

FEDERAL COURT

BETWEEN:

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Applicant

and

**ROYAL CANADIAN MOUNTED POLICE COMMISSIONER BRENDA
LUCKI, ATTORNEY GENERAL OF CANADA and
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA, as represented by the MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL**

Respondents

AFFIDAVIT OF MICHAEL O'MALLEY
(Affirmed February 3, 2021)

I, Michael O'Malley, of the City of Ottawa, in the Province of Ontario,
AFFIRM THAT:

Background:

1. I have been a member of the Royal Canadian Mounted Police ("RCMP") since July 1987. I started with the RCMP as a non-commissioned officer and worked in general duty positions in New Brunswick, the Northwest Territories and Nunavut. In 2005, I became a commissioned officer in the RCMP. I have worked in various positions as a commissioned officer including District Commander (2006 to 2011), Atlantic Region Corporate Planning and Client Services Officer (2011 to 2012), District Policing Officer (2012 to 2014), and Atlantic Region Employee Management Relations Officer (2014 to 2015). In July 2015, I transferred to Ottawa and assumed the position of Director, Technical Operations Strategic Services Branch. I was promoted into my current rank of Superintendent in 2012.

2. In November 2018, I was appointed into my current position as Director of the RCMP National Public Complaints Directorate ("NPCD"). The NPCD is the national policy center responsible for complaints from the public stemming from interactions with RCMP members during criminal investigations and police service delivery. In my current role, I am responsible for the day-to-day operations of the NPCD. My duties include overseeing the administration and investigation of public complaints against RCMP members for the entire country, setting the strategic priorities of the NPCD and liaising with the Division Professional Responsibility Units on their role in the public complaints process. Part of my work also includes reviewing the analysis reports prepared by analysts in the NPCD sent to the RCMP Commissioner ("Commissioner") that informs the official RCMP response to the Civilian Review and Complaints Commission ("CRCC") Chairperson.
3. In my role as the NPCD Director, I am directly familiar with the complaint from the British Columbia Civil Liberties Association ("BCCLA") that is at issue in this application. I first became generally aware of this matter during my transition to the Director position in November 2018. As such, I have personal knowledge of the matters to which I hereinafter depose. Where my knowledge is based upon information and belief, I have identified the source of my knowledge and I verily believe it to be true.

The CRCC Complaint Process:

4. The Civilian Review and Complaints Commission ("CRCC") was established in 2013 as part of the *Enhancing Royal Canadian Mounted Police Accountability Act*. The CRCC is an independent agency with the mandate to receive complaints from the public and conduct reviews when complainants are not satisfied with the RCMP's handling of their complaints as they pertain to the conduct of RCMP members.

5. Part VII of the *RCMP Act* provides the legislative framework for the RCMP Public Complaint process. The *RCMP Act* stipulates that any individual may make a public complaint concerning the conduct of any RCMP employee who at the time was in the performance of their duties. Complaints must be made within one year of the incident by a person who was directly involved or directly witnessed the incident.
6. The CRCC can also conduct public interest investigations. Public interest investigations occur when the Chairperson of the CRCC ("CRCC Chairperson") is of the opinion that it would be in the public interest for the CRCC to investigate a complaint instead of the RCMP.
7. The RCMP investigates the vast majority of all public complaints. Over the past five fiscal years, the RCMP received an annual average of 2,160 public complaints regarding RCMP members. All public complaints against RCMP members are investigated by the RCMP with the exception of complaints initiated by the CRCC Chairperson or public interest investigations conducted by the CRCC. The CRCC has conducted seven or fewer investigations per year since 2015.
8. Upon completion of a public complaint investigation by the RCMP, a final report is provided to the complainant outlining the disposition of their complaint. If a complainant is not satisfied with the RCMP's disposition of their complaint, they may request that the CRCC conduct a review of the RCMP's disposition. Upon receiving such a request, the CRCC obtains the relevant material from the RCMP and assesses the RCMP's investigation of the complaint. Fewer than 15% of all public complaints investigated by the RCMP are reviewed by the CRCC.
9. Upon review of the RCMP's disposition of the public complaint, the CRCC will issue a "Satisfied Report" if it is satisfied with the RCMP's disposition of

the complaint. A "Satisfied Report" does not require any further response or action from the RCMP Commissioner. Over the past five years, the CRCC issued "Satisfied Reports" for approximately 78% of the reviews it conducted of RCMP public complaint investigations.

10. The CRCC will issue an Interim Report in two different circumstances. First, the CRCC will issue an Interim Report where upon the completion of a review, it does not agree, in part or in whole, with the RCMP's disposition of the complaint. Second, the CRCC will issue an Interim Report when it conducts a public interest investigation or chair initiated complaint. The Interim Report prepared by the CRCC will set out its factual findings about the complaint and any recommendations for change. For example, the CRCC could recommend an apology to the complainant, operational guidance to the subject member, or changes to the RCMP's training procedures or policies.
11. Interim Reports prepared by the CRCC are sent to the RCMP's NPCD. Advisors in the NPCD review the Interim Report and supporting relevant material, consult internally within the RCMP as required, and prepare an analysis report for the Commissioner.
12. The Commissioner will then provide the Chairperson of the CRCC with a written response to the CRCC's Interim Report, which may:
 - i) agree with the CRCC's findings and recommendations;
 - ii) agree, in part, with the CRCC's findings or recommendations; or,
 - iii) disagree with the CRCC findings and recommendations.
13. The NPCD will also follow up with the relevant RCMP Divisions to ensure that any recommendations from the CRCC that the Commissioner agreed

to are implemented.

14. After receiving the Commissioner's written response to the Interim Report, the CRCC must consider the response and then prepare its final report that sets out its findings and recommendations regarding the complaint. The CRCC will then provide the final report to the Commissioner and the parties to the complaint.
15. In fiscal year 2015 – 2016, the CRCC issued 16 Interim Reports. In the three subsequent fiscal years, the CRCC issued 57, 51 and 44 Interim Reports respectively. In fiscal year 2019 – 2020, the CRCC issued 81 interim reports. For fiscal year 2020 – 2021, as of December 31, 2020, the RCMP received 41 Interim Reports from the CRCC.
16. The NPCD output of analysis reports and related Commissioner's Responses over the same period of time, starting in fiscal year 2015 – 2016 was 17, 14, 22, 33 and 18. As of February 3, 2021, 71 responses have been sent to the CRCC.

The BCCLA Complaint:

17. In February 2014, the BCCLA submitted a complaint to the CRCC. The complaint alleged that members of the RCMP had illegally monitored protests and demonstrations surrounding National Energy Board (NEB) hearings into the Northern Gateway Project pipeline (the "BCCLA Complaint"). The CRCC notified the Minister of Public Safety and Commissioner that it would conduct a public interest investigation into the complaint.
18. The CRCC dealt with the BCCLA Complaint as a public interest investigation under section 45.66(1) of the *RCMP Act*. As previously stated, since it was a public interest investigation, the CRCC, as opposed to the

RCMP, was responsible for conducting the investigation into the allegations.

19. On June 23, 2017, the CRCC delivered its Interim Report regarding the BCCLA Complaint to the Commissioner. The practice in the NPCD at the time was that Interim Reports were responded to in the order in which they were received from the CRCC. As such, the Interim Report for the BCCLA Complaint was not immediately assigned to an analyst since there were other Interim Reports from the CRCC that had been previously received.
20. As previously stated, I became generally aware of this complaint after starting as the Director, NPCD in November 2018. In November and December 2018, I attended two meetings with the CRCC Director of Reviews, Ms. Nika Joncas-Bourget. These meetings were concerning other complaints that were identified as a priority for the CRCC at that time.
21. On December 5, 2018, I attended a meeting between Commissioner Lucki and the CRCC Interim Chairperson, Mr. Guy Bujold. There were a number of items discussed including a general discussion about the Interim Reports from the CRCC awaiting responses from the RCMP. The BCCLA Complaint was not specifically discussed.
22. On January 4, 2019, I received an email message from Ms. Nika Joncas-Bourget enquiring about the status of the BCCLA Complaint. On January 9, 2019, I replied to Ms. Joncas-Bourget that the RCMP's response would not be provided within the next 90 days. A copy of this email chain is attached as Exhibit "A" to the Affidavit of Ms. Nika Joncas-Bourget dated January 18, 2021.
23. On January 17, 2019, I attended an introductory meeting between the new CRCC Chairperson, Ms. Michelaine Lahaie, and Commissioner Lucki. There was general discussion regarding the Interim Reports awaiting

responses from the RCMP. The BCCLA Complaint was not specifically discussed.

24. On April 15, 2019 and May 29, 2019, I received email messages from Ms. Joncas-Bourget regarding the status of the Commissioner's response to the BCCLA Complaint. Attached to my affidavit as **Exhibit "A"** is a copy of the email dated April 15, 2019 from Ms. Nika Joncas-Bourget. Attached to my affidavit as **Exhibit "B"** is a copy of the email dated May 29, 2019 from Ms. Nika Joncas-Bourget.
25. On June 10, 2019, I responded to Ms. Joncas-Bourget's earlier emails and advised that, at the present time, it was not possible to approximate a date by which the response to the BCCLA Complaint would be completed. Attached to my affidavit as **Exhibit "C"** is a copy of my email dated June 10, 2019 to Ms. Nike Joncas-Bourget.
26. On June 28, 2019, I attended a meeting between the Commissioner and the CRCC Chairperson. There was a general discussion about the progress the RCMP was making on providing responses to the Interim Reports that were outstanding. As discussed in more detail below, the response to the Kent County Public Interest Investigation was discussed specifically as a priority for the CRCC Chairperson and agreed to by the Commissioner. The BCCLA Complaint was not specifically discussed.
27. On July 15, 2019, I had a telephone conversation with Mr. Josh Paterson, Executive Director for the BCCLA. We discussed the BCCLA Complaint and the capacity issues in the NPCD that were creating delays in providing responses to the CRCC on interim reports. On July 16, 2019, I followed up with a message that advised the rate at which we would reduce the backlog would be determined by the time it took to fill the new positions. Attached to my affidavit as **Exhibit "D"** is a copy of my email to Josh Paterson dated July 16, 2019.

28. On August 9, 2019, counsel for the Applicant wrote to the Commissioner regarding the status of the BCCLA Complaint. On August 16, 2019, the Commissioner responded to counsel for the Applicant regarding the status of the BCCLA Complaint. Attached to my affidavit as **Exhibit "E"** is a copy of correspondence from Paul Champ dated August 9, 2019. Attached to my affidavit as **Exhibit "F"** is a copy of Commissioner's response to Paul Champ dated August 16, 2019.
29. On December 11, 2019, the CRCC Chairperson and the RCMP Commissioner signed a Memorandum of Understanding (the "MOU"). The RCMP and CRCC entered into the MOU in order to establish practices and procedures to support the implementation of the public complaints process under the *RCMP Act*. The MOU is attached as Exhibit "E" to the Affidavit of Nika Joncas-Bourget sworn January 18, 2021.
30. On June 23, 2020, counsel for the Applicant wrote the Commissioner regarding the RCMP's response to the CRCC Interim Report for the BCCLA Complaint. Attached to my affidavit as **Exhibit "G"** is a copy of the correspondence from Paul Champ dated June 23, 2020.
31. On June 29, 2020, I received an email message from Ms. Joncas-Bourget seeking an update on the status of the Commissioner's response. Attached to my affidavit as **Exhibit "H"** is a copy of the email dated June 29, 2020 from Ms. Nika Joncas-Bourget. By email dated June 29, 2020, I responded to Ms. Joncas-Bourget and indicated that the Commissioner's response would be provided in the fall as two other public interest investigations were to be completed before the response to the BCCLA Complaint. Attached to my affidavit as **Exhibit "I"** is a copy of my email dated June 29, 2020 to Ms. Nika Joncas-Bourget.

32. On July 8, 2020, the CRCC Chairperson wrote the Commissioner advising that the CRCC intended to provide the Applicant's counsel with their Final Report in 90 days, with or without the RCMP response. Attached to my affidavit as **Exhibit "J"** is a copy of the correspondence from the CRCC Chairperson dated July 8, 2020.
33. On August 7, 2020, the Commissioner wrote to the CRCC and counsel for the Applicant to confirm that the NPCD staff had been directed to re-prioritize work on the BCCLA Complaint so that the RCMP could attempt to provide a response within the requested 90-day time-frame. Attached to my affidavit as **Exhibit "K"** is a copy of the correspondence from the Commissioner dated August 7, 2020.
34. On September 24, 2020, counsel for the Applicant wrote to the RCMP Commissioner regarding the BCCLA Complaint. Attached to my affidavit as **Exhibit "L"** is a copy of correspondence from Paul Champ dated September 24, 2020.
35. On October 4, 2020, I informed the CRCC that the Commissioner's response would not be completed by October 6, 2020. Attached to my affidavit as **Exhibit "M"** is a copy of my email dated October 4, 2020 to Ms. Joncas-Bourget.
36. On October 13, 2020, the Commissioner wrote to counsel for the Applicant to advise that the RCMP's intention was to complete the response by November 7, 2020. Attached to my affidavit as **Exhibit "N"** is a copy of correspondence from the Commissioner to Paul Champ dated October 13, 2020.
37. The Commissioner wrote to counsel for the Applicant on November 6, 2020 to advise that an additional two weeks was required to complete the work on the response to the CRCC's interim report. Attached to my affidavit as

Exhibit “O” is a copy of the correspondence from the Commissioner to Paul Champ dated November 6, 2020.

38. On November 20, 2020, the Commissioner provided her response to the CRCC regarding the Interim Report. On that same date, the Commissioner wrote to counsel for the Applicant confirming that the RCMP had provided its response to the CRCC’S Interim Report. Attached to my affidavit as **Exhibit “P”** is a copy of the correspondence from the Commissioner to Paul Champ dated November 20, 2020.

The RCMP’S Response to Interim Report:

39. The Commissioner acknowledged in her correspondence to the Applicant’s counsel dated August 7, 2020 that the time required to respond to the CRCC Interim Report “has not been ideal”. As explained below, a number of factors contributed to the time required by the Commissioner to respond to the CRCC’s Interim Report for the BCCLA Complaint.

Volume of Reports:

40. First, as previously mentioned, over the last several years, there has been a significant increase in the number of Interim Reports from the CRCC requiring a response from the RCMP. This has resulted in a backlog of files awaiting a response from the RCMP. At the time the Interim Report for the BCCLA Complaint was received by the RCMP in June 2017, there were already nine other public interest investigation Interim Reports in the queue awaiting analysis. NPCD was also working on a large number of individual complaint review Interim Reports from the CRCC prior to receipt of the Interim Report for the BCCLA complaint.

Complexity & Need to Consult Internally:

41. Second, it is important to note that preparing the RCMP's response to an Interim Report can require a significant amount of time. A number of factors can influence the amount of time required for the RCMP to respond to an Interim Report such as the size of the file, the complexity of the issues involved, amount of internal consultation required as well as the availability and workload of the advisors completing the work.
42. Specifically, when an interim report is received from the CRCC, it is usually necessary for the NPCD advisors to consult internally within the RCMP in order to prepare a response.
43. This required internal consultation can take time since any recommendation regarding the operation or administration of the RCMP can have far-reaching and significant impacts to the organization and the public. As a result, there are many factors that need to be considered in preparing a response to the CRCC, such as existing case law, legal authorities and legislation, budgets, and potential impacts on our service to the public, amongst others. The NPCD advisors therefore need to obtain input from all relevant RCMP policy centres that may potentially be impacted by CRCC recommendations. The NPCD advisors then use this information to prepare a detailed analysis report for the Commissioner in preparation for her response to any given interim report.
44. In the present case, the Interim Report from the CRCC required significant consultation and analysis due to its size and the complexity of issues raised. In particular, the CRCC provided a large volume of supporting material with the Interim Report that required detailed analysis by the NPCD. Given its size and the issues raised, the BCCLA Interim Report was among the more complicated files ever reviewed by NPCD.

Priority to Kent County:

45. Third, during fiscal year 2019 – 2020, the CRCC completed their interim report into the 2013 Anti-shale gas protests in Kent County, New Brunswick ("Kent County Interim Report"). The Kent County Interim Report involved complicated issues regarding Indigenous complaints about police treatment during protests concerning natural resource development. As part of their review of this complaint, the CRCC provided the RCMP with two terabytes of relevant material that needed to be reviewed and analyzed by NPCD. This file was by the far the largest ever received by the NPCD.
46. As a result of discussions between the CRCC and RCMP, the CRCC asked the RCMP to prioritize its response to the Kent County Interim Report. As a result of this decision, all available advisors within NPCD were assigned to work on the response to the Kent County Interim Report. This meant that work on other files within NPCD was temporarily paused in order for the RCMP to prioritize completion of work on Kent County Interim Report.
47. The Commissioner provided her response to the Kent County Interim Report in June 2020. The completion of the Commissioner's response to the Kent County Interim Report allowed the NPCD advisors to resume work on other complaints. Since June 2020, the Commissioner has provided the CRCC with 71 other responses to Interim Reports. Further, in July 2020, the three available NPCD advisors were assigned to review the BCCLA Complaint Interim Report, along with its supporting relevant material, in an effort to complete the Commissioner's Response within the 90 days requested by the CRCC Chairperson.

Staffing Issues:

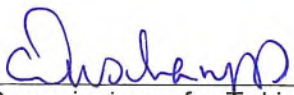
48. In order to address the substantial demands being placed on the NPCD, the RCMP recognized that additional analysts would need to be hired. The RCMP therefore undertook to increase the number of term and permanent public complaint advisor positions within NPCD in order to increase its capacity to respond to CRCC Interim Reports. In that regard, the RCMP conducted a staffing process in 2019 and again in 2020 to bring new employees into the NPCD. However, it is a lengthy and complicated process to hire new employees within the RCMP. In particular, any new employee must complete the RCMP security screening process before they can start work.
49. In light of the significant time required to conduct staffing processes, various other measures were undertaken by the RCMP to help deal with the backlog issue. For example, analysts were brought into NPCD to work for one-year assignments. In addition, temporary resources from outside RCMP National Headquarters were assigned to help work on the Commissioner's response to CRCC Interim Reports. While these additional resources helped increase the output of the Commissioner's responses, they did not result in the elimination of the backlog of reports from the CRCC awaiting responses.
50. At the time of the swearing of this affidavit, there are currently 140 interim reports from the CRCC awaiting a response from the Commissioner. The RCMP is committed to eliminating the backlog of cases awaiting responses from the RCMP and to consistently meeting the agreed upon time limit set out in the MOU. In that regard, RCMP management approved and created 12 new positions within NPCD. The positions consist of three teams, each comprised of one team leader and three advisors. A manager position is approved and in the process of being created. Four advisor positions are filled and six new hires are pending security clearances. New hiring

processes are being initiated for the team leaders and remaining advisor positions.

51. Overall, this past fiscal year the NPCD has worked to reduce the backlog of Interim Reports from the CRCC awaiting responses from the RCMP. In addition, over the past year, the RCMP provided responses to three of the largest files ever received from the CRCC by NPCD (Kent Country Interim Report, BCCLA Interim Report, and Boushie Interim Report). The RCMP, with some limited exceptions, is also meeting the agreed upon time limit in the MOU.

52. I make this Affidavit in response to the Applicant's application for judicial review and for no other or improper purpose.

AFFIRMED BEFORE ME at the
City of Ottawa, in the Province of
Ontario, this 3rd day of February,
2021



Commissioner for Taking Affidavits
P15813

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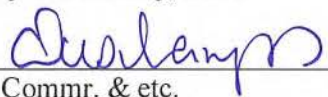


Michael O'Malley

This is Exhibit A referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

From: Nika Joncas-Bourget

Sent: Monday, April 15, 2019 1:59 PM

To: 'Michael O'Malley'

Subject: Request for time estimate for Commissioner's Response to CRCC's Interim Report on BCCLA Complaint re: NEB Hearings

Re: Complaint by the B.C. Civil Liberties Association and Public Interest Investigation into Allegations of RCMP Surveillance of Canadian Citizens and Information Sharing with the National Energy Board – CRCC file 2014-0380 - Letter dated March 25, 2019, from BCCLA lawyer Paul Champ

Dear Superintendent O'Malley,

You may have already received the attached correspondence from Mr. Paul Champ, the lawyer representing the BCCLA in the above-noted matter. A copy of this letter addressed to the CRCC's Chairperson was also sent to the RCMP Commissioner as well as the Minister of Public Safety. In this letter, Mr. Champ complains about the delay in addressing the BCCLA's complaint and asks for a time estimate of when his client can expect to receive the final report on its complaint.

As you know, the Commission issued its Interim Report in this matter on June 23, 2017. Like the BCCLA, the Commission is concerned about the delay in concluding this case. Could you please give me a time estimate with respect to when the CRCC will receive the Commissioner's Response? I would like to offer some reassurance in a reply to Mr. Champ that the matter will be concluded in the near future.

Regards,
Nika Joncas-Bourget
Director and Senior Counsel, Reviews
Civilian Review and Complaints Commission for the RCMP / Government of Canada
nika.joncas-bourget@crcc-ccetp.gc.ca / Tel: 613-946-5218
Directrice et avocate principale, Examens
Commission civile d'examen et de traitement des plaintes relatives à la GRC / Gouvernement du Canada
nika.joncas-bourget@crcc-ccetp.gc.ca / Tél. : 613-946-5218

Civilian Review and
Complaints Commission
for the RCMP



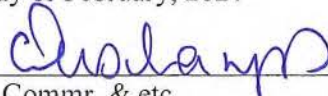
Commission civile d'examen
et de traitement des plaintes
relatives à la GRC

Canada

This is Exhibit **B** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

From: Nika Joncas-Bourget <Nika.Joncas-Bourget@crcc-ccetp.gc.ca>
To: 'Michael O'Malley' <Michael.Omalley@rcmp-grc.gc.ca>
CC: "Savard, Denis" <Denis.Savard@rcmp-grc.gc.ca>

Date: 2019/05/29 2:09 PM

Subject: FW: Request for time estimate for Commissioner's Response to CRCC's Interim Report on BCCLA Complaint re: NEB Hearings

Re: Complaint by the B.C. Civil Liberties Association and Public Interest Investigation into Allegations of RCMP Surveillance of Canadian Citizens and Information Sharing with the National Energy Board – CRCC file 2014-0380 - Letters dated March 25 and May 21, 2019, from BCCLA lawyer Paul Champ

Dear Superintendent O'Malley,

The Commission has received follow-up correspondence from Mr. Paul Champ dated May 21, 2019 (attached). Mr. Champ represents the BCCLA in the above-noted case. He is again expressing concern with respect to the delay in the issuance of a final report on the BCCLA's complaint. The CRCC has not yet responded to his letter of March 25, 2019, because we were waiting for your response to the email dated April 15, 2019, below.

As noted in my April 15 email, the Commission issued its Interim Report in this matter on June 23, 2017. Like the BCCLA, the Commission is concerned about the delay in concluding this case. Could you please give me an approximate date as to when the Commission can expect to receive the Commissioner's Response?

Regards,

Nika Joncas-Bourget

Director and General Counsel, Reviews

Civilian Review and Complaints Commission for the RCMP / Government of Canada

nika.joncas-bourget@crcc-ccetp.gc.ca / Tel: 613-946-5218

Directrice et avocate générale, Examens

Commission civile d'examen et de traitement des plaintes relatives à la GRC / Gouvernement du Canada

nika.joncas-bourget@crcc-ccetp.gc.ca / Tél. : 613-946-5218

Civilian Review and
Complaints Commission
for the RCMP



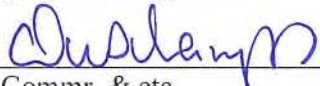
Commission civile d'examen
et de traitement des plaintes
relatives à la GRC

Canada

This is Exhibit C referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

O'Malley, Michael

From: Michael O'Malley <Michael.Omalley@rcmp-grc.gc.ca>
Sent: June 10, 2019 1:11 PM
To: Joncas-Bourget, Nika
Cc: Savard, Denis
Subject: FW: Request for time estimate for Commissioner's Response to CRCC's Interim Report on BCCLA Complaint re: NEB Hearings

With regards to this matter, I have reviewed our list of Public Interest Investigations that are awaiting analysis. There are three other PIs that were received in advance of this one. Those PIs have yet to be assigned to an advisor as efforts are being made to complete the analysis on another, earlier PI. As you know, we are addressing our capacity issue by establishing and filling six public complaint advisor positions. That will take some time to complete. Additionally, one of our two most experienced advisors left for a position with the CRCC which reduces our ability to analyze the more complex files, such as PIs by 50%. Someone has moved into the vacant position, however, does not yet have the experience to fill the void created by the departure of such an experienced advisor / analyst.

In the past, the approach taken by NPCD management has been to complete analyses in the order which they were received. I have developed a prioritization tool that we are piloting to rank files based on combined scores from a set of pre-determined criteria. This process will provide NPCD with a prioritized list that we will use until such a time as there is no longer a backlog of Interim Reports. There will also be two lists, one just for PIs and CICs that will be assigned to our senior, more experienced advisors and a second list for Interim Reports resulting from reviews requested by complainants.

Once we are comfortable that we have the prioritization tool ready to go, we can come meet with you and perhaps the Chairperson to explain the methodology.

Finally, if there is a decision to prioritize the Kent County PI / CIC, it will mean that the majority of all other analyses will be put on hold as we will have to direct our few resources to work on that matter. This file alone will be several months to complete.

Based on the foregoing, I am not able to even approximate a date by which the NEB Hearing PI Commissioner's Response will be completed.

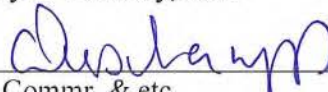
I am available to discuss and in fact, we should arrange for a meeting between our respective Directors at some point this month.

Thanks.

This is Exhibit **D** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

From: Michael O'Malley <Michael.Omalley@rcmp-grc.gc.ca>

Sent: Tuesday, July 16, 2019 12:25 PM

To: Josh Paterson

Subject: Re: FW: CRCC file A2018-013

With regards to the date, I see the date on the first page of the CRCC Report is June 23, 2017. It would have been mailed to us and arrived in the National Public Complaints Directorate in July, 2017.

We are committed to completing the analyses as soon as feasible. The rate at which we are able to reduce our backlog will be determined by the time it takes to fill the new positions. That process is underway.

Thanks for passing this along.

Mike O

Supt. Michael O'Malley, Director
RCMP National Public Complaints Directorate

>>>

From: Josh Paterson <josh@bccla.org>
To: "michael.omalley@rcmp-grc.gc.ca" <michael.omalley@rcmp-grc.gc.ca>
Date: 2019/07/16 3:07 PM
Subject: FW: CRCC file A2018-013

Hey Mike,

Thanks for the chat yesterday. Coincidentally, the BCCLA's lawyer Paul Champ got the email below *this morning* from the Canadian Press's Jim Bronskill, who as I mentioned has been covering these complaints for years.

I'm sending it to you as a courtesy so you're not taken by surprise – Jim has an ATIP of the CRCC report into the complaint PC-2014-0380 on RCMP alleged involvement in surveillance of environmental groups and *Idlenomore*.

As you can see, all the findings and the analysis are redacted in the ATIP doc he received. He's had it since February based on the email chain, and we've just learned he has it as he's asking us about it in the wake of the CSIS stories last week.

I get that your unit has capacity issues that have led to unfortunate backlogs and delay in general – and a very long delay in this case – and that the Unit is now taking steps to address the capacity issue by bringing new staff online but that it takes time to train, etc – and that's what we will say when we understand are asked for comment by Jim.

One thing I'm not sure about in his email is that he says the CRCC told him they forwarded the complaint to RCMP only this year. I believed it had been sent earlier than that. Are you able to say, so that I can clarify?

As I mentioned to you yesterday, we were already planning on sending a letter to the commissioner and we will be doing so pretty shortly. I will make sure it's copied to you so that you have it as soon as it goes out.

Happy to talk further if you feel the need – my number is 778-829-8973.

Josh

Josh Paterson

Executive Director | Directeur-général | Lawyer | Avocat

British Columbia Civil Liberties Association | Association des libertés civiles de la Colombie-Britannique

pronouns: he, him, his / pronoms: il, lui, son

josh@bccla.org | Direct phone | ligne directe: 604.630.9752 | Toll free | Sans frais: 1.866.731.7507

Fax | téléc: 604.687.3045 | Main office | tél (bureau): 604.687.2919 | Twitter: [@bccla](https://twitter.com/bccla) | Facebook | www.bccla.org

306 – 268 Keefer Street, Vancouver, BC V6A 1X5 Canada | Shared lands of the / territoires partagés des peuples
xʷməθkʷəy̓əm (Musqueam), Skxwú7mesh (Squamish) & səliłwətaʔt (Tsleil-Waututh)

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From: Paul Champ <pchamp@champlaw.ca>

Sent: July 16, 2019 9:22 AM

To: Josh Paterson <josh@bccla.org>

Subject: FW: CRCC file A2018-013

Hi Josh,

See message below from CP reporter Jim Bronskill. I've discussed this file with Jim a few times. I think he had mentioned to me once that he had ATIP'ed the CRCC's report but I didn't realize he had received something. As you know, I've written to the CRCC chair several times seeking an update. In their last letter, they told us that the interim report was sent to the RCMP two years ago. As previously recommended, I think its time I follow up with a letter to the RCMP Commissioner on this. Let me know what I can say to Jim – I would like to do a letter to the RCMP Commissioner and share with him.

Paul Champ

CHAMP & ASSOCIATES | CHAMP & AVOCATS

43 Florence Street | 43, rue Florence

Ottawa, Ontario K2P 0W6

T: (613) 237-2441

F | Téléc.: (613) 232-2680

www.champlaw.ca

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: Bronskill, Jim <Jim.Bronskill@thecanadianpress.com>

Sent: July-16-19 10:42 AM

To: Paul Champ <pchamp@champlaw.ca>

Subject: CRCC file A2018-013

Hi Paul,

Thanks again for your help on the BCCLA-CSIS files.

Attached is the response I received in February from the Civilian Review and Complaints Commission to my ATI request for the interim report on pipeline protester surveillance.

It is dated June 2017, which indicates the interim report was completed two years ago. However, the CRCC tells me the report was forwarded to the RCMP only this year. This makes no sense to me.

In any event, as mentioned when we last spoke, I would like to do a story at some point soon about how this report has not seen the light of day, for whatever reasons.

Perhaps we could talk Wednesday if you are around this week?

Thanks, Jim

From: ATIP AIPRP <ATIP.AIPRP@crcc-ccetp.gc.ca>

Sent: 04 February 2019 11:23

To: Bronskill, Jim <Jim.Bronskill@thecanadianpress.com>

Subject: Your Access to Information Request - Your file Pipeline - CRCC file A2018-013

Dear Jim Bronskill,

The Civilian Review and Complaints Commission for the RCMP has completed processing your request under the Access to Information Act. Please find the response attached.

Regards,

Rochelle Boudreau

Access to Information and Privacy Coordinator Civilian Review and
Complaints Commission for the RCMP / Government of Canada

Rochelle.Boudreau@crcc-ccetp.gc.ca / Tel. 613-946-5216

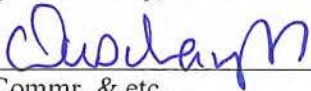
Coordonnateur de l'Accès à l'information et la protection de
renseignements personnels Commission civile d'examen et de traitement
des plaintes relatives à la GRC / Gouvernement du Canada

Rochelle.Boudreau@crcc-ccetp.gc.ca / Tel. 613-946-5216

This is Exhibit E referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Our File: 1555

August 9, 2019

BY MAIL AND FACSIMILE (613)825-7489

Commissioner Brenda Lucki
Royal Canadian Mounted Police
73 Leikin Drive, Building M8, Room 512D
Ottawa, ON K1A 0R2

19-003235
COMMISSIONER'S
OFFICE

AOUT 12 2019
AUG

BUREAU DU
COMMISSAIRE

Dear Commissioner Lucki:

**Re: Complaint by the B.C. Civil Liberties Association - PC-2014-0380
RCMP Surveillance of Canadian Citizens and Information Sharing
with the National Energy Board**

We are legal counsel for the British Columbia Civil Liberties Association in respect of a complaint that was filed over five years ago with the RCMP Civilian Review and Complaints Commission on February 6, 2014. The complaint alleged that the RCMP improperly monitored and collected information about Canadian citizens and groups engaging in peaceful and lawful expressive activities (namely, opposition to the planned Northern Gateway pipeline and attending National Energy Board hearings) and shared that information with other government bodies and private sector actors.

The CRCC launched a public interest investigation into the complaint under Part VII of the *RCMP Act*. We have written several times to Commission seeking an update on this complaint and an explanation for the inordinate delay in producing a final report. Recently, we were informed by the CRCC Chairperson that an interim report was completed over two years ago and provided to the RCMP and the Minister of Public Safety. A copy of that correspondence is enclosed for ease of reference. Unfortunately, the CRCC cannot conclude its final report until the RCMP provides a written response under section 45.76(2) of the Act. In short, the RCMP has been sitting on this report for over two years and effectively obstructing its release to my client and the public.

Commissioner Lucki, section 45.76(2) of the *RCMP Act* imposes a public legal duty on you to provide a response to this report "as soon as feasible". As the complainant, the BCCLA has a clear right to the performance of that duty. It is our view that two years for your review and response to the CRCC's interim report is clearly an unreasonable delay not contemplated by the statute, whether the delay is due to insufficient allocation of

resources or any other cause. This delay is all the more serious when the allegations concern fundamental rights and freedoms protected by the Canadian Constitution.

We look forward to hearing from you.

Yours truly,

A handwritten signature in black ink, appearing to read 'Paul Champ', with a long, sweeping horizontal stroke extending to the right.

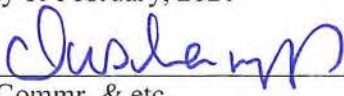
Encl.

c: Josh Paterson, Executive Director, BCCLA

This is Exhibit **F** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Royal Canadian Mounted Police
Commissioner



Gendarmerie royale du Canada
Commissaire

Guided by Integrity, Honesty, Professionalism, Compassion, Respect and Accountability

Les valeurs de la GRC reposent sur l'intégrité, l'honnêteté,
le professionnalisme, la compassion, le respect et la responsabilisation

AUG 16 2019

Mr. Paul Champ
Champ & Associates
Equity Chambers
43 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Champ:

Thank you for your letter of August 9, 2019, on behalf of your client, the British Columbia Civil Liberties Association (BCCLA), concerning their complaint against the Royal Canadian Mounted Police (RCMP).

The Civilian Review and Complaints Commission for the RCMP received the complaint from the BCCLA on February 6, 2014, and initiated its Public Interest Investigation into the National Energy Board protests shortly afterwards. The Interim Report was completed on June 23, 2017, and the supporting relevant material was provided to the RCMP in the months that followed.

Paragraph 45.71(3)(a) of the *Royal Canadian Mounted Police Act* requires the Commission to send the Interim Report to the Minister and the Commissioner. The Commissioner shall, as soon as feasible, provide the Commission and the Minister with a written response to the Commission's Chairperson, who in turn will complete the Final Report.

I understand the reasons you have listed in your letter to have the Final Report released as soon as possible. For those same reasons, it would be premature to provide a response that is not complete or properly analysed. Given the volume and complexity of the relevant material, it is difficult to provide a time line for

.../2

- 2 -

completion of my response. Despite other challenges and pressures, the completion of the analyses of Public Interest Investigation Interim Reports have been prioritized. I will provide my responses as soon as feasible.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'B. Lucki'.

Brenda Lucki
Commissioner

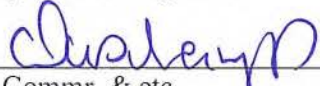
c.c.: Ms. Michelaine Lahaie
Chairperson
Civilian Review and Complaints Commission for the RCMP

The Honourable Ralph Goodale, P.C., M.P.
Minister of Public Safety and Emergency Preparedness

This is Exhibit **G** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Champ & Associates

Equity Chambers
43 Florence Street / 43, rue Florence
Ottawa, Ontario K2P 0W6
Tel: 613-237-4740
Fax/Téléc : 613-232-2680

FAX COVER SHEET / PAGE COUVERTURE

TRANSMITTED TO/NUMÉRO DU DESTINATAIRE : 613-825-7489

TO/ DESTINATAIRE: Commissioner Brenda Lucki
Royal Canadian Mounted Police
73 Leikin Drive, Building M8, Room 512D
Ottawa, ON K1A 0R2

FROM/ EXPÉDITEUR: Paul Champ

RE/OBJET: Complaint by BCCLA
PC-2014-0380

DATE: June 23, 2020

This document is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please notify us immediately at our expense by telephone. Thank you.

Le message s'adresse au destinataire seulement et peut contenir des renseignements confidentiels ou protégés. Il est formellement interdit d'en révéler le contenu à moins d'une autorisation. Si vous recevez cet envoi par erreur, veuillez nous en informer immédiatement et le détruire sans faire de copie. Merci.

Pages (including cover sheet) / Nombre de pages (incluant celle-ci): 3

**Champ &
Associates**
www.champlaw.ca

Equity Chambers
43 Florence Street
Ottawa, ON K2P 0W6
T: 613-237-4740
F: 613-232-2680

Paul Champ
pchamp@champlaw.ca

Our File: 1555

June 23, 2020

BY MAIL AND FACSIMILE (613)825-7489

Commissioner Brenda Lucki
Royal Canadian Mounted Police
73 Leikin Drive, Building M8, Room 512D
Ottawa, ON K1A 0R2

Dear Commissioner Lucki:

**Re: Complaint by the B.C. Civil Liberties Association - PC-2014-0380
RCMP Surveillance of Canadian Citizens and Information Sharing
with the National Energy Board**

As you know, we are legal counsel for the British Columbia Civil Liberties Association in respect of a complaint that was filed over six years ago with the RCMP Civilian Review and Complaints Commission on February 6, 2014. The complaint alleged that the RCMP improperly monitored and collected information about Canadian citizens and groups engaging in peaceful and lawful expressive activities and shared that information with other government bodies and private sector actors.

It is our understanding that the CRCC submitted its report on this complaint to the RCMP Commissioner on June 23, 2017 - three years ago today. Unfortunately, the CRCC cannot conclude its final report until the RCMP provides a written response under section 45.76(2) of the Act. In short, the RCMP has been sitting on this report for three years and effectively obstructing its release to my client and the public.

I wrote to you about this matter on August 9, 2019. In your response to me dated August 23, 2019, you indicated that an analysis of this report would be "prioritized". Regrettably, we have heard nothing further from you or the CRCC in the 10 months that have followed. Further, it is our understanding that the RCMP and the CRCC concluded a Memorandum of Understanding on December 11, 2019, providing an express timeline that requires the RCMP Commissioner to respond to a CRCC report within six months. Apparently, that MOU with the CRCC has had no influence on your commitment and legal obligation to complete your review of this report.

Commissioner Lucki, section 45.76(2) of the *RCMP Act* imposes a public legal duty on you to provide a response to this report "as soon as feasible". As the complainant, the BC Civil

- 2 -

Liberties Association has a clear right to the performance of that duty. It is our view that three years for your review and response to the CRCC's interim report is clearly an unreasonable delay not contemplated by the statute, whether the delay is due to insufficient allocation of resources or any other cause. This delay is all the more serious when the allegations concern fundamental rights and freedoms protected by the Canadian Constitution.

In light of the foregoing, I want to be clear that the position of the BC Civil Liberties Association is that you have breached your duty under s. 45.76(2) to provide a written response to the CRCC as soon as feasible. I am canvassing with my client its legal rights in the circumstances, including seeking appropriate relief from the Federal Court to compel completion of your response in accordance with the *RCMP Act*.

We look forward to hearing from you.

Yours truly,

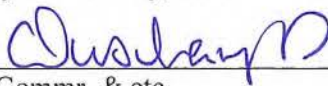
Paul Champ

c: Harsha Walia, Executive Director, BCCLA
The Honourable Bill Blair, Minister of Public Safety

This is Exhibit **H** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

From: Nika Joncas-Bourget <Nika.Joncas-Bourget@crcc-ccetp.gc.ca>
To: 'Michael O'Malley' <Michael.Omalley@rcmp-grc.gc.ca>
Date: 2020-06-29 1:58 PM
Subject: Letter from BCCLA's lawyer - Status of NEB Hearings/Pipeline PII - CRCC file 2014-0380

Dear Superintendent O'Malley,

The Commission's Chairperson and the Minister of Public Safety have received the attached letter dated June 23, 2020, from Paul Champ, legal counsel for the British Columbia Civil Liberties Association (BCCLA). Mr. Champ represents the BCCLA in its capacity as complainant in the public interest investigation conducted by the Commission in relation to the National Energy Board Hearings/ Pipeline case (our file 2014-0380).

Last year, I wrote to you to share previous correspondence from Mr. Champ in relation to the delay in receiving the Commissioner's response. I also expressed concern on the Commission's behalf over this delay. It is discouraging, to say the least, that I am corresponding again with you one year later about the same issue. The Commission issued its interim report three years ago, in June 2017. A three-year delay in a case of this importance is very troubling. I realize that you are also concerned about this delay and that you have worked hard to overcome your unit's

resourcing challenges. I hope that your efforts have allowed you to now have the capacity to prepare the responses to the Commission's interim reports in a timely manner.

Could you please advise as to when the Commission will receive the Commissioner's response in this case?

Nika Joncas-Bourget

Director and General Counsel, Reviews

Civilian Review and Complaints Commission for the RCMP / Government of Canada

nika.joncas-bourget@crcc-ccetp.gc.ca / Tel: 613-946-5218

Directrice et avocate générale, Examens

Commission civile d'examen et de traitement des plaintes relatives à la GRC / Gouvernement du Canada

nika.joncas-bourget@crcc-ccetp.gc.ca / Tél. : 613-946-5218

Civilian Review and
Complaints Commission
for the RCMP



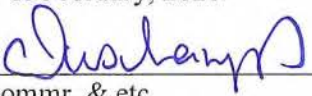
Commission civile d'examen
et de traitement des plaintes
relatives à la GRC

Canada

This is Exhibit **I** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

O'Malley, Michael

From: Michael O'Malley <Michael.Omalley@rcmp-grc.gc.ca>
Sent: June 29, 2020 3:38 PM
To: Joncas-Bourget, Nika
Subject: Re: Letter from BCCLA's lawyer - Status of NEB Hearings/Pipeline PII - CRCC file 2014-0380

Your comments are duly noted. As I wrote in my e-mail to you on June 10 last year, the decision to prioritize the Kent County PII / CIC, meant that the majority of all other analyses were put on hold as we had to direct our few resources to work on that matter.

The response to the PII is now complete and the 21 individual complaints also from Kent County are either completed or in the final stages. The Commissioner has decided that the Boushie PII is our next priority, then NEB. The Commissioner has publicly said that her response will be completed this fall. We are committed to that. NEB will be after that.

I have prepared an aggressive plan to deal with the existing backlog and also to ensure we meet the MOU Service Standards starting in September for any new files. Dependent on securing a significant number of additional temporary and permanent resources, there will be two teams, one just for the backlog, the other for all new interim reports received.

I hope by this time next year you will be writing to ask us to slow down.

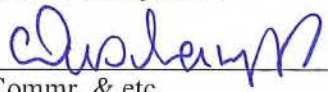
Thank you for your message, I trust you and your family are keeping well during the pandemic.

Supt. Michael O'Malley, Director
RCMP National Public Complaints Directorate

This is Exhibit **J** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Civilian Review and
Complaints Commission
for the RCMP



Commission civile d'examen
et de traitement des plaintes
relatives à la GRC

Office of the Chairperson

Bureau de la présidente

Our file: PC-2014-0380

July 8, 2020

Commissioner Brenda Lucki
Royal Canadian Mounted Police
73 Leikin Drive, M5 Building,
3rd Floor, Suite 101, Mailstop 47
Ottawa, Ontario K1A 0R2

Dear Commissioner:

Subject: Report Following a Public Interest Investigation
Regarding Allegations that the RCMP Improperly Monitored
and Disclosed Information of Persons and Groups Seeking to
Participate in National Energy Board Hearings

On June 23, 2017, the then-Chairperson of the Commission forwarded his interim report in the above-noted matter setting out his findings and recommendations in accordance with the provisions of section 45.76(1) of the *Royal Canadian Mounted Police Act*. Among my other obligations to the public, section 45.76(3) of the Act requires me to consider your response before issuing my final report in the matter.

Counsel for the British Columbia Civil Liberties Association (BCCLA) has written to me several times to express concerns about the continuing delay in issuing a final report, recently noting that over three years have passed since the Commission issued its interim report. Citing the impact of the significant delay, counsel for the BCCLA outlined supporting arguments to release the interim report as a matter of public interest.

Given the public importance of this matter, the length of time that has passed, and the increased public scrutiny into the Commission's mandate, it is my intention in 90 days (on October 6, 2020) to provide counsel for the BCCLA with a final report including your timely response, or a copy of the interim report pending your response.

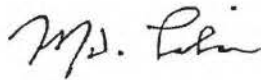
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- 2 -

In taking this approach, I am also mindful of the Prime Minister's mandate letter addressed to the Minister of Public Safety and Emergency Preparedness dated December 13, 2019. It is my intention to live up to the spirit of the Minister's mandate, "to continue to raise the bar on openness, effectiveness and transparency in government. This means a government that is open by default."

As always, I look forward to your insights as we strive towards our shared goal of excellence in policing.

Yours truly,

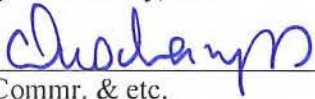
A handwritten signature in black ink, appearing to read "Ms. Lahaie".

Michelaine Lahaie
Chairperson

This is Exhibit **K** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Royal Canadian Mounted Police
Commissioner



Gendarmerie royale du Canada
Commissaire

Guided by Integrity, Honesty, Professionalism, Compassion, Respect and Accountability

Les valeurs de la GRC reposent sur l'intégrité, l'honnêteté,
le professionnalisme, la compassion, le respect et la responsabilisation

AUG 07 2020

Mr. Paul Champ
Champ & Associates
Equity Chambers
43 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Champ:

I acknowledge your letter of June 23, 2020, on behalf of your client, the British Columbia Civil Liberties Association, in which you express your concern with the length of time it has taken for the RCMP to respond to the interim report of the Civilian Review and Complaints Commission in the National Energy Board Hearings. I apologize for my delay in responding, which I understand you are aware resulted, in part, from the initial misdirection of your correspondence, coupled with workplace complications arising from the COVID-19 pandemic.

I recognize the time the RCMP has taken to respond to the CRCC's interim report in this matter has not been ideal. That is despite the high value we place on the CRCC's work, for which very reason my staff and I strive to carefully consider and provide meaningful responses to all of the CRCC's interim reports, including this one. Unfortunately, sometimes our work in this regard takes us longer than anticipated, even as we endeavour to respond as soon as feasible in every case.

In any event, I would like to assure you that I hear your concerns, and furthermore advise you that a few weeks ago I committed to the CRCC Chairperson that I would try to provide her with my response to the interim report within 90 days. I have directed my staff to realign its priorities in order to meet that goal. I hope that time frame will be acceptable to you and your client.

Thank you for writing to express your concerns, and for you and your client's patience in this matter. I look forward to its conclusion in the near future.

Sincerely,

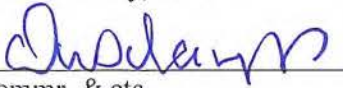
A handwritten signature in cursive script, appearing to read "B. Lucki".

Brenda Lucki
Commissioner

This is Exhibit **L** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Our File: 1555

September 24, 2020

BY MAIL

Commissioner Brenda Lucki
Royal Canadian Mounted Police
73 Leikin Drive, Building M8, Room 512D
Ottawa, ON K1A 0R2

COMMISSIONER'S
OFFICE

OCT 01 2020

BUREAU DU
COMMISSAIRE

Dear Commissioner Lucki:

**Re: Complaint by the B.C. Civil Liberties Association - PC-2014-0380
RCMP Surveillance of Canadian Citizens and Information Sharing
with the National Energy Board**

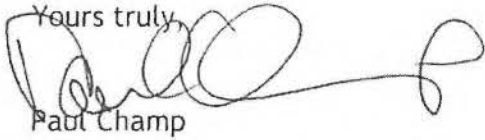
Thank you for your letter dated August 7, 2020, wherein you recognize that the time the RCMP has taken to respond to the CRCC's interim report "has not been ideal". I would have hoped that your dismay over this delay would be worded more strongly. Again, this complaint was filed over six-and-a-half years ago, and the CRCC completed its investigation and provided its interim report to your predecessor more than three years ago. With respect, this delay is inexcusable and undermines the confidence that the public has in the public complaints process in the *RCMP Act* and in the RCMP itself.

You say in your letter that you have informed the CRCC Chairperson that you will "try" to provide a response within 90 days. Commissioner Lucki, I would remind you again that section 45.76(2) of the *RCMP Act* imposes a public legal duty on you to provide a response to this report "as soon as feasible". As the complainant, the BC Civil Liberties Association has a clear right to the performance of that duty. It is our view that three-and-a-half years for your review and response to the CRCC's interim report is not "feasible" according to any measure and is clearly an unreasonable delay not contemplated by the statute. This delay is all the more serious when the allegations concern fundamental rights and freedoms protected by the Canadian Constitution.

The BC Civil Liberties Association has a right to the performance of your duty under section 45.76(2) of the Act to provide your comments on the CRCC's interim report. In the event your response is not provided to the CRCC by **November 7, 2020**, which is 90 days from the date of your letter to me, I will be seeking instructions from the BCCLA to commence an application for mandamus in the Federal Court to compel you to discharge your duty. I anticipate those instructions will be forthcoming.

We look forward to hearing from you.

Yours truly,

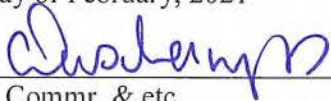
A handwritten signature in black ink, appearing to read 'Paul Champ', with a long horizontal flourish extending to the right.

c: Harsha Walia, Executive Director, BCCLA
Micheline Lahaie, Chairperson, RCMP Civilian Review and Complaints Commission
The Honourable Bill Blair, Minister of Public Safety

This is Exhibit **M** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

O'Malley, Michael

From: Michael O'Malley <Michael.Omalley@rcmp-grc.gc.ca>
Sent: October 4, 2020 9:26 PM
To: Nika Joncas-Bourget
Subject: NEB Update

Further to the letter sent to the Commissioner by the Chairperson on July 8, 2020 expressing her intention to provide counsel for the BCCLA with a final report, with or without the Commissioner's Response on October 6, 2020. There was a similar letter in regards to the Jones file.

We (NPCD) have been working to complete the analysis for the Commissioner ever since that date by shifting our most senior advisors from the Boushie file to the NEB and Jones files. Shortly after the letters for NEB and Jones, there were two SAR Reports released that required the Commissioner's Response as well.

Since June, 46 Commissioner's Responses have been completed. This includes all files related to Kent County. The Jones report was completed within the 90 day limit as requested by the Chairperson. The two SAR Reports were completed within the Operations MOU Service Standards of 60 days.

With regards to NEB, we had hoped to be able to meet the time line, however, there have been issues with getting the required responses from various RCMP policy centres for some of the recommendations regarding policy changes. As a result, it will be another month before we expect the Commissioner's Response to be sent.

The Commissioner has also been corresponding with counsel for the BCCLA, in the latest correspondence on which the Chairperson was copied, they advised the Commissioner that they will wait until November 7 for the Commissioner's Response to the Chairperson to be completed. After that, counsel for the BCCLA will seek instructions to commence an application for mandamus in the Federal Court.

Our intention is to have the Commissioner's Response to the Chairperson prior to that date. I am hopeful that the Chairperson would be willing to wait until the November date before taking any action on the interim report.

With regards to Boushie, some of the work and consultations have been completed. The remainder of the work will resume once NEB is completed. We have two new advisors who have just started and are working on other files as they gain experience. Each has completed their first file. So, even though our senior advisors are working on the larger files, we now have other advisors who are working on other files that are awaiting Commissioner's Response.

When I arrived in NPCD, there was only one established position and three assignments for public complaint advisory services. There are now 12 established positions and we are conducting interviews this month to fill the vacant positions. I expect that in 2021, those positions will be filled and significant progress will be made on clearing the remaining files in our queue.

I am available to discuss.

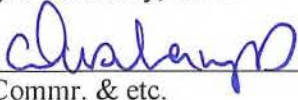
Thank you.

Supt. Michael O'Malley, Director
RCMP National Public Complaints Directorate

This is Exhibit N referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Royal Canadian Mounted Police
Commissioner



Gendarmerie royale du Canada
Commissaire

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le professionnalisme, la compassion, le respect et la responsabilisation

OCT 13 2020

Mr. Paul Champ
Champ & Associates
Equity Chambers
43 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Champ:

I acknowledge your letter of September 24, 2020, on behalf of your client, the British Columbia Civil Liberties Association, regarding our previous correspondence on the Royal Canadian Mounted Police response to the interim report of the Civilian Review and Complaints Commission (CRCC) on the National Energy Board hearings.

My staff continue their work on this file, which will allow me to provide a thoroughly and appropriately assessed response. I fully intend to provide the CRCC Chairperson my response to the interim report by November 7, 2020.

Thank you for writing to express your concerns and for you and your client's patience in this matter. I look forward to its conclusion in the near future.

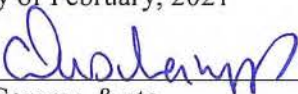
Kindest regards,

Brenda Lucki
Commissioner

This is Exhibit O referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Royal Canadian Mounted Police
Commissioner



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NOV 06 2020

Mr. Paul Champ
Champ & Associates
Equity Chambers
43 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Champ:

I am writing to provide you with an update on the status of my response to the interim report of the Civilian Review and Complaints Commission (CRCC) for the Royal Canadian Mounted Police in relation to the complaint of your client, the British Columbia Civil Liberties Association, concerning the National Energy Board hearings.

As you know, I wrote to you on October 13, 2020, stating my intention to provide the RCMP's response to the CRCC in this matter by November 7, 2020. Despite our best efforts, including assigning our most senior advisors to this matter early this summer, we estimate that we are still two weeks away from providing our response to the CRCC.

I recognize and appreciate your client's patience in awaiting the completion of this matter. I hope the imminence of its completion this month will be of some relief to them.

Kindest regards,

Brenda Lucki
Commissioner

This is Exhibit **P** referred to
in the affidavit of

MICHAEL O'MALLEY

Affirmed before me this 3rd
Day of February, 2021


A Commr. & etc.

Royal Canadian Mounted Police
Commissioner



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Commissaire

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NOV 20 2020

Mr. Paul Champ
Champ & Associates
Equity Chambers
43 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Champ:

I am writing to advise you that I have completed my response to the interim report of the Civilian Review and Complaints Commission (CRCC) in the National Energy Board hearings. It was sent to the CRCC Chairperson for their review and inclusion in their Final Report on this matter.

Thank you for your patience and that of your client, the British Columbia Civil Liberties Association.

Kindest regards,

Brenda Lucki
Commissioner