2.34 Royal Newfoundland Constabulary Firearms Review

Introduction

The Royal Newfoundland Constabulary (RNC) was established in 1871. The mission of the RNC is to work with communities in Newfoundland and Labrador to foster safe communities by providing quality, professional, accessible, timely and fair police services to all. The RNC is responsible for policing three regions of the Province - the Northeast Avalon, Corner Brook and Labrador West. The population of these regions is approximately 201,000 (2001 census). In providing these services, the RNC currently employs 308 police members and 84 civilian staff.

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC and report its findings to the House of Assembly by 31 March 1998. The Select Committee conducted research, viewed presentations by interested parties and held public hearings. The Committee tabled its report to the House of Assembly on 31 March 1998. The report recommended that the arming policy of the RNC be amended to permit members on operational duty to wear sidearms as part of their regular uniform.

The Committee further recommended that:

- the Chief of Police have discretion in the administration of the policy including discretion in assigning officers to operational duty;
- police officers' sidearms be stored in a secure locker at the station when they are not on duty;
- a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly; and
- the arming policy be reviewed at the end of five years by a Select Committee of the House of Assembly (i.e. 31 March 2003).

As a result of the recommendations of the Select Committee on the Arming Policy of the RNC, members on operational duty were permitted to wear sidearms commencing 14 June 1998. To provide specific direction to members on the control and usage of firearms, a Firearms Policy was also issued at this time. Figure 1 outlines the number of firearms maintained by the RNC as of October 2004.

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Figure 1

Royal Newfoundland Constabulary
Number of Firearms
October 2004

	Northeast Avalon	Corner Brook	Labrador West	Total
Handguns	337	48	24	**409**
Shotguns	40	6	8	**54**
Rifles	101	16	6	**123**
Total	**478**	**70**	**38**	**586**

Source: RNC Inventory System

Scope and Objectives

One of the recommendations of the Select Committee on the Arming Policy of the Royal Newfoundland Constabulary was that a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly. To comply with this recommendation, the Chief of Police has again requested my Office to conduct an annual audit of firearms in 2004. In November 2004 we completed our sixth annual review. The objectives of the review were to:

- Determine whether the RNC has adequate systems in place to record, monitor and secure its firearms inventory. This included determining, as recommended by the Select Committee, whether sidearms are stored in a secure locker at the station when members are not on duty.
- Determine whether the Firearms Policy covered all relevant issues pertaining to the use and control of firearms.
- Determine whether the RNC has adequate procedures to monitor members' compliance with the Firearms Policy and where appropriate, test compliance with this Policy.

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Conclusions

Control over Firearms and Ammunition

In 1998, members of the Royal Newfoundland Constabulary were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is our sixth annual firearms audit.

Although the RNC has adequate systems in place to record, monitor and secure its firearms, each year we identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the RNC continue efforts to improve compliance with established policies and procedures.

Our review identified a number of issues which should be addressed. For example:

- The firearms and ammunition inventory system is not accurate because not all required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are made on a timely basis. We found 9 firearms which were in a location other than that recorded in the system and for 3 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In particular 23,484 rounds of 38 calibre training ammunition could not be accounted for.

- Members are not always complying with the Firearms Policy. Information identified during our review and information obtained from inspections performed by the RNC indicated a total of 46 infractions during 2003-04. Infractions included: 2 loaded firearms stored in lockers, 12 instances where the amount of ammunition in the lockers did not agree with the inventory system, 23 instances where pepper spray was not stored in the member's locker and 9 instances where firearm storage lockers were empty; however, there was no indication on the final resolution as to whether the member may have been on duty.

  Furthermore, we found that not all infractions are being referred to the RNC's Professional Standards Bureau for investigation as required.

- The required monthly inspections of firearms storage lockers are not always performed. No monthly inspections were performed in St. John's in 2004 for the months of July, August, and September.

- The RNC is not complying with its policy for use of force training as 185 members have not re-qualified in the use of firearms (module 1) in the required one year time frame (7 of the 185 have not received this training since 2002) and 7 members have still not completed module 4 training which was required to have been provided in 2003. Furthermore, it is unlikely, based on the prior year's performance, that all of the 123 members still requiring module 2 training will receive this training by 31 December 2004 as required.

  Furthermore, we determined that information in the training database is neither complete nor accurate. Of particular concern is that, as the system is used to determine what use of force training has already been provided and what training is left to be provided, inaccuracies may result in a situation where a member may not receive all of the necessary use of force training.

- Although the Use of Force Review Board is required to review all instances of use of force, the Board has not met since October 2002. Furthermore, although all Board members used to receive copies of the use of force reports, this practice was discontinued after May 2002. Instead, only one member of the Board, the Firearms and Use of Force Instructor, receives the reports. There were 743 use of force incidents reported between 1 September 2003 and 30 September 2004. Of these 743 incidents, 52 related to firearms, 43 of which involved drawing and/or pointing a firearm at a person while the remaining 9 involved the discharge of a firearm regarding animals.

Select Committee of the House of Assembly

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC. The Committee tabled its report to the House of Assembly on 31 March 1998 and included the recommendation that the arming policy be reviewed at the end of five years, i.e. March 2003.

As at November 2004, no Select Committee had been established to review the arming policy of the RNC.

Findings and Recommendation

Inventory Management

The RNC has developed inventory control procedures to provide for the proper management of its firearms. These policies include such areas as the assignment of responsibility for control of weapons, the maintenance of a perpetual inventory system, the requirement for annual inventory counts and reports thereon, and procedures to update the inventory system for acquisitions, transfers, dispositions and any required adjustments.

An internal review conducted by the RNC's Quality Performance Section in March 2004 indicated differences between the count of ammunition and firearm assignments to what was recorded in the RNC inventory system. Our review also identified discrepancies between firearm assignment and ammunition inventory. As a result, although the RNC has developed controls in this area, they are not always followed. Our review indicated the following issues:

- Although the inventory system is a perpetual system (i.e. it is supposed to be continually updated), we determined that required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are not always made on a timely basis. Therefore, information on firearms and ammunition inventory is not always accurate and up to date. For example, during firearm locker inspections and an inventory count that we conducted in October 2004, we found that, although nine firearms had been re-assigned, the re-assignments had not been entered in the inventory system.

- In the internal review conducted by the RNC's Quality Performance Section in March 2004, it was noted that changes related to firearms and ammunition (e.g. re-assignments, purchases, disposals and usage) had not been entered into the inventory system since October 2003. Officials of the RNC have indicated that entries were not made to this system until September 2004. Timely input of additions, deletions and transfers are fundamental to maintaining a perpetual inventory system.

- We tested the accuracy of the inventory listings for firearms and ammunition in St. John's by selecting all physical inventory items at RNC offices and comparing them to the inventory system. We also selected almost all of the firearms from the inventory system to ensure that the firearm was located where listed in the inventory system. Our review indicated that the inventory system was not accurate as follows:

- There was one instance where a firearm recorded in the inventory system could not be located. It was subsequently determined that this firearm did not exist and that the serial number had been entered in the inventory system in error. Although this instance was also reported in our 2002 and 2003 report, the serial number for this firearm was never removed from the inventory listing.

- There was one instance where the serial number on the firearm had not been entered correctly in the inventory system.

- In one instance, a firearm serial number was not on the inventory listing; however, there were two entries for a similar number. It appears that the number was deleted accidentally and then the incorrect number re-entered.

- There were nine instances where firearms were located in a different physical location than recorded in the system. In two of the nine instances, the RNC was able to account for the differences by providing copies of input forms which had yet to be posted in the inventory system. In these two instances, although a firearm in the shooting range had been switched with a firearm in the arsenal, the inventory system had not been updated, in one instance a firearm was assigned to a member but listed as being out for repairs, in one instance a firearm was located with the Tactics and Rescue Unit but listed as being out for repairs, in one instance a firearm was listed as being assigned to the arsenal but was actually located with the Tactics and Rescue Unit and in four instances members had a firearm other than the one issued to them in their locker.

- There are 12 types of ammunition in the inventory system and we reviewed all 12 types at St. John's. We found that for 3 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In particular 23,484 rounds of 38 calibre training ammunition could not be accounted for. Furthermore, we found 4,000 rounds of 9mm operational ammunition and 250 rounds of 9mm training ammunition in the arsenal; however, it was not entered into the inventory system.

- We also noted during our review that many of the firearm assignments in the inventory system for members located in Corner Brook and Labrador West were inaccurate when compared to information supplied by these two detachments. Of the 70 firearms located in Corner Brook, we found that in 26 instances the assignment indicated in the inventory system did not agree to the information supplied by the Corner Brook detachment. Of the 38 firearms located at Labrador West, we found that in 5 instances the assignment indicated in the inventory system did not agree to the information supplied by the Labrador West detachment.

Firearms Policy

The RNC has a Firearms Policy which provides specific direction to its members on the control and usage of firearms. When the policy was first established, we compared it to firearms policies in other Canadian police jurisdictions (Halifax, Toronto Metro, Winnipeg, Brandon, Edmonton, Calgary, Vancouver, and New Westminster). We reviewed procedures used by the RNC to monitor members' compliance with the Firearms Policy which include inspections of firearms and firearms storage areas, review of reports prepared by members who have drawn firearms, and internal quality reviews over firearms. Where appropriate, we also tested compliance with the Firearms Policy. We also checked for compliance with the required use of force training. Our review of these areas indicated the following:

1. Adequacy of Policy

Our review indicated that, in general, the Firearms Policy of the RNC is comparable to that of the other Canadian police jurisdictions and covered similar issues pertaining to the use and control of firearms.

2. Compliance with Policy

A review of documentation maintained by the RNC in monitoring compliance with the Firearms Policy, discussions with RNC officials and testing of compliance with this Policy by my Office indicated that the RNC is not monitoring for compliance in accordance with the requirements of their Firearms Policy and members are not always complying with the policy and the required training is not being provided. For example:

- The Firearms Policy requires unloaded firearms to be secured in the members' personal firearms storage lockers at RNC facilities or in other approved locations when the member is not on duty. To monitor compliance with this policy, the Inspections Officer or their designate is required to conduct a monthly inspection of the firearms storage lockers. Any infractions with this policy are reported to the District Inspectors or the Divisional Commanders to follow up with the members.

  A review of these monthly inspection reports covering the period November 2003 to October 2004, indicated 32 infractions such as: ammunition not stored in the locker even though the member was not on duty (4), missing pepper spray (17), and stored firearms which were loaded (2). The monthly inspection reports also noted instances (9) where firearm storage lockers were empty; however, there was no indication on the final resolution as to whether the member may have been on duty.

  We were informed that certain infractions identified by the Inspections Officer are required to be referred to the RNC Professional Standards Bureau for investigation. Such infractions include firearms stored loaded, missing pepper spray or firearms stored someplace other than the firearms locker. Ammunition infractions are not referred to the RNC Professional Standards Bureau. Therefore, of the 32 infractions identified, 28 were required to be referred. However, only 12 of the 28 infractions were referred. Of the 16 infractions which were not referred, 9 related to the empty firearms storage lockers while the remaining 7 related to missing pepper spray.

  As part of our review, we attended the October 2004 monthly inspection for the St. John's detachment including its district offices in Mount Pearl and St. John's East. During this inspection, we observed 14 infractions of the Firearms Policy. For example:

  - The amount of ammunition stored in the lockers of 8 members did not agree to the amount of ammunition assigned to the members as recorded in the inventory system. In 5 of the 8 instances ammunition was missing, in 1 instance extra ammunition was in the locker, while in the remaining 2 instances the members had ammunition in their locker even though they were on duty and were required to be carrying all 18 rounds of ammunition issued. In addition, we noted 6 rounds of ammunition in an unassigned locker in St. John’s. In the prior month this

locker was assigned to a member who has since been transferred to the Mt. Pearl detachment. When we completed our inspection in Mt. Pearl this member was missing 6 rounds.

- There were 6 members who did not have their pepper spray stored in the locker.

- During our inspection we noted 21 members who were on duty but not armed. Of the 21, 20 were members of the Criminal Investigation Division while the remaining member was in the Patrol Division. Our review indicated that of the 25 members working in the Criminal Investigation Division that shift, only 5 were armed. The RNC Firearms Policy requires that *all members assigned to front line operational duties, as identified by the Chief of Police, will wear service firearms while on duty.* Members of the Criminal Investigation Division are identified as front line operational.

- In conducting the monthly firearm locker inspections, the RNC uses firearm locker assignment listings which include locker number, member's name, firearm serial number, rounds of ammunition issued and pepper spray serial number to match contents to what is assigned. During the inspections we attended in October 2004, we identified 15 instances in St. John's where the information contained on the locker assignment listings was not accurate. These instances included lockers indicated as vacant which were actually in use and the wrong firearm indicated as being issued to the member. This could result in an infraction being cited for the wrong member and also adds confusion when completing the monthly locker inspection.

- RNC policy requires that firearm storage lockers be inspected on a monthly basis. Our review indicated that the monthly inspections were not performed in St. John's in 2004 for the months of July, August, and September. As well, in March 2004 and June 2004, there was no indication that the lockers in the Tactics and Rescue Unit's Room were included in these inspections.

- RNC policy requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer and that a report be provided to the Chief of Police. Reports were issued in December 2003 and April 2004, with both covering inspections completed during 2003. While officials indicate that an inspection

was performed covering the period January to June 2004, no report had been prepared as at November 2004. We also note that:

- In our 2003 report, we indicated that as of November 2003, the report covering inspections completed during the summer of 2003 had not been submitted to the Chief of Police. This report was finally submitted in December 2003. Furthermore, the inspection conducted in December 2003 was not provided to the Chief of Police until April 2004.

- The report prepared for the December 2003 inspection indicated there were 282 police members subject to inspection; however, only 247 inspections were completed. Furthermore, none of the inspection forms were available for us to review.

- Use of force training consists of a basic one week use of force program plus four modules which are to be offered on a continual basis. Module 1 covers firearms, module 2 covers defensive tactics/handcuffing techniques/baton, module 3 covers tactical room entries/weapons retention and module 4 involves a lecture on the use of force continuum. Use of Force Policy requires that members complete module 1 annually and complete the remaining three modules on a cyclical basis over a three year period. During 2004, all 308 current members were required to complete modules 1 and 2 unless exempted due to leave or a valid medical reason.

  The RNC maintains a database to track training in use of force. We reviewed the information contained in this database as of 5 November 2004. Our review indicated the following:

  - We tested the accuracy of the inputs into this system and determined that the information was neither complete nor accurate. For example, in 5 instances the date for training was entered incorrectly, in 18 instances training was completed but not entered into the system and in 1 instance a training date was entered in the system even though there was no form to indicate the member had received the training. Errors in the system are of particular concern because the system is used to determine what use of force training has been provided and what training remains to be provided. Therefore, a member may not receive all of the necessary use of force training.

- This database contained the names of 313 individuals even though 7 had left the RNC during the year, leaving 306 current members. However, there are 308 members on the current seniority list. Two of these, hired in January 2004 and July 2004, are not on the training list and there is no indication that either has ever received any training at the RNC.

- 19 of the 306 remaining members in the database were not required to receive any use of force training because of medical reasons or because they were on some type of leave. However, per the inventory system, 5 of these 19 members have firearms issued to them. Of the remaining 287 members, 76 have completed module 1 in the required time frame, 26 are not yet due for training and the remaining 185 did not receive the required firearms training in the required one year time frame. Of the 185, there are 7 members who have not received module 1 training since 2002.

- 164 of the 287 members had completed module 2 of the use of force training as of 5 November 2004. To comply with RNC policy, the remaining 123 members will have to receive module 2 training by 31 December 2004.

- During our 2003 review, we identified 78 members who had not received the module 4 training which was required to be completed by the end of 2003. As of 5 November 2004, 30 members completed module 4 before the end of 2003, 39 completed the module during 2004, 2 members have been excused for medical reasons while the remaining 7 have not yet completed module 4 training.

As a result, the RNC is not complying with its policy for the use of force training as 185 members have not re-qualified in the use of firearms (module 1) in the required one year time frame and 7 members have still not completed module 4 training which was required to have been provided in 2003. Furthermore, it is unlikely, based on the prior year's performance, that all of the 123 members will receive the required module 2 training by 31 December 2004.

- The Firearms Policy requires that one 12 gauge shotgun be contained in each of the six supervisory vehicles used by a Non-Commissioned Officer (Sergeant in charge of shift) and the Operational Supervisor (Staff/Sergeant in charge of a shift) for use in responding to certain threats. These firearms are to be removed at the end of each shift or during prolonged absences from the vehicle. A log book has been provided to record the logging out and in of these shotguns.

  Our review of these log books indicated that there are instances where supervisors sign out a shotgun but do not sign the shotgun back in at the end of the shift. In addition, we identified instances where no shotgun was signed out on certain days even though the supervisory vehicles are used on a daily basis. These gaps would indicate that either the supervisor is not out on patrol, is out on patrol without a shotgun or out on patrol with a shotgun which has not been signed out. Areport prepared by the Quality Performance Section in March 2004 noted similar issues.

- The Firearms Policy requires that members be fully versed in the Use of Force Guidelines as outlined in the Use of Force Policy. These Guidelines provide guidance with respect to when it is appropriate to use force and the level of force required to be used in various situations. The Use of Force Policy requires that any time a member uses any type of force from simple restraint to discharging a firearm, a Use of Force Report must be filed.

  RNC Policy requires that these reports be reviewed by the member's immediate supervisor and the District Inspectors and/or Divisional Commanders, and submitted to the Chief of Police. Under the Use of Force Policy, the Use of Force Review Board should also receive a copy of the report. This Board was established by the RNC to monitor the procedures, practices and training relating to the use of force and to review all incidents of use of force.

  There were 743 use of force incidents reported between 1 September 2003 and 30 September 2004. Of these 743 incidents, 52 related to firearms, 43 of which involved drawing and/or pointing a firearm at a person while the remaining 9 involved the discharge of a firearm regarding animals.

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Our review of this area indicated the following:

- Although the Use of Force Review Board is required to review all instances of use of force, the Board has not met since October 2002. Furthermore, although all Board members used to receive copies of the use of force reports, this practice was discontinued after May 2002. Instead, only one member of the Board, the Firearms and Use of Force Instructor, receives the reports.

- There were 12 Use of Force Reports which were not signed as evidence of review by the District Inspector. Furthermore, although a new form was introduced in May 2001, to include information on such things as the use of handcuffs and also provided a place for signature approval, we found 145 instances where the old form was used and therefore the required information was not available.

  Instances of force may also be reviewed by either the Public Complaints Commission or the RNC's Professional Standards Bureau upon the receipt of a complaint from a member or the general public. We were informed that there were no complaints received by the Public Complaints Commission regarding use of firearms by members during the period 1 November 2003 to 15 November 2004. However, there were 15 internal complaints received by the Professional Standards Bureau of the RNC during the period 20 November 2003 to 15 November 2004, 12 of which resulted from firearm locker inspections.

  Of these 12 complaints, 11 were followed up and action was taken against the members. Action taken by the RNC included counselling as well as verbal and written warnings. The remaining incident did not require any action. The remaining 3 of the 15 complaints involved the discharge of a firearm for the purpose of destroying an animal, an accidental discharge of a firearm, and an incident of a drawn firearm. Of these 3 instances, 2 have been concluded with no action required while the incident involving the accidental discharge of the firearm is still ongoing.

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Select Committee of the House of Assembly

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Recommendation

The Royal Newfoundland Constabulary should comply with established policy.

Royal Newfoundland Constabulary's Response

The Royal Newfoundland Constabulary thanks the Auditor General for agreeing to our request to conduct the 2004 audit of our service firearms and associated policies.

Once again, there were no complaints received by the Royal Newfoundland Constabulary Public Complaints Commission regarding use of police firearms, nor were there any court actions resulting from the use of a police weapon.

The observations noted in the report can be grouped under the following three categories:

Inventory Management

This issue has by far been the most difficult to contend with. The lack of a dedicated support staff person for our Use of Force Unit has resulted in a disjointed and inconsistent approach to inventory management. Past attempts to rectify this problem by attaching the data entry responsibilities to support staff in other parts of the organization have at best been short term solutions. We have traced apparent inventory loss or overage to data entry errors, for example an entry error can increase our ammunition count from 2,500 rounds to 25,000 by the insertion of an additional zero on the inventory database.

As a result of the present findings of the Auditor General, we have initiated a positive reconciliation of all firearms and ammunition shipping waybills to enable a corresponding corrective adjustment to the inventory database to be made. In addition we have identified a support staff position in our Training Section to maintain the inventory database. While this continues

to be an add on duty it will be a permanent arrangement thus enabling quality assurance protocols to be permanent as well.

Firearms Policy

The RNC conducts continuous inspections, quality reviews and internal audits of its firearm and where non-compliance of policy is identified steps are taken up to and including disciplinary action. As a living document, the RNC's policy and procedures manual is in a constant state of revision. As more efficient and/or effective means of completing tasks are developed, policies are drafted to reflect these improvements. The challenge has been to coordinate the release of policy with the initiation of a new procedure. At times the policy statement lags behind the actual procedural change. For example the inspection of the storage lockers occurs on a quarterly basis yet the policy statement reflects a monthly inspection as noted by the auditor. The request for this policy amendment is awaiting action at our Planning Section.

Use of Force Training

The RNC has developed and delivers a Use of Force training program that equals or exceeds that offered by other police agencies. We have set very high standards for our members and take our responsibilities in this area extremely seriously.

Our annual recertification training was interrupted in November of 2003 due to an occupational health and safety concern at our shooting range. Excessive lead concentrations caused the closure of the range and required the purchase of a new type of training ammunition. The range was not operational again until May 2004, at which time training recommenced. It should be noted that as firearm training for police officers commences during recruit training and continues essentially for an entire career, a short duration interruption in training does not result in any decomposition of skills. It must be noted that the Auditor was aware of the closure of the range and its impact on our training schedule.

Conclusion

As always the RNC accepts the findings of the Auditor General and will take immediate steps to implement the recommendations contained in the audit report. The independence of the Auditor General and the comprehensiveness of his annual RNC firearms review continues to be of great assistance to us.

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