

COMMUNIQUE

(Newsletter of the Canadian Association for Civilian Oversight of Law Enforcement)
(L'Association Canadienne de surveillance civile du maintien de l'ordre)

Vol. 1 Issue 2

August 1996

Editor's Note

The response to the inaugural edition of Communique has been most gratifying.

Judging from the number of requests from within and outside Canada for copies of our newsletter, there is a heightened awareness and appreciation for CACOLE's work in the area of civilian oversight. I encourage you to distribute Communique to interested organizations and individuals who may expand our support group. I wish to thank Jill Martin and John Yoannou of the PCC for their assistance in producing this issue.

I am pleased to announce that the Police Complaints Commissioner now has a home page on the Internet, including a link to CACOLE. Anyone "surfing the net" can retrieve information simply by searching "CACOLE". We will be in a position to make any additions or changes to this text in the future.

I welcome any comments on this newsletter and may be reached at Susan James, c/o Police Complaints Commissioner's Office, 595 Bay Street, 9th Floor, P.O. Box 23, Toronto, Ontario M5G 2C2

Phone: 416-325-4681
Fax: 416-325-4704
Internet Address: jamessu@epo.gov.on.ca.

Secretariat's Report

The Secretariat of CACOLE has been at work in a number of areas in an attempt to ensure that the administration assists the board of directors in accomplishing its goals.

Conference - It is a very exciting time for CACOLE with so much anticipation of the up-coming conference. The conference committee is working hard to put the final touches to the workshops.

It promises to be a conference that will provide a great deal of pertinent information and a wonderful opportunity to meet with colleagues from across the country. (See conference story on page 2 and the enclosed application form for more detailed information.)

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Secretariat's Report

Discipline Digest - A great deal has been done in bringing the digest to the stage we are at. We will have a detailed report and update at the conference.

CACOLE will then be the only association to produce such a useful document and one that will go a long way to bring consistency to discipline decisions. (For more detailed information see page 6.)

Charter - We hope to have the constituting documents at the conference that will establish CACOLE as a body corporate with appropriate by-laws.

Membership - It is time to renew your membership in CACOLE. It is important that we receive membership dues as quickly as possible to support our ongoing work and to honour financial commitments.

Regular or Associate Membership for individuals - \$150
Regular or Associate Membership for organizations - \$300

The membership application form is enclosed in this newsletter for your convenience.

Conference '96 Update

Final preparations are underway for the Fall conference in Halifax.

Hosted by the Nova Scotia Police Commission, the conference will provide valuable workshops and presentations by leaders in the field of civilian oversight as well as networking opportunities for the delegates to meet with colleagues. In the process of fine tuning the agenda, Commission Chair Jean Beeler and Executive Secretary Pam Little offer this advance look.

Sunday, September 29th, at 6:30 p.m. combines pre-registration with a wine and cheese reception.

Day One, September 30th, begins with a late registration period for those arriving that morning. The opening session will feature a "cross-country check up" with reports from regions across Canada. A mid-morning nutrition break will be followed by the first conference workshop, "Creating Partnership", moderated by Marvin Rotrand.

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Conference '96 Update

It will explore how civilian oversight bodies can proactively work to reduce polarization between the public and police while still maintaining their impartiality and independence.

The Conference will provide a buffet lunch prepared by the Prince George Hotel, a truly elegant operation which hosted the leaders of Japan during the G7 Summit held in Halifax in 1995. Keynote speaker at the luncheon is Chief Justice T.A. Hickman who chaired the Royal Commission into the wrongful prosecution and imprisonment of Donald Marshall Jr.

The afternoon panel, "Civilian Governance of First Nations' Policing", moderated by Frances Gordon, will examine the implications of the rapid increase in First Nations Police Departments for provincial and local civilian oversight bodies.

Such weighty topics can work up an appetite, so the conference has organized a lobster dinner - after all, what would a trip to the east coast be without it! You'll be able to enjoy your catch while gazing at the beautiful Halifax harbour. The cost of the meal is included in the registration fee. So, bon appetit!! Also, arrangements have been made (at a discounted price) for a water tour of Halifax onboard a replica steam boat.

The final day of the conference features a choice of two workshops: "Assistance to Emerging Democracies", moderated by Gerald Lapkin, is designed to update members on developments relating to Canada's role and participation in the international oversight community; and, "Investigative Reporting", moderated by Jean Beeler, will offer a hands-on demonstration of effective writing techniques from the perspective of the writer and reader.

The lunch break will enable delegates to explore the downtown core and sample some of the many restaurants within walking distance of the hotel. The conference will conclude with Association business.

"Civilian oversight is a necessary element of any democratic society designed to work in concert with the public and the police," says Jean Beeler. "Our hope is to continue to provide the most current information to everyone, and to keep the lines of communication open between these two groups."

A Conference '96 application form is enclosed in this newsletter for any late registrations.

The Nova Scotia Police Commission

With "Conference '96" quickly approaching, **Communique** offers this snapshot of the Nova Scotia Police Commission.

The Commission's primary role is to investigate public complaints alleging misconduct on the part of municipal police officers, and when necessary, to refer matters to the Nova Scotia Police Review Board. The Board is also empowered to hear and determine appeals against disciplinary penalties or dismissals imposed or ordered by Chiefs of Police and Boards of Police Commissioners.

As outlined in the province's Police Act, the Nova Scotia Police Commission "...shall perform the functions and duties assigned to it by the Act, the Governor-in-Council, or the Minister of Justice."

They include:

- * consult with and advise Boards of Police Commissioners and other police authorities and chiefs of police on all matters relating to public complaints and internal discipline;

- * conduct investigations and inquiries in accordance with the Act;

- * provide investigative and administrative support to the Police Review Board; and,

- * make recommendations with respect to amendments to the Act or the Regulations or to any other enactment dealing with law enforcement.

The Commission also has the quasi-judicial function of sitting on appeal from a recommendation of the invest-

igator not to refer a matter to the Police Review Board. To a large extent, the Commission fills the same role as the "public complaints commissions" in other provinces, but with the added responsibility for holding public inquiries.

When requested by a Board of Police Commissioners or directed by the Minister of Justice, the Nova Scotia Police Commission is required, according to Section 8 of the Act, to inquire into the conduct and performance of any member of a municipal police force, the administration of any police force, the system of policing in any municipality, or the police needs of a municipality.

Furthermore, the Commission, when directed by the Minister of Justice, is responsible for inquiring into any matter relating to the extent, investigation or control of crime, as well as the enforcement of law.

Nova Scotia's Police Commission fulfils an extremely important function. While the Police Review Board has as its focus the determination of specific complaints, the Commission is in the position where it can review the adequacy of the entire public complaint and internal disciplinary system and make recommendations for change.

"It is essential that there be a body, independent from the government and the police, which has the responsibility of serving the public in relation to com-

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The Nova Scotia Police Commission

plaints against police departments," says Commission Chair, Jean Beeler. "This is, in our view, the cornerstone of civilian oversight."

Commission Membership

Under provisions of Section 4(1) of the Police Act, the Commission is composed of no less than three persons appointed by the Governor-in-Council.

As of August, 1996, the members of the Commission are:

* Jean Beeler	Chair
* Rev. Neil Price	Member
* Carol Aylward	Member
* Franklyn Jesty	Member

Ms Beeler was appointed Chair in February, 1995. She succeeded Heather Robertson.

Commission Staff (as of August, 1996)

* Garry Mumford	Investigator
* Pamela Little	Secretary to the Commission
* Edie Peters	Secretary to the Investigator

Former CACOLE Member Lends Expertise to Securities Watchdog

The former executive director of the Police Complaints Commissioner's office in Ontario for the last five years is now overseeing practices within securities markets.

Mark Conacher's arrival at the Ontario Securities Commission (OSC) coincided with the unprecedented agreement between police and securities regulators to pool their resources in the investigation and prosecution of large-scale securities-related crime spanning multiple jurisdictions. The formation of the Security Enforcement Review Committee comes at a time when white-collar crime is flourishing and police budgets are shrinking.

The new Committee is expected to bridge the gap between the regulatory and criminal aspects of securities investigations. A key element is the involvement of the Crown Attorney's office at the early stages of an investigation to ensure that the necessary requirements of evidence are met.

We wish Mark every success in his new oversight role.

Discipline Digest - An Update

A national digest summarizing police discipline cases is one step closer to completion.

Albert Nigro, Legal Director and Acting Executive Director for the Police Complaints Commissioner's office in Ontario, is co-ordinating the final stages of establishing the first-ever discipline digest. Earlier this summer, three format options were considered by CACOLE members. They include: the use of the well-established Quicklaw research database; a private publisher and editor to produce a case digest service (annual funding commitment by CACOLE members would be required); or, the Internet (one member to be a "home page" provider).

The ground-breaking effort

began last October when a panel discussion at the first annual CACOLE conference in Victoria led to the formation of the digest committee. By January, a two-page survey had been developed as part of the needs assessment process. It was sent to various public complaints tribunals, provincial police commissions, the RCMP, and provincial associations of municipal police boards and chiefs of police. The potential scope of decisions could include municipal police board decisions, internal police service decisions, procedural or motion rulings, court decisions, recommendation-type decisions, and other civilian governance decisions such as service/police issues, budget or labour disputes.

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Partnerships

While the term "partnerships" is often over-used by wordsmiths of the nineties, we should not ignore its benefits.

Dealing with public complaints about officer conduct is probably the most negative component of civilian oversight of policing. It is generally accepted that the public does not have a great deal of confidence in police investigating police. Rank and file officers question the competence of non-police investigators and are critical of civilian governing bodies with their apparent overlapping jurisdictions and mandates.

If this sounds familiar and discouraging, do not despair. Creating partnerships can go a long way in alleviating at least some concerns that create the adversarial atmosphere. Identifying common objectives, while knowing when to agree to disagree, is the primary benefit of the dialogue that flows from partnerships.

The Ontario Police Complaints Commissioner's office (PCC) has long recognized what partnerships can achieve. In 1990, the Police Services Act expanded the Commissioner's mandate beyond Metropolitan Toronto into a province-wide jurisdiction. Subsequently, a Manager of Outreach was appointed to co-ordinate the PCC approach

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Partnerships

to the community. Further, front-line investigative staff were encouraged to liaise directly with police investigation bureaus, police labour organizations, other police governing bodies and the community at large.

By 1993, the success of this approach led to the development of Community Advisory Networks (CANS). They quickly became the backbone of the PCC's community outreach initiatives by acting in a consultative capacity for the PCC. CANS act as a bridge between the complaints process and various communities.

In that same year, the position of Police Liaison Advisor was established by the PCC as a link to the Ontario Association of Chiefs of Police (OACP). A number of extremely successful meetings with police administrators and police services boards were initiated. In 1994, a similar advisory position was established to further the PCC's working relationship with the Police Association of Ontario (PAO).

The positive impact of these partnership initiatives was immediate. CANS have assisted in meeting the PCC's community outreach goals, and in some circumstances, have aided the investigation and resolution of complaints.

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Discipline Digest

Complete responses were received from five provincial police commissions, six provincial public complaints tribunals and the RCMP bodies. Those agencies account for 465 decisions (including motion rulings and penalties) totalling more than 6000 pages. Currently, few tribunals summarize their decisions, but respondents generally were willing to send their findings to the Digest Committee to be summarized.

There have been problems in obtaining information about the internal police disciplinary hearings and the municipal police board hearings, because there usually are no consolidated statistics kept for all police services and police boards. Those two categories alone could account for 500 more decisions or 5,000 pages each year.

"It is hoped that the end result will be a digest service which is widely accessible, comprehensive and practical to use," said Gary Yee, Chair of Ontario's Board of Inquiry and who helped to develop and distribute the survey. "While laws and regulations vary according to jurisdiction, all of us can learn from each other's experiences with respect to appropriate standards of police conduct."

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Partnerships

Similarly, the PAO and OACP are involved in joint projects with the PCC. These include the development of pilot projects regarding the informal resolution of complaints, the consideration of joint submissions on legislative changes, and shared training opportunities.

The momentum has not stopped there. In 1995, members of the Commissioner's staff began formally liaising with the government branch responsible for policing standards and programs, the Office of the Chief Coroner, and other oversight bodies. In several instances, the Commissioner's staff have con-

ducted complaint investigations with seconded assistance from police services.

All of these initiatives have led to increased dialogue, information sharing and a greater understanding of each other's objectives. The results speak for themselves: more effective and expedient complaint investigations, less duplication of effort, and improved community relations.

(James Mask is an investigator/outreach officer with Ontario's Police Complaints Commissioner's office and is the PCC's Liaison Advisor to the Police Association of Ontario)

Another Perspective on "Community" Policing

(The following is an example of how CANS assisted the Police Complaints Commissioner's office.)

It was not a typical file.

The complainant in this case was not the person directly affected. Instead, it was an eyewitness to an alleged assault by Toronto police officers that triggered a formal public complaint investigation. Following established process, the matter was initially investigated by the police and monitored by the independent civilian office of the Police Complaints Commissioner.

Following a "no further action" decision by the chief of police, the eyewitness asked the Police Complaints Commissioner, to review that decision. But the victim of the alleged assault could not be located, and the PCC needed to interview him to ensure a meaningful review. All that was known was that he had "an acquaintance" in London, Ontario.

Knowing that the assault victim was a refugee from El Salvador, PCC staff turned to the Community Access Networks (CANS) in London for assistance. CANS quickly put the PCC in touch with the Immigration Settlement Services and the Immigration Adaptation Program.

Within one day of CANS' involvement, the victim was located!

"Newspaper Wars"



(reprinted with permission of the Toronto Star and the Toronto Sun)

.... If a picture is worth a thousand words, than the two editorial cartoons on the previous page speak volumes about the differing editorial stands of two Toronto newspapers on the issue of police use of force.

The editorial battle was triggered by six police shootings - four of them fatal - by Metro Toronto, Peel and York Region police in the greater Metropolitan Toronto area in the first six months of the year. Adding to the controversy was the fact that four of the victims were black or Asian.

For almost a full week in June, the Toronto Star devoted hard news coverage combined with editorials, columnists' viewpoints and letters to the editor in support of its call for a review of police attitudes and training methods. In its lead editorial, backed by the cartoon, "Go ahead, Make our Day", The Star wrote: "Police explanations, interpretations and rationalizations - that officers only have a split second to shoot and that they must shoot to kill - cannot gloss over the horrible truth: Some-thing is fatally wrong with the way police are trained to handle citizens who run afoul of the law.Police too often fail to pursue preliminary steps such as retreat, persuasion, negotiation, and then the use of stick, pepper spray or tear gas before resorting to lethal force."

Meanwhile, over at the Toronto Sun, coverage was low-key in comparison, with editors restricting their coverage to straightforward reporting and a column by the associate editor Lorrie Goldstein who wrote: "..Real solutions do not lie in such Hollywood fictions as "shooting to wound". Real solutions lie in honestly examining police attitudes toward minorities, in better education and training, and in making the Metro (Toronto) force, through new hirings, better reflect the city's diversity. That will take time, goodwill and money. Is it worth it? Well, can we afford not to?" In a subsequent column, Goldstein wrote: "..if our competition can suggest..that the real problem is racist, trigger-happy cops, then we at the Sun can just as easily respond that the problem here is people who don't respect the law."

The Toronto Sun's editorial cartoon depicts a Metro Toronto Police cruiser smashing into a Toronto Star newspaper box. "Rosie" refers to the Star's Rosie Dimano, known for her harsh columns against police. "S.I.U." refers to the Special Investigations Unit, a civilian oversight agency which investigates serious police actions such as fatal shootings, injuries or death resulting from high-speed pursuits, and deaths in custody.

N.S. Mounties in Another Shootout

(taken from the Toronto Star, June, 1996)

A man was in hospital with a serious head wound after being shot by the Mounties yesterday - the second shooting in Nova Scotia involving the RCMP in as many days. (con't on page 11)

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N.S. Mounties in Another Shootout

Mounties went into the woods off Highway 103 near Chester after people reported hearing gunshots. Police shot the man around 4 a.m. as they attempted to arrest him.

In Friday's shooting near Lunenburg, veteran Mountie Sgt. Derek Burkholder and his attacker, Ronald Stevens, were both killed after police responded to a domestic dispute.

The gun violence over the two days was exceptional for the force in Nova Scotia, Sgt. Bill Price said yesterday. "Members may go through an entire lifetime and never have to draw their gun."

Police Accused of Brutality

(taken from the Globe & Mail, August 16, 1996)

WINNIPEG - Police face accusations of racism and brutality after a group of officers allegedly kicked and beat a teenager suspected of car theft badly enough to put him in hospital.

The mother of the 16-year-old says she will file a complaint with Manitoba's Law Enforcement Review Agency against officers she says beat her son and hurled racial insults at her during the attack. "They might not be so lucky the next time," the woman, who is part native, said yesterday. "They might kill some kid."

The alleged beating took place after a high-speed chase Sunday. Police say the driver of a stolen van tried to run over some officers on bicycles, crashed into a fence and tried to flee on foot.

The 16-year-old's mother said police caught the youth in a school yard near his home and attacked him, even as a crowd gathered to watch. "When I saw them they were all on my son and they were pounding him," the woman said.

David Cassels, Winnipeg's new police chief, has ordered an internal investigation and issued a plea for witnesses to come forward.

The alleged confrontation could hurt efforts police have made to improve relations with natives since the 1988 shooting of native leader J.J. Harper by Winnipeg police Constable Robert Cross.

The situation had started to improve with two changes of police chiefs since then and some fence-mending.

A spokesman for the Manitoba Métis Federation said he hopes the alleged beating doesn't undo the good. "Right now the communities are trying to work in partnership with police to try to fight the rise in gangs," David Chartrand said. He also stressed he didn't want to prejudge police since the allegation has not been proven.

The teen's mother said her son was covered with bruises and lumps when she saw him in the hospital Sunday night.

"He had lumps all over his forehead. A boot mark on the

(con't on page 12)

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Police Accused of Brutality

side of his head...He's having problems with one eye that keeps running. He says his eye hurts inside."

She also said that when she and other family members rushed over to the school yard they were met by an angry, heavy-set officer who swore at her over their native heritage and threatened her with pepper spray.

She said he didn't use the pepper spray and backed off after another police officer said something she couldn't hear.

Haiti Fears Effect of Attacks on Police Officers

(taken from the Globe & Mail, June, 1996)

(In the last issue of Communique, we included a newspaper account of Canadian participation in the training of the new civilian police service in Haiti. The following article highlights what has literally become a life-and-death struggle for acceptance)

PORT-AU-PRINCE - Police officials say the recent killings of seven police officers is an attempt to destabilize Haiti's democratically elected government, with United Nations forces set to pull out.

"What this was meant to do is to spread terror within the force and to destabilize it," Haitian national police chief Pierre Denize said.

There have been eight armed attacks on police officers in the past three months, seven of them fatal.

Investigators believe the killings may be linked to Cité Soleil, a sprawling slum of 200,000 people living in shanty houses built over and around open sewers.

On March 6, police officer Marie-Christine Jeune was taken hostage and killed two days after police shot dead a Cité Soleil gang leader at the national port. The gang leader had tried to grab a police officer's gun.

Because Ms Jeune had made hostile statements against armed gangs in Cité Soleil, there was speculation that her killing was not random. Perhaps because of an inaccurate radio report that two police officers had already been murdered by the Cité Soleil gangsters holding Ms Jeune, police stormed back alleys of the slum, killing at least nine unarmed civilians.

Rachel Neild, who tracks police performance for the Washington Office on Latin America, said false calls made on police fre-

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Haiti Fears Effect of Attacks on Police Officers

quencies in the days after the abduction of Ms Jeune were perhaps designed to bait police into a similar massacre.

Police officials said the attacks are designed to make police officers feel unsafe. As more officers were killed in the following weeks, police became more certain that they were the target of a systematic plot. Mr. Denize said the killings, like the calls, may be aimed at sabotaging police performance.

"If police are afraid, they are more likely to over-react in any situation," he said.

UN spokesman Eric Falt has said that there are fewer than 100 armed gangsters in Cité Soleil. Mr. Denize said they are involved in selling stolen cars, drug trafficking and weapons trafficking.

The armed gangs have been referred to as the Red Army, a name that conjures images of a

Communist paramilitary group. But both gang members and police sources say no such group exists.

"There is no Red Army, but there are those who have a vested interest in the failure of the Haitian National Police force," Mr. Denize said. "There are those who benefited financially from the previous political situation. The proposition of this government to fight corruption cannot be a pleasant turn of events from those who benefit from it."

The HNP was trained with Canadian, U.S. and French police assistance over the past year to replace the Haitian military, which was disbanded by former president Jean-Bertrand Aristide when he was returned to office by U.S. troops in 1994 after a bloody three-year military regime. Canada has supplied 700 of the 1,900 UN troops here.

(The following "Letter to the Editor", which appeared in the Toronto Star in March, 1996, was written by a Cambridge, Ontario woman who helped train Haiti's new civilian police force. This letter has been edited for space.

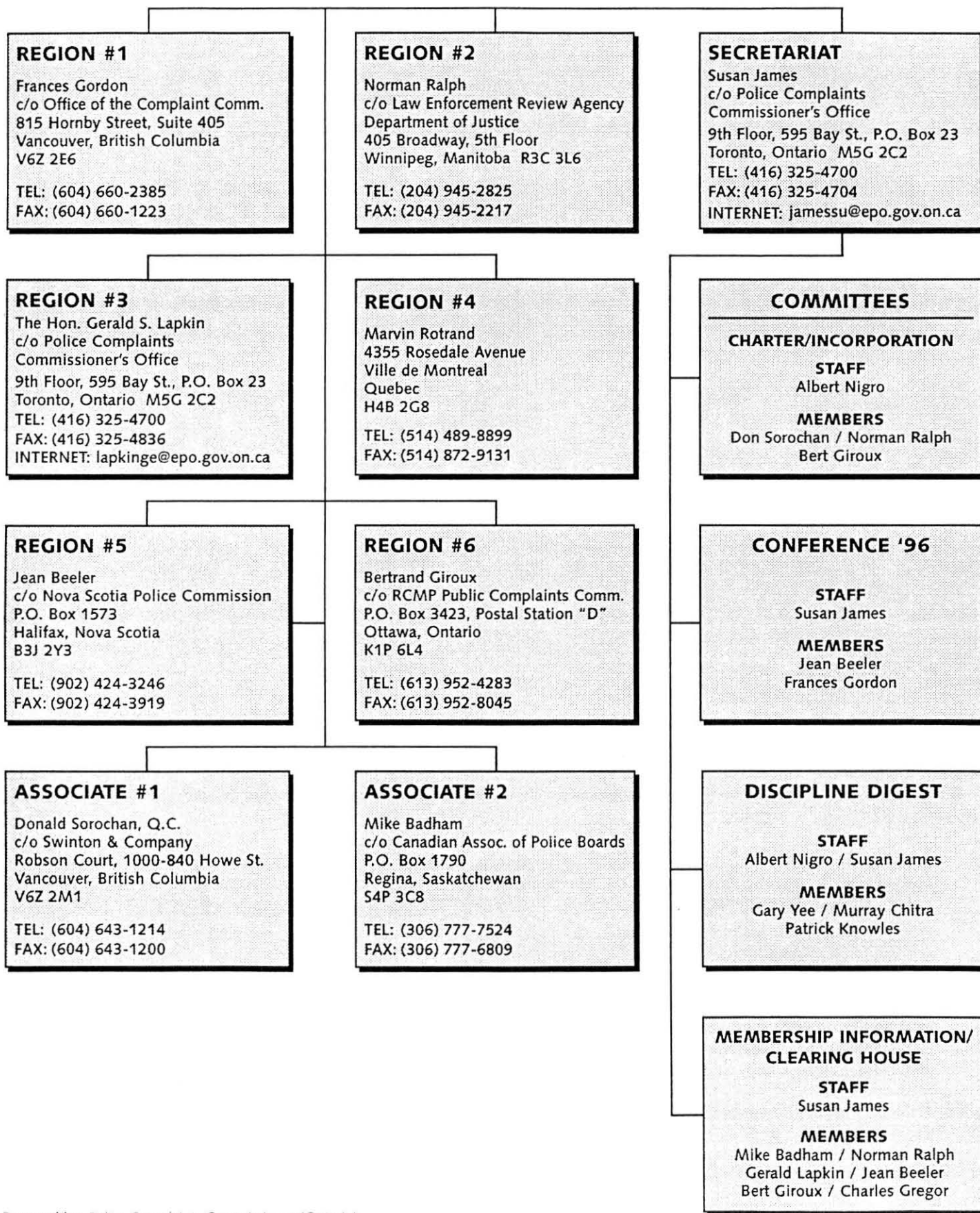
"I have just returned from a year in Haiti, where I helped train that country's first democratic, politically independent, professional, civilian police force. I was the co-ordinator for the human rights aspect of that training. In accordance with internationally accepted standards, they were to use only the amount of force necessary to accomplish that mission.

Last fall the Haitian national police in Gonaives were responsible for safely transporting two men, charged with masterminding a massacre in the area, from the police station to the courthouse and back.

These young and inexperienced police agents were able to disperse truly violent crowds without lifting a riot shield or baton. A number of the police had themselves been victims of the massacre only 3 1/2 years earlier, yet they maintained their professionalism and commitment toward democratic policing."

Notes:

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