



November 4, 2011

Commission for Public Complaints against the RCMP
7337 137 Street
Suite 102
Surrey, British Columbia V3W 1A4

VIA FAX: 604-501-4095

Dear Sirs/Mesdames:

Re: Comments by Mr. Derek Cooke, Detachment Head of Langley RCMP in relation to the death of Mr. Alvin Wright

I am writing on behalf of the B.C. Civil Liberties Association (BCCLA) to initiate a complaint under the RCMP Act. This issue came to our attention through the Langley Advance newspaper, and a story that was syndicated through a number of Postmedia newspapers across British Columbia. We have included a copy of one of these stories from the Vancouver Province for your reference.

On November 3, 2011, our organization issued a press release congratulating the RCMP for asking the OPCC to review the Vancouver Police Department investigation of the death of Alvin Wright. As you know, our organization, like the RCMP, shares the perspective that our current system of police self investigation in B.C. is not sustainable. As a result, until the Independent Investigation Office for B.C. is established, our organization encourages municipal forces and RCMP detachments to retain external force police investigators for police-involved deaths, and we encourage independent review of those investigation files by non-police agencies such as the Criminal Justice Branch or the Office of the Police Complaint Commissioner. The RCMP followed this advice exactly in the matter of the death of Mr. Wright, and so we were very supportive of those decisions up to and including issuing a press release congratulating these efforts.

Unfortunately, on the same day that the RCMP announced that they would be asking the OPCC to review the Vancouver Police investigation file in the Wright death, the detachment head of the RCMP, Mr. Derek Cooke, had the following statement attributed to him in the media:

Our officers attended to a domestic situation and found Mr. Wright hiding in a bedroom closet armed with a large knife and a hatchet. He was only shot as a last resort after he came at them brandishing the knife.

We understand that Mr. Cooke provided these statements, as we have not seen any correction or retraction notice printed, although the RCMP has advised us that E Division had not approved this release.

We are filing this complaint because the entire point of the RCMP's asking for an independent review of the Vancouver Police Investigation file is exactly to determine whether or not officers shot Mr. Wright "as a last resort." To have an individual in a senior management position within the RCMP announce his conclusion and the "facts" to the media reflects that the implications of his statements were either not considered, or, worse, were considered and were an attempt to influence the independent review or public opinion in advance of the conclusion of the review.

Mr. Cooke is in a personal conflict of interest with respect to this file. His detachment kept all involved officers in the shooting of Mr. Wright on active duty immediately following this incident, and before the conclusion of the Vancouver Police Department investigation. We do not know whose decision it was to keep these officers on duty. It appears to be a reasonable assumption that it was Mr. Cooke or his predecessor. At the least, Mr. Cooke appears to have acquiesced in or confirmed the decision by not reversing it once becoming Detachment head.

If the Vancouver Police Department investigation found that there were no issues with the Langley RCMP officers' conduct, then the decision to keep the officers being investigated on active duty could be seen by the public to have been a chance-taking that, while involving risk, had not backfired. But if the VPD had found serious issues with the conduct of the involved officers, the decision to keep the officers on active duty would likely be seen by the public to have been inappropriate and one that put the public at risk. The decision to keep these officers on duty thus engaged Mr. Cooke in the matter one way or another and put him in a position where he was not dispassionate and objective about the results of the investigation, but had an interest in it being resolved with a finding that the officers involved only shot Mr. Wright "as a last resort."

In our respectful view, this put Mr. Cooke in a conflict of interest. It is likely that his closeness to the situation and his involvement in decisions pertaining to the officers involved were the reason why RCMP E Division brought in the VPD. The same likely holds true for why E Division asked for an independent review of the VPD file, not a review of the VPD file by the Langley RCMP. The goal of E Division was, properly, to maintain public confidence in the RCMP and in the outcome of the investigation as best as practicable under the current system in B.C. Mr. Cooke's statement, made apparently (or at least likely to have been understood as such by the public) as an authoritative statement on behalf of the RCMP was inappropriate. It could be seen as undermining efforts to have an

objective and independent review. It could be seen as an effort to sway that review and to interfere with the efforts of E Division to ensure transparency and accountability.

The RCMP has a negative history as a result of making public statements before the full story has been revealed by a comprehensive investigation. For example:

- Before the video of the Robert Dziekanski incident was released to the public, but after the RCMP had reviewed the video, the RCMP had said that officers “attempted to calm him [Dziekanski] down” and “communicate with him” before Dziekanski “attempted to grab something off a desk.” The video showed that information to be inaccurate or misleading.
- Before the blood splatter evidence in the Ian Bush case in Houston was released, the RCMP had alleged that Mr. Bush was choking the police officer from behind when he was shot. The blood splatter evidence and forensic evidence indicated that Mr. Bush was shot in the back of the head and that this version of events was physically impossible.
- Before the testimony of the forensic pathologist in the Rodney Shane Jackson coroner’s inquest took place, the RCMP had told media Jackson had been shot in the chest, not in the back. Jackson had, in fact, been shot in the back by the involved RCMP officer.
- Before the testimony of the partner of the officer who shot an unarmed Kevin St. Arnaud, and before information about the physical evidence was released at the coroner’s inquest, the RCMP had said that Mr. St. Arnaud was standing over top of the shooting officer and was about to attack. In the partner’s version of events, the officer was standing in a “police shooting stance”. The RCMP ordered the partner not to speak to the media. An eye witness said Mr. St. Arnaud was surrendering.
- The video of Mr. Clayton Alvin Willey’s treatment in RCMP cells in Prince George has still not been released, which shows him receiving multiple Taser applications while hog tied shortly before his death, information which was not released by the RCMP at the time of his death, and for which no officer has ever been charged.

Many of these incidents are notorious, and have served to undermine public confidence in the RCMP. For Mr. Cooke to gamble the reputation of the RCMP as a whole by making public statements before the review of the VPD investigation is complete risks further undermining the reputation of the RCMP in B.C. If the investigation report says something different

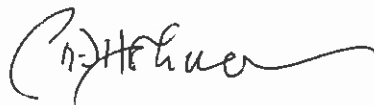
than Mr. Cooke has alleged, or failed to take into account a key piece of independent evidence which changes the story, it will make no difference whether or not the actions of the officers are justified because the public's confidence in public statements by the RCMP will be undermined again.

We worry too that the comments of Mr. Cooke may influence the actions of the Office of the Police Complaint Commissioner in reviewing the file, or, in the alternative, will jeopardize the public's perception of the independence of this review. If the OPCC announces that the officers had no alternative but to shoot Mr. Wright, the OPCC could be seen as echoing the RCMP public relations line and some may perceive that they are not, actually, independent. If the OPCC finds that there are issues in the investigation file that require further steps, the action of asking for more investigative steps will be seen as directly confrontational and as an attempt to undermine the RCMP's official position. If the OPCC sends the matter on to the Criminal Justice Branch for charge assessment, the weighting of that decision will now invariably include the consideration that doing so will suggest that Mr. Cooke is intentionally deceitful or was grossly negligent in making the comments he did. Two officers, instead of one, will now be directly impacted by the decisions of the OPCC, one of them a very senior RCMP member.

As a senior officer, Mr. Cooke appears to the public speak on behalf of the entirety of E Division. His comments, as a result, put the RCMP as a force in an unnecessarily confrontational relationship with the OPCC. Given that the RCMP E Division has actually asked for the OPCC to do these types of independent reviews, Mr. Cooke's comments undermine that request and jeopardize the oversight relationship between the OPCC and the RCMP on matters going forward.

In particular, and for ease of categorization, we allege that Mr. Cooke committed the following disciplinary infractions: improper attitude, irregularity in procedure, neglect of duty, and oppressive conduct.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Holmes", with a long, sweeping underline.

Robert Holmes, QC
President

cc. Supt. Mark Fleming, BCCLA RCMP Liason, via e-mail