



Government of
Saskatchewan

2006-2007 Annual Report

Saskatchewan
Justice

Saskatchewan Public
Complaints Commission

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Letters of Transmittal



His Honour the Honourable Dr. Gordon L. Barnhart
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period of April 1, 2006 to March 31, 2007.

A handwritten signature in black ink that reads "Frank Quennell". The signature is written in a cursive, flowing style.

Frank Quennell, Q.C.
Minister of Justice and Attorney General



The Honourable Frank Quennell, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period of April 1, 2006 to March 31, 2007.

A handwritten signature in black ink that reads "R. W. Mitchell". The signature is written in a cursive, flowing style.

Robert W. Mitchell, Q.C.
Chair

Mission Statement

The Public Complaints Commission is an independent panel of non-police persons appointed by the government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when a citizen feels he or she has not been treated fairly by a police officer. For that reason, a citizen complaint procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

Governing Legislation

Role of the Public Complaints Commission

The Public Complaints Commission (PCC) consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties imposed on the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. In 1992, Saskatchewan introduced legislation which identified a specific agency to address public complaints.

On April 1, 2006, following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations, the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

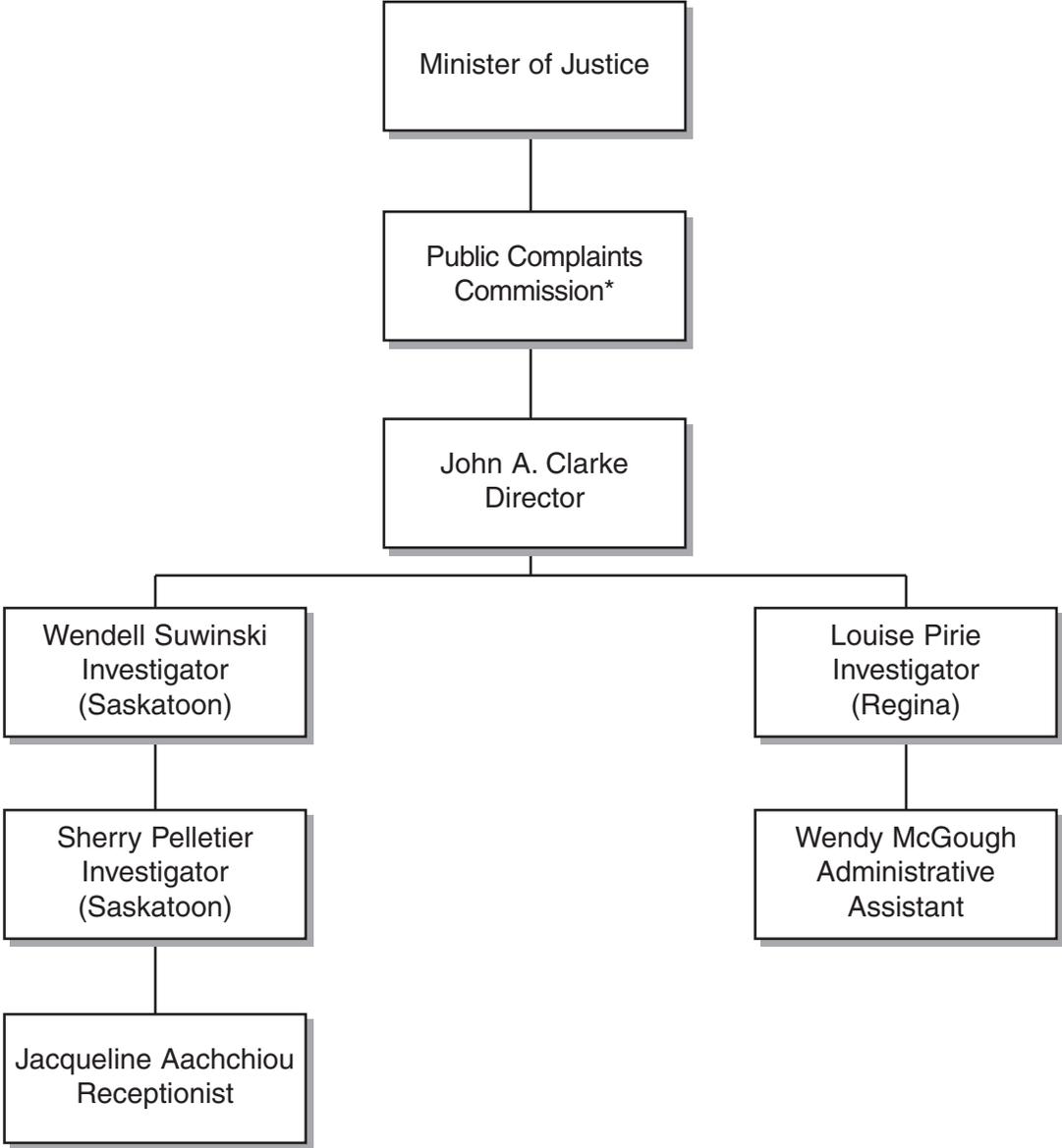
- (1) Where the PCC receives a public complaint pursuant to section 38, the PCC shall:
 - (a) record the complaint received;
 - (b) establish and maintain a record of all public complaints received by the police services and their dispositions;
 - (c) inform, advise and assist complainants;
 - (d) advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
 - (e) monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and
 - (f) inspect annually, or at those times directed by the minister, the records, operations and systems of administration for the handling of public complaints by police services.

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- (2) In exercising the duties of the PCC pursuant to this section, the PCC:
- (a) shall receive and obtain information respecting a public complaint from the complainant;
 - (b) may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;
 - (c) may request access to any files or other material in the possession of the police service relevant to a public complaint; and
 - (d) may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

Additionally, the PCC decides from one of the following, who will conduct the investigation of a public complaint:

- the PCC investigative staff;
- the police service whose member is the subject of the complaint;
- the police service whose member is the subject of the complaint, with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC;
- a police service other than the police service whose member is the subject of the complaint.

Organizational Structure



* The Public Complaints Commission consists of a panel of five individuals including a chairperson and vice-chairperson. The panel was appointed by the Lieutenant Governor in Council.

Public Complaints Commission

Members of the Public Complaints Commission

Members are appointed for a three-year term and may be re-appointed for a second term; however, no member may be appointed to more than two successive terms. The first year of operation provided many interesting challenges for the PCC, as members developed and refined their duties and responsibilities. Members meet twice a month to: review new complaints; receive briefings on current investigations; and reach consensus on the final determination of completed investigations which culminates with a written decision.

Chair: Robert W. Mitchell, Q.C., Regina

Vice-Chair: Catherine M. Knox, Lawyer, Saskatoon

Members: Loretta Elford, Regina, a former Director of Education with the Regina Public School Board and active community member

Raymond Fox, North Battleford, member of the Sweetgrass First Nation, Director of Justice, Battlefords Tribal Council, and a councillor for the City of North Battleford

Michael Maurice, Saskatoon, Métis Elder

Director: John Clarke, responsible for the administration and daily operation of the PCC

Administrative Staff/Accommodation

Saskatchewan Public Complaints Commission
Suite 300 - 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2
Telephone: (306) 787-6519
Fax: (306) 787-6528
Toll Free: 1-866-256-6194

Saskatchewan Public Complaints Commission
916 - 122 3rd Avenue North
Saskatoon, Saskatchewan S7K 2H6
Telephone: (306) 964-1450
Fax: (306) 964-1454

Other Activities

The Chair and the Director attended the annual convention of CACOLE (Canadian Association of Civilian Oversight for Law Enforcement) held in Vancouver, British Columbia. Mr. Mitchell was elected president of this organization for 2007. He also moderated a panel discussion which presented other facets of civilian oversight, and included a prominent civil rights lawyer from British Columbia and the president of the Canadian Association of Police Officers.

The Chair and the Director also attended the Alberta Internal Affairs Roundtable Discussions hosted by Calgary Police Service. This seminar was designed to provide information and discussion for those involved in the investigation of internal police complaints, as well as the public complaint process.

The PCC, in conjunction with the Saskatchewan Police College, hosted its own training and information seminar for municipal police officers and investigators involved in public complaints. The seminar was held in Saskatoon and provided an overview of the recent amendments to *The Police Act, 1990* and the public complaint investigative process.

The Director attended the Saskatchewan Police College and provided lectures to two recruit classes on the public complaint process and how it affects their conduct, as well as their careers, in terms of *The Municipal Police Discipline Regulations, 1991*. The Director also made presentations to police supervisors at Moose Jaw and Saskatoon Police Services. The purpose of these presentations was to highlight and stress the importance of the supervisor's role in the public complaint process. Supervisors are often the first point of contact for individuals making a public complaint and it is essential that supervisors provide the opportunity for complainants to be heard.

Two PCC investigators attended training in forensic interviewing at the Canadian Police College, Ottawa, Ontario.

2006-07 Activities and Results

Wendell Suwinski was hired to fill the vacancy created when Gordon Laliberte resigned his investigator's position in the Saskatoon office for personal reasons. Louise Pirie was hired to fill an additional investigator position which had been created for the Regina office. Both individuals are former members of the RCMP and bring a wealth of knowledge, excellent interpersonal skills, and strong investigative abilities to their roles as PCC investigators.

Throughout the year, efforts were made to maintain contact with the Federation of Saskatchewan Indian Nations, Special Investigation Unit, as well as the Federation of Saskatchewan Police Officers. The PCC acknowledges the investigations conducted on our behalf by the various members of the municipal police services, and in particular, the Professional Standard Sections of the Regina and Saskatoon Police Services.

New brochures and posters were developed for public distribution as part of our continuing efforts to raise the profile of the PCC and create public awareness. As well, informal meetings and presentations were made to Regina Alternative Measures Program (RAMP), Saskatoon Tribal Council, Saskatoon Indian & Métis Friendship Centre and the White Buffalo Youth Centre. These groups represent a cross-section of individuals who are directly involved with persons who are in conflict with law enforcement and may not be aware of the services provided by the PCC.

For the period April 1, 2006 to March 31, 2007, this office processed 146 complaints against municipal police officers in the province.

Noted below is the time frame involved to receive the complaint, investigate, review the matter and advise the complainants of the action taken with respect to their concern.

Time Frame	Per Cent of Complaint Files
0 - 30 days	17.1
31 - 60 days	2.7
61 - 90 days	2.7
91 - 120 days	1.4
121 - 150 days	2.7
151 - 180 days	2.1
Over 181 days	4.1
Pending	67.1

The following tables show the breakdown of complaints for each of the 11 municipal police services and three rural municipality police services in the province.

Saskatchewan Public Complaints Commission

April 1, 2006 to March 31, 2007

Police Service	Number of Complaint Files
Regina	49
Saskatoon	81
Moose Jaw	1
Prince Albert	5
Estevan	4
Weyburn	1
Caronport	0
Dalmeny	0
File Hills	3
Luseland	0
Stoughton	0
R.M. of Corman Park	2
R.M. of Vanscoy	0
R.M. of Wilton	0
Total Number of Files	146

Statistical Data

Findings of Complaints Received

April 1, 2006 to March 31, 2007

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/ Other	Not Yet Completed	Total
Regina	0	0	14	8	28	50
Saskatoon	0	1	4	17	59	81
Moose Jaw	0	0	0	1	0	1
Prince Albert	0	0	1	0	4	5
Estevan	0	0	0	2	2	4
Weyburn	0	0	0	1	0	1
Caronport	0	0	0	0	0	0
Dalmeny	0	0	0	0	0	0
File Hills	0	0	0	0	3	3
Luseland	0	0	0	0	0	0
Stoughton	0	0	0	0	0	0
R. M. Corman Park	0	0	0	0	2	2
R. M. Vanscoy	0	0	0	0	0	0
R. M. Wilton	0	0	0	0	0	0
Total	0	1	19	29	98	147*

* While 146 complaints were filed – some had multiple complaints and findings

Definition of Complaint Findings

Substantiated – supported by evidence

Unsubstantiated – allegation cannot be proved or disproved

Unfounded – unsupported by evidence

Classification of Substantiated/Unsubstantiated Complaints

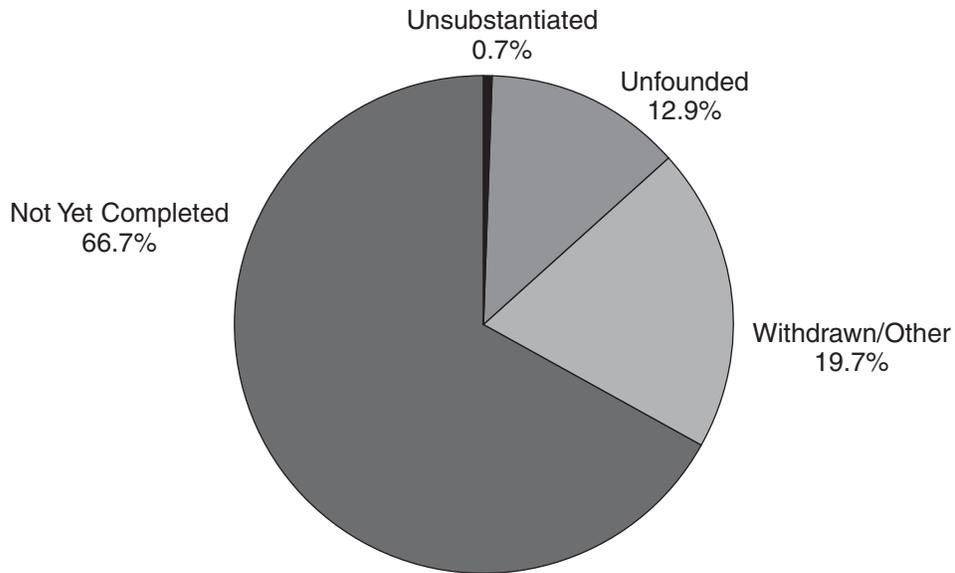
April 1, 2006 to March 31, 2007

Police Service	Substantiated	Description	Unsubstantiated	Description
Saskatoon			1	37E

37E Abuse of Authority

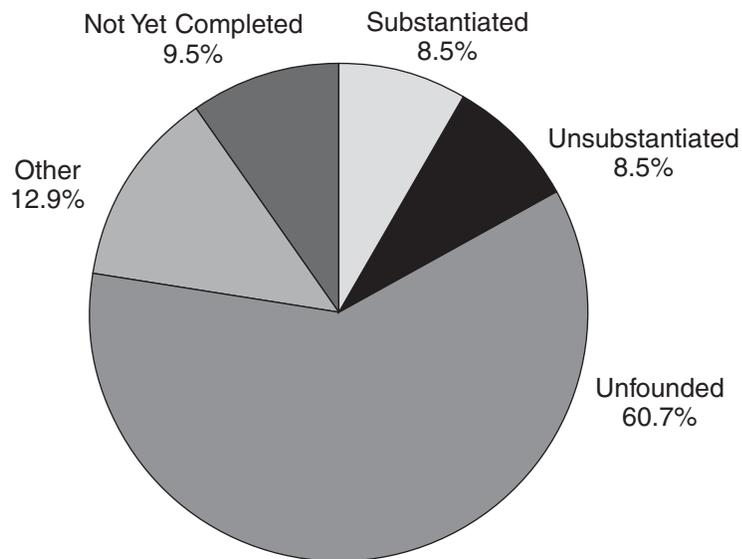
Complaint Findings

April 1, 2006 to March 31, 2007

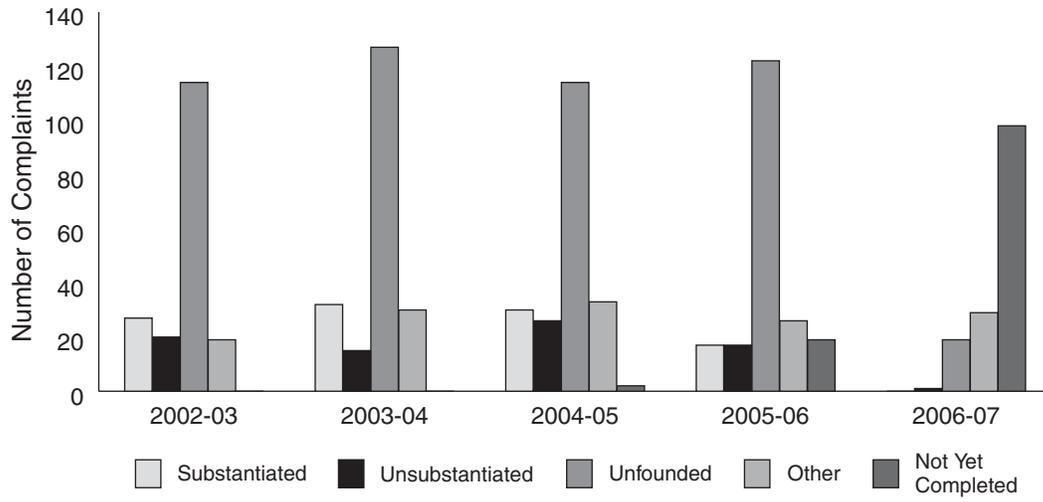


Revised Complaint Findings

April 1, 2005 to March 31, 2006



Five Year Comparative Statistics



Saskatchewan Public Complaints Commission

Types of Complaints Received

April 1, 2006 to March 31, 2007

Type of Complaint	Total	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	Stoughton	File Hills	Corman Park	Vanscoy	Wilton
Discreditable Conduct	6	3	1	1	1	0	0	0	0	0	0	0	0	0	0
Neglect of Duty	16	9	7	0	0	0	0	0	0	0	0	0	0	0	0
Insubordination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	13	4	8	0	0	0	1	0	0	0	0	0	0	0	0
Improper Use of Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	12	4	6	0	0	2	0	0	0	0	0	0	0	0	0
Not Yet Completed	98	28	59	0	4	2	0	0	0	0	0	3	2	0	0

Case Summaries

The following case summaries are a cross-section of the types of complaints received. The increased use of informal resolutions by the various police services is gratifying to note, particularly when complaints are based on a lack of communication, or a lack of understanding in terms of police procedures and their enforcement/investigational duties and responsibilities.

* * * * *

Mr. A complained that he was a victim of racial profiling and that he was unlawfully detained and inappropriately treated by the police due to his race. He stated that he drove down the alley behind his home and noticed police activity at a neighbourhood residence. He continued down the alley toward his garage when he was suddenly surrounded by police officers with their weapons drawn. He was ordered out of his vehicle, made to lay on the ground, handcuffed, and his vehicle was searched for weapons and drugs. The officers released him within minutes when they confirmed his identity and realized he was not connected to the police activity at the nearby residence. Mr. A was driving a vehicle that would be considered to be in the luxury class of automobiles.

In his initial letter of complaint, Mr. A did acknowledge that when the police confirmed his identity, the senior police officer present identified himself and provided an explanation of why he was stopped. The officer apologized for the inconvenience caused to Mr. A.

The circumstances were that the police officers were executing a search warrant at a nearby residence. The officers had specific information concerning the illicit sale of drugs from this residence and information concerning other individuals involved in the drug trade who were, or could reasonably be, associated to this home. Contained within the police information was the description of a black male, known to be active in the transportation of drugs and the enforcement of the collection of drug debt. There was a reasonable connection to the same type of luxury automobile owned by Mr. A. While the police were conducting the search, they received information that a shipment of drugs was currently on its way to this residence. Two police officers left the residence to move police vehicles away from the residence.

It was at this unfortunate moment that Mr. A happened to be driving through the back alley. The two officers observed that Mr. A looked at them, then accelerated moderately down the alley and stopped behind a residential garage. The senior officer was notified and directed the two officers to detain the driver of the vehicle. The officers approached and detained Mr. A in the manner described by Mr. A and in a manner consistent with training provided to the police dealing with persons suspected of being high-risk offenders.

The police officers involved with the incident were extremely forthright with the explanation for their actions and accepted full responsibility for the inconvenience caused to Mr. A. The senior officer who dealt with Mr. A immediately informed his superiors. Mr. A was contacted by the Deputy Chief of Police who apologized for the inconvenience caused and assured Mr. A the matter would be thoroughly reviewed. Within a matter of days, a public apology for the inconvenience was made to Mr. A by the community's mayor, who was also the Chairperson of the Board of Police Commissioners. Senior police managers met directly with Mr. A and provided an in-depth explanation; however, Mr. A maintained he was the subject of racial profiling.

My review determined the officers had sufficient cause to detain Mr. A. Individuals involved in the illicit sale of drugs are frequently known for their violent behaviour toward the police. The officers were correct to exercise caution for their personal safety in this situation. I found the officers released Mr. A immediately upon establishing that he was not connected to their ongoing investigation.

I found it quite beneficial, when I reviewed Mr. A's assertion, to refer to the definition of racial profiling as described by the Ontario Human Rights Commission: "Any action undertaken for reasons of safety, security or public protection that relies on stereotypes about race, colour, ethnicity, ancestry, religion, or place of origin rather than on reasonable suspicion, to single out an individual for greater scrutiny or different treatment." The Ontario Human Rights Commission has noted that profiling can occur because of a combination of the above factors and that age and/or gender can influence the experience of profiling.

However, the Ontario Human Rights Commission emphasized that racial profiling differs from criminal profiling which is not based on stereotypes, but rather relies on actual behaviour or on the information about suspected activity by someone who meets the description of a specific individual. Criminal profiling is not the same as racial profiling, since the former is based on objective evidence of wrongful behaviour, while racial profiling is based on stereotypical assumptions.

I found the police acted on reasonable suspicion. They possessed information about suspected activity by someone who met the description of a specific individual. The police based their detention on objective evidence of wrongful behaviour rather than stereotypical assumptions. In other words, they did not detain Mr. A solely because he was a black male person. They detained Mr. A because he met the description of a suspect who had drug connections to the house they were searching.

The actions of the police were, without any doubt, very traumatic to Mr. A as he knew that he was not the person the police were looking for. The police, on the other hand, formulated reasonable grounds to believe that Mr. A was the suspect they were looking for. The police officers, at every level, expressed their apologies and demonstrated they were empathic to Mr. A's situation. The remorse demonstrated by the police was much more indicative of an honest mistake than that of racial profiling. The police were straightforward with their information and provided rationale as to why they took the actions they did. There was absolutely no evidence of any cover-up which would lead one to believe that there was malice directed toward Mr. A. Unfortunately, he was caught in the middle of a set of circumstances that, understandably, deeply offended him.

* * * * *

Mr. S stated that he had four incidents involving his former girlfriend that he had reported to the police. He complained that the police did not believe his explanations and always sided with his girlfriend. In one instance, the police abused their authority by inappropriately charging him with a criminal offence. Mr. S complained that the police were neglectful in the performance of their duties by not advising him of the progress of the investigations. He was not informed when his girlfriend was arrested or charged.

The position of the police service was that they had acted appropriately and recommended to the Commission that the matter be terminated. The police submitted their reports in support of this recommendation. My review of the police reports determined that the police acted appropriately. Charges were brought before the courts against Mr. S and his former girlfriend, where the charges were supported by the evidence obtained during the course of the investigations. As I advised Mr. S, it is not the role of the police to decide guilt or innocence; this becomes the responsibility of the court.

The PCC generally agreed that the police conducted proper investigations and directed that no further investigation of Mr. S's complaint was required. However, the PCC noted that the police files did not document efforts made to notify Mr. S of the progress of the investigations as suggested by departmental policy.

The PCC recommended a renewed emphasis be placed on the police service's policy in relation to notifying complainants. There was no policy to direct that complainants be advised during the course of an investigation. The policy stated in part: "The assigned investigator will make further contact as necessary, as well as when the file is concluded."

Following a review of the PCC's recommendation, the Chief of Police advised that the policy had been reviewed and amended. It now reads in part: "The assigned investigator will make further contact regarding substantial developments, i.e., arrest, as well as when the file is concluded."

* * * * *

Ms. S complained about the conduct of a police officer who was off duty at the time of the alleged incident. Although Ms. S knew the individual to be a constable with the police service, the constable did not self-identify as a police officer. Additional information was requested to clarify whether the constable took any action that would be normally expected or required from a police officer to determine if the public complaint provisions of *The Police Act, 1990*, would apply.

The incident took place at an arena following a hockey game. Ms. S was approached by the constable and questioned about some unruly behaviour that Ms. S may have directed toward

some visiting hockey fans. Ms. S alleged the officer assaulted her when the officer took hold of her arm. She wanted the officer charged accordingly.

The Chief of Police advised that the officer was interviewed and that Ms. S was told the constable was a police officer and, therefore, the officer's conduct was subject to the public complaint process. The events as described by the officer differed from the initial information supplied by Ms. S. Further inquiries found that the officer's account was supported by civilian witnesses. Ms. S was re-interviewed due to the inconsistencies. The interview was conducted in the presence of Ms. S's parents, as she is 14 years of age. During the interview, Ms. S stated her initial complaint was not entirely accurate and she felt pressured to make the complaint against the officer, although she would not elaborate or provide any additional information. Ms. S requested that no further action be taken on her complaint.

The Chief of Police has reviewed the conduct of the constable and has recommended that the conduct was appropriate given the circumstances. The Chief of Police has further recommended that no further action should be taken against Ms. S due to her age and she made the admission, in front of her parents, her original complaint was not entirely accurate.

I reviewed the additional information requested and agreed with the Chief of Police's submission. The officer's conduct was not inappropriate. I advised the parents of Ms. S that the PCC takes allegations of police misconduct very seriously. A great deal of time and effort is required to ensure that all complaints are treated with thoroughness, fairness and impartiality. To have proper balance, it is also essential that those individuals making allegations of misconduct are being forthright by providing accurate information.

Upon further consideration, I agreed with the Chief's recommendation that Ms. S's complaint be shown as withdrawn.

* * * * *

Ms. M contacted the PCC to report that she had been sexually assaulted by a police officer who was on duty at the time of the incidents. This was her first effort to report the circumstances and an initial review determined the matter should be referred to the police service having jurisdiction. The subject police officer was not a member of the police service conducting the criminal investigation. The public complaint investigation was held in abeyance pending the completion of the criminal investigation. During this stage of the investigation, another individual, Ms. B, came forward with similar allegations. Both victims were known to each other and were involved with the police officer over the same time frame. The criminal investigation was reviewed by Public Prosecutions, Saskatchewan Justice, who determined that no criminal charges would proceed. This decision is the purview of Public Prosecutions and not subject to further comment by the PCC.

There was sufficient information available to receive the allegations as a public complaint and this investigation was conducted by a PCC investigator. A review of the information determined there were nine serious allegations of misconduct as defined under the Discipline Code provisions of *The Municipal Police Discipline Regulations, 1991*. All allegations were considered to be major breaches of the Discipline Code and included: five allegations of discreditable conduct; two of corrupt practice; one of improper disclosure of information; and one of neglect of duty.

The circumstances of the allegations included the following while in uniform and on duty: utter threats; stalking; harassment; engaged in group sexual activity; sexual assault; improper release of police information; use of a police vehicle to transport women from a bar to a private residence for sexual activity and then to return the women home; misuse of police cellular phone; and routinely absent without authorization from his area of duty to conduct personal visits.

The officer was served notice of the public complaint following the completion of the criminal investigation. The officer subsequently tendered his resignation to be effective approximately one month after the date indicated on his letter of resignation. Shortly thereafter, the officer was

Budget Allocation

served further notice, as required by *The Police Act, 1990*, that the public complaint investigation was being expanded beyond the initial allegations of discreditable conduct. I determined that the severity of the allegations required the investigation to be completed, regardless of the officer's pending resignation. S.45(4) of *The Police Act, 1990* states: "If an investigation has been directed pursuant to subsection (3) (Directed by PCC) with respect to a complaint alleging actions by a member that may constitute an offence pursuant to an Act or an Act of Parliament of Canada, that the investigation may continue to its completion regardless of whether or not the member who is subject of the investigation remains a member."

For the purposes of this summary, there is no need to provide greater detail on the specifics and sometimes lurid circumstances surrounding each allegation, other than to comment that the investigation was very thorough. I am fully satisfied each allegation was supported through the information provided by the various witnesses, and in some instances, verified by local police records.

On the surface, it may appear that my findings are at odds with the recommendation of Public Prosecutions to not proceed with criminal charges. That is not the case. The standard of proof required by *The Police Act, 1990* is based upon the balance of probabilities and not the higher standard of beyond a reasonable doubt for criminal matters.

The officer's resignation, having taken full effect prior to the completion of the public complaint investigation, negates the application of *The Municipal Police Discipline Regulations, 1991*. Had the officer remained on active duty, the appropriate disciplinary charges would have proceeded.

The following figures show the approved budget for the 2006-07 fiscal year.

Approved Budget	\$ 594,000
Grant – F.S.I.N.,	\$ 150,000
Special Investigations Unit	
Salaries, Honorariums, Per Diems	316,757
Operating Expenses	<u>110,228</u>
	\$ 576,985