



# REVIEW OF THE RCMP'S POLICIES AND PROCEDURES REGARDING STRIP SEARCHES

*Royal Canadian Mounted Police Act*  
Subsection 45.34(1)



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## EXECUTIVE SUMMARY

The Supreme Court of Canada noted in its landmark 2001 decision *R v Golden* that strip searches are “inherently humiliating and degrading,”<sup>1</sup> albeit justified in certain circumstances. Given the potential for violations of the *Canadian Charter of Rights and Freedoms*, clear policies, adequate training, and appropriate supervision should guide police officers.

Following concerns raised by civil liberties groups, in 2013 the Civilian Review and Complaints Commission for the RCMP (“the Commission”) undertook a review of RCMP policing in northern British Columbia, including an examination of personal searches (strip searches).

That review found significant shortcomings in the RCMP’s personal search policies (which include strip searches), inadequate training, and insufficient means of tracking strip search data for purposes of compliance review and enhancing transparency and accountability.

The *Final Report into Policing in Northern British Columbia*<sup>2</sup> (hereinafter “the Final Report”) contained ten recommendations related to personal searches, all of which the RCMP Commissioner supported.

In 2018, the Commission initiated this current review<sup>3</sup> to examine:

- the degree to which the RCMP implemented the relevant Final Report recommendations;
- the adequacy, appropriateness, sufficiency, and clarity of RCMP policies and training related to personal searches (strip searches in particular); and
- whether the RCMP is complying with policy and has the means to evaluate compliance.<sup>4</sup>

## Results in brief

Changes to the RCMP’s personal search policies following the 2017 Final Report resulted in significant improvements. That said, further amendments are necessary to enhance the clarity of these policies and ensure consistency with current relevant jurisprudence.

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<sup>1</sup> *R v Golden*, [2001] 3 SCR 679 at para 90.

<sup>2</sup> Civilian Review and Complaints Commission for the RCMP, *Chairperson-Initiated Complaint and Public Interest Investigation regarding Policing in Northern British Columbia – Chairperson’s Final Report after Commissioner’s Response*, February 2017, online: <<https://wse.ww.crcc-ccetp.gc.ca/en/chairs-final-report-after-commissioners-chair-initiated-complaint-and-public-interest-investigation>> [CRCC Northern BC Final Report].

<sup>3</sup> On March 29, 2018, the Commission initiated a specified activity review of the RCMP’s personal search policies and procedures pursuant to section 45.34(1) of the *Royal Canadian Mounted Police Act*.

<sup>4</sup> See Appendix 1 for details on the mandate and methodology of the review.

The Commission found that the RCMP's national personal search policy (including cell block searches) is unclear and inadequate, and that divisional<sup>5</sup> policies pertaining to strip searches are either inadequate or inappropriate, often due to their reliance on national policy.

The Commission also identified ongoing issues with policy compliance, including:

- inadequate articulation and file documentation of the grounds for a strip search;
- inadequate supervision and supervisory review of files;
- inadequate training of members and supervisors; and
- the practice of routinely removing and/or searching a prisoner's undergarments, which is inconsistent with RCMP strip search policies and relevant jurisprudence.

It is apparent from the Commission's review that many members are not adequately aware of RCMP personal search policies. Moreover, the only mandatory RCMP training regarding personal search policies is that provided by the RCMP to cadets during their basic training, which the Commission finds inadequate. There is no mandatory national or divisional training for members or supervisors; rather, they learn on the job.

The Commission is particularly concerned with the inadequate supervision of members, lack of articulation on files, and overall lack of knowledge of what constitutes a strip search at the Iqaluit Detachment. Interviews revealed that bras are routinely removed and searches are video-recorded.

In contrast, the Commission did identify good practices at some detachments to encourage policy compliance and provide adequate guidance.

In assessing the implementation of the 2017 Final Report recommendations, the Commission found that the RCMP has adequately implemented seven of the ten recommendations. However, the RCMP has not acted on the recommendations to provide additional training for cadets and members, nor has it amended its policy to include an appropriate means to record, track and assess compliance.

In the Commission's view, the inability of the RCMP to evaluate and report on policy compliance negatively affects its overall accountability, as it does not facilitate internal or independent review. In that regard, the Commission's review was hampered by the RCMP's document management and storage practices, and required a manual review of prisoner reports and occurrence reports in an effort to identify those that included a strip search.

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<sup>5</sup> The RCMP divisions in British Columbia, the Northwest Territories, Alberta and Saskatchewan are the only divisions that supplement the national personal search policies with divisional policies.

## Recommendations

The Commission makes eleven recommendations to improve the RCMP's national and divisional policies as well as its training and supervision, and to enhance transparency and accountability.

The Commission believes that the recommendations contained in this report, including some based on existing RCMP good practices, will result in enhanced member compliance with the relevant policies and jurisprudence.

## FINDINGS AND RECOMMENDATIONS

### Policy Findings

**FINDING No. 1:** RCMP National Headquarters *Operational Manual* chapter 21.2. "Personal Search" remains inadequate. In particular:

- section 3.1.2.2.1., in reference to the removal of undergarments, is unclear;
- section 3.1.2.4., regarding investigative purposes, is unclear;
- section 5.1., as it relates to the removal of items prior to detainees being lodged in cells, is unclear; and
- sections 5.2. and 5.3., regarding the search and removal of a prisoner's bra, are inadequate, inappropriate, and inconsistent with established jurisprudence.

**FINDING No. 2:** Although significant improvements have been made to the amended policy, by virtue of its reliance on RCMP National Headquarters *Operational Manual* chapter 21.2., "E" Division's policy related to strip searches is inadequate.

**FINDING: No. 3:** "F" Division policy section 5.3., directing members to have a second member present during a strip search, is inadequate, inappropriate, and inconsistent with established jurisprudence.

**FINDING No. 4:** "G" Division policy sections 1.3. and 2.2. provide inappropriate and inadequate direction, and are inconsistent with established jurisprudence.

**FINDING No. 5:** By virtue of its reliance on RCMP National Headquarters *Operational Manual* chapter 21.2., "K" Division's strip search policy is inadequate, insufficient, and unclear.

## Training Findings

**FINDING No. 6:** Strip search training at Depot Division is inadequate and insufficient, as it has not been enhanced to ensure that RCMP cadets are cognizant of the legal requirements, policies, and procedures.

**FINDING No. 7:** RCMP mandatory national training for members and supervisors in relation to strip searches does not exist.

**FINDING No. 8:** RCMP divisions do not have mandatory training for members and supervisors in relation to strip searches.

## Compliance Finding

**FINDING No. 9:** RCMP national and divisional personal search policies do not address an appropriate means of recording and tracking strip searches, or assessing compliance to facilitate internal or independent review.

## Detachment Finding

**FINDING No. 10:** The Iqaluit Detachment has significant member non-compliance with the RCMP's personal search policy and the relevant jurisprudence.

## Supervision Finding

**FINDING No. 11:** The overall supervision of members conducting strip searches, and the subsequent supervisory file review for policy compliance, was inadequate in most of the detachments examined by the Commission.

## Findings and recommendations with respect to the Implementation of the Relevant Recommendations found in the Final Report into Policing in northern British Columbia

**FINDING No. 12:** The RCMP's implementation of recommendations 1, 2, 3, 4, 5, 6, and 10 regarding national and BC divisional policy is adequate.

**FINDING No. 13:** The RCMP's implementation of recommendations 7, 8, and 9 regarding training and independent review is inadequate.

## Policy Recommendations

**RECOMMENDATION No. 1:** That the RCMP amend National Headquarters *Operational Manual* chapter 21.2. "Personal Search" to ensure adequacy, appropriateness, clarity, and consistency with established jurisprudence.

**RECOMMENDATION No. 2:** That the RCMP revise divisional policies subsequent to making the recommended amendments to National Headquarters *Operational Manual* chapter 21.2. "Personal Search."

## Training Recommendations

**RECOMMENDATION No. 3:** The Commission reiterates its 2017 recommendation that Depot Division enhance basic training, including scenario-based training (online or in person), to ensure that cadets are cognizant of the legal requirements, and relevant policies and procedures for all types of personal searches.

**RECOMMENDATION No. 4:** That the RCMP introduce divisional-level mandatory training to ensure that members are cognizant of the legal requirements, policies, and procedures for strip searches, and that the RCMP include this training in the Operational Skills Maintenance Re-Certification.

## Compliance Recommendation

**RECOMMENDATION No. 5:** The Commission reiterates its 2017 recommendation that the RCMP amend its national and divisional *Operational Manual* policies on personal searches to enhance transparency and accountability, by ensuring that policies include an appropriate means of recording, tracking, and assessing compliance, thus facilitating internal evaluation and independent review.

## Operational Guidance Recommendations

**RECOMMENDATION No. 6:** That the RCMP, particularly in Nunavut, provide operational guidance to members with respect to the handling of vulnerable persons detained (as it relates, for example, to mental health issues and self-harm), and that it consider providing trauma-informed training.

**RECOMMENDATION No. 7:** That RCMP divisions provide operational guidance to members regarding strip search policies, proper articulation of the required reasonable grounds, documentation of the manner in which the search took place, and proper documentation of supervisory approval.



### Supervision Recommendation

**RECOMMENDATION No. 8:** That the RCMP develop specific supervisor training regarding duties and responsibilities in accordance with National Headquarters Operational Manual chapter 21.2. “Personal Search.”

### Good Practice Recommendations

**RECOMMENDATION No. 9:** That the RCMP consider the Prince George RCMP Detachment’s cell block *Operational Manual* (“PRISONERS: Guarding Prisoners/Personal Effects”) and Prisoner Report form (“Prisoner Report – Personal Searches [Strip Searches]”) as good practice for relevant detachments Force-wide.

**RECOMMENDATION No. 10:** That the RCMP consider providing relevant detachments with copies of the “Strip Search Policy Advisory” poster utilized at the Surrey RCMP Detachment.

### Closed-Circuit Video Recommendation

**RECOMMENDATION No. 11:** That the RCMP provide clearer direction to divisions regarding the use of closed-circuit video equipment during strip searches in order that members do not infringe on the Charter rights of the person being searched.

## INTRODUCTION

In Canada, the police have statutory and common law authorities to conduct personal searches, including strip searches. Although a frisk search is relatively non-intrusive, a strip search is highly intrusive, humiliating, and dehumanizing.

Given the inherent and substantial risk of violating individual protections afforded by section 8 of the *Canadian Charter of Rights and Freedoms* ("Charter"), the Supreme Court of Canada, in *R v Golden*,<sup>6</sup> outlined the limited and prescribed circumstances under which police can conduct a strip search. The Court further indicated that this extreme police power could not be undertaken as a matter of routine.

The burden is on the police to justify the strip search and ensure that it is carried out in a reasonable manner. The Supreme Court went so far as to establish guidelines for the police to consider in conducting a strip search, as the manner in which it is conducted informs whether the search is reasonable.

Adherence to the eleven safeguards is required to execute a lawful search. As such, many police services in Canada, including the RCMP, incorporated the Supreme Court guidelines into their respective operational policies.

Given the level of intrusiveness and the impact strip searches have on individuals, the Commission initiated a

review of the RCMP's strip search policies and procedures in 2018, following up on the 2017 Final Report.

Specifically, the Commission conducted a review and reported its findings and recommendations with respect to the RCMP's policy, the Force's compliance to the policy and its ability to evaluate it, the training provided, as well as the degree to which the RCMP implemented the ten recommendations from the northern British Columbia review.

The mandate and methodology are outlined in Appendix 1 of this report.

### GOLDEN GUIDELINES

1. Can the strip search be conducted at the police station and, if not, why not?
2. Will the strip search be conducted in a manner that ensures the health and safety of all involved?
3. Will the strip search be authorized by a police officer acting in a supervisory capacity?
4. Has it been ensured that the police officer(s) carrying out the strip search are of the same gender as the individual being searched?
5. Will the number of police officers involved in the search be no more than is reasonably necessary in the circumstances?
6. What is the minimum of force necessary to conduct the strip search?
7. Will the strip search be carried out in a private area, such that no one other than the individuals engaged in the search can observe the search?
8. Will the strip search be conducted as quickly as possible and in a way that ensures that the person is not completely undressed at any one time?
9. Will the strip search involve only a visual inspection of the arrestee's genital and anal areas without any physical contact?
10. If the visual inspection reveals the presence of a weapon or evidence in a body cavity (not including the mouth), will the detainee be given the option of removing the object himself or of having the object removed by a trained medical professional?
11. Will a proper record be kept of the reasons for and the manner in which the strip search was conducted?

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<sup>6</sup> *R v Golden*, [2001] 3 SCR 679.

## NATIONAL PERSONAL SEARCH POLICY

The RCMP's national policy—*Operational Manual* chapter 21.2. “Personal Search”—addresses different types of search:

- personal search (i.e. frisk);
- strip search;
- internal search (i.e. body cavity search), and
- cell block search.

For the purposes of this investigation, the Commission focused on strip searches and cell block searches. The policy review set out to determine whether the RCMP's current national policy is adequate, appropriate, sufficient and clear. The review also considered the degree to which the RCMP has implemented the Commission's recommendations contained in the 2017 Final Report (see Appendix 1) regarding this policy.

In reaching its conclusions, the Commission relied on the national personal search policy (see Appendix 3), the RCMP Commissioner's Response to the Interim Report,<sup>7</sup> member interviews,<sup>8</sup> the framework set out in paragraph 101 (questions 1 through 11) of *Golden*, as well as other relevant jurisprudence (see Appendix 2).

Section 1 of the RCMP's national policy includes definitions regarding the various types of personal searches. The Commission found the definitions to be sufficiently clear to allow members to differentiate between the types of searches. In addition, these definitions are unambiguous and consistent with current, relevant jurisprudence.

The Commission concludes that, by including these unambiguous definitions in its national personal search policy, the RCMP has adequately implemented Recommendation 1 in the Commission's Final Report, which is that the RCMP update its National Headquarters *Operational Manual* definitions to eliminate ambiguity and ensure that the definitions are consistent with current jurisprudence.

Section 2 of the RCMP's national policy on personal searches includes general guidance to members. In the Commission's opinion, sections 2.4., 2.5., and 2.6. provide clear and sufficient direction, and are consistent with the questions raised in paragraph 101 of *Golden*. The emphasis on strip searches not being a routine police procedure is appropriate, as are the references to the grounds required for a strip search, and the requirement that it be conducted by a member of the same sex as the detainee, absent exigent circumstances, which are adequately referenced in section 2.6.

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<sup>7</sup> See <<https://www.crc-ccetp.gc.ca/pdf/northernBC-commResponse-en.PDF>>.

<sup>8</sup> Commission interviews conducted with members from June 2018 to January 2019.

Sections 2.5. and 2.6. pertain to Recommendation 3 in the Commission's Final Report, which called on the RCMP to amend its national personal search policy so that it clarifies when a strip search of the opposite sex is permitted and articulates the circumstances or criteria that must be met before conducting or overseeing a strip search. The Commission concludes that the RCMP has adequately implemented Recommendation 3.

Section 3. of the RCMP's national policy regarding personal searches provides direction with respect to members' roles and responsibilities. In the Commission's opinion, section 3.1.1.1.1. provides members with clear and adequate direction that is consistent with question 4 in paragraph 101 of *Golden* ("Has it been ensured that the police officer(s) carrying out the strip search are of the same gender as the individual being searched?").

In addition, section 3.1.1.1.2. provides members with adequate and clear direction that is consistent with question 5 in *Golden* ("Will the number of police officers involved in the search be no more than reasonably necessary?").

Section 3.1.1.1.3. of the policy appears to have been amended in response to Recommendation 10 of the Commission's Final Report, which is that the RCMP amend previous national policy on personal searches to include specific

guidance and direction in relation to strip searches of youth.

The Commission concludes that the RCMP's implementation of Recommendation 10 is adequate. The RCMP has amended its national policy on personal searches to include clear and specific guidance and direction in relation to strip searches of youth.

Section 3.1.2. pertains specifically to strip searches. Section 3.1.2.1. provides clear and sufficient direction for members to follow the leading relevant, settled case law when conducting a strip search.

Section 3.1.2.2.1. provides direction for members to obtain proper supervisor authorization prior to conducting a strip search, absent exigent circumstances.

This section was adequately amended in response to Recommendation 2 of the Commission's Final Report, which called on the RCMP to ensure a more robust supervisory oversight, and is consistent with question 3 set out in paragraph 101 of *Golden* ("Will the strip search be authorized by a police officer acting in a supervisory capacity?").<sup>9</sup> However, the note referencing the removal of undergarments is not clear, as it suggests that the removal of undergarments is separate from strip searches, which is inconsistent with *Golden*.

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<sup>9</sup> Ibid.

Section 3.1.2.2.2. provides clear instructions that are consistent with relevant jurisprudence, specifically *Golden*, paragraph 101, question 8 (“Will the strip search be conducted as quickly as possible and in a way that ensures that the person is not completely undressed at any one time?”).<sup>10</sup>

The national strip search policy goes on to provide direction to members about how and where they should conduct a strip search. In the Commission's opinion, sections 3.1.2.2.3., 3.1.2.2.4., 3.1.2.3., and 3.1.2.5. provide members with clear and sufficient guidance that is consistent with the framework outlined in paragraph 101 of *Golden*:

- Question 1 – “Can the strip search be conducted at the police station and, if not, why not?”
- Question 2 – “Will the strip search be conducted in a manner that ensures the health and safety of all involved?”
- Question 7 – “Will the strip search be carried out in a private area such that no one other than the individuals engaged in the search can observe the search?” and
- Question 11 – “Will a proper record be kept of the reasons for and the manner in which the strip search was conducted?”<sup>11</sup>

The framework established in paragraph 101 of *Golden* includes question 5: “Will the number of police officers involved in the search be no more than is reasonably necessary in the circumstances?” In that regard, section 3.1.2.4., when read in conjunction with section 3.1.1.1.2., provides reasonably clear direction to prevent the unnecessary presence of members during a strip search.

Nevertheless, based on information obtained during the Commission's interviews, there is some ambiguity regarding the circumstances that would permit the presence of more than one member during a strip search. Therefore, the Commission believes that it would be beneficial to amend section 3.1.2.4. in a manner that provides additional direction with respect to the investigative purposes, or other circumstances in which it would be reasonably necessary for more than one member to be present during a strip search.

The Commission notes that section 3.1.2.5., which directs members who are conducting strip searches to make “accurate, detailed notes of the authorization, the reasons for the strip search, and the manner in which it was conducted,” appears to have been amended in response to Recommendation 5 in the Commission's Final Report.

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

This section provides clear and sufficient direction that is consistent with question 11 in paragraph 101 of *Golden*<sup>12</sup> as well as other settled jurisprudence that stresses the importance of the police keeping proper records of the reasons for the strip search and the manner in which it was conducted. The Commission concludes that the RCMP has adequately implemented Recommendation 5.

Sections 3.1.2.6. and 3.1.2.6.1. of the policy directs members to have a detainee run their hands vigorously through their hair to show that nothing is hidden on their scalp, if there are no police safety concerns. In the Commission's view, having the detainee handling their own hair ensures the health and safety of all involved, as well as minimum force necessary to conduct the strip search. This aligns with question 2 ("Will the strip search be conducted in a manner that ensures the health and safety of all involved?") and question 6 ("What is the minimum of force necessary to conduct the strip search?") listed in paragraph 101 of *Golden*.

Moreover, the Commission is of the opinion that subsections 1 and 2 of section 3.1.2.6.2., which advise members to direct detainees to move/manipulate their own body parts until the members are satisfied upon inspection that nothing has been concealed, are clear and consistent with paragraph 101 of *Golden*.

Specifically, they are in line with question 2 ("Will the strip search be conducted in a manner that ensures the health and safety of all involved?"), question 6 ("What is the minimum of force necessary to conduct the strip search?"), and question 9 ("Will the strip search involve only a visual inspection of the arrestee's genital and anal areas without physical contact?").

In Recommendation 4 of its Final Report, the Commission recommended that the RCMP amend its internal search policy to ensure that it clearly specifies the requisite grounds for an internal search as well as the approvals required prior to conducting the search.

The Commission concludes that the RCMP has adequately implemented Recommendation 4. The Commission further concludes that the amended RCMP national policy regarding internal searches is clear, sufficient, and consistent with relevant jurisprudence.

Sections 5.1. through 5.4. of the national personal search policy guides cell block searches. Section 5.1. instructs members to "[r]emove all strings or cords from sweat pants, shorts, hooded sweat tops, or similar clothing that a detainee will be wearing in a cell."

In the Commission's opinion, the wording of this section is clear. Still, it appears that some members have adopted a practice of not only removing strings and cords, but also removing additional clothing.

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<sup>12</sup> Ibid.

During the Commission's interviews, 56 of 67 members indicated that, in addition to the removal and seizure of all cords from detained persons, the detainees are routinely "brought down to one layer of clothing." Members stated that they tell detainees that they can either remove their hooded sweatshirt or have the hood cut off. The rationale provided by members, without exception, was the need to be able to see the detained person's face at all times when in the cell block.

In the Commission's opinion, absent sufficiently articulated grounds supporting a belief that the detainee will use their hood, or other clothing, to attempt to escape or inflict harm on themselves or others, the practice of routinely stripping detainees down to one layer of clothing is contrary to relevant jurisprudence and not established by policy. Depending on the layer of clothing that detainees are permitted to keep, the practice may fall within the definition of a "strip search" if the detained person's bra or undergarments are exposed or rearranged during the "bringing down" process.<sup>13</sup>

Sections 5.2. and 5.3. refer to the search and removal of bras or similar undergarments.

In its 2017 Final Report, the Commission recommended that the RCMP amend the divisional policy mandating the removal of bras (as it was contrary to common-law principles and unreasonable to remove a person's bra without reasonable grounds to conduct a strip search). Despite this recommendation, the RCMP's national policy pertaining to cell block searches continues to direct members to search bras and similar undergarments as a matter of course.

The courts have established that the police practice of removing or ordering the removal of a prisoner's bra (or other undergarment) constitutes a strip search. Furthermore, the courts have established that, when conducted on a routine basis, this practice is unreasonable<sup>14</sup> and contravenes section 8 of the Charter.

The Commission's interviews and file review reveal that many members are unaware that the removal or inspection of a prisoner's bra constitutes a strip search, and that many members routinely inspect a prisoner's bra, or have it removed during the process of lodging the prisoner in cells. This practice is very concerning and may be attributed to the national policy direction.

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<sup>13</sup> For example, see *R v Im*, 2016 ONCJ 383.

<sup>14</sup> For example, see *R v P.F.G.*, 2005 BCPC 187, and *R v Judson*, 2017 ONCJ 439.

The Commission finds that sections 5.2. and 5.3. are inadequate, inappropriate, and inconsistent with established jurisprudence. Section 5.4. directs members to check detainees with a wand when feasible, before placing them in cells. The Commission concludes that this section provides members with clear and adequate direction.

**FINDING No. 1:** RCMP National Headquarters *Operational Manual* chapter 21.2. "Personal Search" remains inadequate. In particular:

- section 3.1.2.2.1., in reference to the removal of undergarments, is unclear;
- section 3.1.2.4., regarding investigative purposes, is unclear;
- section 5.1., as it relates to the removal of items prior to detainees being lodged in cells, is unclear; and
- sections 5.2. and 5.3., regarding the search and removal of a prisoner's bra, are inadequate, inappropriate, and inconsistent with established jurisprudence.

The national policy does not contain provisions with respect to tracking and assessing compliance with personal search policies. As such, implementation of Recommendation 9 of the Commission's Final Report is inadequate.

**RECOMMENDATION No. 1:**

That the RCMP amend National Headquarters *Operational Manual* chapter 21.2. "Personal Search" to ensure adequacy, appropriateness, clarity, and consistency with established jurisprudence.

## DIVISIONAL PERSONAL SEARCH POLICIES

The Commission examined the degree to which RCMP divisional personal search policies are adequate, appropriate, sufficient, and clear. With respect to the RCMP's British Columbia divisional policy, the Commission also reviewed the extent to which the RCMP has implemented recommendations 6 and 9 of the Final Report.

The Commission's conclusions are based on its review of relevant RCMP divisional policies, as well as information obtained during its file review and member interviews conducted from June 2018 through January 2019. In reaching its conclusions, the Commission considered relevant settled case law, including *Golden*.

The Commission requested all relevant divisional policies from the RCMP. However, the Commission learned that most RCMP divisions do not have divisional personal search policies.



Therefore, divisions rely on the RCMP's national personal search policies for guidance and direction regarding personal searches. Four divisions provided the Commission with copies of their divisional policy relating to personal searches: British Columbia ("E"), Saskatchewan ("F"), Northwest Territories ("G"), and Alberta ("K"). The policies are set out in Appendix 3.

### British Columbia ("E" Division) Strip Search Policy

"E" Division's personal search policies (which include its cell block search policy) are generally consistent with the RCMP's national policy. However, the divisional policy on cell block search diverges from the national policy in that it provides additional useful guidance to members, in alignment with relevant jurisprudence. It includes clarification that the removal of a prisoner's undergarments is not routine and constitutes a strip search.

In its 2017 Final Report, the Commission found<sup>15</sup> that "E" Division's policy mandating the removal of bras is contrary to common law and that, absent reasonable grounds to conduct a strip search, the removal of a prisoner's bra is unreasonable. The Commission recommended that the RCMP amend "E" Division's personal search policies to reflect current jurisprudence (Recommendation 6).

The amended divisional policy regarding personal searches<sup>16</sup> refers members to the RCMP's national strip search policy (OM 21.2.3.1.2.). However, it provides additional guidance with respect to cell block searches, which mitigates the inadequacies in the RCMP's national policy on cell block search. "E" Division's policy provides clear and unambiguous direction to members regarding strip search protocols, as well as the circumstances in which these must be followed when lodging prisoners in cells. The RCMP adequately implemented Recommendation 6.

The Commission further recommended that the RCMP amend its national and "E" Division personal search policies to include provisions with respect to tracking and assessing compliance (Recommendation 9). The amended British Columbia divisional policy does not include provisions with respect to tracking and assessing compliance with personal search policies. As such, Recommendation 9 was not adequately implemented.

**FINDING No. 2:** Although significant improvements have been made to the amended policy, by virtue of its reliance on RCMP National Headquarters *Operational Manual* chapter 21.2., "E" Division's policy related to strip searches is inadequate.

<sup>15</sup> Finding 7.

<sup>16</sup> RCMP "E" Division *Operational Manual*, chap 21.2. "Personal Search" (2018-04-27).

## Saskatchewan RCMP (“F” Division) Strip Search Policy

For the most part, the Saskatchewan divisional policy mirrors the national policy. However, section 5.3., which allows for the possibility of a second member to be present during a strip search, is inconsistent with section 3.1.2.4. of the national RCMP policy. This section provides that, “[i]f a member is not involved in the search they will not observe in any way, unless required for investigative purposes.”<sup>17</sup>

Section 5.3. is also inconsistent with the framework established in paragraph 101 of *Golden* for conducting strip searches incidental to arrest, which provides that the number of police officers involved in the search should be no more than is reasonably necessary in the circumstances.

**FINDING No. 3:** “F” Division policy section 5.3., directing members to have a second member present during a strip search, is inadequate, inappropriate, and inconsistent with established jurisprudence.

## Northwest Territories (“G” Division) Strip Search Policy

In the Northwest Territories, RCMP members rely on chapter 21.2. of the RCMP’s national *Operational Manual*, as well as the supplementary divisional policy.

Section 1.3. of “G” Division’s personal search policy allows a prisoner to be searched by a member of the opposite sex. This is inconsistent with the relevant RCMP national policy, which stipulates that “all searches must be conducted by a member of the same gender as the detainee being searched unless an immediate risk of injury or escape exists, or in exigent circumstances.”<sup>18</sup>

In addition, sections 1.3. and 1.3.1. are contrary to established jurisprudence, including *Golden*.

“G” Division strip search policy section 2.2. refers to *Golden* but is inconsistent with relevant jurisprudence by allowing members to use their discretion on whether the *Golden* elements are satisfied.<sup>19</sup>

Generally, “G” Division’s policy does not supplement the RCMP’s national strip search policy with either appropriate or useful guidance.

<sup>17</sup> RCMP National Headquarters *Operational Manual*, chap 21.2. “Personal Search”; also see *R v Fine*, [2015] BCPC 3.

<sup>18</sup> RCMP National Headquarters *Operational Manual*, chap 21.2. “Personal Search.”

<sup>19</sup> RCMP “G” Division *Operational Manual*, chap 21.2. “Personal Search” (2013-03-18).

**FINDING No. 4:** “G” Division policy sections 1.3. and 2.2. provide inappropriate and inadequate direction, and are inconsistent with established jurisprudence

### Alberta RCMP (“K” Division) Strip Search Policy

“K” Division’s strip search policy refers members to the national strip search policy, with additional guidance on cavity searches in the policy’s section on personal searches.<sup>20</sup>

**FINDING No. 5:** By virtue of its reliance on RCMP National Headquarters *Operational Manual* chapter 21.2., “K” Division’s strip search policy is inadequate, insufficient, and unclear

**RECOMMENDATION No. 2:** That the RCMP revise divisional policies subsequent to making the recommended amendments to National Headquarters *Operational Manual* chapter 21.2. “Personal Search.”

## MANDATORY RCMP STRIP SEARCH TRAINING

The Commission examined whether RCMP national and divisional mandatory training, including the training provided in the Cadet Training Program, is adequate, sufficient, and clear. In reaching its conclusions, the Commission reviewed the RCMP cadet training modules and considered information obtained during the interviews of 67 members from various divisions across Canada.

### Cadet Training at Depot Division

In its 2017 Final Report, the Commission raised the issue of inadequate strip search training for cadets at Depot Division. It opined that the Cadet Training Program should include guidance to cadets with respect to the articulation of the grounds required to conduct a strip search, and that the program should provide cadets with opportunities to exercise discretion in determining whether to conduct a strip search.

In Finding 8 of its Final Report, the Commission concluded that, “[b]y limiting training on strip searches to a review of relevant policies, procedures, law and written assignments, the RCMP Cadet Training Program fails to provide adequate training to cadets on what constitutes a strip search.”

<sup>20</sup> RCMP “K” Division *Operational Manual*, chap 21.2. “Personal Search” (2017-07-18).

The corresponding Recommendation 7 called for the RCMP to enhance its basic training at Depot Division to ensure that cadets are cognizant of the legal requirements, relevant policies, and procedures for all types of personal searches, including strip searches.

In July 2016, the RCMP Commissioner informed the Commission that he supported the recommendation to enhance basic training at Depot Division regarding personal searches. However, in March 2018, the Commission made enquiries with Depot Division to determine whether the module of the Cadet Training Program that covers the care and handling of prisoners (Module 6, Applied Police Science) had been amended to include scenarios that require cadets to articulate the legal grounds for conducting strip searches. The Commission learned that the RCMP was in the process of modifying scenario training, but subsequent enquiries revealed that the RCMP has not enhanced the Cadet Training Program.

The Commission reviewed materials pertaining to the Cadet Training Program, including training modules and exercises. The curriculum reviewed covers materials related to personal searches, strip searches, and internal searches. Cadets are introduced to a systematic procedure for searching, with an emphasis on frisks and common locations for concealing items.

The curriculum requires cadets to participate in discussions regarding law and RCMP policy pertaining to the types of searches.

In addition, the curriculum includes role plays on arresting prisoners followed by primary search, secondary search, and the removal of personal effects, as well as the completion of the Prisoner Report (form C-13).

The curriculum requires cadets to participate in discussions concerning the reasons for search and seizure of items from prisoners. However, the training does not include any scenarios where cadets are required to articulate their grounds for a strip search. Therefore, the Commission concludes that the RCMP did not adequately implement Recommendation 7 of the Final Report.

The content of the cadet training modules refers to amended RCMP national policies and is consistent with the relevant jurisprudence. The Commission acknowledges that the training modules are designed to provide basic training and that they emphasize personal search, as this is the type of search that cadets regularly conduct in the course of their duties once posted.

The Commission further acknowledges that amendments to the RCMP's personal search policy in the National Headquarters *Operational Manual* provide guidance and direction to members regarding strip searches subsequent to their cadet training.

However, the basic training regarding strip searches is currently the only mandatory training that members undergo. Moreover, the adequacy of the guidance and direction that members receive subsequent to that training is dependent on the quality of supervision and direction at the detachment level. Therefore, the Commission concludes that the strip search training provided to cadets at Depot Division is inadequate.

**FINDING No. 6:** Strip search training at Depot Division is inadequate and insufficient, as it has not been enhanced to ensure that RCMP cadets are cognizant of the legal requirements, policies, and procedures.

**RECOMMENDATION No. 3:** The Commission reiterates its 2017 recommendation that Depot Division enhance basic training, including scenario-based training (online or in person), to ensure that cadets are cognizant of the legal requirements, and relevant policies and procedures for all types of personal searches.

## National Training

In reaching its conclusions as to whether the RCMP's national training regarding strip searches is adequate, appropriate, sufficient, and clear, the Commission considered information obtained during member interviews, as well as the materials that the RCMP made available to the Commission.

These included two courses: "Search and Seizures without a Warrant" and "Search and Seizures with a Warrant." The courses are available online, through Agora,<sup>21</sup> and their target audience are regular members. Currently, these courses are not mandatory.

While these two courses provide excellent information regarding search and seizures (as it relates to property search, which can be used as evidence in court), they do not directly address strip searches.

Members interviewed during this review stated that the only formal training they have received with respect to strip searches was at Depot Division, when they were cadets.

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<sup>21</sup>Agora is the RCMP's internal online learning platform. It offers online courses and exams, houses (in class) course preparation material, and tracks employees' current enrollments, course progress and completed courses.

Interviews with RCMP members in supervisory positions revealed that they have not received specific training with respect to the RCMP's updated national policy on personal searches. However, some of these members indicated that they take it upon themselves to read relevant case law when time permits.

When questioned on the dissemination of a new policy to members within a detachment, supervisors in every division that was reviewed by the Commission indicated that new policies are referenced during briefings (team meetings).

They further stated that, when members are required to complete a particular course, it is usually online, at their desk, and members must sign off their name in a logbook upon completion to ensure that they have read the new practice/procedure. Supervisors emphasized that the numerous mandatory courses are time-consuming, and that members could otherwise dedicate this time to patrolling the streets.

Some supervisors informed the Commission that, due to the volume of various types of training and updates, they must trust their members to complete the required updates/training.

During interviews with members and supervisors, the Commission also found that ongoing training in relation to strip searches was non-existent.

Members indicated that their "block training" (refresher training sessions that cover various topics and occur every two years) does not include training relating to strip searches. Based on the information shared and the interviews conducted, the Commission concludes that mandatory RCMP national training pertaining to strip searches does not exist, other than the training provided to cadets at Depot Division.

**FINDING No. 7:** RCMP mandatory national training for members and supervisors in relation to strip searches does not exist.

### RCMP Divisional Strip Search Training

In its Interim Report, the Commission concluded in Finding 9 that "...relying on member or detachment initiative to request training, rather than mandating ongoing practical training in body searches or any training in strip searches in the [divisions], fails to ensure that members have adequate knowledge and experience in these areas." Based on this finding, Recommendation 8 of the Final Report called for enhanced training of divisional members.

The Commission examined the degree to which Recommendation 8 in the Final Report was implemented and whether mandatory RCMP divisional strip search training is adequate, appropriate, sufficient, and clear.

The Commission's conclusions are based on information and materials provided by the RCMP, the files reviewed by the Commission, as well as interviews conducted with supervisors and general duty members.<sup>22</sup>

In response to Recommendation 8, the then RCMP Commissioner informed the Commission that a memo would be sent to all divisions notifying of amendments to national policy, and that personal searches was being included in the Operational Skills Maintenance Re-Certification.<sup>23</sup> In the Commission's view, the 2016 memorandum provided adequate notification of the amended national policy on personal searches to the RCMP divisions. However, the Commission determined that RCMP divisions do not currently provide training with respect to strip search policy or require members to undergo such training.

The members interviewed mentioned that they had not received scenario-based training at the detachment level or during any of their block training. In addition, the Commission learned from general duty members, including those with supervisory duties from six divisions, that there is no formal training for supervisors or cell block sergeants with respect to personal searches and the approval of strip searches.

Moreover, the knowledge is self-taught and supervisors keep abreast of current jurisprudence on a voluntary basis. The Commission learned that some detachments, such as the Surrey and Prince George detachments, maintain cell block manuals to provide members with guidance in their handling of detainees in cells.

Members indicated to the Commission that general duty members are briefed on new policies known to their supervisors during team meetings. However, there is no training available on personal searches (after a cadet leaves Depot).

In addition, 67 interviewed members, including those with supervisory duties, indicated that they learned about personal searches, specifically strip searches, from watching other members, and that they will refer to a supervisor when a strip search is required.

In the Commission's opinion, this is problematic insofar as members may lack adequate and sufficient knowledge of what constitutes a strip search, and thus may not refer to a supervisor in instances where the member's actions are tantamount to a strip search.<sup>24</sup>

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<sup>22</sup> Interviews conducted with members from June 2018 to January 2019.

<sup>23</sup> The RCMP indicated that personal searches would be included in the Operational Skills Maintenance Re-Certification, as part of the new block training format, starting on April 1, 2020.

<sup>24</sup> Such as the unauthorized removal of a prisoner's bra.

This was evidenced in Commission interviews, as several members, including those with supervisory duties, were unaware of RCMP strip search policies and procedures and did not know where these policies were located. Furthermore, during its file review, the Commission noted a significant level of non-compliance with RCMP strip search policies.

**FINDING No. 8:** RCMP divisions do not have mandatory training for members and supervisors in relation to strip searches.

The Commission concludes that RCMP divisions do not require members to undergo mandatory training with respect to strip searches, as the training does not exist. Consequently, the RCMP did not adequately implement Recommendation 8 of the Final Report.

**RECOMMENDATION No. 4:** That the RCMP introduce divisional-level mandatory training to ensure that members are cognizant of the legal requirements, policies, and procedures for strip searches, and that the RCMP include this training in the Operational Skills Maintenance Re-Certification



## EVALUATING POLICY COMPLIANCE

During the public interest investigation into policing in northern British Columbia, the Commission found that deficiencies in reporting practices impeded independent review. These included incomplete documentation and inadequate member articulation in the occurrence records management system used by the RCMP in British Columbia—the Police Records Information Management Environment (“PRIME”).

In addition, the RCMP records management system did not provide for the tracking or recording of data pertaining to strip searches that would be necessary for either internal or external review.

In its Final Report, the Commission concluded in Finding 10 that, from an accountability perspective, personal search policies and practices at National Headquarters and in “E” Division are not adequate.

Thus, the Commission recommended that the RCMP amend its national and divisional policies to facilitate independent review (Recommendation 9).

The then RCMP Commissioner supported the recommendation, indicating that the Prisoner Report (form C-13) was being amended and a new desktop application was being developed to allow the RCMP to record, track, and assess compliance with personal search policies.<sup>25</sup>

The Commission's current review confirmed that the RCMP has amended form C-13<sup>26</sup> (to include a checkbox for all types of searches) and that it has implemented it nationwide. The form is available on desktop computers for members to access in both PROS<sup>27</sup> and PRIME.

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<sup>25</sup> CRCC Northern BC Final Report, *supra* note 2.

<sup>26</sup> See C-13-1e form, “Prisoner Report”.

<sup>27</sup> Police Reporting and Occurrence System.



# Prisoner Report

Police Service  
 Municipal  Provincial  RCMP  Other specify:

Checks		Prisoner Information							
Location of Event/Arrest		Status	Surname			G1			
Database/System Check <input type="checkbox"/> PIRSNPIRS <input type="checkbox"/> PIRSNPIRS Hit <input type="checkbox"/> CPIC <input type="checkbox"/> CPIC Hit <input type="checkbox"/> PROS <input type="checkbox"/> PROS Hit <input type="checkbox"/> PRIME <input type="checkbox"/> PRIME Hit <input type="checkbox"/> PIP <input type="checkbox"/> PIP Hit		G2	Occurrence No.	Subject No.	Gender				
Type of Warrant		<input type="checkbox"/> Warrant Endorsed	Approx. Age	Height	Weight	Hair	Eyes	Race/Desc.	POB
Detachment Holding Warrant		Action	Mbr. Initials		Driver's Licence No.	POI	Photo No.	Detachment Booking No.	
Cost Centre (A9999)	Cell No.	Charter Read			Charges			FPS	
Prisoner No.	Bag No.	Warning Read			Name of Investigator		Reg./HRMIS	Unit	Cost Centre (A9999)
Provide Status <input type="checkbox"/> Young Offender <input type="checkbox"/> YCJA Waiver <input type="checkbox"/> Parents/Guardian Advised		Counsel Contacted			Nature of Event		Date Reported (yyyy-mm-dd)	Time Reported (hh:mm)	
		Occurred Between - From (yyyy-mm-dd hh:mm)			Occurred Between - To (yyyy-mm-dd hh:mm)				

Processing				
Were fingerprints taken? <input type="radio"/> Yes <input type="radio"/> No	Fingerprints Taken by	Reg./HRMIS	Date Prints Taken (yyyy-mm-dd)	Photo
Were photographs taken? <input type="radio"/> Yes <input type="radio"/> No	Photographs Taken by	Reg./HRMIS	Date Photos Taken (yyyy-mm-dd)	
Conditions of Release				
Details/Actions				Remove Photo
The following items were held <input type="checkbox"/> Backpack <input type="checkbox"/> Cell Phone <input type="checkbox"/> Coat <input type="checkbox"/> Glasses <input type="checkbox"/> Jewellery <input type="checkbox"/> Medication <input type="checkbox"/> Pants <input type="checkbox"/> Shirt <input type="checkbox"/> Wallet <input type="checkbox"/> Belt <input type="checkbox"/> Cigarettes <input type="checkbox"/> Dress/Skirt <input type="checkbox"/> Hat <input type="checkbox"/> Keys <input type="checkbox"/> Misc. Paper <input type="checkbox"/> Purse <input type="checkbox"/> Shoes <input type="checkbox"/> Watch <input type="checkbox"/> Other specify:				

Cash Held	Cheques Held	Deduct (money out)	Balance	Reason	Police Initials

Bulky Effects	Search Type <input type="checkbox"/> Personal <input type="checkbox"/> Internal	Personal/Internal Search Conducted by		
<input type="checkbox"/> Strip Search Approved	Reason	Where Conducted	Supervisor Signature	Strip Search Conducted by

**Signature (signed by prisoner if applicable)**

Effects Surrendered - Prisoner Signature	Effects Returned - Prisoner Signature
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# Prisoner Report

Protected B  
once completed

Prisoner Screening						
Possible Cause of Impairment	Time of Last Consumption (hh:mm)	Date of Last Consumption (yyyy-mm-dd)		Unusual Actions		
Breath (odour of liquor)	<input type="checkbox"/> Rousability - Responsiveness Checked	Injuries		Illnesses / Pre-existing Medical Condition		
Balance (sure, fair, wobbling, sagging, falling, etc.)		Speech (slurred, incoherent, confused, clear, etc.)				
State of Mind (depressed, angry, placid, etc.)		Consciousness (alert, confused, sleepy, etc.)				
Medication Required, Unusual Characteristics, Distinguishing Marks, Items to be Noted, etc.						
<input type="checkbox"/> Drugs	<input type="checkbox"/> Infectious	<input type="checkbox"/> Escapee	<input type="checkbox"/> Protective Custody	<input type="checkbox"/> Violent		
<input type="checkbox"/> Suicidal	<input type="checkbox"/> Not Known/Observed	<input type="checkbox"/> Emotionally Disturbed Person				
<input type="checkbox"/> Allergies specify: _____						
<input type="checkbox"/> Medication type/dosage: _____						
<input type="checkbox"/> Other specify: _____						
Medical Examination by		Date (yyyy-mm-dd)	Time (hh:mm)	Fit for Incarceration? <input type="radio"/> Yes <input type="radio"/> No		
Escorts						
Date (yyyy-mm-dd)	Time (hh:mm)	First Appearance	Acquitted	Committed	Sentenced	
Escorts from (sheriff, police, etc.)	Name of Escort	Unit	Date (yyyy-mm-dd)	Destination		
Person Taking Over		Detachment or Institution	Date Taken Over (yyyy-mm-dd)	Time Taken Over (hh:mm)		
Tracking						
Booked In						
Date (yyyy-mm-dd)	Time (hh:mm)	Reason			Initials	
Booked Out						
Date (yyyy-mm-dd)	Time (hh:mm)	Reason			Initials	
Costing					Signature	
Item	Municipal	Provincial	RCMP	Total	Supervisor Signature	Date (yyyy-mm-dd)
Meals						
Hours						

Unfortunately, the form is only available in electronic format. Given that prisoner reports are not automatically saved on the records management system (and in many instances these forms are placed on the paper file), it is not possible to quickly or systematically identify files involving a strip search. Moreover, PROS and PRIME do not have the capability of tracking and extracting certain data, such as specific types of searches (e.g. strip search).

Therefore, all tracking must be done manually, which can be hindered by improper or insufficient data entry on the file. This inability of RCMP computer systems to track certain data severely hampered the Commission's current review, necessitating a manual review of over 11,000 prisoner reports (form C-13) to identify those that may include a strip search.

In the case of some detachments, including the Surrey RCMP Detachment, the Commission was not able to review the requested prisoner reports, as the files were apparently saved in multiple locations and would have required several months to retrieve and copy.<sup>28</sup>

Appropriate document management, storage capabilities, and practices that facilitate review are crucial to the principles of transparency and accountability. The Commission is of the view that the RCMP's record-keeping methods do not facilitate the review (either internal or external) of personal searches and strip searches.

Without the ability to capture, track, and report on cell block and strip search data, RCMP supervisors and detachment commanders, as well as the Commission, are unable to identify individual problems or systemic issues. In the absence of a requirement in policy to record, track and assess compliance, the RCMP is limited in its ability to ensure that members are appropriately applying personal search policies in practice.<sup>29</sup>

The RCMP should consider developing a system to track strip searches similar to the system implemented for use of force incidents.

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<sup>28</sup> Electronic mail from the RCMP dated May 8, 2018.

<sup>29</sup> The Commission requested information regarding internal audits/evaluations and received one unit-level quality assurance report, which was not specific to strip searches. "H" Division (Nova Scotia) provided a unit-level quality assurance report entitled "Prisoner / Cell Block" that was produced following an audit conducted in December 2017. The Commission was not made aware of any divisional or national audits.

The Subject Behaviour/Officer Response (SB/OR) database permits online reporting and storage of relevant information.

The RCMP recognizes the need for capturing the details surrounding use of force by police and is developing a reporting framework that will provide increased liability protection for police officers and law enforcement agencies, provide a standardized method of gathering subject behaviour and officer response (SB/OR) data, and provide a means of reporting SB/OR data for statistical, trend analysis and training purposes. Furthermore, stronger accountability to the public will be realized as incidents of use of force employed and the circumstances surrounding them are recorded.

...

The implementation of the SB/OR database will be a direct benefit to Canadians as circumstances surrounding the use of force by police will be documented and open to examination when required. This will result in increased transparency by police to the public.<sup>30</sup>

A similar system for strip searches would further promote transparency and accountability.

**FINDING No. 9:** RCMP national and divisional personal search policies do not address an appropriate means of recording and tracking strip searches, or assessing compliance to facilitate internal or independent review.

The Commission concludes that the RCMP did not adequately implement Recommendation 9 of the Commission's Final Report.

**RECOMMENDATION No. 5:** The Commission reiterates its 2017 recommendation that the RCMP amend its national and divisional *Operational Manual* policies on personal searches to enhance transparency and accountability, by ensuring that policies include an appropriate means of recording, tracking, and assessing compliance, thus facilitating internal evaluation and independent review.

<sup>30</sup> Royal Canadian Mounted Police, "Subject Behaviour / Officer Response Database (SBOR) – Executive Summary", May 2009, online: <<https://www.rcmp-grc.gc.ca/en/privacy-impact-assessment-subject-behaviour-officer-response-database-sbor>>.

## DETACHMENT-LEVEL COMPLIANCE

PRISONER AND OCCURRENCE REPORTS						
C-13 Forms & Files Analyzed						
Divison/Detachment	No. of C-13s originally identified	No. of c-13s analyzed	No. of Strip Searches ID	No. of Files to request	Occurrence Reports Received	Total Files/Reports received
<b>J Division</b>						
Oromocto / Bathurst	141	142	0	29	36	
Moncton	1056	875	0	53	49	
<b>total</b>	<b>1197</b>	<b>1017</b>	<b>0</b>	<b>82</b>	<b>85</b>	
<b>F Division</b>						
Lloydminster	770	775	16	131	127	
Prince Albert*	386	386	3	61	20	
North Battleford*	2147	2147	7	167	60	
<b>total</b>	<b>3303</b>	<b>3308</b>	<b>26</b>	<b>359</b>	<b>207</b>	
<b>G Division</b>						
Yellowknife	1179	1190	12	151	136	
<b>V Division</b>						
Iqaluit	1472	1424	2	162	162	
<b>M Division</b>						
Whitehorse	1271	1120	2	23	18	
<b>E Division</b>						
Surrey	3600	0	0	105	105	
Prince George	1487	1654	11	128	169	
Kamloops	1637	1507	38	108	107	
Burnaby	824	586	7	31	31	
<b>total</b>	<b>7548</b>	<b>3747</b>	<b>56</b>	<b>372</b>	<b>412</b>	
<b>Grand Totals</b>		<b>11806</b>	<b>98</b>	<b>1149</b>		<b>1020</b>
<p>*At least half were missing occurrence report numbers. As a result, requested files were manually tracked received several months later (not included in analysis).</p>						

The Commission examined whether, in practice, RCMP members are complying with relevant policies and current jurisprudence. As part of its review, the Commission looked at 11,806 prisoner reports (form C-13) and 1,020 occurrence reports from 13 detachments,<sup>31</sup> reviewed members' notebooks, and conducted 67 interviews.

Overall, the Commission found a dearth of adequate articulation, a lack of documented supervisory authorization of strip searches, and significant under-reporting of bra/undergarment removals as strip searches where removal of intimate clothing occurs as a matter of course. The extent of member non-compliance with RCMP strip search policies and relevant jurisprudence was significant.

The file review revealed that prisoner reports often were not completed properly (boxes were not checked off when strip searches were conducted) and thousands of C-13 forms were missing crucial data, such as the prisoner's date of birth, gender and height, and the occurrence report number, which is used to identify the case in the RCMP police reporting systems.

At times, members included handwritten information in the margins or at the bottom of form C-13, when they should have articulated this information in the occurrence report.<sup>32</sup>

For a large number of files reviewed, the members involved did not create a general occurrence report even when a strip search had clearly been conducted (e.g. strip search activities documented on the correlating form C-13, such as intimate items of clothing removed and/or strip search box checked off).

For these files, only the occurrence summary was available, which was automatically generated by dispatch providing a brief synopsis of the "call."<sup>33</sup> In interviews, members stated that a general occurrence report is created only when further articulation is required for the incident and supplementary reports are documented on the file. Some members informed the Commission that strip searches are not articulated in detail and that it is sufficient to document the occurrence of a strip search in their notebooks or in occurrence reports by using words such as "searched."

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<sup>31</sup> See chart entitled "Prisoner and Occurrence Reports."

<sup>32</sup> For example, one C-13 form included a notation regarding a cut that was observed on a prisoner's scrotum. Yet the strip search box was not checked off and there was no documentation on the corresponding occurrence report regarding either the strip search or the circumstances that allowed the member to observe the cut.

<sup>33</sup> Calls for police service through the 9-1-1 dispatch, which completes tombstone information of the call (location, complaint, and people involved).

The Commission reviewed 1,020 occurrence reports from 13 detachments in six divisions to assess members' articulation of strip searches and compliance with relevant policies. The majority of the occurrence reports that were reviewed contained either no or limited articulation pertaining to strip searches, even in cases where the strip search box was checked off on the Prisoner Report, and in cases where a prisoner's bra, underwear or all of their clothing had been removed.

In many cases, the documented articulation on the occurrence report of a strip search having occurred was minimal.<sup>34</sup> The Commission also found many instances where supervisors did not document their authorization.

An examination of corresponding members' notes revealed inadequate or non-existent entries regarding strip searches. In most cases where a strip search occurred and notes were made, little information was documented, such as "searched and lodged in cell."

The lack of articulation is in contravention of the Golden decision and RCMP policies. Moreover, the continued practice in some detachments of removing women's bras subject women to a different standard of grounds for a strip search. On its face, the practice is discriminatory based on gender and does not comply with current relevant jurisprudence.

### **Iqaluit Detachment:**

The Iqaluit RCMP Detachment was particularly noteworthy. The Commission reviewed 162 files/occurrence reports from this detachment, 158 of which included references to the removal of a prisoner's bra and/or underwear. Despite this, only three percent of files documented the search.

Furthermore, supervisory authorization for the search was not documented on any of the 158 files. The five files indicating that a strip search had occurred involved the removal of the person's entire clothes, yet only one of these files indicated that a strip search had occurred. The five files included references to self-harm/suicidal prisoners, or high-risk prisoners. According to member interviews, if a person refused to remove their clothing, the members would cut it off, which did not constitute a strip search, in their view.

Moreover, 14 of the 162 files had documented "all clothing removed," without any other articulation with respect to a strip search, with the exception of the one file previously mentioned. These files included documentation to indicate that they related to the *Mental Health Act* and highly intoxicated persons or high-risk prisoners. Iqaluit RCMP members commented that some prisoners are extremely problematic and return to cells regularly.

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<sup>34</sup> Details obtained from occurrence reports.



As such, members developed a protocol for repeat detainees. For instance, with one such person, Iqaluit members informed the Commission that they have a “procedure” for dealing with her—they turn on the audio and video recording, strip her of her clothing, and put her in a restraint chair for a stipulated time.

Interviews revealed that most members of the Iqaluit RCMP Detachment, including the Officer in Charge, did not know the definition of “strip search.” In addition, some members stated that they had never conducted a strip search, while others remarked that a strip search was the act of stripping a prisoner of all their clothing to search for weapons or contraband.

Members remarked that they would more than likely document this action in their notebooks or occurrence reports, and pointed out that, at the Iqaluit RCMP Detachment, strip searches rarely occur.

Members commented that they did not consider the act of stripping a prisoner of their clothing for safety or self-harm reasons as being a strip search, and consequently would not document such an event.

Moreover, members at the Iqaluit Detachment revealed that bras are removed as a matter of course and that supervisor approval is not sought in these cases, as the removal of bras is not considered a strip search.

The rationale for the bra removal, according to members, is to prevent prisoners from using the bra to hang themselves.

The Commission further learned that all strip searches at the Iqaluit RCMP Detachment are conducted in cells and video-recorded.

Iqaluit RCMP Detachment members indicated that supervisors are not available after core working hours and that during this period, they rely on more senior on-duty members for guidance. Therefore, they would not call their supervisor after core working hours to seek authorization for a strip search. Supervisors, as well as the Iqaluit Detachment Commander, confirmed that there is no supervision after hours, and that they do not review files to identify issues relating to compliance with the strip search policy.

Members further indicated to the Commission that the individuals that are subject to this practice are usually intoxicated. They mentioned that the hospital in Iqaluit will not admit these intoxicated individuals, as they may become violent and harm patients. Members stated that they would likely call a mental health nurse to assess the individual within eight hours after the time of initial detention, as they do not have the authority to detain these individuals any longer.

According to the members interviewed, these individuals are often no longer suicidal once sober and therefore released within the eight hours. When asked if members would document the event, specifically the removal of clothing, the members replied that they would not.

The Commission found significant non-compliance with the RCMP's personal search policy and relevant jurisprudence at the Iqaluit RCMP Detachment. Members do not have adequate knowledge of the strip search policy and appear to lack guidance from supervisors.

Moreover, members often do not seek supervisory guidance or approval with respect to strip searches outside of the detachment's core hours. Members do not document or properly articulate their grounds for conducting a strip search, and there does not appear to be any supervisory file review for compliance with the RCMP's strip search policy. Although this review focused on the Iqaluit Detachment, the Commission is concerned that this may be reflective of a broader divisional problem.

#### **PUBLIC INTOXICATION:**

*In conducting the review of strip searches, the Commission became aware that the Iqaluit Detachment applies the unsanctioned, unofficial "8-hour rule" for the detention of persons arrested for public intoxication. This detachment-wide practice is not consistent with national policy on the release of prisoners (chapter 19.9.) or "V" Division's policy on the release of intoxicated persons.*

*In the "Policing of Public Intoxication" section of the Commission's Final Report into Policing in Northern British Columbia, the RCMP Commissioner agreed to recommendation no. 14:*

*That the RCMP amend National Headquarters Operational Manual chapter 19.9. to capture the complete list of exceptions listed under section 497 of the Criminal Code.*

*Chapter 19.9. of the RCMP's national policy has been amended to include all exceptions listed under section 497 of the Criminal Code. It directs that when a subject is arrested without a warrant, members must release them as soon as practicable unless there is a need to: a) establish the identity of the person, b) secure or preserve evidence of or relating to the offence, c) prevent the continuation or repetition of the offence or the commission of another offence, or d) ensure the safety and security of any victim of or witness to the offence. The emphasis is on the release being "as soon as practicable"—there is no generic eight-hour rule for all.*

*"V" Division's policy (OM 19.9.3. on the release of intoxicated persons and section 81(4) of the territorial Liquor Act authorize the release of a person detained under section 80(1) of the Act), if the person in custody has recovered sufficient capacity and is unlikely to cause injury to himself or herself or be a danger, nuisance or disturbance to others, or a person capable of taking care of the person in custody undertakes to do so. Pursuant to section 81(3) of the Liquor Act, no person apprehended under section 80(1) of the Act shall be held in custody for more than 24 hours.*

*Although beyond the scope of this current review, it is important that members of the Iqaluit Detachment are cognizant of the law and policy, and carry out their duties accordingly.*

**FINDING No. 10:** The Iqaluit Detachment has significant member non-compliance with the RCMP's personal search policy and the relevant jurisprudence.

**RECOMMENDATION No. 6:** That the RCMP, particularly in Nunavut, provide operational guidance to members with respect to the handling of vulnerable persons detained (as it relates, for example, to mental health issues and self-harm), and that it consider providing trauma-informed training.

**RECOMMENDATION No. 7:** That RCMP divisions provide operational guidance to members regarding strip search policies, proper articulation of the required reasonable grounds, documentation of the manner in which the search took place, and proper documentation of supervisory approval.

### **Prince George Detachment:**

In comparison, the Commission found that members at the Prince George Detachment were aware of and compliant with RCMP search policies. Strip searches were conducted in private and not video-recorded. In addition, supervisors were readily available to provide guidance and authorization to members when necessary, and bras were not removed from prisoners as a matter of course.

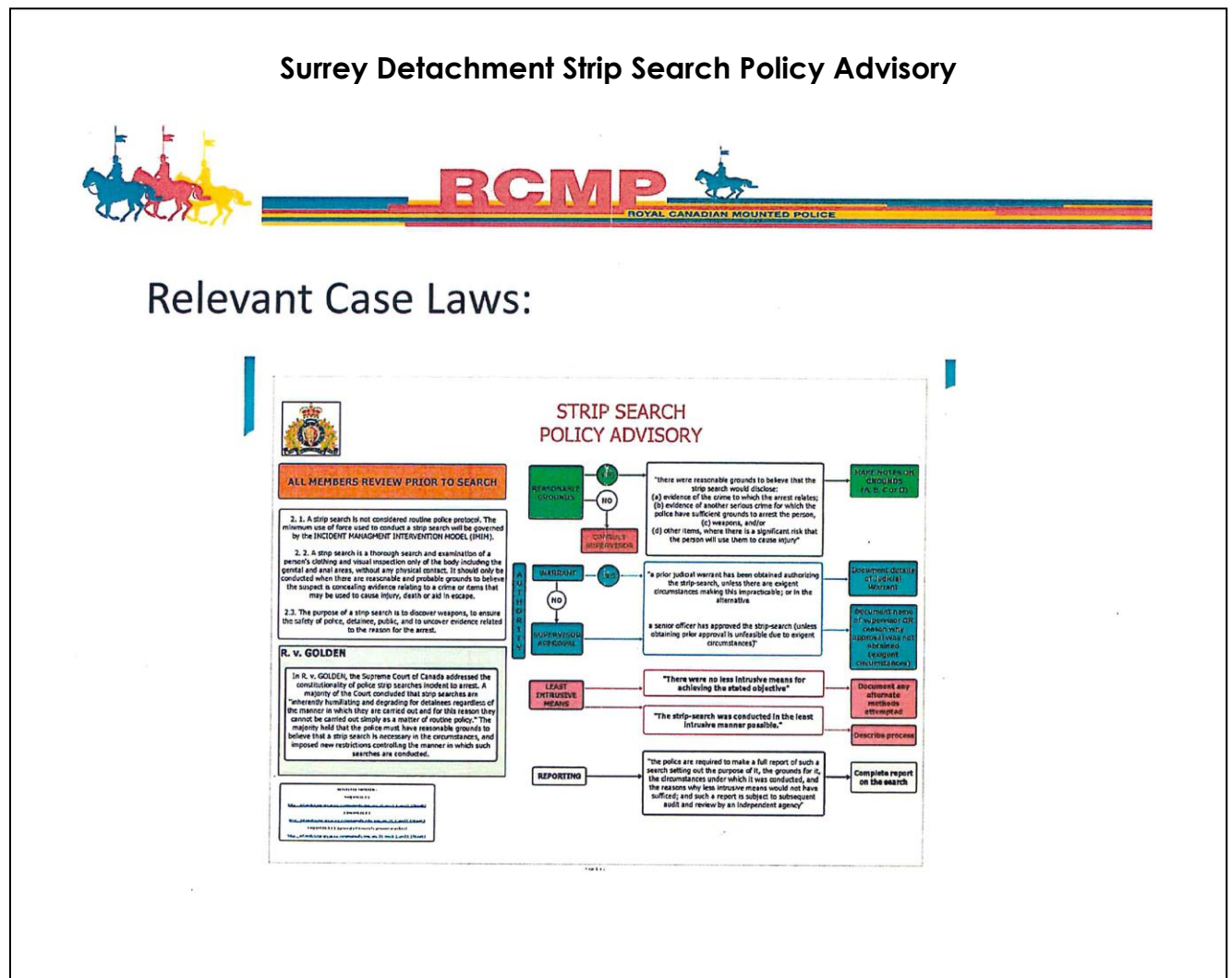
However, similar to occurrences in Iqaluit, incidents where prisoners were placed in anti-suicide gowns/smocks were not flagged as strip searches even though they involved the removal of all the prisoner's clothing.

The file review indicated that the required documents were completed properly and thoroughly; clear signs of review by supervisors were present with highlighted and circled areas that required correction from members (both in forms C-13 and occurrence reports), and supervisor sign-off was almost always present. Overall, members in Prince George provided adequate documentation in their occurrence reports and notebooks with respect to strip searches and the rationale/authorization for removal of intimate items of clothing.

## Burnaby and Surrey Detachments:

The review also revealed some good practices in “E” Division. In Burnaby and Surrey, the cell block sergeants assume the role of “gatekeeper.” Therefore, all prisoners being lodged or searched must go through the Cell Block Sergeant, who possesses good overall knowledge of RCMP personal search policies and provides authorization for conducting strip searches.

The Surrey RCMP Detachment developed a poster of its “Strip Search Policy Advisory,” which is posted on the wall in the cell block booking area.<sup>35</sup> The advisory is consistent with the framework outlined in *Golden* and serves as a useful reference for members.<sup>36</sup>



<sup>35</sup> Illustrated on this page, "Surrey Detachment 'Strip Search Policy Advisory'"

<sup>36</sup> Based on interviews conducted with members in June 2018

In addition, the Surrey RCMP Detachment developed a “Cellblock Standard Operating Procedures” manual, as well as a “Cell Block Sergeant Reference/Training Guide” in October 2018 for local detachment use, which is available in and outside the cell block area.<sup>37</sup>

The content of these manuals is derived from the national policy and “E” Division’s policy, with a heavy emphasis on the Golden decision.<sup>38</sup> The Commission also learned that the practice at the Surrey Detachment is to video-record all strip searches. This practice is inconsistent with section 3.1.2.3. of the RCMP’s national strip search policy.<sup>39</sup>

Subsequent to the Commission’s 2017 Final Report, the Prince George RCMP Detachment developed a manual to help members better understand and comply with its policies and the jurisprudence.

An *Operational Manual* entitled “PRISONERS: Guarding Prisoners/Personal Effects”<sup>40</sup> was developed and is kept in the cell block for all members of the detachment to follow in conjunction with the form “Prisoner Report – Personal Searches (Strip Searches),” which is used as a guide so that members know what information to document when they conduct a strip search.

**RECOMMENDATION No. 9:** That the RCMP consider the Prince George RCMP Detachment’s cell block *Operational Manual* (“PRISONERS: Guarding Prisoners/Personal Effects”) and Prisoner Report form (“Prisoner Report – Personal Searches [Strip Searches]”) as good practice for relevant detachments Force-wide.

**RECOMMENDATION No. 10:** That the RCMP consider providing relevant detachments with copies of the “Strip Search Policy Advisory” poster utilized at the Surrey RCMP Detachment.

<sup>37</sup> Copies provided by the Surrey Detachment.

<sup>38</sup> *Golden*, *supra* note 6.

<sup>39</sup> See Appendix 3, “National and Divisional Policies.”

<sup>40</sup> Provided by the Prince George Detachment.

## **Mental Health Act and Vulnerable Prisoners**

The Commission's file review and member interviews revealed that, with the exception of the Iqaluit RCMP Detachment, most members of the reviewed detachments deal with searches of persons apprehended for mental health reasons, or persons with a potential of self-harm, on a case-by-case basis. The removal of prisoners' clothing is dependent on their behaviour while in cells. This also applies to the use of anti-suicide gowns/smocks.

Again, with the exception of members of the Iqaluit RCMP Detachment, members interviewed indicated that documentation would be made in their notebook or occurrence report if a prisoner who indicated self-harm had to be stripped of their clothing and given an anti-suicide gown/smock.

However, the majority of members interviewed do not view the act of stripping a prisoner of their clothing for self-harm reasons as a strip search, because they are not searching for items such as weapons or contraband.

During interviews, members stated that lodging prisoners with potential self-harm in cells was usually the last option for members if no other facilities were available. The Commission was informed that local hospitals do not accept mental health patients who are intoxicated, and only a handful of detachments interviewed had access to public health alternatives (such as sobering centres) in their area. Iqaluit does not have public health alternatives for social disorder calls for service or *Mental Health Act*-related situations.

## **SUPERVISION**

In the file review, the Commission noted varying degrees of supervisory involvement in files related to strip search occurrences. In some detachments, there was clear evidence that the supervisor conducted a thorough and timely review. For example, almost all files from the Prince George RCMP Detachment indicated that supervisors had approved the file or "signed off" on it.

In addition, there were clear signs of review on these files, such as highlighted or circled sections that the member had not properly completed.

Moreover, the reason for the strip search and the required supervisory approval were documented on the Prisoner Report. The six files reviewed from the Burnaby RCMP Detachment had been approved by a supervisor and the prisoner report in each file contained adequate articulation and documentation regarding the reason for the search, the location of the search, and the supervisor's approval.

However, with respect to most detachments, that was not the case, contrary to policy. The files reviewed from the Kamloops RCMP Detachment did not contain adequate articulation of the grounds for the strip search. There was no indication of a supervisor's approval in the 86 occurrence reports that related to detainees whose bra or underwear had been removed. In addition, 38 files submitted for review were flagged to indicate that a strip search had been conducted, but only two of these files included articulation of the supervisor's approval.

During interviews with members in supervisory positions, the Commission learned that cases involving strip searches are seldom reviewed in a timely manner, if at all. Supervisors indicated that prisoner reports are occasionally reviewed daily and sometimes reviewed in batches on a monthly basis, at random times, or not at all.

Some supervisors stated that they review occurrence reports to ensure that they contain adequate documentation when the file is nearing closure. However, they mentioned that unless there is some indication on an occurrence report that a strip search was conducted, a supervisor would not know whether the search had taken place according to policy.

With respect to the review of members' notes, supervisors stated that these are usually reviewed to ensure that members are actually making notebook entries and not for the purpose of ensuring policy compliance.

Through interviews with supervisors, the Commission learned that reviews of notes, occurrence reports and prisoner reports for a particular file are not always done by the same supervisor. Moreover, entire files are seldom reviewed in a timely manner unless it relates to a case that will be going to court.

The occurrence reports reviewed by the Commission rarely included documentation indicating that either supervision was provided on the file or that a supervisor had authorized the strip search. During interviews with supervisors, it was found that they could not review the manner in which strip searches were conducted, as the majority of members did not articulate the details in their reports.

Oftentimes, members would document “prisoner was searched or searched and lodged in cells” in their reports or notes.<sup>41</sup> Furthermore, most supervisors stated that they did not conduct any follow-up with members who had not adequately documented the supervisor’s authorization on strip search files.

Most members in supervisory positions do not receive mandatory training regarding the RCMP’s strip search policy. The Commission’s review demonstrates the correlation between adequate supervisory involvement in a file and adequate member compliance with the RCMP’s strip search policy.

At some detachments, it is evident that supervisors are either not concerned with policy compliance or are not providing adequate supervision. It is critical for supervisors to ensure that members properly articulate their grounds for conducting a strip search, as well as other relevant information. Based on the information reviewed, the Commission concludes that, generally, the supervision of members conducting strip searches is inadequate.

**FINDING No. 11:** The overall supervision of members conducting strip searches, and the subsequent supervisory file review for policy compliance, were inadequate in most of the detachments examined by the Commission.

**RECOMMENDATION No. 8:** That the RCMP develop specific supervisor training regarding duties and responsibilities in accordance with National Headquarters *Operational Manual* chapter 21.2. “Personal Search.”

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<sup>41</sup> The Commission makes this observation based on the analysis of occurrence reports and member notes for the 13 detachments reviewed.



## OTHER NOTABLE ISSUES

### Use of Closed Circuit Video Equipment:

In its 2017 Final Report, the Commission indicated that none of the RCMP's national policies on either personal searches or the use of closed-circuit video equipment provided guidelines, direction, or limitations with respect to recording or capturing searches on camera.

The Commission further indicated that, in light of *R v Fine*, the RCMP should amend its policies and practices to ensure that the use of such equipment during strip searches does not infringe on the Charter rights of the person being searched. In response, the RCMP amended its strip search policy. Section 3.1.2.3. of the RCMP's national strip search policy now provides the following direction:

If a private room is not available for the search, conduct the search in a cell and ensure the monitor is turned off or covered to ensure all measures are taken to provide privacy to the detainee.

In the Commission's opinion, the amended policy is adequate and clear.

The Commission's review revealed that, in practice, some detachments follow the amended policy and conduct strip searches in a private room that is not being video-recorded, while others have their own procedure with respect to the video-recording of strip searches.

For example, the Surrey RCMP Detachment has a strip search room where strip searches are video-recorded. The Commission was informed that the video is not live-monitored and only the supervisor can view the recording if and when required (e.g. further to a complaint, request from the Crown, or cell block incident).

Members from five of the detachments reviewed (Iqaluit, Surrey, Kamloops, North Battleford, and Prince Albert RCMP detachments) informed the Commission that they record strip searches to protect themselves from false allegations.

Of note, in the Burnaby Detachment, members use a digital mask feature to record strip searches, in a dedicated cell. When conducting a strip search, the person being searched stands behind a line in the cell and the camera's digital mask filters them out of the video footage.

Consequently, only members conducting the strip searches are visible in the video recording, which is retained for the standard two years, according to the RCMP's retention policy.

This is an effective way to ensure member compliance without violating the individual's rights. According to information provided by members of the detachment, the digital mask is a feature of their camera and the room size is not a factor, as the mask can be resized to fit the room.

To audit compliance with policies and procedures, the RCMP may wish to consider the use of cameras equipped with digital masks to record members conducting strip searches on prisoners.

**RECOMMENDATION No. 11:** That the RCMP provide clearer direction to divisions regarding the use of closed-circuit video equipment during strip searches in order that members do not infringe on the Charter rights of the person being searched.

#### **Internal and Cross Gender Searches:**

During interviews with members across all divisions, the Commission found that members were all aware of the policies and procedures surrounding internal searches as well cross-gender searches, including the requirement pertaining to exigent circumstances.

## **RCMP IMPLEMENTATION OF THE 2017 FINAL REPORT RECOMMENDATIONS**

As part of this review, the Commission assessed the degree to which the RCMP implemented the relevant recommendations<sup>42</sup> supported by the Commissioner.

### **The implementation of Recommendation 1 is adequate.**

The amended national policy definitions for “personal search” (previously referred to as “body search”) and “strip search” are consistent with current jurisprudence, providing a clear distinction between a personal search (i.e. frisk) and a strip search.

### **The implementation of Recommendation 2 is adequate.**

The RCMP amended chapter 21.2. of its national policy regarding personal searches, and now ensures a more robust supervisory oversight by explicitly requiring a supervisor's approval prior to conducting a strip search unless exigent circumstances exist. The amendment in policy provides clear guidance.

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<sup>42</sup> See Appendix 1 for the complete list of recommendations.

**The implementation of  
Recommendation 3 is adequate.**

The RCMP amended chapter 21.2. of its national policy regarding personal searches to clarify if, and when, a strip search of a person of the opposite sex is ever permitted. The amended policy articulates the circumstances or criteria that must be met prior to conducting or overseeing a strip search of a person of the opposite sex (i.e. if immediate risk of injury or escape exists and/or in exigent circumstances).

**The implementation of  
Recommendation 4 is adequate.**

The RCMP amended its internal search policy and ensures that it clearly specifies the necessary grounds required prior to conducting an internal search as well as the required approvals.

**The implementation of  
Recommendation 5 is adequate.**

The RCMP amended chapter 21.2. of its national policy regarding personal searches and ensures that the policy addressed members' requirement to articulate the reasons and manner of the search in writing, including the information members are required to document and where they must record this information.

**The implementation of  
Recommendation 6 is adequate.**

The RCMP in British Columbia amended its policy regarding personal searches (*Operational Manual* chapter 21.2.). Although the amended policy refers members to the national strip search policy (OM 21.2.3.1.2.), it also provides valuable legal context to searches and additional guidance with respect to cell block searches, which mitigates the inadequacies in the national policy regarding cell block searches.

**The implementation of  
Recommendation 7 is inadequate.**

The RCMP has not developed the enhanced training curriculum. Nevertheless, the current training provided at Depot Division is designed to provide cadets with a basic knowledge of RCMP personal search policies and relevant jurisprudence.

**The implementation of  
Recommendation 8 is inadequate.**

The RCMP has not enhanced divisional training in personal searches to ensure that members are cognizant of the legal requirements and relevant policies and procedures for body, strip and internal searches; as a result, this training was not included in the Operational Skills Maintenance Re-Certification.

**The implementation of  
Recommendation 9 is inadequate.**

The RCMP's National Headquarters policy on personal searches, as well as "E" Division's policy on the matter, do not address appropriate means of recording, tracking and assessing compliance, and are therefore unable to facilitate independent reviews.

**The implementation of  
Recommendation 10 is adequate.**

The RCMP has amended its national policy on personal searches to include specific guidance and direction in relation to strip searches of youth.

**FINDING No. 12:** The RCMP's implementation of recommendations 1, 2, 3, 4, 5, 6, and 10 is adequate.

**FINDING No. 13:** The RCMP's implementation of recommendations 7, 8, and 9 is inadequate.

## CONCLUSION

It has been nearly two decades since the Supreme Court of Canada outlawed the routine use of strip searches by police and provided a roadmap on how to conduct a lawful search. Despite the highly prescriptive ruling that has been incorporated into the RCMP's operational policy, the Commission's review revealed widespread non-compliance with policy and relevant jurisprudence.

Although the RCMP implemented most of the findings made by the Commission in its 2017 Final Report, the consequences of not implementing the recommendations regarding training were evident.

Inadequate articulation and documentation pertaining to the member's grounds for conducting a strip search, and the manner in which it was conducted, were recurring themes throughout the review. Lack of knowledge of what constitutes a strip search and inadequate supervision risk the violation of an individual's Charter rights.

This was especially evident at the Iqaluit RCMP Detachment; members often do not seek supervisory guidance or approval with respect to strip searches outside of the detachment's core hours. Members do not document or properly articulate their grounds for conducting a strip search, and there does not appear to be any supervisory file review for compliance with the RCMP's strip search policy.

Although this review focused on the Iqaluit Detachment, the Commission is concerned that this may be reflective of a broader divisional problem in Nunavut.

Next, additional work on both the National and "E" division strip search policies are required. While some amendments have been made, further clarity is still required in order to ensure that members are aware of their responsibilities.

Finally, the inadequate implementation of the 2017 recommendation to track strip searches and facilitate internal or external review impedes the RCMP's core value of accountability.

The Commission submits its findings and recommendations pursuant to subsection 45.34(1) of the *Royal Canadian Mounted Police Act*.

## APPENDIX 1 – MANDATE AND METHODOLOGY

### Mandate

The Commission's mandate with respect to reviewing RCMP activities and reporting its findings and recommendations is set out in Part VI of the *Royal Canadian Mounted Police Act* ("the RCMP Act"). Subsection 45.34(1) of the RCMP Act empowers the Commission to conduct a review of "specified activities" of the RCMP:

**45.34(1)** For the purpose of ensuring that the activities of the Force are carried out in accordance with this Act or the Witness Protection Program Act, any regulations or ministerial directions made under them or any policy, procedure or guideline relating to the operation of the Force, the Commission may, on the request of the Minister or on its own initiative, conduct a review of specified activities of the Force and provide a report to the Minister and the Commissioner on the review.<sup>43</sup>

On March 29, 2018, the Commission initiated a specified activity review of the RCMP's strip search policies and procedures pursuant to subsection 45.34(1) of the RCMP Act. Specifically, the Commission undertook to review the following points and report its findings and recommendations:

- the degree to which the relevant recommendations contained in the *Final Report into Policing in Northern British Columbia* have been implemented;
- whether the RCMP's national and divisional policies relating to personal searches are adequate, appropriate, sufficient, and clear;
- whether the RCMP's mandatory training in relation to strip searches is adequate, appropriate, sufficient, and clear; and
- whether in practice the RCMP is abiding by, and has the means of assessing/evaluating member compliance with, the relevant policies.

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<sup>43</sup> *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10, s 45.34(1) [RCMP Act].

## Methodology

Subsection 45.34(4) of the RCMP Act requires the Commission to include in its report “. . . any findings and recommendations that it sees fit regarding the adequacy, appropriateness, sufficiency or clarity of any policy, procedure or guideline relating to the operation of the Force.”<sup>44</sup>

The four concepts of adequacy, appropriateness, sufficiency, and clarity are intrinsically related. Adequacy and sufficiency are quantitative measures that speak to the quantity of the evidence that was collected by way of investigation. The quantity of evidence collected relates to the complexity and breadth of the activity being reviewed and the quantity of evidence must be such that the Commission's conclusions and findings can be made accurately and with confidence.

Appropriateness and clarity are qualitative measures. These measures speak to the relevance and reliability of the evidence in supporting the Commission's conclusions and findings. The reliability of evidence is influenced by its source and by its nature, that is to say what type of information it actually is. The reliability of evidence is also dependent on the individual circumstances under which it is obtained.

The review included a follow-up on the recommendations made in the Final Report pertaining to the RCMP's personal search policies (including strip search) and training. As the then RCMP Commissioner supported the recommendations, the Commission carefully considered the actions taken by the RCMP in response to the recommendations.

### *Final Report into Policing in Northern British Columbia*

**Recommendation 1:** That the RCMP update its National Headquarters *Operational Manual* policy definitions for “body search” and “strip search” to eliminate ambiguity and ensure that the definitions are consistent with current jurisprudence.

**Recommendation 2:** That the RCMP amend chapter 21.2. of its national policy regarding personal searches to ensure more robust supervisory oversight by explicitly requiring a supervisor's approval prior to conducting a strip search unless exigent circumstances exist.

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<sup>44</sup> RCMP Act, s 45.34(4).

**Recommendation 3:** That the RCMP amend chapter 21.2. of its national policy regarding personal searches to clarify if and when a strip search of a person of the opposite sex is ever permitted. Further, the policy should articulate the circumstances or criteria that must be met prior to conducting or overseeing a strip search of a person of the opposite sex (i.e. if immediate risk of injury or escape exists and/or in exigent circumstances).

**Recommendation 4:** That the RCMP amend its internal search policy to ensure that it clearly specifies the necessary grounds required prior to conducting an internal search as well as the required approvals.

**Recommendation 5:** That the RCMP amend chapter 21.2. of its national policy regarding personal searches to ensure that the policy addresses the member's requirement to articulate the reasons and manner of the search in writing, including the information members are required to document and where it must be recorded.

**Recommendation 6:** That the RCMP in British Columbia amend its policy regarding personal searches (*Operational Manual* chapter 21.2.) to reflect current jurisprudence.

**Recommendation 7:** That the RCMP enhance basic training at Depot Division to ensure that cadets are cognizant of the legal requirements and relevant policies and procedures for all types of personal searches.

**Recommendation 8:** That the RCMP enhance training in personal searches to ensure that Division members are cognizant of the legal requirements and relevant policies and procedures for body, strip and internal searches, and that such training also be included in the Operational Skills Maintenance Re-Certification.

**Recommendation 9:** That the RCMP amend its National Headquarters and British Columbia divisional *Operational Manual* personal search policies to enhance transparency and accountability by ensuring the policies include an appropriate means of recording, tracking, and assessing compliance, thus facilitating independent review.

**Recommendation 10:** That the RCMP amend its national policy on personal searches to include specific guidance and direction in relation to strip searches of youth.



The Commission requested and examined materials from the RCMP that it deemed relevant to this review, including:

- RCMP national and divisional personal search policies;
- materials and information regarding course modules used in the RCMP Cadet Training Program;
- materials regarding RCMP national training in search and seizure, detachment policies, training guides, and operating procedures; and
- information regarding unit-level quality assurance and management reviews related to personal searches, strip searches, and internal searches conducted since July 2017.

To assist in reaching its conclusions, the Commission examined a representative sample of files from the following 13 detachments:

- Burnaby, Kamloops, Prince George and Surrey detachments in British Columbia ("E" Division);
- Lloydminster Detachment in Alberta ("K" Division);
- North Battleford and Prince Albert detachments in Saskatchewan ("F" Division);
- Yellowknife Detachment in the Northwest Territories ("G" Division);
- Moncton, Oromocto and Bathurst detachments in New Brunswick ("J" Division);
- Whitehorse Detachment in Yukon ("M" Division); and
- Iqaluit Detachment in Nunavut ("V" Division).

In total, the Commission examined 11,806 prisoner reports using the RCMP prisoner booking system from the aforementioned detachments, dated August 1, 2017, to January 31, 2018, to identify files in which persons in RCMP custody were possibly subjected to strip searches.

From the examination of these prisoner reports, the Commission identified a subsample of files involving strip searches. The Commission then sought additional materials relating to the files in the subsample, which consisted of 1,020 occurrence reports as well as members' notebook entries.

The Commission's review was somewhat hampered by the RCMP's document management and storage practices, which do not facilitate independent review. At some RCMP detachments there were difficulties retrieving file materials for the Commission in a reasonable time. Consequently, the Commission did not consider these "late" materials during its review.

From June 28, 2018, until January 2019, the Commission interviewed 67 individuals, including general duty members, members in supervisory positions, matrons/guards and detachment commanders from 10 of 12 detachments.<sup>45</sup>

The interview questions were derived from an analysis of prisoner reports, occurrence reports and members' notes (when available).

Interview questions covered lines of inquiry consistent with the established terms of reference:

- experience, roles and responsibilities within the detachment;
- knowledge of RCMP policy regarding personal searches, in particular strip searches;
- all training received on personal searches, strip searches and internal searches;
- usual role in the prisoner booking process (e.g. whether they execute the arrests of individuals or whether they provide supervision to the arresting members);
- strip search practice (including the removal of bras and other intimate clothing) and the approval process;
- search practices (such as the use of suicide prevention suits) and documentation practices relating to searches of persons who are suicidal or experiencing a mental health crisis;
- means of collecting data and generating statistics relating to strip searches for audit or review;
- establishment of designated strip search areas within detachments; and
- practices regarding the audio- or video-recording of strip searches.

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<sup>45</sup> Due to their small size and the limited number of members available for interviews, members from the Oromocto and Bathurst RCMP detachments were not contacted for interviews with the Commission investigator. However, the Commanding Officer of the Codiac RCMP in Moncton responded to the Commission's requests for information regarding Oromocto and Bathurst RCMP detachments.

The Commission also examined strip search policies and procedures established by the Canada Border Services Agency, Correctional Services Canada, the Winnipeg Police Service, the Toronto Police Service, the Vancouver Police Department, the Saskatoon Police Service, and the Service de Police de la Ville de Montréal.

Additionally, interviews were conducted with members of the Ottawa Police Service, the Service de Police de la Ville de Montréal and the Saskatoon Police Service, to learn about their practices with respect to strip searches and cell block management.

The Commission also reviewed other relevant reports. The Office of the Independent Police Review Director (“the OIPRD”) released a report in March 2019 entitled *Breaking the Golden Rule: A Review of Police Strip Searches in Ontario*.<sup>46</sup>

Following an extensive investigation, the OIPRD made the following findings and recommendations:

- there is a need for documentation by members, of the grounds to search and the strip search itself;
- there is a need for electronic record-keeping by the police for review purposes;
- training should include police college-level courses, as well as the annual or biannual courses;
- policy and procedure updates are needed, and should be guided by *Golden*;<sup>47</sup>
- reasonable and probable grounds to conduct a search are needed;
- underwire bras are removed as a matter of course, purportedly for safety reasons;
- the prior authorization by a supervisor for a strip search is required;
- strip searches should not be video-recorded; and
- a strip search form should be used to enhance proper documentation.

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<sup>46</sup> Office of the Independent Police Review Director, *Breaking the Golden Rule: A Review of Police Strip Searches in Ontario*, March 2019, online: <[https://www.oiprd.on.ca/wp-content/uploads/OIPRD\\_Breaking-the-Golden-Rule\\_Report.pdf](https://www.oiprd.on.ca/wp-content/uploads/OIPRD_Breaking-the-Golden-Rule_Report.pdf)>.

<sup>47</sup> *R v Golden*, [2001] 3 SCR 679.

Human Rights Watch undertook an investigation into police treatment of Indigenous women in Saskatchewan and made a submission to the Government of Canada in 2017 entitled: *Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence*.<sup>48</sup>

In its submission, Human Rights Watch outlined its findings and recommendations, including some related to strip searches:

➤ In accordance with international policing standards, Canadian constitutional requirements, and the recommendations of the Civilian Review and Complaints Commission:

- end body (“frisk”) searches of women and girls by male police officers in all but extraordinary circumstances; require that any such searches are fully documented and reviewed by supervisors and commanders; prohibit all strip searches of women and girls by male police officers.

- ensure that women in custody are ordered to remove their bras only in exceptional circumstances in which there is credible evidence that it is necessary to prevent them from doing harm to themselves or others or to obtain evidence related to the reason for the arrest.
- ensure that there is a sufficient number of female officers to conduct searches, participate and supervise the interrogation of female detainees, and ensure the safety and security of female detainees.

Collect and make publicly available (as ethically appropriate) accurate and comprehensive race-and gender-disaggregated data that includes an ethnicity variable on violence against Indigenous women, as well as on use of force, police stops, and searches, with the guidance of Indigenous women leaders and in cooperation with Indigenous community organizations and the National Centre for Missing Persons and Unidentified Remains (NCMPUR). This recommendation should be acted on in accordance with Call to Action 39 of the Truth and Reconciliation Commission.

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<sup>48</sup> Human Rights Watch, *Submission to the Government of Canada – Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence*, June 2017, online: <[https://www.hrw.org/sites/default/files/supporting\\_resources/canada\\_saskatchewan\\_submission\\_june\\_2017.pdf](https://www.hrw.org/sites/default/files/supporting_resources/canada_saskatchewan_submission_june_2017.pdf)>.

## APPENDIX 2 – JURISPRUDENCE

It is an established procedure in Canada for police officers to conduct a personal search (also known as “frisk”) of a person upon arrest. Common law provides for the police authority to search a person incidental to a lawful arrest without warrant for police and public safety reasons, as well as for the purpose of searching for, and preventing the destruction of, evidence relating the offence for which a person was arrested. Other types of searches conducted incidental to arrest are “strip” searches and “internal” searches.

Strip searches involve the removal or rearrangement of some or all of a person's clothing to allow for a visual inspection of the person's private areas or undergarments. Internal searches involve the inspection of body orifices other than the mouth.

In 2001, in *R v Golden*,<sup>49</sup> the Supreme Court of Canada considered various issues pertaining to the police practice of conducting strip searches incidental to arrest. The Court found that the scope of common law power to search incidental to arrest was broad enough to include authority to strip search an arrested individual in reasonable circumstances. However, the Court established limitations, or a “framework” for the police to follow to ensure the reasonableness of these types of searches and to protect the Charter rights of the person being searched:

. . . In this connection, we find the guidelines contained in the English legislation, P.A.C.E. concerning the conduct of strip searches to be in accordance with the constitutional requirements of s. 8 of the Charter. The following questions, which draw upon the common law principles as well as the statutory requirements set out in the English legislation, provide a framework for the police in deciding how best to conduct a strip search incident to arrest in compliance with the Charter:

1. Can the strip search be conducted at the police station and, if not, why not?
2. Will the strip search be conducted in a manner that ensures the health and safety of all involved?
3. Will the strip search be authorized by a police officer acting in a supervisory capacity?
4. Has it been ensured that the police officer(s) carrying out the strip search are of the same gender as the individual being searched?
5. Will the number of police officers involved in the search be no more than is reasonably necessary in the circumstances?
6. What is the minimum of force necessary to conduct the strip search?

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<sup>49</sup> *R v Golden*, [2001] 3 SCR 679.

7. Will the strip search be carried out in a private area such that no one other than the individuals engaged in the search can observe the search?
8. Will the strip search be conducted as quickly as possible and in a way that ensures that the person is not completely undressed at any one time?
9. Will the strip search involve only a visual inspection of the arrestee's genital and anal areas without any physical contact?
10. If the visual inspection reveals the presence of a weapon or evidence in a body cavity (not including the mouth), will the detainee be given the option of removing the object himself or of having the object removed by a trained medical professional?
11. Will a proper record be kept of the reasons for and the manner in which the strip search was conducted?"<sup>50</sup>

The courts, relying on the *Golden* decision, have been critical of blanket policies or practices of the police requiring female detainees wearing bras to submit to strip searches. The courts have determined that such policies and practices do not constitute reasonable grounds for a strip search. The courts have held that concerns regarding weapons have to be addressed on an individual basis and not with sweeping policy applied to all prisoners. Furthermore, the courts have found that if the police have safety concerns, they must also have reasonable and probable grounds for concluding that a strip search is necessary in the particular circumstances of the searched individual.

For example, the facts in *R v Deschambault*<sup>51</sup> involved the removal and inspection by the police of a woman's undergarments. In this case, the Saskatchewan Provincial Court found that the rearrangement of Ms. Deschambault's shirt by the police officers to enable an inspection of her bra and its removal by the same officers constituted a strip search. Further, the Court did not find reasonable grounds either for the officers requiring Ms. Deschambault to surrender her bra to the officer or to remove it forcibly (which they were required to do when she did not voluntarily comply).

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<sup>50</sup> *Idem*, at para 101.

<sup>51</sup> *R v Deschambault*, 2013 SKPC 112.

In addition, in *R v Lee*,<sup>52</sup> Justice Fuerst of the Ontario Superior Court of Justice considered on appeal the issue of whether the removal of a female detainee's underwire bra constitutes a strip search. Although a lower court had found that the removal of Ms. Judson's bra by the police did not constitute a strip search, Justice Fuerst did not agree:

. . . the trial judge failed to consider the Court's caution in *Golden*, that concerns that short term detainees may conceal weapons must be addressed on a case-by-case basis and cannot justify routine strip searches. A policy applied without exception to any female detainee wearing an underwire bra is not a case-specific circumstance. Rather it is a basis for routine strip searches of female detainees, in contravention of section 8 of the Charter.<sup>53</sup>

Justice Fuerst further concluded that the trial judge had failed to consider:

. . . the appropriateness of an unwritten police policy that leads to potential differential treatment of female and male arrestees, with female arrestees wearing underwire bras being automatically and without exception subjected to a form of strip search.<sup>54</sup>

In *R v Fine*,<sup>55</sup> the British Columbia Provincial Court ruled that members of the Kelowna RCMP Detachment had violated Ms. Fine's section 8 Charter right to be secure against unreasonable search, in that they broadcasted footage of the video tape recording to a monitoring room while Ms. Fine was partially naked.

In *R v Muller*:<sup>56</sup>

. . . the strip search was carried out in an appropriate room at police headquarters by two officers of the same gender as the appellant. However, no supervisory authorization was sought, much less obtained. Rather than close the door to the search room, as was the usual practice, the officers left the door open. The appellant [Mr. Muller] was required to stand naked, facing a hallway accessible by other persons of either gender. The search was videotaped and available for viewing by others at various places in the station. The evidence was unclear about whether [Mr. Muller] had been informed that he was being videotaped. . . . Apart from the videotape, the police created no adequate record of the strip search.

The Ontario Court of Appeal in this case found that the appellant's strip search was not carried out in a reasonable manner.

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<sup>52</sup> *R v Lee*, 2013 ONSC 1000.

<sup>53</sup> *Idem*, at para 42.

<sup>54</sup> *Idem*, at para 46.

<sup>55</sup> *R v Fine*, 2015 BCPC 3.

<sup>56</sup> *R v Muller*, 2014 ONCA 780.

The courts have confirmed that the *Golden* principles are not necessarily mandatory; they represent strong guidance for the police.

In *R v Lantz*,<sup>57</sup> the Alberta Court of Queen's Bench emphasized the importance of following the framework outlined in *Golden*, in the following terms:

. . . the framework in *Golden* is a list of factors which should be considered and weighed when the constitutionality of a strip search is called into question. Absolute compliance with every element is not mandatory to ensure compliance; however, a greater degree of adherence to the framework militates toward *Charter* compliance. An actual police policy embodying the framework, where followed, would favour *Charter* compliance. . . .<sup>58</sup>

In addition, the case of *R v Im*<sup>59</sup> is pertinent to the Commission's review. In that case, the police forced Mr. Im to remove his pants, which exposed his undergarments. The Ontario Court of Justice determined that, by doing so, the police had subjected Mr. Im to a strip search.

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<sup>57</sup> *R v Lantz*, 2017 ABQB 207.

<sup>58</sup> *Idem*, at para 65.

<sup>59</sup> *R v Im*, 2016 ONCJ 383.



## APPENDIX 3 – NATIONAL AND DIVISIONAL POLICIES

### National Headquarters Operational Manual Chapter 21.2. – Personal Search

#### Chapter Rewrite: 2018-03-28

For information regarding this policy, contact National Criminal Operations, Contract and Aboriginal Policing at Groupwise address OPS POLICY HQ.

1. Definitions
  2. General
  3. Roles and Responsibilities
  4. Internal Search
  5. Cell Block Searches
- 

#### 1. Definitions

1. 1. **Internal search** means a search of body orifices, excluding the mouth.
1. 2. **Medical Practitioner** means a person lawfully entitled to practice medicine in the place in which the practice is carried out by that person.
1. 3. **Personal search (frisk)** means a search by manual or technical (wand) methods of a person's clothed body.
1. 4. **Strip search** means the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person's private areas, namely genitals, buttocks, breasts (in the case of a female), or undergarments.
1. 5. **Wand** means an electronic instrument used to detect concealed metal objects on a person's body.
1. 6. **Undergarments** means clothing worn under clothes, often next to the skin.

## 2. General

2. 1. When conducting a personal search, ensure you take the appropriate precautions to protect yourself.

2. 2. Consult a medical practitioner if you accidentally puncture yourself or come into contact with bodily fluids from a person suspected to be in a high-risk category.

2. 3. Body searches will be conducted in a manner that interferes as little as possible with the privacy and dignity of the person being searched and does not infringe on section 8, *Canadian Charter of Rights and Freedoms*.

2. 4. A strip search is not considered routine police protocol.

NOTE: Should force be necessary to complete a strip search, the application of that force must be in accordance with the *Criminal Code* of Canada and the Incident Management/Intervention Model.

2. 5. A strip search should only be conducted when there are reasonable grounds to believe:

2. 5. 1. that the detainee is concealing evidence relating to the reason for the arrest, or

2. 5. 2. that the detainee is concealing items that may aid them to escape or pose safety concerns to the police, public, or the detainee.

2. 6. In accordance with sec. 3.1.2, Strip Search, conduct a strip search on a person of the same gender, in private.

EXCEPTION: Unless exigent circumstances require an immediate search for the preservation of evidence or to ensure the health and safety of members, the public, or detained persons.

2. 7. When conducting a search of a transgender person, refer to OM ch. 19.11., Transgender Persons in Custody.

### 3. Roles and Responsibilities

#### 3. 1. Member

##### 3. 1. 1. General

##### 3. 1. 1. 1. All searches must:

3. 1. 1. 1. 1. be conducted by a member of the same gender, unless an immediate risk of injury or escape exists or in exigent circumstances. Refer to sec. 1.6.;

3. 1. 1. 1. 2. not be conducted by more members than necessary to ensure the safety of the members and the detainee; and

3. 1. 1. 1. 3. be explained to a young person using appropriate language, providing the reason and manner of the search.

NOTE: Upon arrest or detention of a young person, ensure that a parent, guardian, or responsible adult is notified (according to the *Youth Criminal Justice Act* and OM ch. 39.2., Arrest – Young Person) and that they are advised if a strip search has been or will be conducted.

##### 3. 1. 2. Strip Search

3. 1. 2. 1. When conducting a strip search, you must be guided by R. v. Golden, Para. 101 (1 through 11).

##### 3. 1. 2. 2. A strip search must be:

3. 1. 2. 2. 1. authorized verbally or in writing, by a supervisor or delegate, unless exigent circumstances exist;

NOTE: Removal of undergarments must be authorized by a supervisor/delegate, unless exigent circumstances exist.

3. 1. 2. 2. 2. conducted quickly, and where possible, in a manner that the detainee is not, at any time, completely undressed;

3. 1. 2. 2. 3. conducted in a private and hygienic area at an RCMP facility or a medical facility, unless exigent circumstances require an immediate search for the preservation of evidence or to ensure the health and safety of members, detained persons, and/or the public; and

3. 1. 2. 2. 4. documented on [Form C-13-1, Prisoner Report](#) and signed by the supervisor/delegate.

3. 1. 2. 3. If a private room is not available for the search, conduct the search in a cell and ensure the monitor is turned off or covered to ensure all measures are taken to provide privacy to the detainee.

3. 1. 2. 4. If a member is not involved in the search, they will not observe in any way, unless required for investigative purposes. Refer to R. v. Fine, [2015] BCPC 3.

3. 1. 2. 5. Make accurate, detailed notes of the authorization, the reasons for the strip search, and the manner in which it was conducted.

3. 1. 2. 6. When police safety concerns are not present, you will consider:

3. 1. 2. 6. 1. having the detainee run their hands vigorously through their hair to show there is nothing hidden on their scalp; and

3. 1. 2. 6. 2. directing the detainee to move/manipulate their body parts until you are satisfied upon visual inspection that nothing has been concealed:

3. 1. 2. 6. 2. 1. ask female detainees to lift up their breasts or any folds, and open their legs; and

3. 1. 2. 6. 2. 2. ask male detainees to lift up their penis and scrotum, and if they are uncircumcised to pull back their foreskin.

3. 1. 2. 7. Seize and secure any evidence that is found. Refer to OM ch. 22.1., Processing.

3. 1. 2. 8. A guard or matron may search a detainee of the same gender when directed by a member. Refer to OM ch. 19.3., Guarding Prisoners and Personal Effects.

### 3. 2. Supervisor/Delegate

3. 2. 1. Ensure the strip search is authorized and procedures in sec. 3.1.2. are followed.

3. 2. 2. Document the member's account regarding why a strip search was necessary, and then document authorization in their notes.

3. 2. 3. Notify your detachment commander if a member does not follow the criteria for conducting a strip search.

#### 4. Internal Search

4. 1. Be authorized, verbally or in writing, by a supervisor/delegate, unless exigent circumstances exist.

4. 2. Reasonable grounds must exist to warrant an internal search (which may include a visual inspection) to determine if a weapon or evidence is concealed in a body cavity.

NOTE: An internal search must be conducted by a medical practitioner, unless there is a concern for safety, given the highly intrusive nature of the procedures.

4. 3. An internal search must be conducted in a private and hygienic area at an RCMP facility or a medical facility, unless exigent circumstances require an immediate search for the preservation of evidence or to ensure the health and safety of members, detained persons, and/or the public.

4. 4. Inform the medical practitioner, where practicable, that the person being searched should be given the opportunity to personally remove the object (other than a weapon), if on the advice of the medical practitioner the object can be safely removed by the subject.

4. 5. Make accurate, detailed notes of the authorization, the reason for the internal search, and the manner in which it was conducted.

4. 6. The RCMP will provide legal support to medical practitioners in criminal or civil actions, provided the action was a result of the doctor assisting a peace officer in the execution of their duties.

#### 5. Cell Block Searches

5. 1. Remove all strings or cords from sweat pants, shorts, hooded sweat tops, or similar clothing that a detainee will be wearing in a cell.

5. 2. Search bras or similar undergarments. If there are no identifiable police or public safety concerns, the detainee may be permitted to keep the undergarment on in cells.

5. 3. If officer or detainee safety is at risk, place the bra or similar undergarment with the detainee's effects, to be returned upon release.

5. 4. When feasible, the detainee must be checked with a wand before being placed in a cell.

## DIVISIONAL POLICIES

### “E” Division (British Columbia)

#### Table of Contents

1. General
2. Strip Search
3. Internal Search
4. Cell Block Search
5. Detachment Commander

#### 1. General

1. 1. Refer to:

1. 1. 1. National OM 17.1. Incident Management Intervention Model

1. 1. 2. National OM 18.1. Arrest and Detention

1. 1. 3. National OM 19.3 Guarding Prisoners & Personal Effects

1. 1. 4. National OM 19.11 Transgender Persons in Custody

1. 1. 5. National OM 21. 2. Personal Search

1. 1. 6. E Div. OM 19.3 Guarding Prisoners / Personal Effects

1. 2. All prisoners must be thoroughly searched.

1. 3. All persons in RCMP custody must be searched by a member/guard/matron before being placed in cells.

1. 4. Members must consider the totality of the circumstances and their risk assessment when determining the scope of the search. If it involves a strip search, internal search or search of a transgender person it must be in accordance with the law and policy.

## 2. Strip Search

2. 1. See National OM 21. 2. 3. 1. 2. Strip Search

## 3. Internal Search

3. 1. See National OM 21. 2. 4. Internal Search.

## 4. Cell Block Search

4. 1. See National OM 21. 2. 5. Cell Block Search

4. 2. The removal or inspection of a prisoner's undergarments, including bra and/or underwear, prior to lodging the prisoner in cells is not routine protocol and constitutes a strip search. Therefore, it must be done in compliance with the principles laid out in R v. Golden and National OM 21. 2. Specifically:

4. 2. 1. Members must have reasonable grounds to believe that the undergarment will be used as a weapon, be used to aid in suicide, or to aid in an escape. The mere *possibility* that an undergarment *may* pose a threat will not satisfy this threshold, and additional situational factors are required.

4. 2. 2. The removal of undergarments must be authorized verbally or in writing by a supervisor, unless exigent circumstances exist.

4. 2. 3. The removal or inspection of undergarments must be conducted in a manner that is consistent with National OM 21. 2. 3. 1. and National OM 21. 2. 3. 2.

4. 2. 4. The member must articulate and document their grounds for the search, the supervisor's approval, and the manner in which the search was conducted in their notebook.

## 5. Detachment Commander

5. 1. Ensure that members/guards/matrons are aware of the contents of this policy.

## **“F” Division (Saskatchewan)**

### **Table of Contents**

1. General
2. Incident to Arrest
3. Controlled Drug and Substances Act (CDSA)
4. Medical Practitioners
5. Strip Search
6. Search Wands

#### **1. General**

1. 1. See National Headquarters OM 21.2 Personal Search.

#### **2. Incident to Arrest**

2. 1. There is a common law authority to search a person and their immediate surroundings incidental to arrest. *R. v. Caslake* (1998), 1 S.C.R.51. A vehicle is included as part of immediate surroundings. In order for the search to be acceptable, the arrest must be authorized by law and the search must be reasonable based on the circumstances. For a search of this nature there must be a reasonable prospect of securing evidence of the offence for which the accused is being arrested within a reasonable time after the arrest. A search may be for:

2. 1. 1. officer safety, i.e. search for a weapon or a hidden accomplice;

2. 1. 2. discovery and protection of evidence;

2. 2. As a result of the ruling *R. v. Backhouse* (Ontario 2005) and recommendation from Saskatchewan Justice, members will file a Report to Justice for items seized incidental to arrest.



### 3. Controlled Drug and Substances Act (CDSA)

3. 1. Under the *Controlled Drug and Substances Act (CDSA)* and officer is entitled to search a person found at the place subject of search, however, the common law imposes two conditions on this right:

3. 1. 1. the search must take place within a reasonable time relative to the search of the place (not many hours later), and

3. 1. 2. there must be a link between person and the drug so as to make the search reasonable.

### 4. Medical Practitioners

4. 1. Commander's requiring a medical practitioner to be appointed a Supernumerary Special Constable shall conduct the necessary investigation and submit your request to the OIC Criminal Operations. Renewal requests should be submitted by 30 NOV of each year as the appointments are only good for one calendar year. Applications for initial appointments may be made on a need basis at any time.

### 5. Strip Search

5. 1. A strip search must only be performed when absolutely necessary and they are not to be conducted as an automatic arrest procedure. You must not only have reasonable grounds to make the arrest but you also have to have reasonable grounds to make the strip search.

5. 2. Strip searches are only constitutionally valid at common law where they are conducted as an incident to a lawful arrest for the purpose of:

5. 2. 1. discovering weapons in the detainee's possession;

5. 2. 2. in order to ensure the safety of the police, the detainee and other persons;

5. 2. 3. or for the purpose of discovering evidence related to the reason for the arrest, in order to preserve it and prevent its disposal by the detainee.

5. 3. All strip searches, unless there are extreme exigent circumstances, must be performed by a person of the same sex in a location that affords the detainee privacy. If at all possible have a second member present during a strip search.

## 6. Search Wands

6. 1. Every prisoner will be searched with a search wand prior to being placed into cells.

6. 1. 1. Searching with a search wand does not replace a physical search.

6. 2. Consideration should be given to searching a prisoner with a search wand before and after a physical search to ensure nothing was missed for police and public safety.

6. 3. Every time a prisoner is searched with a search wand it is to be documented on the C-13-1.

## “G” Division (Northwest Territories)

### Table of Contents

1. General

2. Strip Search

3. Internal Search

#### 1. General

1. 1. Refer to National Headquarters OM 21. 2.

1. 2. All prisoners will be thoroughly searched.

1. 2. 1. All persons in RCMP custody will be searched by a member before being placed in cells.

1. 3. Prisoners may be searched by a member of the opposite sex if:

1. 3. 1. there is another member or a guard present during the entire search; or

1. 3. 2. it is an emergency.

1. 4. Members must evaluate the circumstances and exercise their judgement when conducting prisoner searches.

## 2. Strip Search Court of Canada in *Regina v. Golden*:

2. 1. 1. the strip search is incidental to a lawful arrest; and
  2. 1 .2. related to a search for evidence connected to that arrest; or
  2. 1. 3. the search is for weapons or other objects which threaten the health and safety of officers, the prisoner or the public.
- 2.2. If uncertain whether elements of the *Regina v. Golden* criteria are satisfied in relation to strip searching a prisoner, members must exercise their discretionary judgement based on the facts available to them. This includes taking into consideration factors such as:
2. 2. 1. reason for arrest;
  2. 2. 2. the prisoner's criminal history, specifically noting weapon and drug offences;
  - 2.2. 3. any CPIC entries identifying the prisoner as violent or suicidal; and
  - 2.2 .4. the prisoner's current state of mind.

## 3. Internal Search

- 3.1. Refer to National Headquarters OM 21.2.3.
- 3 .2. Refer also to *Regina v. Golden* and *Regina v. Greffe*.

## “K” Division (Alberta)

Refer to National Headquarters Policy: OM directive 21.2 Internal Searches

### 1. Internal Searches

- 1.1. There are no doctors appointed as Supernumerary Special Constables in the Province of Alberta for this purpose.
- 1.2. Seek medical attention for subject if/when required.
- 1.3. Refer to National Headquarters OM Directive 21.2.3
- 1.4. Refer to the following case law regarding body cavity searches: 1. R. v Greffe [1990]1 S.C.R. 755; 2. R v Golden [2001] 2 S.C.R. 679, 2001 SCC83 – reference to body cavity searches starts on page 6.