

CACOLE COMMUNIQUÉ

Canadian Association for Civilian Oversight of Law Enforcement
L'association Canadienne de surveillance civile du maintien de l'ordre

November 2009



President's Message

Peter Tinsley

Chair, Military Police Complaints Commission



On behalf of the Board of Directors, I would like to take this opportunity to thank all of our delegates for attending CACOLE's 2009 Conference.

Justice Linden's keynote speech during our 2009 conference addressed the beginnings of civilian oversight of police complaints in Canada. What began as a three year project in the City of Toronto in 1981 has grown exponentially so that in less than 30 years every municipal, provincial, federal and

military police officer is now subject to civilian oversight in Canada.

Since CACOLE's inception we have been dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad. Not only are CACOLE conferences known for their educational component but they provide the invaluable opportunity to forge working relationships with our counterparts, both nationally and internationally.

Each oversight agency operates within its own unique legislation. As the face of policing changes the regimes used for providing oversight must adapt to that change.

Some legislation built in "audits" allowing for a review of the adequacy of the powers granted. As a result of Josiah Wood's audit "Report on the Review of the Police Complaint Process in British Columbia", legislation in the BC House of the Legislature has had its second reading that would, in part, increase a Commissioner's powers to contemporaneously monitor police investigations; order officers to submit to an interview within 5 days of the investigator's request; and resigned or retired officers will still be subject to the Police Act.

Another catalyst for change is the government driven report. In the case of Ontario the government commissioned Justice LeSage to report on the public complaints process in Ontario. LeSage's report declared the current system was "flawed" and needed "significant systemic changes". Part of Justice LeSage's recommendations included the need to create a civilian body to administer public complaints and sufficient information to be provided to the complainant so they understand how it was handled. The Government of Ontario studied the report in a comprehensive manner and the result is that the Ontario Office of the Independent Review Director opened its doors on October 19, 2009.

A third major mechanism for change is a public inquiry and the resulting recommendations. In Manitoba, Judge Salhany's report on the Taman Inquiry recommended, in part, a separate provincial oversight body, independent of the police service, to conduct criminal investigations into the conduct of Manitoba police officers. The creation of new oversight body

is scheduled for 2009, at which time the government intends to introduce changes to the provincial Police Act.

Sometimes agencies conduct "in-house reviews" and call on their respective governments to effect change. Paul Kennedy, Chair, Commission for Public Complaints Against the RCMP commissioned a report that, in part, concluded that members should not investigate the conduct of their own officers in serious circumstances – especially when someone has died – in order to avoid conflict of interest.

NDP MP Nathan Cullen (Skeena-Bulkley Valley) introduced a bill in early November that would create a national civilian oversight force that would take over all investigations of in-custody deaths or serious incidents involving the RCMP.

Lastly, but perhaps the most important, change comes from the will of the people. But it is important to note that there are many competing interests and achieving a balance is a learning experience. There are some who do not believe we are achieving enough with the tools we already possess and yet others feel we are overstepping our legislation.

Having been a member of CACOLE for several years, the past two as President, I can confidently say that Canada's agencies are headed by professional ethical people dedicated to the public interest who welcome every opportunity to meet with stakeholders to enhance the oversight process. It is only through visiting our successes and learning from our mistakes that civilian oversight in Canada can grow.

I am also proud to note that we are consistently consulted by countries seeking to adopt those values.

I invite you to view the following pages and meet some of CACOLE's Board of Directors who have helped enhance Canada's reputation as one of the leaders in the field of oversight.

We remember the past, learn from the present and anticipate the future!

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Conference Coordinator's Report Luauna Selman



Some of the CACOLE Conference 2009 Delegates and Speakers assemble before the opening reception at the RCMP Musical Ride Reception Centre

CACOLE prides itself on presenting annual educational conferences that explore topics of relevance to those involved in civilian oversight of law enforcement.

The 2009 CACOLE Conference Planning Committee developed a program based on the theme "Civilian Oversight of Law Enforcement – Where is it Going? Where Should it be Going?" and featured both Canadian and international speakers from diverse sectors of the oversight, policing and justice community.

CACOLE was very fortunate to present two dynamic keynote speakers during the 2009 Conference: the Honourable Roger Salhany, Commissioner of Manitoba's Taman Commission of Inquiry; and Justice Sidney B. Linden, one of Canada's pioneers in civilian oversight of law enforcement.

We are indebted to all of our speakers who so generously gave of their time and knowledge. Their unwavering support enhances CACOLE's reputation for presenting strong educational programs.

Rather than list them here individually, we have provided a pictorial in the pages following.

The 2009 Conference would not have been possible

without the assistance of the host agency, the Military Police Complaints Commission. Peter Tinsley, Chair, very generously offered to host the 2009 Conference and appointed Roy Berlinquette, Member, Military Police Complaints Commission as the key contact person. Roy Berlinquette worked tirelessly in planning the Opening Night Reception and the Delegate Dinner Cruise. JoAnne Buteau of the Military Police Complaints Commission also provided support both in the planning stages and during the conference itself.

CACOLE is also very grateful to Heritage Canada for its financial support of the Conference's bilingual program.

Lastly, we are appreciative of our delegates taking the time to fill out our conference questionnaire. We read each one carefully and apply lessons learned to our next conference.

I am delighted to announce that CACOLE's 2010 Conference will be hosted by the New Brunswick Police Commission and will be held at the Delta Fredericton Hotel, June 7, 8 and 9, 2010. We look forward to seeing you there!

Please visit www.cacole.ca for more complete coverage of agenda sessions and speakers presentations.

CACOLE CONFERENCE 2009 SESSIONS

Profiling of New Canadian Oversight Agencies

Paul Cormier, Executive Officer, Ontario's Special Investigations Unit, moderated the session featuring (left to right) Clif Purvis, Director, Alberta's Serious Incident Response Team (ASIRT), Gerry McNeilly, Director, Ontario's Office of the Independent Police Review Director, and Gordon Garrison, Manager, Justice Policy Division, Office of the Attorney General for the Province of Prince Edward Island. ASIRT became operational in January 2008 with the mandate to investigate incidents or complaints involving serious injury or death of any person, and matters of a serious or sensitive nature, that may have resulted from the actions of a police officer in the Province of Alberta. The creation of Ontario's Office of the Independent Police Review Director was as a result of former Chief Justice Patrick LeSage's 2005 report on the police complaints system in Ontario. Prince Edward Island is in the development stage of selecting a Police Complaint Commissioner who will provide an appeal process for a complainant or a police officer whose conduct is the subject of a complaint, if either is dissatisfied with a decision made by a chief officer. It will also investigate complaints against chief officers and security police officers.



The Use of Force Continuum. What role does it have? What role should it have?

A use of force continuum is a set of guidelines for law enforcement officials as to how much force may be used against a resisting subject. Over time they have come to be used, including by the courts, as a standard against which to measure what is "reasonable" in a given situation. Panellists, James Drennan, PhD, School of Business and Technology Fleming College, Province of Ontario, Deputy Chief Norm Lipinski, Edmonton Police Service, Inspector Chris Butler, Calgary Police Service and Moderator, John Phillips, Chair, Alberta's Law Enforcement Review Board consider who should author and/or amend use of force continuums and what should be the criteria for the standards set.



Oversight of Law Enforcement – Should Civilian Oversight Agencies be Restricted to Oversight of "Police"?

Panellists, Sylvain Ayotte, Director Internal Audit, Investigations and Inspection of Police Forces Province of Quebec, Robert Lafrenière, Associate Deputy Minister, Direction générale des affaires policières, Ministère de la Sécurité publique Province of Québec and Moderator, Claude Simard, Police Ethics Commissioner for the Province of Quebec address whether or not special constables, sheriffs, border security officers and private security/policing should be subject to independent oversight. If oversight is necessary, who should have jurisdiction?





Independent Oversight - Past, Present, Future
Keynote Speaker: Justice Sidney B. Linden

Justice Linden was the first Police Complaints Commissioner for Metropolitan Toronto and Chairman of the Police Complaints Board. Justice Linden reflected on the beginnings of oversight in Canada and where he thinks it should be heading. Justice Linden is currently the Conflict of Interest Commission for the Province of Ontario.



What is the Impact of a More Litigious Society on Police Oversight?

Panellists, Jennifer Freund, Senior Advisor, Policy and Communications, Calgary Police Commission, Julian Falconer, Barrister & Solicitor, Falconer Charney LLP, Jean McKenna, Barrister & Solicitor, Ritch Dunford, and Moderator, Nadine Cooper Mont, Nova Scotia's Police Complaints Commissioner discuss why some people are bypassing the complaint's process and moving directly to litigation in the courts. Panellists brought forth some of the reasons this is happening and what civilian oversight agencies should/could be doing to bring back confidence in the complaints process.



The Exercise of Statutory Discretion

Gerry McNeilly (no picture) moderated the session with Panellists, Tom Bell, Counsel, Ontario's Civilian Commission on Policing Services, R. Lester Jesudason, Nova Scotia's Police Review Board Chair, and Professor Lorne Sossin, Faculty of Law, University of Toronto. This session explored the issues related to the exercise of statutory discretion including the legal standard used when dismissing complaints that are considered frivolous, vexatious or made in bad faith.



Service Delivery in the Context of Mental Illness

Erica McKim, Senior Policy Advisor - Strategic Policy and Research, Commission for Public Complaints against the RCMP, moderated the panel with presenters, Dr. Dorothy Cotton, Correctional Services Canada, Regional Treatment Center, Dr. Helen Ward, Clinical Director of the Forensic Service, Royal Ottawa Health Unit and Lorraine Blommaert, Team Leader, National Intake Office, Commission for Public Complaints Against the RCMP. Unique issues arise for the mentally ill when they are dissatisfied with the service they receive from police and want to complain. This panel addressed ways in which the complaints process could be made more accessible for these individuals.



George Wright, Commissioner, Manitoba’s Law Enforcement Review Agency introduces

Keynote Speaker - The Honourable Roger Salhany, Commissioner of the Taman Commission of Inquiry (Manitoba)

Crystal Taman was killed in an automobile collision north of Winnipeg, Manitoba on February 25, 2005 and the subsequent police investigation and prosecution left many unanswered questions. The Province of Manitoba appointed former Ontario Superior Court Justice the Honourable Roger Salhany as Commissioner to conduct an inquiry into this tragic event. The Globe and Mail described Justice Salhany’s fact finding as being *“thorough, convincing and damning. Rarely has the thin blue line – the police code of self-protecting silence – been so manifest and clear for all to see.”*



Information is the lifeblood of the investigative process. Can Independent Oversight of Law Enforcement Be Effective in an Era of Competing Claims of Privacy, Privilege and National Security?

Panel 1 – Incoming Information

Panellists, Paul J.J. Cavalluzzo Senior Partner Cavalluzzo, Hayes, Shilton, McIntyre and Cornish, LLP Barristers & Solicitors, Vern White, Chief of the Ottawa Police Service and Joseph Martino, Legal Counsel, Ontario’s Special Investigations Unit join Moderator, Bruce Brown, British Columbia’s Deputy Police Complaint Commissioner, to talk about information received from various sources while performing in an oversight role. With recent claims of privacy, privilege and even national security being raised panellists discussed ways oversight agencies can overcome these obstacles and still meet their obligations to performing “independent” oversight.



Panel 2 – Outgoing Information

Moderator, Peter Tinsley, Chair, Military Police Complaints Commission, leads Panellists, Julian Falconer, Falconer Charney LLP, Barristers at Law Toronto, Ontario, Charles Momy, President, Canadian Police Association, and Chantal Bernier Assistant Privacy Commissioner Office of the Privacy Commissioner of Canada in a discussion on achieving a balance between effective civilian oversight and privacy, privilege and national security concerns.



The Public Acceptance of and New Demands for Oversight in the International Context

The distinguished international delegates (left to right) Superintendent Albert Ho, Complaints Against Police Office, Hong Kong, Michael Strong, Director, Office of Police Integrity, Australia, Bob Grinstead, Investigator, Independent Police Conduct Authority, New Zealand, Justice Lowell Goddard, Chair, Independent Police Conduct Authority, New Zealand, and Moderator, John Phillips, Chair, Alberta’s Law Enforcement Review Board, look on as Inspector Derek Lui, Complaints Against Police Office, Hong Kong, presents his portion of Complaints Against Police Office’s presentation.



Police Integration

Moderator, Robert Mitchell, Chair, Saskatchewan’s Public Complaints Commission, leads the discussion of cross-border policing and the implications for civilian oversight on this ultimate integration. The panel consisted of Al Hutchinson, Police Ombudsman Northern Ireland and Ian Atkins, Assistant Commissioner, RCMP.

CACOLE prides itself for not just being an educational conference but also for providing a vast array of opportunities for delegates to meet with Board Members and International Agency Heads to informally discuss the challenges in providing effective oversight and potential solutions. Everyone benefits from these discussions and delegates find them to be invaluable to their work.

OPENING NIGHT RECEPTION

Superintendent B. Whillans and members of the RCMP Musical Ride offered our delegates the unique opportunity of being photographed individually with a member of the Musical Ride and then a private tour of the stables before the Opening Reception in the RCMP Musical Ride Reception Centre.



CACOLE is very grateful for the efforts of Roy Berlinquette, Member, Military Police Complaints Commission and Peter Tinsley, Chair, Military Police Complaints Commission for hosting our 2009 Conference in Ottawa, Ontario.



NACOLE members, Dr. Eduardo Diaz, Executive Director, Miami's Independent Review Panel and Philip K. Eure, Executive Director, Office of the Police Complaints, Government of the District of Columbia



Jasbir Brar, Outreach Coordinator, Ontario's Special Investigation Unit, Michelle Sherwood, Counsel, Office of the Independent Police Review Director, Bruce Brown, BC's Deputy Police Complaint Commissioner



Nadine Cooper Mont, Chair, Nova Scotia Police Complaints Commissioner and Peter Seheult, Chair, New Brunswick Police Commission



Delegates found many ways to enjoy the Opening Night Reception, whether it was meeting new people; enjoying the hors-d'œuvres, or having private tours of the museum.



Mary Hutchinson, Michael Strong, Director, Australia's Office of Police Integrity and his wife, Al Hutchinson, Police Ombudsman for Northern Ireland



Superintendent Albert Ho, Complaints Against Police Office, Hong Kong, Anne-Marie Mullin, Commissioner, New Brunswick Police Commission and Chief Inspector Derek Lui, Complaints Against Police Office, Hong Kong



Gordon Garrison, Manager, Policing Services, PEI Office of the Attorney General, Ian Scott, Director, Ontario's Special Investigations Unit, Paul Cormier, Executive Officer, Ontario's Special Investigations Unit, and Julian Falconer, Senior Partner, Falconer & Charney.



Clif Purvis, Director, Alberta Serious Incident Reponse Team and Gerry McNeilly, Director, Ontario's Office of the Independent Police Review Director.



Gordon Garrison, Manager, Policing Services, PEI Office of the Attorney General, Shirley Heafey, Public Complaint Director, Calgary Police Commission and Al Hutchinson, Police Ombudsman for Northern Ireland.



Peter Tinsley, Chair, Military Police Complaints Commission, Gerry McNeilly, Director, Ontario Office of the Independent Police Review Director, John Phillips, Chair, Alberta Law Enforcement Review Board and Stan T. Lowe, British Columbia Police Complaint Commissioner.

We cannot thank you enough for participating in
CACOLE's 2009 Conference
and invite you to attend our
2010 Workshop
in Fredericton, New Brunswick, June 7, 8 and 9, 2010!

Updates in Canadian Oversight

The Ontario Civilian Commission on Police Services

Effective October 19, 2009, the Commission's name changes to the Ontario Civilian Police Commission (OCPC). Their offices have relocated to 250 Dundas Street West, 6th Floor, Suite 605, Toronto, Ontario, M7A 2T3.

The name change is related to proclamation on October 19th of Bill 103 – the *Independent Police Review Act* – which creates a new complaints process to be administered by the Office of the Independent Police Review Director (OIPRD) under the Ministry of the Attorney General.

However, it doesn't mean an immediate end to the Commission's involvement at the 'front end' of the complaints business. The Commission will continue to be involved with processing complaints filed 'pre-proclamation'; that is, *prior to* October 19th, and will see those cases through to their conclusion. Also, the Commission will be involved in processing complaints *after* October 19th if the occurrence, upon which the complaint is based, took place during the six months prior to proclamation.

The Commission retains its long-standing authority to hear appeals from members of the public and police officers relating to decisions made by police disciplinary hearings.

The Commission's core mandate and jurisdiction are not affected with the proclamation of Bill 103; in fact, it will gain additional responsibilities. This includes new oversight powers with respect to internal complaints. As well, the Commission may be asked by the OIPRD to consider holding a formal inquiry into systemic issues relating to police policies, methods and practices.

Office of the Independent Police Review Director (OIPRD)

The Government of Ontario appointed the Honourable Patrick LeSage, QC, to conduct a review of the province's police complaints system; he presented his report on this matter in 2005. Justice LeSage recommended 27 changes, chief among them that a civilian police review body be formed.

In 2008 Gerry McNeilly was appointed as Director of the new agency which is completely independent of government and the police. Mr. McNeilly and his selected team reviewed the legislation, met with stakeholders and set about building an office from the ground up. The Office of the Independent Police Review Director opened officially on October 19, 2009. Although located in Toronto, Mr. McNeilly is responsible for investigating complaints against any provincial, regional or municipal police officer in the Province of Ontario.

The new system empowers the civilian director, in part to: Investigate any and all complaints and to decide whether to investigate the complaints within his office; leave them in the hands of the police force against which the complaints were filed; or forward them for investigation by a different police force located within the province.

British Columbia's Office of the Police Complaint Commissioner

CACOLE welcomes Stan T. Lowe as the new Police Complaint Commissioner for the Province of British Columbia.

Stan T. Lowe obtained his law degree at the University of British Columbia and began his legal career with Davis & Company in Vancouver before joining the Vancouver Crown Counsel office in 1990 to pursue a career in the courtroom. In June 1991, he joined the Victoria Crown Counsel office on Vancouver Island. In 1996, Mr. Lowe joined the Major Crimes Prosecutions Unit for Vancouver Island and for 9 years he primarily prosecuted murder cases. During this period he liaised with numerous municipal police departments and the RCMP. One of his most well-known cases was Regina v. Warren Glowatski (Reena Virk Murder).

In 2005, Mr. Lowe became the Communications Counsel for the Criminal Justice Branch, serving as a conduit to the media and public for BC's Prosecution Service. During this time he became a member of Executive Branch Management, where he has shared his expertise in a number of areas.

Throughout his 18 years as a public servant, Mr. Lowe has been a guest lecturer on legal topics related to police training including the Major Crime Investigators Course, Senior Investigators Course, and Undercover Operations Course. He has also lectured to Professional Standards Officers in BC on the law regarding the use of force.

Mr. Lowe was sworn in as British Columbia's Police Complaint Commissioner on 11 February 2009.

The Police Amendment Act Introduced in the British Columbia Legislature on September 17, 2009.

The proposed changes to the BC Police Act are, in a large part, the result of Josiah Wood's Report on the Review of the Police Complaint Process in British Columbia completed in February, 2007.

Some of the proposed changes to strengthen transparency and accountability include: strengthening the oversight powers of the Office of the Police Complaint Commissioner (OPCC) to ensure serious complaints, like those involving death or serious injury, are properly investigated and resolved by enabling the OPCC to conduct contemporaneous oversight; ordering municipal police officers under investigation to provide statements and submit to interviews by investigating officers within five days of a request or risk being charged under the act with another misconduct such as neglect of duty; increasing

maximum suspension without pay for misconduct to 30 days from five; police officers who have retired or resigned will now be subject to the Police Act.

As well, the Commissioner will be able to provide guidelines to municipal police in determining when an injury constitutes serious harm since the act requires serious injuries to be investigated by an external police agency.

Peter Tinsley, Chair, Military Police Complaints Commission and President of CACOLE, addressed First International Workshop on Advocacy for Independent Civilian Oversight - August 8 and 9, 2009 Amman, Jordan

On August 8 and 9, 2009, Peter A. Tinsley, Chair, Military Police Complaints Commission (MPCC) participated in the First International Workshop on Independent Civilian Oversight at the invitation of the United Nations Development Programme (UNDP), Iraq. Speaking on behalf of both the MPCC and as President of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE), Mr. Tinsley presented the Canadian experience in oversight.

Other participants in the International Workshop included: senior representatives of the Government of Basra including the Justice Department, the Iraqi Police Services, the Ministry of Human Rights, relevant non-governmental organizations, and national and international experts in human rights, community policing and civilian oversight.

The purpose of the Workshop was to initiate national dialogue on the establishment of civilian oversight in Basra, one of Iraq's largest governorates. The Workshop was one component of a \$6M US project funded by the Government of Japan being implemented jointly by the UNDP and provincial authorities. The overall purpose of the project is to introduce community policing, assist in law enforcement capacity building activities, weapons registration and infrastructure developments in Basra.

"This forum was an important opportunity not only to share the Canadian experience in oversight over the past 30 years, but also some of the strategies, opportunities and challenges involved in implementing oversight mechanisms," said Mr. Tinsley. "It was an honour for Canada to have its efforts and progress recognized."

To access a copy of Peter Tinsley's presentation paper please go to www.cacole.ca and click on Resource Library and then on Reports and Publications.

Paul E. Kennedy, Chair, Commission for Public Complaints Against the RCMP, released his Public Interest Investigation into *Police Investigating Police*, on August 11, 2009.

In November, 2007, Paul Kennedy, Chair, Commission for Public Complaints Against the RCMP, announced that he was launching a Public Interest Investigation into the conduct of RCMP members who have conducted criminal investigations into the activities of other RCMP members, in cases that involved serious injury or death, which had taken place anywhere in Canada between April 1, 2002 and March 31, 2007.

The Commission's Public Interest Investigation and Interim Report released August 11, 2009, determined that conflict of interest should prevent the RCMP from investigating its own officers in cases where members of the public have died. "All member investigations involving death should be referred to an external police service or a provincial criminal investigative body . . . There should be no RCMP involvement in the process," the report concluded. But the report stopped short of advising that police never investigate themselves. In cases of injury and assault, the Commission recommends other police forces or a national team conduct investigations.

The Commission cited several key concerns: primary investigators knew the officer investigated personally in 25 per cent of cases; 60 per cent of cases were investigated by a single officer; and investigators were of equal or lesser rank in 32 per cent of cases.

The Commission also reported "a systematic failure by the RCMP to have any national standards, policies or procedures for the handling of its own member investigations." The RCMP could not tell the Commission how many criminal investigations had been led against members, or how many members had been charged. Kennedy recommended the national police force start keeping national statistics to evaluate the scope of the problem.

The report also recommended the RCMP make investigations subject to CPC observer oversight, create a national head of investigations, and develop national standards and a specially trained mobile team.

RCMP Commissioner William J.S. Elliott agreed to consider the recommendations when crafting new RCMP policy, but added it was not always possible to have outsiders investigate in small detachments.

To view a complete copy of Mr. Kennedy's report please go to www.cacole.ca and click on Resource Library and then Reports and Publications.

Nathan Cullen, Skeena-Bulkley Valley MP introduces Private Member's Bill in Parliament in Effort to Help Restore Public's Trust in RCMP.

On November 2, 2009, MP Cullen introduced a private member's bill to create an independent civilian investigation service that would conduct investigations involving death or serious bodily harm occurring while in RCMP custody.

The proposed legislation is in response to Paul Kennedy's report "Police Investigating Police", the BC Association of Chiefs of Police and BC RCMP brass calls for major reform, the Auditor General of Canada indicating that stronger civilian oversight is necessary, and the general public's perception that police are unable to conduct independent investigations when investigating themselves.

For Cullen, the call for change came after watching the inquiry into the 2005 death of Ian Bush while in custody at the Houston BC RCMP detachment.

Thomas R. Braidwood releases Phase One Report of Braidwood Inquiry into Taser Use in British Columbia

The Government of British Columbia appointed the Honourable Thomas R. Braidwood, QC as the head of two inquiries. The first Commission of Inquiry was a "study" commission to report on the use of conducted energy weapons (Tasers) in British Columbia, and to make recommendations respecting their appropriate use.

The second Commission of Inquiry is a "hearing and study" Commission to provide the Dziekanski family and the public with a complete record of the circumstances of Mr. Robert Dziekanski's death and to make recommendations the Commissioner considers necessary and appropriate. This second Inquiry's report is not yet complete.

Thomas R. Braidwood, QC, the sole Commissioner for these inquiries, is a former judge of the Supreme Court of British Columbia and the Court of Appeal of British Columbia and Yukon Territory.

Braidwood's 546-page report, titled Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia, made 19 recommendations. Justice Braidwood recommended municipal police should use the weapon only when faced with an imminent threat of bodily harm or when someone is committing an offence under the Criminal Code of Canada. He said a person should not be zapped with the stun gun if they are breaking municipal bylaws or provincial offences such as transit fare evasion. He said a conducted-energy weapon — a Taser gun — must not be deployed unless an officer is satisfied that de-escalation and crisis intervention techniques won't work.

The Inquiry's terms of reference prevented Justice Braidwood from making any recommendations regarding the RCMP, because they are a federally regulated force. However, since 70 per cent of B.C. communities are policed by the RCMP Justice Braidwood recommended that the B.C. government should make RCMP compliance with his recommendations a condition of renewing the province's RCMP policing contracts in 2012.

Justice Braidwood did not believe a moratorium on the use of the weapons was necessary, and was convinced Tasers are less lethal than firearms. He said one of his Inquiry's most troubling discoveries was that there were no province-wide standards on Taser use and training, leaving it to each police department to set policies. He criticized the provincial government for "abdicating its responsibility to establish province-wide standards for the use of Tasers." He pointed out B.C. had approved the use of Tasers without any independent testing, instead relying on the manufacturer's assurances that the weapon was safe.

Braidwood pointed out that police do a lot of good work and "the most important weapon in the arsenal of any police department is public support."

To view the entire report please go to <http://www.braidwoodinquiry.ca/report/>

Prince Edward Island

CACOLE congratulates retired Chief Justice Gerard E. Mitchell on his recent appointment as the Province of Prince Edward Island's Police Commissioner. CACOLE also welcomes Roy J. Ridlington who has been appointed Deputy Police Commissioner.

PEI's Police Commissioner's Office will be independent, and will provide an appeal process for a complainant, or a police officer whose conduct is the subject of a complaint, if either is dissatisfied with a decision made by a chief officer. It will also investigate complaints against chief officers and security police officers. However, the Office will not have jurisdiction over the RCMP, which has its own complaints procedure.

Justice Mitchell has a strong background in law and during his many years on the bench, showed a special dedication to ensuring that the principles entrenched in the Canadian Charter of Rights and Freedoms were always reflected in his courtroom.

Roy Ridlington is a recently retired lawyer. Mr. Ridlington has served with the military and worked with review boards during which he represented many members of the RCMP in the pursuit of disability claims and other matters, and he dealt with the adjudication and review of cases.

Both appointments will be effective November 7, 2009.

Manitoba's New Investigative Unit to Include RCMP in Mandate

Manitoba's soon-to-be-created independent police investigative unit is likely to take over investigations involving RCMP officers, not just municipal force officers. The unit, which is proposed in a bill currently before the provincial legislature, was developed in response to the inquiry into the death of Crystal Taman. Ms. Taman was killed in 2005 when an off-duty police officer crashed into her car while he was on the way home from a drinking party.

If the bill passes, the new unit will handle all investigations when a municipal officer in Manitoba is involved in a death or serious injury, or when a police officer is charged with a crime.

But a provincial spokeswoman said the RCMP were asked if they were willing to use the new unit when Manitoba RCMP officers are involved in serious incidents. "The RCMP have indicated to us they are willing to be included."

Robert Mitchell, QC, Saskatchewan Public Complaints Commissioner

Both Saskatchewan's justice minister and the head of the provincial body that investigates municipal police officers are interested in the idea of bringing complaints against RCMP officers under provincial jurisdiction.

However, Robert Mitchell, QC, Chair, Saskatchewan Public Complaints Commission, will see his term end in December 2009. Mr. Mitchell previously served as an elected member of the Saskatchewan legislature holding the office of Minister of Justice and then as a Cabinet Minister until his retirement from politics. Robert's term as Chair, Saskatchewan's Public Complaints Commissioner ends in December, 2009. CACOLE has always benefited from Robert's advice and was particularly well served during Robert's two terms as President of CACOLE.

British Columbia's Police Chiefs and top RCMP officers are recommending a new independent office to investigate police officers.

The idea, announced at a press conference in Vancouver, would be a significant change in how officers are investigated in serious cases in British Columbia. The new unit would be staffed by officers loaned from departments across the province but headed by a civilian.

RCMP Superintendent Bill McKinnon, President of the B.C. Association of Chiefs of Police, said that a series of recent cases in B.C. have convinced some people that police shouldn't be in charge of investigations of police action involving death or serious injury.

B.C. Solicitor General Kash Heed said his ministry staff will work with the B.C. Association of Chiefs of Police to review the idea.

The proposed unit would be modeled after Alberta's Serious Incident Response Team (ASIRT). ASIRT is headed by a civilian director who has a legal background. ASIRT does not take complaints from the public; rather files are forwarded to ASIRT by the Solicitor General. Their mandate is to investigate incidents or complaints involving serious injury or death of any person, and matters of a serious or sensitive nature, that may have resulted from the actions of a police officer. Once an investigation has been completed, the ASIRT director reviews the results of investigations to ensure completeness and fairness. A report can be forwarded to the office of the Crown Prosecutor requesting an opinion on charges. The director will decide what charges if any will result from the investigation.

B.C.'s proposed unit, like Alberta's, would only investigate the criminal liability of officers involved in a situation that results in death or serious injury.

The suggested new office would not handle less-serious complaints made by the public that fall under B.C.'s Police Act. Those complaints, for such things as excessive force, corruption and neglect of duty, would continue, in most cases, to be investigated by the police force that employs the accused officer with oversight by the independent civilian Office of the B.C. Police Complaint Commissioner, whose powers are soon to be increased.

B.C.'s chiefs stopped short of supporting a system of fully civilian investigators, such as Ontario's Special Investigations Unit, saying they don't believe civilians have the experience to deal with police officers.