



November 28, 2011

Ian McPhail, Interim Chair  
Commission for Public Complaints Against the RCMP  
National Intake Office  
P.O. Box 88689  
Surrey, BC V3W 0X1

VIA FAX: 604.501.4095

Dear Mr. McPhail:

**RE: Complaint under RCMP Act**

Our office has recently received correspondence from Senior Director Richard Evans of your office regarding our concerns about delays in the above-noted file. Thank you for your prompt reply.

We are extremely concerned about your repeated allegations that the leadership in the RCMP, both historic, and current, are failing to adhere to their statutory duties to the point of concern to the CPC and to the point of threatening already shaky public confidence in the complaints system and RCMP accountability. Further, we are alarmed that this issue is not isolated to the Willey file which has been delayed two years, and according to you has been sitting on the Commissioner's desk for more than a year, but that there is also a continuing "list" of outstanding Commissioner's Notices in what you appear to suggest are comparable circumstances of delay on the part of the RCMP.

In Mr. Evans' letter, he writes: "The list of outstanding Commissioner's Notices is of concern to us, but is beyond the Commission's control," [Emphasis added].

Following Mr. Evans' advice to us, we reviewed your annual reports of this year and last year, and on page 23 of this year's report, we found: "The CPC's concern regarding the delay in the provision of Commissioner's Notices continues to grow, as these delays threaten the integrity of the public complaint process." In 2010, on page 24: "...permitting the accumulation of Commissioner's Notices causes major delays in the system which in turn threaten the integrity of the public complaint process." In your 2009 review of 2007 complaints, at page 52: "It must be noted that the commission is concerned, and has expressed such concern repeatedly, that there is a delay in the RCMP issuing Commissioner's Notices for Interim Reports."

We are shocked that you would suggest that a systemic violation by the RCMP of their duties under the Royal Canadian Mounted Police Act through negligence or misfeasance over a period of years is “beyond the Commission’s control,” and that it has not received greater emphasis in your public communications. With respect, if the RCMP violating statutory obligations is not in your control, what exactly is the mandate of the CPC?

We ask that you consider this letter a two part complaint, filed under section 45.35 of the *Royal Canadian Mounted Police Act* against the current Commissioner of the RCMP, Bob Paulson, and all officers who have had conduct of and responsibility for Commissioner’s Notices (“RCMP”) with respect to:

- (1) The Commissioner’s Notice in the matter of the investigation of the death of Clayton Alvin Willey (commenced in 2009) and the investigation and recommendations advanced by the Commission for Public Complaints following the complaint filed by B.C.’s Solicitor General; and,
- (2) All outstanding Commissioners’ Notices where the complaint file has been in the care and control of the RCMP awaiting a Commissioner’s Notice and the Commissioner’s Notice has not been provided to the Commission for Public Complaints Against the RCMP within six months of the receipt of the file.

In particular, based on your letter, we allege that the RCMP has failed to fulfill the RCMP’s duties in relation to these matters as mandated by the Royal Canadian Mounted Police Regulations, 1988. In particular, we allege that the RCMP has failed to fulfill the duties outlined in:

1. Section 17(1)(a) to “enforce all Acts of Parliament and regulations made thereunder” ;  
*In particular, that the RCMP has failed to fulfill the requirements of the Royal Canadian Mounted Police Act section 45.46(1) and (2), and has therefore violated, not enforced, the Royal Canadian Mounted Police Act.*
2. Section 39(1) to “not engage in any disgraceful or disorderly act or conduct that could bring discredit on the force;”  
*In particular, that the RCMP has had years of notice and has failed to fulfill the requirements of the Royal Canadian Mounted Police Act section 45.46(1) and (2), and has therefore compromised the public’s confidence in the complaints process, and in the RCMP.*

3. Section 43 to “not without lawful excuse, destroy, mutilate, alter or conceal any correspondence, report, record or other official document;”

*In particular, that the RCMP has failed to fulfill the requirements of the Royal Canadian Mounted Police Act section 45.46(1) and (2), and has therefore caused the interim reports prepared by the Commission for Public Complaints Against the RCMP to be concealed from the public, as the Commission for Public Complaints Against the RCMP may not release the interim reports until the RCMP Commissioner has fulfilled the duties described in sections 45.46(1) and (2). The RCMP has, therefore, with full knowledge of the consequences, failed to give Commissioner's Notices for a minimum of 22 files for more than six months, thereby concealing those files.*

4. Section 47 to “not knowingly neglect or give insufficient attention to any duty the member is required to perform;”

*In particular, that the RCMP has failed to fulfill the requirements of the Royal Canadian Mounted Police Act section 45.46(1) and (2), that the RCMP Commissioner has repeatedly had notice from the Commission for Public Complaints Against the RCMP of this duty and has not fulfilled this duty, and therefore has knowingly neglected or given insufficient attention to this duty.*

Thank you in advance for your assistance in these matters.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Holmes", with a long, sweeping flourish extending to the right.

Robert Holmes, QC  
President