a reminder to ensure our system works, or others will make it work for us.

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