

# **Police Integration & Oversight**

**Canadian Association of Civilian  
Oversight in Law Enforcement**

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# Police Integration & Oversight

The RCMP and the United States Coast Guard have been participating in a project called “Ship Rider” wherein the RCMP are travelling on United States Coast Guard boats on projects of mutual interest. Legislation is being considered which would allow American police officers to operate in Canada in conjunction with Canadian police forces. What are the implications for civilian oversight on this ultimate integration? Have plans been put in place to ensure effective oversight?

# Constitutional History

- ▣ *Constitution Act, 1867*
  - ss. 91(27): allocates to the federal government, the responsibility for formulating criminal law and procedure
  - ss. 91(14): gives to the provinces the responsibility for the “administration of justice,” which also includes the power to create police forces within their respective provinces and to enforce the criminal law
  - is a challenge to increased nationalization and globalization of organized and serious crime

# Modern-day Solutions

- ▣ Ad hoc mechanism – appointing supernumerary constables under *RCMP Act*
- ▣ Uniform Law Conference of Canada legislative model
  - four provinces have enacted legislation
  - provides conduct oversight regime

# Creation of Framework Agreement

- ▣ “Framework Agreement on Integrated Cross-Boarder Maritime Law Enforcement Operations Between Canada and the United States (truncated)”
- ▣ 3 Shiprider operations involving designated RCMP and USCG officers
  - Sept 12-23, 2005; Proof of Concept, Windsor-Detroit
  - Jan 31 – Feb 6, 2006; Integrated Marine Security Operation in support of SuperBowl 40, Windsor-Detroit; and
  - Aug 3 – Sept 30, 2007; Shiprider Pilot Project; two locations simultaneously: Cornwall-Massena (ON-NY) and Strait of Georgia (BC-WA)
- ▣ Diplomatic Notes

# MOUs

- ▣ The MOUs cover:
  - Officer designation process – designations are by officer, not by class of officer and not by agency
  - Roles and responsibilities
  - Training requirements
  - Conduct of shipriders
  - Financial arrangements
  - Disclosure and use of information
  - Equipment
  - Jurisdiction
  - Cooperation in criminal investigations and prosecutions
  - Cooperation in non-criminal investigations (i.e. civil, occupational health and safety, public complaints)
  - Liability and indemnification
  - Dispute resolution
  - Post project consultations (e.g. evaluation)

# Shiprider Pilot Projects

- ▣ 2 issues brought forward: one by Mohawk Council of Akwesasne, and the other related to the *Official Languages Act*
- ▣ Variables kept to a minimum by restricting the number of agencies involved
- ▣ Article 19 of the Framework agreement
  - specifies that the Agreement will come into force upon an exchange of diplomatic notes confirming that all necessary internal procedures and arrangements have been completed.

# Operational Control Mechanisms

- ▣ Law enforcement operations relate only to marine operations
- ▣ Only specifically designated law enforcement officers may partake in integrated cross-border enforcement actions
- ▣ Article 10 addresses the custody of persons, vessels and other things detained or seized
- ▣ Article 12 & 13 speak to the carrying of firearms and the authorized use of force



# Accountability Regime

- designated law enforcement officers are subject to laws and jurisdiction of courts, in the territory activity is alleged to have occurred;
- claims submitted for damage, harm, injury, death or loss are resolved in accordance with the domestic law where the claim is brought and in accordance with international law;
- party shall make best efforts to the cooperation of designated officers with any investigation or hearing relating to an internal investigation or is held by a civilian oversight body;

# Accountability Regime

- each participating agency is responsible for the review and discipline of its participating officers;
- a provision exists where a Party may decline to cooperate;
- the declining party shall inform the other party, and consult to determine whether limited or conditional assistance can still be provided.

# Principles for International Cross-Border Policing

- ▣ Substantial similarities between domestic cross-border policing regimes and international cross-border regimes
- ▣ Integrated law enforcement must be guided by:
  - Well-founded core principles that respect and adhere to the Canadian *Charter of Rights and Freedoms*;
  - All applicable substantive domestic laws and customs and conventions of international law;
  - be accountable, transparent, and be subject to effective civilian oversight to ensure public confidence in the exercise of police authorities