

## Part 11

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### Postscript: RCMP Compliance with Provincial Regulation

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## RCMP COMPLIANCE WITH PROVINCIAL REGULATION

It is ironic that although it was the use of a conducted energy weapon by RCMP officers against Mr. Dziekanski at the Vancouver International Airport in October 2007 that precipitated this study commission, the order appointing me to inquire into the use of conducted energy weapons specifically excludes the RCMP from my study.

There is a sound reason of constitutional law for this exclusion. The RCMP is regulated federally, and several rulings from the Supreme Court of Canada have established that a provincially appointed commission of inquiry has only limited authority to inquire into the internal management and administration of the RCMP.<sup>257</sup> For this reason, my recommendations are limited to provincially regulated law enforcement agencies. The RCMP is not obligated to implement any of my recommendations, and the province has no legal authority to compel it to do so.

The same “split” happens with police complaints. If a member of the public has a complaint against a municipal police officer, the provincially appointed Police Complaint Commissioner, who acts as an independent watchdog over municipal police departments, oversees the investigation and adjudication of that complaint. However, if the same member of the public has a complaint against an RCMP officer, the provincial Police Complaint Commissioner has no jurisdiction. The investigation and adjudication of that complaint is overseen in Ottawa, by the federally established Commission for Public Complaints Against the RCMP, which has completely separate rules and procedures.

As I noted earlier in this Report, approximately 70 percent of British Columbians live in communities that are policed by members of the RCMP. Some may find it troubling that, if the province accepts and implements the recommendations contained in this Report, these reforms will not automatically apply to most areas of the province. Indeed, they will apply only to the 12 municipalities policed by our 11 municipal police

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<sup>257</sup> See *Quebec (Attorney General) v. Canada (Attorney General)*, [1979] 1 S.C.R. 218, and *Alberta (Attorney General) v. Putnam*, [1981] 2 S.C.R. 267.

departments, unless the RCMP voluntarily agrees to be bound. That scenario troubles me as well—surely it is in the public interest that the same rules apply throughout the entire province.

Since the early 1950s, British Columbia has contracted with the RCMP to act as our provincial police force in rural areas, and in municipalities that choose not to establish municipal police departments. The three current policing agreements, which took effect in 1992, expire on March 31, 2012. It is my understanding that the province is currently in preliminary discussions with the federal government about renewing these agreements.

It is beyond my mandate to comment on whether the province should renew its policing agreements with the RCMP. What I will say, however, is that it would be regrettable if the province entered into new agreements in 2012 with the RCMP, without the RCMP committing itself contractually to adopt and implement whatever rules, policies, and procedures respecting conducted energy weapons are applicable to provincially regulated law enforcement agencies.

### **Recommendation 19**

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**I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.**