



Media Advisory

Release of a Draft Legislative Model

In his 2005-2006 Annual Report, Mr. Paul E. Kennedy, Chair of the Commission for Public Complaints Against the RCMP (CPC) highlighted the need to enhance the legislation governing oversight of the RCMP. As a follow-up to that recommendation, Mr. Kennedy has today released for comment the text of a [draft legislative model](#).

Titled the *Federal Law Enforcement Review Board Act*, the initiative is focused on restoring the balance between collective security and individual rights. The proposed legislative model provides for several enhancements.

Enhancement of accountability and transparency by:

- Empowering the Board to establish criteria to ensure the impartiality and integrity of investigations conducted by the RCMP of its members
- Authorizing the Board to monitor such investigations and, where it deems appropriate, to direct that the Commissioner refer the matter for investigation by a different police force
- Providing unfettered access as of right to all information but for Cabinet Confidences
- Creating a positive obligation on law enforcement officers to account for their actions
- Enlarging the scope of review to include actions of retired law enforcement officers and non-officers who act under the direction or supervision of such officers

- Creating a new audit/review power and a new right to complain about the inadequacy or inappropriateness of the policies, procedures, guidelines and the ability to respond or provide a service or training programs

Strengthening ministerial accountability by:

- Providing the Minister of Public Safety with the right to request special reports concerning any matter
- Authorizing the sharing of Board reports with provincial ministers who contract for RCMP services

Modernizing oversight to better reflect integrated enforcement practices by:

- Authorizing the Board to conduct joint investigations and to share information with review bodies that have powers, duties and functions that are similar to the Board

Providing safeguards by:

- Ensuring that sensitive information will not be improperly disclosed, that testimony heard will not be used in any other criminal, civil or administrative proceeding
- Prohibiting the harassment or intimidation of witnesses, and the obstruction or interference of the Board's functions

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2006-11-07

**DRAFT MODEL
LEGISLATION**

An Act to create the Federal Law Enforcement Review Board and to amend other Acts in consequence

Short title

1 The *Federal Law Enforcement Review Board Act*.

PRINCIPLES

Principles

2 This Act shall be carried out in recognition of, and in accordance with, the following principles:

(a) maintaining and keeping public confidence in police services is an essential value to be protected in our democracy;

(b) recommendations of an independent review board do contribute to the sound and effective direction and management of police services;

(c) Canadians have the right to complain about unacceptable conduct of law enforcement officers and to have their complaints impartially investigated and fairly resolved;

(d) law enforcement officers whose conduct is complained of have the right to respond before an impartial tribunal;

(e) priority must be given to remedial recommendations that follow substantiated complaints;

(f) a review board must be empowered to conduct systemic studies of police activities, resources and procedures, and to make recommendations toward their improvement.

DEFINITIONS

Definitions

3(1) The following definitions apply to this Act.

"*board*" The Federal Law Enforcement Review Board established by section 5. (« conseil »)

"*Commissioner*" The Commissioner of the Royal Canadian Mounted Police appointed pursuant to section 5 of the *Royal Canadian Mounted Police Act*. (« commissaire »)

"*minister*" Such member of the Queen's Privy Council for

Canada as is designated by the Governor in Council as the minister for the purposes of this Act. (« ministre »)

"*law enforcement officer*" Member of a category of law enforcement officers listed in schedule 1 and any person acting under the supervision or direction of such a member. (« agent d'application de la loi »)

Amending schedule 1

3(2) The Governor in Council may, by order, amend schedule 1 by adding or deleting the name of a category of peace officers, within the meaning of the *Criminal Code*, or of a group of members of such a category, for the purposes of this Act.

MANDATE

Mandate of the board

4 The board is responsible for ensuring a better accountability of police activities of law enforcement officers acting under federal authority through an accessible and impartial regime of complaints assessment and through its recommendations flowing from investigations, reviews, inquiries, audits and hearings.

ESTABLISHMENT OF BOARD

Board established

5(1) There is hereby established a board, to be known as the Federal Law Enforcement Review Board, consisting of a president, a vice-president and three other members, to be appointed by order of the Governor in Council.

Regional Representation

5(2) In selecting the members of the board, the Governor in Council shall, as far as possible, have regard to the need for regional representation in the membership of the board.

Full- or part-time

5(3) The president and vice-president are full-time members of the board; the other members may be appointed as full-time or part-time members.

Tenure of office

5(4) Each member holds office during good behaviour for a term not exceeding five years but may be removed for cause at

any time by order of the Governor in Council.

Re-appointment

5(5) Members of the board are eligible for re-appointment on the expiration of their term of office.

Ineligibility

6(1) Any person who is or has been a law enforcement officer is not eligible to be appointed as a member of the board.

Salary of full-time members

6(2) Each full-time member is entitled to be paid such salary in connection with the work of the board as may be fixed by order of the Governor in Council.

Fees of part-time members

6(3) Each part-time member is entitled to be paid such fees in connection with the work of the board as may be fixed by order of the Governor in Council.

Expenses

6(4) Members are entitled to be paid reasonable travel and living expenses incurred by them while absent from their ordinary place of residence in connection with the work of the board.

Benefits of full-time members

6(5) The full-time members are deemed to be employed in the Public Service for the purposes of the *Public Service Superannuation Act* and to be employed in the public service of Canada for the purposes of the *Government Employees Compensation Act* and any regulations made under section 9 of the *Aeronautics Act*.

Compliance with security requirements

7 Members and employees of the board and every person acting on behalf of the board shall comply with all security requirements applicable by or under the *Royal Canadian Mounted Police Act* to a member, within the meaning of that Act, or by or under any other Act of Parliament to a law enforcement officer, and shall take the oath of secrecy set out in schedule 2.

President

8(1) The president of the board is the chief executive officer of the board and has supervision over and direction of the work

and staff of the board.

Absence or incapacity

8(2) In the event of the absence or incapacity of the president or if the office of president is vacant, the vice-president may exercise the powers and perform the duties and functions of the president.

Exercise of powers

9(1) All powers, duties and obligations of the board are exercised by the president.

Delegation

9(2) The president may delegate any of the president's powers, duties or functions to a member, an officer or an employee of the board, or to any person referred to in subsection 10(3) (Contractual assistance), subject to conditions that the president specifies in the delegation and subject to any hearing held by the board being conducted by a panel on which at least one full-time member of the board sits.

Head Office

10(1) The head office of the board shall be at such place in Canada as the Governor in Council may, by order, designate.

Staff

10(2) Such officers and employees as are necessary for the proper conduct of the work of the board shall be appointed in accordance with the *Public Service Employment Act*.

Contractual assistance

10(3) The board may, with the approval of the Treasury Board,

(a) engage on a temporary basis the services of persons having technical or specialized knowledge of any matter relating to the work of the board to advise and assist the board in the exercise or performance of its powers, duties and functions; and

(b) fix and pay the remuneration and expenses of persons engaged pursuant to paragraph (a).

Duties of the board

11 The board shall carry out such functions and duties as are assigned to it under this or any other Act of Parliament and may carry out or engage in such other related assignments or

activities as may be authorized by the Governor in Council.

Duties of president

12 The president shall carry out such functions and duties as are assigned to the president under this or any other Act.

COMPLAINTS

Complaint concerning the conduct of an officer

13(1) Subject to subsection (2), a person having a complaint concerning the conduct, in the performance of any duty or function under the *Royal Canadian Mounted Police Act* or the *Witness Protection Program Act* of a person who is - or was, at the time the conduct that is the basis of the complaint is alleged to have occurred - a law enforcement officer, may make a complaint to,

- (a) the board;
- (b) a member of the Royal Canadian Mounted Police or a person employed under the authority of the *Royal Canadian Mounted Police Act*;
- (c) the provincial authority in the province in which the subject-matter of the complaint arose that is responsible for the receipt and investigation of complaints by the public against police.

Interest of complainant

13(2) A person may make a complaint if that person,

- (a) has been personally affected by the conduct that is the subject-matter of the complaint;
- (b) has witnessed that conduct;
- (c) has, in the opinion of the board, a substantial and direct interest in the complaint; or
- (d) has been specifically authorized by a person referred to in paragraphs (a), (b) or (c) to make a complaint in the name of that person.

Limitation period

13(3) A complaint under subsection (1) shall be made within one year after the alleged conduct occurred or within such

longer period as the board allows.

Written complaint

13(4) In accordance with the regulations, complaints are made in writing either by the complainant or by the person receiving the complaint who puts it in written form on the instructions of the complainant.

Notification to the board

14(1) Whenever a complaint is filed with a person or organisation other than the board, that person or organisation informs the board without delay and in accordance with the regulations of the complaint.

Notification of Commissioner

14(2) Unless the complaint has been made to a member of the Royal Canadian Mounted Police, the board notifies the Commissioner of the complaint who then investigates the complaint in accordance with this Act and the regulations.

Notification of member

14(3) Forthwith after being notified of a complaint, the Commissioner, notifies the person whose conduct is the subject-matter of the complaint of the substance of the complaint.

Complaint concerning policies and procedures

15(1) A person having a complaint concerning the inadequacy or inappropriateness of the policies, the procedures, the guidelines, the ability to respond or provide a service, or the training programs of the law enforcement service to which law enforcement officers belong, may make a complaint to,

(a) the board;

(b) a member of the Royal Canadian Mounted Police or a person employed under the authority of the *Royal Canadian Mounted Police Act*;

(c) the provincial authority in the province in which the subject-matter of the complaint arose that is responsible for the receipt and investigation of complaints by the public against police.

Written complaint

15(2) In accordance with the regulations, complaints are made in writing either by the complainant or by the person receiving

the complaint who puts it in written form on the instructions of the complainant.

Notification to the board

15(3) Whenever a complaint is filed with a person or organisation other than the board, that person or organisation informs the board without delay and in accordance with the regulations of the complaint.

Notification of Commissioner

15(4) Unless the complaint has been made to a member of the Royal Canadian Mounted Police, the board shall notify the Commissioner of the complaint.

Board's responsibility

15(5) A complaint made pursuant to this section is investigated by the board, in accordance with this Act.

Power to reject complaint

16 The board may direct that a complaint be rejected, that no investigation of a complaint be commenced or that such an investigation be terminated if, in its opinion,

(a) the complaint is one that could more appropriately be dealt with, initially or completely, according to a procedure provided under any other Act of Parliament;

(b) the complainant does not have a substantial and direct interest in the complaint or has not been authorized under paragraph 13(2)(d);

(c) the complaint is trivial, frivolous, vexatious or made in bad faith; or

(d) having regard to all the circumstances, investigation or further investigation is not necessary or reasonably practicable.

Power to merge complaints

17(1) The board may merge complaints where, in its opinion, to do so would result in a more efficient resolution of complaints.

Obligation to inform complainants

17(2) The board informs without delay the complainants where their respective complaints have been merged with another complaint or with an investigation or a review.

Informal disposition

18(1) Subject to subsection (2) and to the regulations, the board and the Commissioner shall consider whether a complaint concerning the conduct of a law enforcement officer can be disposed of informally and, with the consent of the complainant and the person whose conduct is the subject-matter of the complaint, shall, before any investigation is undertaken, attempt to so dispose of the complaint.

Serious nature

18(2) Informal disposition of a complaint can only be attempted in the case of conduct that was not of a serious nature or of such other conduct prescribed by the regulations.

Informal disposition at any stage

18(3) Subject to subsection (2) and to the regulations, the board and the Commissioner may try to dispose of a complaint at any stage of the proceedings during an investigation, a review, an inquiry or a hearing.

Documents to be kept

19(1) Where a complaint is disposed of informally, the following documents are kept by the board or sent to the board without delay by the commissioner, in accordance with the regulations,

- (a) an overview of the facts that gave rise to the complaint;
- (b) the name of the person who conducted the informal disposition
- (c) a statement of the manner in which the complaint was disposed of;
- (d) the agreement to the disposition, signed by the complainant and the person whose conduct was the subject-matter of the complaint.

Notification to the parties

19(2) The person who conducted the informal disposition sends a copy of the agreement to the disposition to the complainant and to the person whose conduct is the subject-matter of the complaint

Examination of informal disposition

19(3) Where the board is informed of the informal disposition

of a complaint, it may, within 30 days of the receipt of the documents referred to in subsection (1), request supplementary information from the Commissioner.

Measures ordered by the board

19(4) After receiving any supplementary information it has requested, the board may,

- (a) order that specific measures be taken;
- (b) investigate the complaint;
- (c) confirm the disposition of the complaint.

No informal disposition

20(1) Where a complaint is not initially disposed of informally, the Commissioner so informs the complainant, the person whose conduct is the subject-matter of the complaint and the board.

Investigation

20(2) Where a complaint is not initially disposed of informally, the Commissioner investigates the matter in accordance with this Act, the regulations and the rules of the Commissioner made pursuant to section 23 (RCMP rules).

Power to monitor

21(1) The board may monitor any investigation undertaken with respect to the conduct of a law enforcement officer.

Referral of criminal investigations to another police force

21(2) The Commissioner shall notify the board whenever a criminal investigation is undertaken with respect to the conduct of a law enforcement officer and shall, if the board so requests, refer the investigation to a police force in Canada other than the Royal Canadian Mounted Police to be continued in accordance with the regulations.

Right to refuse or terminate investigation

22(1) The Commissioner may direct that no investigation of a complaint made pursuant to section 13 be commenced or that an investigation of such a complaint be terminated if, in the Commissioner's opinion,

- (a) the complaint is one that could more appropriately be dealt with, initially or completely, according to a procedure provided

under any other Act of Parliament, other than the *Royal Canadian Mounted Police Act*;

(b) the complaint is trivial, frivolous, vexatious or made in bad faith; or

(c) having regard to all the circumstances, investigation or further investigation is not necessary or reasonably practicable.

Notification of parties

22(2) Where the Commissioner makes a direction in respect of a complaint pursuant to subsection (1), the Commissioner shall give notice of the direction and the reasons therefor to,

(a) the board;

(b) the person whose conduct is the subject-matter of the complaint;

(c) the complainant.

Supplementary information to the complainant

22(3) The Commissioner also informs the complainant of the right of the complainant to refer the complaint to the board for review, within 60 days of the notice, if the complainant is not satisfied with the direction.

RCMP rules

23 Subject to the approval of the board, the Commissioner may make rules governing the procedures to be followed by the Royal Canadian Mounted Police in investigating, disposing of or otherwise dealing with complaints made pursuant to section 13 (Complaint concerning the conduct of an officer).

Interim complaint resolution reports

24 The Commissioner shall notify the board, the complainant and the person whose conduct is the subject-matter of the complaint of the status of the investigation of the complaint to date not later than 45 days after receiving the complaint under paragraph 13(1)(b) or having been notified of the complaint under subsection 14(2), and monthly thereafter during the course of the investigation.

Final complaint resolution report

25 On completion of the investigation of a complaint, the Commissioner shall send to the board, the complainant and the

person whose conduct is the subject-matter of the complaint a report setting out

(a) a summary of the complaint;

(b) the results of the investigation;

(c) a summary of any action that has been or will be taken with respect to resolution of the complaint; and

(d) in the case of a complaint concerning the conduct of an law enforcement officer, the right of the complainant to refer the complaint to the board for review, within 60 days of the receipt of the final complaint resolution report, if the complainant is not satisfied with the disposition of the complaint by the Commissioner.

Referral to board

26(1) A complainant who is not satisfied with the disposition of the complaint by the Commissioner or with a direction under subsection 22(1) (Right to refuse or terminate investigation) in respect of the complaint may refer the complaint to the board for review within 60 days after the day the complainant receives the final report or the notice of rejection or within such longer period as the board allows.

Written referral for review

26(2) In accordance with the regulations, referrals of complaints are made in writing either by the complainant or by the person receiving the referral who puts it in written form on the instructions of the complainant

Acknowledgement by the board

26(3) The board shall acknowledge receipt of the referral of the complaint and send a copy of the acknowledgement to the Commissioner.

Materials to be furnished

26(4) Subject to section 35 (Access to information), the Commissioner shall give to the board all documents and materials under their control that relate to the complaint and all supplementary material relating to the complaint that the board requests.

Review by board

27(1) Subject to sections 16 (Power to reject complaint) and 17

(Power to merge complaints), the board shall review every complaint referred to it pursuant to subsection 26(1) (Referral to board).

Where board is satisfied

27(2) Where, after reviewing a complaint, the board is satisfied with the disposition of the complaint by the Commissioner or with the decision the Commissioner has taken, the board shall

(a) send a complaint review report to that effect to the minister and the Commissioner, setting out such findings and such recommendations with respect to the complaint as the board sees fit;

(b) send a report of the conclusion of the review to the complainant and the person whose conduct is the subject-matter of the complaint together with, if it thinks fit, any finding or any recommendation referred to in paragraph (a).

Copy of report to province

27(3) Where the complaint review report deals with conduct related to police activities in a province, the board may report the issue to the minister responsible for police activities in that province, together with, if it thinks fit, any finding, recommendation or conclusion referred to in subsection (2).

Where board is not satisfied

27(4) Where, after reviewing a complaint, the board is not satisfied with the disposition of the complaint by the Commissioner or with the decision the Commissioner has taken, or considers that further inquiry is warranted, it may take any or all of the following measures

(a) send a report to the minister and the Commissioner;

(b) request the Commissioner to conduct a further investigation into the complaint;

(c) make such inquiries as it deems necessary in the circumstances;

(d) investigate the complaint further;

(e) institute a hearing to inquire into the complaint.

Role of Commissioner

27(5) Where the board requests the Commissioner to conduct an investigation pursuant to paragraph 27(4)(b), the Commissioner shall conduct the investigation without delay.

Findings and recommendations

27(6) The board shall, on completion of any further investigation, inquiry or hearing that it has ordered pursuant to subsection 27(4),

(a) send a complaint review report to the minister and the Commissioner setting out such findings and such recommendations with respect to the complaint as the board sees fit;

(b) send a report of the conclusion of the review to the complainant and the person whose conduct is the subject-matter of the complaint together with, if it thinks fit, any finding or any recommendation referred to in paragraph (a).

Copy of report to province

27(7) Where the complaint review report deals with conduct related to police activities in a province, the board may report the issue to the minister responsible for police activities in that province, together with if it thinks fit, any finding, recommendation or conclusion referred to in subsection (6).

INQUIRIES AND AUDITS

Board inquiries on specific incidents

28(1) The board may, at the request of the minister or where it considers that there are reasonable grounds to do so, inquire into the conduct, in the performance of any duty or function under the *Royal Canadian Mounted Police Act* or the *Witness Protection Program Act*, of a person who is - or was, at the time the relevant conduct is alleged to have occurred - a law enforcement officer, whether or not that conduct has been the subject of a complaint under section 13 (Complaint concerning the conduct of an officer).

Board inquiries on policies and procedures

28(2) The board may, at the request of the minister or where it considers that there are reasonable grounds to do so, inquire into the inadequacy or inappropriateness of the policies, the procedures, the guidelines, the ability to respond or provide a service, or the training programs of the law enforcement service to which law enforcement officers belong, whether or not the

object of the inquiry has been the subject of a complaint under section 15 (Complaint concerning policies and procedures)

Audits

29 The board may audit the implementation of any measure that the Commissioner has undertaken to take following an informal disposition of a complaint, a recommendation made by the board or a final complaint resolution report.

Precedence

30 Any complaint made pursuant to section 13 (Complaint concerning the conduct of an officer) or 15 (Complaint concerning policies and procedures) with respect to the same object that is the subject-matter of an inquiry undertaken by the board pursuant to section 28 or an audit undertaken by the board pursuant to section 29 is merged with that inquiry or audit.

Findings and recommendations

31(1) After an inquiry or an audit, the board provides the minister and the Commissioner with a report that contains its findings; it may also attach to the report any recommendations it considers appropriate.

Report to other interested persons

31(2) At the same time as or after a report is provided pursuant to subsection (1), the board may send a report of the conclusion of the inquiry or audit to the person whose conduct is the subject-matter of a complaint that was merged with an inquiry or audit and the complainant together with, if it thinks fit, any finding or any recommendation referred to in that subsection.

GENERAL

Powers of the board

32(1) The board has, in the exercise of its duties and functions under this or any other Act of Parliament, the power

(a) to summon and enforce the appearance of persons before it and to compel them to give oral or written evidence on oath and to produce such documents and things as it deems requisite to the full investigation and consideration of the matter in the same manner and to the same extent as a superior court of record;

(b) to administer oaths; and

(c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as it sees fit, whether or not that evidence or information is or would be admissible in a court of law.

(d) to enter any premises occupied by the law enforcement service to which law enforcement officers belong on satisfying any security requirements relating to the premises;

(e) to converse in private with any person in any premises entered pursuant to paragraph (d) and otherwise carry out therein such inquiries within its authority as it sees fit; and

(f) to examine or obtain copies of or extracts from books or other records found in any premises entered pursuant to paragraph (d) containing any matter that it considers relevant;

(g) to make and retain copies of any document that comes into its possession in the course of an investigation, a review, an inquiry, an audit or a hearing.

Witness fees

32(2) Any person summoned to appear before the board pursuant to this section is entitled in the discretion of the board to receive the like fees and allowances for so doing as if summoned to attend before the Federal Court.

Return of documents

32(3) Any document or thing produced pursuant to this section by any person shall be returned by the board within ten days after a request is made to the board by that person, but nothing in this subsection precludes the board from again requiring its production in accordance with this section.

Hearing

33(1) Where the board has ordered a hearing to be held, pursuant to subsection 27(4) (Where board is not satisfied), it shall serve a notice of the time and place appointed for the hearing on the person whose conduct is the subject of the complaint and the complainant.

Convenience to be considered

33(2) If a person on whom a notice is served wishes to appear before the board, the board must consider the convenience of

that person in fixing the time and the place for the hearing.

Rights of persons interested

34(1) The board may afford a full and ample opportunity, in person or by counsel, to present evidence, to cross-examine witnesses or to make representations at the hearing to

(a) the complainant and the person whose conduct is the subject of the complaint, if they wish to appear; and

(b) any other person who satisfies the board that the person has a substantial and direct interest in the hearing.

Right to present written submissions

34(2) The board may authorize a person to present written submissions to the board at any time during or after the hearing.

Hearing public or private

34(3) Hearings are held in public except that the board may order the hearing or any part of the hearing to be held in private if it is of the opinion that during the course of the hearing sensitive information, within the meaning of subsection 35(7), will likely be disclosed.

Access to information

35(1) Notwithstanding any other Act of Parliament or any privilege under the law of evidence, but subject to subsection (2), the board is entitled

(a) to have access to any information under the control of a department, within the meaning of the *Financial Administration Act*, that relates to the performance of the duties and functions of the board and to receive from the deputy head of that department such information, reports and explanations as it deems necessary for the performance of its duties and functions; and

(b) during any investigation, review, inquiry, audit or hearing, to have access to any information under the control of a department that it considers relevant.

No restriction

35(2) No information described in subsection (1), other than a confidence of the Queen's Privy Council for Canada in respect of which subsection 39(1) of the *Canada Evidence Act* applies,

may be withheld from the board on any grounds.

Disclosure not waiver

35(3) The disclosure of information to the board under this Act does not, by itself, constitute a waiver of any privilege that may exist with respect to the information.

Observations by the deputy head

35(4) The deputy head of a department may, in transferring information to the board, identify the documents, records or particular items as being sensitive information that should be protected.

Request by the deputy head

35(5) The deputy head of a department who has to provide information during a hearing may request that proceedings continue *in camera* to enable the deputy head to indicate to the board which documents, records or information are sensitive information.

Protection of sensitive information

35(6) In preparing any report pursuant to this or any other Act of Parliament, the board shall consult with the responsible deputy head in order to protect sensitive information that that deputy head has forwarded to the board.

Sensitive information

35(7) For the purposes of this section, "sensitive information" means

(a) information that, if disclosed, could reasonably be expected to be injurious to the defence of Canada or any state allied or associated with Canada or the detection, prevention or suppression of subversive or hostile activities;

(b) information that, if disclosed, could reasonably be expected to be injurious to the administration of justice or could adversely affect or hinder any investigation that is being or may be carried out.

Findings are binding

36(1) Findings of the board are definitive and binding on the Commissioner and, except for judicial review under the *Federal Courts Act*, are not subject to appeal to or review by any court.

Role of Commissioner after receiving reports

36(2) After receiving a complaint review report in accordance with subsection 27(6) (Findings and recommendations), an inquiry report or an audit report in accordance with subsection 31(1) (Findings and recommendations), the Commissioner shall take cognizance of the findings of the board and notify the minister and the board of any action that has or that will be taken on the recommendations of the board.

Reasons

36(3) If the Commissioner decides not to act on a recommendation of the board or to implement a recommendation in a manner substantially different from what is recommended, the Commissioner gives reasons for doing so in the notice.

Protection of confidential or sensitive information

36(4) Where a finding of the board is the subject of an appeal pursuant to subsection (1), the Federal Court shall take all appropriate measures to insure that any information that is identified in the record as being confidential or sensitive is protected.

ADDITIONAL POWERS**Joint investigations**

37 The board may conduct a joint investigation, review, inquiry, audit or hearing with another body in Canada that has powers, duties and functions that are similar to the board's.

Sharing of information

38 The board may share information in its possession with other federal institutions or other persons or institutions in Canada whose mandate is similar to the board's - and may receive information from those persons and institutions - where, in its opinion, such information would assist the board, that institution or that person in the discharge of their mandate.

Research and information programs

39 The board may, either by itself or in cooperation with other organisations in Canada or outside of Canada, implement public education and information programs to make its mandate and activities better known to the public, and engage in research activities in areas related to its powers, duties and functions.

GENERAL PROVISIONS

Protection of members and staff

40 No criminal or civil proceedings lie against any member of the board, or against any person acting on behalf of the board, for anything done, reported or said in good faith in the exercise or purported exercise of a power or in the performance or purported performance of a duty or function of the board.

Immunity

41 No civil, criminal or administrative proceedings lie against any person for anything done, reported or said in good faith in any proceedings before the board.

Documents and reports in writing

42(1) Any notice, report or acknowledgement that is given or sent pursuant or under this Act shall be in writing.

Service of documents

42(2) Any document required to be sent to a person under this Act shall be served personally or be sent by certified or registered mail or any other delivery service that provides proof of delivery.

Non-application of obligation to inform

43 Where, pursuant to this Act, notifications or other information are to be given to the person whose conduct is the subject of a complaint or to any other person, this obligation does not apply if, in the opinion of the board, after consultation or at the request of the Commissioner, to do so might compromise or hinder an investigation of an offence under an Act of Parliament that is being or may be carried out.

RULES OF EVIDENCE

Capacity of witness

44 Section 16 of the *Canada Evidence Act* applies in respect of any proceedings before a board as though the proceeding were a legal proceeding and the board were a judge, justice or other presiding officer.

Person not excused from answering

45(1) In any investigation, review, inquiry, audit or hearing under this Act, no person shall be excused from answering any question relating to the matter being investigated when required to do so by the board on the ground that the answer to the

question may tend to incriminate the person or subject the person to any proceeding or penalty.

Answer not receivable

45(2) No answer or statement made in response to a question described in subsection (1) or in the course of attempting to dispose of a complaint informally shall be used or receivable in any criminal, civil or administrative proceedings, other than a prosecution under sections 132 (Perjury) or 136 (Witness giving contradictory evidence) of the *Criminal Code*.

Evidence not admissible

46 No evidence that proceedings under this Act involving a law enforcement officer have been taken shall be used or receivable against that officer in any civil, criminal or administrative proceedings, other than a prosecution under sections 132 (Perjury) or 136 (Witness giving contradictory evidence) of the *Criminal Code*.

Reports non admissible

47 No report or finding of the board is receivable in any civil, criminal or administrative proceedings.

Regulations

48(1) The board may make regulations respecting the performance of its duties and functions, including regulations,

- (a) setting out the manner of dealing with complaints under this Act;
- (b) prescribing categories of complaints that may be dealt with in an informal manner pursuant to section 18;
- (c) determining the procedure to be followed in the investigation of a complaint and a review of a disposition and prescribing what documents and records are to be kept at every stage of the proceedings;
- (d) determining the procedure to be followed in any investigation concerning the conduct of a law enforcement officer;
- (e) determining the manner of dealing with matters and business before the board generally, including the practice and procedure of, and security requirements applicable to, investigations, inquiries, reviews, audits and hearings under this

Act.

Conflict or inconsistency

48(2) Regulations made pursuant to this section prevail over rules made pursuant to section 23 and rules and regulations made pursuant to the *Royal Canadian Mounted Police Act* to the extent of any inconsistency or conflict between them.

ADMINISTRATIVE MATTERS

Annual Report

49(1) The board shall, within three months after the end of each calendar year, submit to the minister a report of the board's activities during that year and its recommendations, if any.

Tabling in Parliament

49(2) The minister shall have a copy of the report laid before each House of Parliament on any of the first 15 days on which that House is sitting after the minister receives it.

Special reports

50 The board may, on its own initiative or at the request of the minister, furnish the minister with a special report concerning any matter that relates to the performance of its duties and functions.

Five-year review

51(1) A review of the provisions and the operation of this Act must be completed by the minister during the fifth year after this section comes into force and every five years after that.

Tabling of report

51(2) The minister must cause a report of the results of the review to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after the report has been completed.

OFFENCES

Attendance of witnesses, etc.

52 Every person who

(a) on being duly summoned as a witness in any proceeding under this Act, makes default in attending,

(b) being in attendance as a witness in any proceeding under

this Act,

(i) refuses to take an oath or solemn affirmation required of that person,

(ii) refuses to produce any document or thing under that person's control and required to be produced by that person, or

(iii) refuses to answer any question, or

(c) at any proceeding under this Act, uses insulting or threatening language or causes any interference or disturbance,

is guilty of an offence punishable on summary conviction.

Harassment

53 Any person who harasses or intimidates - or attempts to harass or intimidate - another person in relation to a complaint made under this Act is guilty of an offence punishable on summary conviction.

Obstruction

54 Any person who wilfully obstructs or otherwise interferes with, or knowingly makes a false or misleading statement orally or in writing to, a person carrying out any functions under this Act is guilty of an offence punishable on summary conviction.

Destroying documents and things, etc

55 Any person who, knowing that a document or thing is likely to be relevant to an investigation under this Act

(a) destroys, mutilates or alters the document or thing;

(b) falsifies the document or makes a false document;

(c) conceals the document or thing; or

(d) directs, counsels or causes in any manner, any person to do anything mentioned in any of paragraphs (a) to (c), or proposes, in any manner, to any person that they do anything mentioned in any of those paragraphs

is guilty of an offence punishable on summary conviction.

Punishment

56 Every person who is convicted of an offence under this Act

is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both.

Limitation period

57 Proceedings in respect of an offence under this Act may be instituted at any time within but not later than two years after the time when the subject-matter of the proceedings arose.

TRANSITIONAL PROVISIONS, REPEALS AND
CONSEQUENTIAL AMENDMENTS

Existing complaints

58 Any complaint made to the Royal Canadian Mounted Police Public Complaints Commission pursuant to Part VII of the *Royal Canadian Mounted Police Act* and not finally disposed of before the coming into force of this Act shall be dealt with by the board in accordance with the provisions of this Act.

Application of this Act

59 A complaint may be made to the board - and the board may launch an investigation, an inquiry, an audit or a hearing - with respect to events that occurred prior to the coming into force of this Act.

Transitional provisions : Chairman, Vice-Chairman and staff

60 [*normal provisions for the continuance of the appointments of the Chairman and Vice-Chairman of the Royal Canadian Mounted Police Public Complaints Commission and for status of staff of the Commission who become president and vice-president, and staff of the board will be inserted.*]

REPEALS AND CONSEQUENTIAL AMENDMENTS

Royal Canadian Mounted Police Act

61 Parts VI and VII of the *Royal Canadian Mounted Police Act* are repealed.

Consequential amendments

62 [*amendments to the Royal Canadian Mounted Police Act, to the Financial Administration Act and to other federal statutes will be inserted here to provide for the insertion of the board in the federal public administration*]

(definition of "law enforcement officer", section 3)

1. The Commissioner and any member of the Royal Canadian Mounted Police, as defined in the *Royal Canadian Mounted Police Act*.

2. Person appointed or employed under the authority of the *Royal Canadian Mounted Police Act*.

SCHEDULE 2

(section 7)

OATH OF SECRECY

I,, swear that I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf of or under the direction of the Federal Law Enforcement Review Board or by reason of any office or employment held by me pursuant to the Federal Law Enforcement Review Board. So help me God.

DRAFT MODEL LEGISLATION

An Act to create the Federal Law Enforcement Review Board and to amend other Acts in consequence

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REPEALS AND CONSEQUENTIAL AMENDMENTS

61 Royal Canadian Mounted Police Act

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SCHEDULE 1

(definition of "law enforcement officer", section 3)

SCHEDULE 2

(section 7)

OATH OF SECRECY

Date Created: 2006-11-15
Date Modified: 2007-03-14