

RCMP CODE OF CONDUCT CASES IN BRITISH COLUMBIA*

A FIVE YEAR REVIEW: 2005 – 2009



Darryl Plecas, Jennifer Armstrong, and Irwin M. Cohen

*A report prepared for Professional Standards, "E" Division, Royal Canadian Mounted Police

Introduction

This report is in response to a request from the RCMP's E Division Professional Standards Unit to conduct a statistical review of Code of Conduct allegations against RCMP members in British Columbia. Specifically, the request was to describe the nature and extent of recent Code of Conduct allegations against RCMP members in British Columbia. The request was also to describe the frequency with which various dispositions were awarded to members found to be in contravention of the Code of Conduct under the RCMP Act.

A Code of Conduct contravention is a transgression in which a member of the RCMP has conducted him or herself, on or off duty, in a manner contrary to the values of the organization and, more generally, to policing as a profession. They are incidents that have the capacity to diminish the reputation of the RCMP and weaken public trust.

Generally speaking, while the categories are expanded for purposes of this report, "E" Division Professional Standards Code of Conduct incidents can be grouped into the conduct categories of Integrity-related conduct, criminal conduct, and neglect of duty conduct. Examples of violations within these categories include, but are not limited to, lying, providing a false statement, falsifying a report, cheating on an exam, misuse of police databases, misuse of police computers, assaults, fraud, theft, impaired driving, failing to remain at a scene of an accident, being impaired in a public place, substance misuse, domestic assault, sexual assault, break and enter, mischief, failing to follow policy and procedures, and other events that could be grouped into one of the three aforementioned general categories. Of note, it is not uncommon for an event to fall into more than one category. For example, if a member were being investigated for theft, the Code of Conduct investigation could be classified as both integrity related and criminal conduct.

Importantly, substantiating a contravention under the Code of Conduct requires a decision based on the "balance of probabilities". This standard, being a civil law burden of proof rather a criminal law burden of proof, is met if the likelihood that the proposition is true is more likely than it being not true. Effectively, the standard is satisfied if it is determined that there is a greater than 50% probability that the proposition is true.

The data used to conduct this review was drawn from the electronic files of E Division's Professional Standards Unit. This unit holds files on all Code of Conduct allegations against RCMP members in British Columbia. The files, being in electronic form, facilitated the ability of the authors to construct an anonymized database of concluded Code of Conduct cases over a five-year time period (2005-2009).

The database was designed to provide information regarding when the Code of Conduct allegation was made, the nature of the allegation, the length of time it took to deal with the allegation, and the nature of the disposition awarded. The database was also designed to facilitate an analysis of member characteristics. For this study, the database contained 402 cases involving 601 substantiated allegations. Of this, this excluded multiple counts of the same type of allegation in a single case. With multiple allegations included, the number of substantiated allegations was 947. Moreover, over the five years considered, some officers were involved in more than one case. Given this, the actual of unique members in the database was 339 in total.

Results

The average number of Code of Conduct cases concluded by E Division per year over the five year period from 2005 to 2009 was 111. Of these, nearly three-quarters (72 per cent) or, on average, 80 cases per year were found to be substantiated (see Table 1). The number and proportion of substantiated cases remained relatively stable over time, although the proportion of substantiated cases decreased each year over the time period studied, and decreased from 78% of cases in 2005 to 64% of cases in 2009. Given the average number of substantiated Code of Conduct cases concluded each year by Professional Standards, and the average number of members involved (i.e. 68 in any given year), substantiated Code of Conduct cases were relatively rare. In fact, when considering that E Division had a compliment of approximately 6,500 members per year, the number of members involved in substantiated code of conduct cases in any one year was approximately 1%.

TABLE 1: CONCLUDED CODE OF CONDUCT CASES BY YEAR

Year	Total Number of Cases	# of Substantiated Cases	Proportion of Cases that were Substantiated
2005	110	86	78%
2006	117	89	76%
2007	105	79	75%
2008	107	73	68%
2009	117	75	64%
Average Per Year	111	80	72%

Note:

1. A case may involve multiple members and/or multiple allegations against the member(s) involved.

As demonstrated in Table 2, for the most part, the distribution of code of conduct cases was very similar to the distribution of calls for service by district. While there was a slight over-representation of cases from the North District of the province, and an under-representation from the Island District, and there was some minor fluctuations year over year, this distributions presented in Table 2 remained relatively constant over time.

TABLE 2: PERCENTAGE OF SUBSTANTIATED CODE OF CONDUCT CASES COMPARED TO CALLS FOR SERVICE DISTRIBUTION

District	% of Total	% of Total Calls for Service
Lower Mainland	50	48
Southeast	19	20
North	19	15
Island	11	17

Note:

1. Calls for service calculation based on the average number of calls per service per year from 2005 through 2009.

Individual Code of Conduct cases can involve multiple allegations. In this study, on average, each of the 80 Code of Conduct case per year involved 1.6 allegations. Given this, overall, there was, on average, 128

substantiated allegations each year. As noted in the introduction, allegations can relate to a wide range of member misconduct, each of which is generally categorized by the RCMP into one of 22 different categories (similar to public complaint categories). For the purposes of analysis, these 22 categories have been condensed into eight types: (1) integrity issues; (2) inappropriate attitude; (3) oppressive conduct; (4) failing to follow policies and/or procedures; (5) inappropriate use of police equipment and/or computers; (6) neglect of duty; (7) inappropriate and/or excessive use of force; (8) and statutory offences. In general, these categories refer to incidents in which a member of the RCMP has demonstrated a lack of integrity.

This classification system includes incidents in which a member lied, provided false statements, falsified a report, cheated, plagiarized, committed fraud, theft, deceitfulness, or the inappropriate dissemination of police information. Other examples included incidents in which a member demonstrated an unprofessional attitude, such as being disparaging, threatening, intimidating, harassing, argumentative, rude, disrespectful, or demeaning towards another person. More serious incidents were considered examples of “oppressive conduct” and included incidents of threatening, harassing, bullying, and treating suspects in a disgraceful manner. It also included sexual and spousal assault. As well, Code of Conduct violations were incidents in which an officer demonstrated excessive use of force or inappropriate use of a Taser, baton, or firearm. Notably, some of the above noted incidents constitute criminal conduct. In these cases, the incident was considered a “statutory offence”. Some of the more serious statutory offences which members in the current review had been found guilty of included Break and Enter, Hit and Run, sexual assault, illegal possession of a firearm, theft (including shoplifting), fraud, mischief, threatening, assault, sexual assault, indecent exposure, drug possession, and impaired driving.

Another set of Code of Conduct cases related to incidents in which a member has failed to follow RCMP policy and/or procedures, and more seriously, was in neglect of their duties. Incidents of this nature included failing to complete required work, unlawful use of police computers, failing to attend court, failing to investigate, failing to safeguard property and/or equipment, failing to follow orders, disobeying orders, or failing to act in general. Finally, some Code of Conduct cases related to incidents of a member’s inappropriate use of equipment and/or their inappropriate access to police information and computer systems (e.g. CPIC).

Considering Code of Conduct allegations in terms of the categories described above, the most common substantiated allegation was for a statutory offence. Specifically, one in five cases related to this type of allegation. As demonstrated in Table 3, approximately four-fifths (81 per cent) of all allegations are associated to just five categories. In effect, there were very few substantiated cases involving the use of force, displaying an improper attitude, a breach of the RCMP’s computer system policies, or the misuse of equipment. Instead, in addition to statutory offences, the most commonly substantiated allegations involved oppressive conduct, neglect of duty, integrity issues, and irregular procedure or a violation of RCMP policy.

TABLE 3: NUMBER AND PROPORTION OF SUBSTANTIATED ALLEGATIONS ASSOCIATED TO CONCLUDED CODE OF CONDUCT CASES

Type of Allegation	Average # of Allegations per Year	# of Allegations as a % of Annual Total
Statutory Offence	26	20
Oppressive Conduct	21	16
Neglect of Duty	19	15
Integrity Issue	19	15
Irregular Procedure/Violation of Policy	19	15
Use of Force	9	7
Improper Attitude	8	7
PIRS/CPIC Breach	5	4
Misuse of Equipment	3	2
Overall Avg. # per Year	128	100

Note:

1. Excludes multiple counts in a single case.

Another way to understand the nature of the allegations against members is to identify the primary issue related to each particular substantiated case. Table 4 presents the data associated to only the primary issue among multiple allegations involved in any one case. For example, in a case where an officer was found in contravention of the Code of Conduct whereby he/she committed a theft and then lied about the theft, that case, in Table 4, would only be considered a theft. Using this approach, 10 categories were established to reflect the range of primary issues appearing in the database: (1) integrity issues; (2) issues involving sexually orientated behaviour; (3) impaired driving; (4) drugs or alcohol issues; (5) domestic assault, disputes, or harassment; (6) access to police information for non-work purpose; (7) workplace harassment; (8) excessive or inappropriate use of force; (9) unprofessional behaviour; and (10) policy issues, including neglect of duty.

As demonstrated in Table 4, the most common primary contravention annually was policy related issues, including neglect of duty incidents (27 per cent). This was followed by integrity-related issues (18 per cent), unprofessional behaviour (13 per cent), and sexually-orientated behaviour (10 per cent). Collectively, cases within these four categories made up approximately two-thirds (68 per cent) of all cases. Notably, there were no apparent trends (i.e. year over year increases or decreases) with respect to any of the categories considered.

TABLE 4: NUMBER AND TYPE OF SUBSTANTIATED INCIDENTS ASSOCIATED TO CONCLUDED CODE OF CONDUCT CASES

Primary Issue	Average # of Incidents per Year	Incidents as a % of Annual Total
Policy (including neglect of duty)	21.2	26.6
Integrity Issue	14.2	17.8
Unprofessional Behaviour	10.6	13.3
Sexually-Oriented Behaviour	8.2	10.3
Excessive Use of Force	7.8	9.8
Drug and Alcohol Related	5.0	6.3
Access to Police Information for Non-Work Purpose	4.6	5.8
Impaired Driving	4.0	5.0
Workplace Harassment	2.4	3.0
Domestic Assault/Dispute/Harassment	1.8	2.3
Overall Avg. # per Year	80	100

Notes:

1. Refers to substantiated cases, ignoring multiple violations across categories.
2. "Sexually Orientated Behaviour" includes five cases of sexual assault.

With respect to the amount of time it took to conclude a case, as demonstrated in Table 5, on average, it took less than two months (1.7 months) before an allegation was lodged, and then it took, on average, just over seven months (7.3 months) from the time the allegation was lodged and investigated until some form of discipline was awarded. Given this, on average, it took just over 1 year (12.3 months) from the time an allegation was lodged to where it was considered concluded. Of note, it appeared that the amount of time it took to award discipline and conclude a file decreased slightly from 2005 to 2009 from 13.5 months to 11.2 months.

TABLE 5: AVERAGE NUMBER OF MONTHS TAKEN TO RESPOND TO A CODE OF CONDUCT ALLEGATION IN E DIVISION (2005 -2009)

Year	# of Months to Lodging of Allegation	# of Months from Lodging to Awarding of Discipline	# of Months from Lodging to Conclusion of File
2005	1.9	8.2	13.5
2006	1.9	7.5	12.5
2007	2.1	7.0	11.7
2008	1.1	6.8	11.9
2009	1.3	7.1	11.2
Overall	1.7	7.3	12.3

Note:

1. Lengthiest 5% of cases excluded.

In terms of the dispositions awarded, there were 38 different combinations that had been awarded to members (see Table 6). While reprimand on its one was the most common disposition (30.2 per cent), this was closely followed by counseling (28.5 per cent). Although awarded much less often, the third most commonly awarded disposition was forfeiture of one day of pay (11.5 per cent). All of the other combinations of dispositions were awarded very infrequently.

TABLE 6: FREQUENCY OF DISPOSITIONS AWARDED

Type of Disposition	# of Members Awarded Disposition	% of Members Awarded Disposition
Reprimand	108	30
Counseling	102	29
Forfeiture of 1 Day Pay	41	12
Reprimand & Special Training	20	6
Reprimand & Transfer	9	3
Special Training & Counseling	11	3
Direction to Resign (Formal Penalty)	3	2
Reprimand x 2 **	7	2
Reprimand & Professional Counseling	7	2
Reprimand, Special Training, and Professional Counseling	5	1
Reprimand & Counseling	5	1
Professional Counseling	2	.9
Professional Counseling x 3	2	.9
Reprimand x 3	2	.6
Reprimand & Forfeiture of Time Off	2	.6
Counseling x 2	2	.6
Special Training x 2	2	.6
Reprimand, Special Training, and Counseling	2	.6
Reprimand, Special Training, and Close Supervision	2	.6
Reprimand, Special Training, and Transfer	2	.6
Reprimand, Professional Counseling, and Transfer	2	.6
Reprimand x 2 & Counseling	1	.3
Reprimand x 2 & Close Supervision	1	.3
Reprimand x 2 & Professional Counseling	1	.3
Reprimand, Counseling, and Close Supervision	1	.3
Professional Counseling & Close Supervision	1	.3
Professional Counseling & Special Training	1	.3
Professional Counseling, Counseling, and Transfer	1	.3
Counseling and Forfeiture of Time Off	1	.3
Reprimand & Close Supervision	1	.3
Close Supervision	1	.3
Close Supervision and Counseling	1	.3
Reprimand x 3 & Close Supervision	1	.3
Reprimand x 3 & Professional Counseling	1	.3
Reprimand, Close Supervision, and Transfer x 2	1	.3
Reprimand x 4	1	.3
Recommend Dismissal (Formal Penalty)	1	.3
Demotion (Formal Penalty)	0	0
Overall	352	100%

Note:

1. Overall number represents 88% of cases involving a substantiated allegation. Nearly all of the remaining members either resigned or retired before the allegation (s) against them could be heard. The exception is that in a few cases, the time limit to lodge the case against the member had expired.

When the different combinations were isolated into their individual components, the most frequently awarded type of disposition, again, was reprimand (47 per cent) and counseling (27 per cent) (see Table 7). In effect, approximately three-quarters of all dispositions awarded for Code of Conduct violations

included a reprimand and/or counseling. Recommendation for Special Training and Forfeiture of Pay for a Period Not Exceeding 10 Days (Formal Penalty) combined for another 18% of dispositions awarded.

TABLE 7: PERCENTAGE OF CASES WHERE POSSIBLE DISPOSITION TYPES WERE AWARDED

Type of Disposition	% of Time Disposition was Awarded
Reprimand	47%
Counseling	27%
Recommendation for Special Training	9%
Forfeiture of Pay for a Period Not Exceeding 10 Days (Formal Penalty)	9%
Recommendation for Professional Counseling	3%
Recommendation for Transfer	3%
Direction to Work Under Close Supervision	>1%
Direction to Resign – within 14 days (Formal Penalty)	>1%
Forfeiture of Regular Time Off (for a period not exceeding one work day)	>1%
Recommendation for Dismissal (Formal Penalty)	>1%
Recommendation for Demotion (Formal Penalty)	0%

Note:

1. As per Table 6, more than one disposition was often award per case, and those cases may or may not involve multiple allegations.

Overall, more than four-fifths (84 per cent) of Code of Conduct violations did not make it to the point where a hearing before a formal adjudication board occurred. Although nearly two-thirds (65 per cent) of allegations of a statutory offence did not have a hearing before a formal adjudication board, these types of incidents were still the most likely to result in a formal hearing (see Table 8). Moreover, of those statutory offence incidents that did not have a formal adjudication board hearing, a slight majority (53 per cent) resulted in the member being awarded either counseling alone or a single reprimand. The type of incident least likely to have a hearing before a formal adjudication board was the misuse of equipment (7.1 per cent). Similarly, this type of incident was most likely, when not having a formal adjudication board hearing to be resolved through either counseling alone or a single reprimand (82 per cent). As demonstrated in Table 8, when an incident did not go before a formal adjudication board, these incidents were informally resolved by counseling alone or a single reprimand in nearly two-thirds (63 per cent) of cases.

TABLE 8: PROPORTION OF CASES NOT GOING BEFORE A FORMAL ADJUDICATION BOARD AND THE PROPORTION OF THESE CASES IN WHICH THE MEMBER RECEIVED COUNSELING ALONE OR A SINGLE REPRIMAND

Type of Allegation	% of instances that did not go before a Formal Adjudication Board	% of cases resolved through the informal discipline process where either counseling alone or a single reprimand was awarded
Statutory Offence	64.8	52.6
PIRS/CPIC Breach	83.6	52.9
Use of Force	81.8	54.1
Irregular Procedures/Violation of Policy	81.6	60.0
Integrity issue	73.4	60.8
Improper Attitude	88.1	66.6
Oppressive Conduct	84.8	73.6
Misuse of Equipment	92.9	81.8
Overall	83.6	62.8

In terms of the characteristics of the 339 members who were the subject of at least one Code of Conduct allegation, nearly all (94 per cent) were male (see Table 9). This is a small overrepresentation as males made up approximately 88% of members in E Division. Further, 71% of members with at least one Code of Conduct allegation against them were Constables. Again, this was a slight overrepresentation of approximately 4% in E Division. Members who were the subject of a Code of Conduct allegation had, on average, just over ten years of service. In this regard, there was virtually no difference in years of service by the type of allegation. The only exception was with respect to inappropriate use of force where members had, on average, 7.7 years of service.

TABLE 9: CHARACTERISTICS OF MEMBERS FACING SUBSTANTIATED CODE OF CONDUCT ALLEGATIONS

Characteristic	% of Members
Male	94%
Average Years of Service	10 Years
Constables	71%
Corporal	15%
Sergeant	6%
Staff Sergeant	2%
Officer	2%
Other	4%
On Duty	60%

Note:

1. “Other” consists largely of civilian members.

Of note, 91% of the members in this study were the subject of one substantiated allegation, while 7% were the subject of two allegations. Another 2% were the subject of three substantiated allegations, and less than 1% was the subject of four substantiated allegations.

Summary

The purpose of this study was to identify the nature and extent of substantiated Code of Conduct contraventions investigated by the Professional Standards Unit within E Division over a five year period (2005 – 2009). Additionally, the purpose was to describe how these contraventions were dealt with and to what extent there were variations in the dispositions awarded.

The analysis of the data resulted in several important observations. First, given the average number of substantiated Code of Conduct cases concluded each year by the Professional Standards Unit, and the average number of members involved, Code of Conduct cases are relatively rare. When considering that E Division had approximately 6,500 members per year, the proportion of members involved in a substantiated allegation is extremely small. That said, given the high standard of professionalism and integrity citizens should expect of every single police officer, the fact that nearly half of all cases involve integrity issues and/or criminal behaviour is concerning. Moreover, some of these cases involved very serious criminal behaviour and/or demonstrated a deep lack of integrity on behalf of the member involved. In fact, some contraventions were clearly cases in which the behaviour of the officer was such that we would have expected the member involved to be dismissed.

However, it was clear from the analysis that dismissal was almost never applied. In fairness, there were a number of members who resigned or retired in advance of receiving a disposition, most all of whom were involved in very serious contraventions. Further, some members were, in effect, ordered to resign. Still, it would appear that the overall tendency was to most commonly award the most lenient dispositions possible.

No doubt part of the reason this tendency towards leniency existed was because of the practice of pursuing cases informally as opposed to having them heard through a formal disciplinary board. In this regard, we are reminded that it is the unit or detachment OIC who has the discretion to determine whether a case should be dealt with informally or formally. With this in mind, it is our view that, at the very least, the decision of how to proceed should fall outside the detachment/unit that the individual member was stationed at.

Another issue that warrants consideration is the formal and informal disciplinary categories as described in the RCMP Act, and the fact that a formal decision can render an informal sanction. Specifically, Section 45-12 (4) of the RCMP Act states that “in addition to or in substitution for imposing a sanction under subsection (3), an adjudication board may take any one or more of the informal disciplinary actions referred to in paragraphs 41(1) (a) to (g)”. In our view, violations that, given the set of circumstances in their totality, warrant a formal adjudication hearing should necessitate a formal sanction. Further, Code of Conduct contraventions that can be described as either criminal offence or integrity-based should be automatically processed through a formal adjudication board hearing. Simply, such contraventions are direct affronts to the core values of the RCMP, and when made public, bring the RCMP and police in general into serious disrepute. Worse, this disrepute is perpetuated when the official response of the RCMP is to treat the matter with leniency.

In sum, from our review of Code of Conduct cases within E Division, we have four main recommendations. First, the discipline awarded to each member should match the seriousness of the contravention. In this regard, the discipline awarded should reflect the seriousness of the violation, and the discipline should increase in severity with repeated violations.

Second, the discretion of whether a contravention should be formally or informally pursued should not be left in the hands of the member's OIC. The discretion should have an element of transparent independence, whereby a potential conflict of interest is avoided.

Third, Section 45.12(4) of the RCMP Act should exclude the provision of the substitution of an informal sanction for a formal sanction. Again, this will help to avoid the over-reliance on lenient sanctions.

Lastly, integrity related contraventions of the Code of Conduct and contraventions involving criminal acts should always warrant formal action.

Recommendations

- Discipline should match the seriousness of the contravention
- Discipline for repeat violations should be progressive regardless of type
- Discretion of proceeding formally or informally should be handled free from potential conflicts of interest
- Section 45.12(4) of the RCMP Act should be revised to exclude the substitution of formal for informal discipline
- Integrity-related violations should always warrant formal action

