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## **THE PROTECTION OF WITNESSES**

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## **INTRODUCTION**

An effective witness protection program is an often essential tool in the fight against crime. Those who face investigation and criminal prosecution may attempt to frustrate the administration of justice through intimidation or by causing physical or other harm to witnesses or their relatives. In the absence of any program to protect them from reprisals, witnesses may not be forthcoming, and the justice system may be paralysed. At the same time, it cannot be overemphasised that implementing a witness protection scheme is an extremely demanding enterprise. Both the stakes and the risks are high. The success of major criminal investigations and prosecutions, the safety of the witnesses and police officers involved, as well as the integrity and effectiveness of the program itself all depend on the sound design and careful implementation of the scheme set in place.

The present document describes how witnesses are given long-term protection by the federal government in Canada. The term "witness" will be used here in a broad sense to refer to all the different types of individuals who collaborate with the justice system<sup>1</sup>.

## 1 POLICE

Before addressing the issue of witness protection, it will be useful to explain how police forces in Canada are organised. Policing is the responsibility of all three levels of government : federal, provincial or territorial, and municipal<sup>2</sup>. On the federal level, the Royal Canadian Mounted Police (RCMP) enforces across the country federal criminal law provisions other than those contained in the *Criminal Code*, such as the provisions related to drug offences or income tax fraud<sup>3</sup>. The RCMP also provides various national services, such as forensic laboratories and the Canadian Police Information Centre, which is a computerised system that provides all law enforcement agencies with information on crimes and criminals<sup>4</sup>. The RCMP is headed by a Commissioner who is accountable to the Minister responsible for the RCMP, the Solicitor General of Canada<sup>5</sup>.

*Criminal Code* provisions, and also provincial statutes, are enforced by provincial police, where such an agency exists. If a province has municipal police forces, such as the Toronto Police Service for the city of Toronto, it is their task to enforce the *Criminal Code*, provincial statutes and municipal by-laws within their boundaries<sup>6</sup>. The only provinces that have a provincial police force are Ontario, Quebec and the province of Newfoundland and Labrador<sup>7</sup>. The remaining provinces and territories contract with the federal government to have the RCMP perform the duties of a provincial police force. Thus, in addition to its ordinary duties, the RCMP enforces the *Criminal Code* in these provinces.

## **2 EVOLUTION OF THE FEDERAL PROTECTION PROGRAM**

### **FIRST PERIOD : 1984-1994**

In 1984, as a result of the priority given to the fight against major national and international drug smuggling rings<sup>8</sup>, the RCMP established a witness protection program to protect people collaborating with the justice system<sup>9</sup>. The highly secretive program was created by administrative measures and not by legislation. The RCMP was reluctant to disclose information on who was eligible for protection, the types of protection available or how the program was administered<sup>10</sup>. However, much of this information was contained in an internal RCMP operations manual<sup>11</sup>. It was felt the program had to be secretive to prevent sophisticated criminals from discovering the particular methods and procedures used by the RCMP and then using the information that could be gained from this knowledge to find and harm their accusers<sup>12</sup>. The RCMP built up a witness protection infrastructure composed of experienced officers and contacts across Canada to support witness relocations, to obtain identity changes and to provide the necessary documents to authenticate these changes<sup>13</sup>.

Importantly, provincial and municipal police forces also have the power to create and maintain witness protection programs. The Ontario Provincial Police, the Quebec Provincial Police and a number of municipal police forces have their own witness protection programs<sup>14</sup>. The RCMP witness protection program, however, was available to assist other police forces in relocating witnesses throughout Canada<sup>15</sup>. The provincial and municipal protection programs usually sought RCMP assistance in obtaining federal documents to facilitate name changes.

During the mid 1980s, most of the people who entered the RCMP witness protection program were in some way involved with major drug trafficking activities<sup>16</sup>. But the scope of witness protection grew afterwards as an increasing number of citizens needed protection because of their role in cases that had nothing to do with organised crime<sup>17</sup>. It is difficult to say how many people were in the program at any given time since the numbers fluctuated with the expiration of protection agree-

ments and the elimination of threats to safety<sup>18</sup>. By 1996, on average, the program relocated approximately 50 people per year<sup>19</sup>. This number grew closer to 60 or 70 in cases where family members of witnesses were also relocated<sup>20</sup>.

Though the program was successful insofar as no witness was lost while enrolled, some protected people complained that their expectations were not being met<sup>21</sup>. Misunderstandings arose as to the nature of the agreement between some protected individuals and the RCMP and what their responsibilities were<sup>22</sup>. Some program members were sufficiently angered that they were even willing to shed their anonymity to draw attention to their plight. The relatively high-profile cases of three people demonstrate the complexity of protecting witnesses and some of the shortcomings of the RCMP's administrative witness protection program.

### **Leonard Mitchell**

Leonard Mitchell, a legitimate and law-abiding business owner, was approached by organised crime in 1983 to help transport drugs to the eastern shores of Canada<sup>23</sup>. Mitchell immediately reported this encounter to the RCMP, who asked him to co-operate with the criminals to see what might develop<sup>24</sup>. Wanting to be a good, public-spirited citizen, Mitchell agreed to help the RCMP<sup>25</sup>. After 19 months of undercover work, Mitchell led the RCMP to a \$238 million<sup>26</sup> drug seizure in 1985<sup>27</sup> and immediately entered the witness protection program<sup>28</sup>. His family was relocated and promised new identities.

Although the RCMP had not put any terms of the arrangement in writing, Mitchell maintained that they promised he would be "duly compensated" for his efforts<sup>29</sup>. The matter of compensation was important to Mitchell, particularly in light of his personal sacrifices and having to leave his legitimate business behind, but the RCMP continued to delay consideration of the issue<sup>30</sup>. Further, the inability of the RCMP to promptly provide the Mitchells with new identity documents complicated their adjustment to a new life, since they could not seek employment without such documents<sup>31</sup>.

After a year and a half of RCMP delays, Mitchell's anger and frustration finally prompted him to hire a lawyer and appear on national television, in disguise, to explain his battle for the promised compensation<sup>32</sup>. Al-

though his physical identity was concealed, it was readily apparent that the man airing his complaints with the RCMP on national television was Leonard Mitchell<sup>33</sup>. Shortly after Mitchell's television appearance, the Solicitor General of Canada commented before the Standing Committee on Justice and the Solicitor General : "I certainly want to take the opportunity publicly to say that we admire what he did. He did indeed render a very valuable service to Canada, and we certainly commend citizens like him. (...) He should receive fair compensation, there is no doubt about that."<sup>34</sup> Some days later before the same committee the Commissioner of the RCMP commented on the alleged promise of compensation : "There were never any direct promises at all, because (...) those promises cannot be made at low levels in the organisation. We are trying to determine exactly what the extent of discussion may have been at those lower levels, though, that could have caused some false impressions."<sup>35</sup> On the fact that Mitchell went public, the Commissioner noted : "The publicity of a case like this is not useful. What is not being said is that in hundreds of other cases, there are no problems and the people are very well treated to the satisfaction of both parties, if you wish."<sup>36</sup> Due to all the publicity, Mitchell's family was once again relocated<sup>37</sup>. In early 1987, Mitchell finally reached a settlement with the RCMP<sup>38</sup>.

### **Douglas Jaworski**

Douglas Jaworski was a Canadian national living in Florida who, among other things, flew airplanes for the infamous Medellin cocaine cartel of Colombia. When the cartel asked him to help develop a non-stop flight route to Canada from Colombia, Jaworski decided to go to the RCMP<sup>39</sup>. Jaworski was having "some problems" in the shady world of drug cartels and was afraid they would multiply if he did not get out<sup>40</sup>. He decided the safest way out was by becoming an RCMP informant<sup>41</sup>. Jaworski feared the cartel would harm his parents if they discovered his role as an informant<sup>42</sup>. He claimed the RCMP was aware of his concern during the undercover operation and that they agreed to evaluate his parents' protection needs<sup>43</sup>.

After Jaworski helped the RCMP seize \$250 million worth of cocaine in Canada, he entered the witness protection program and expected the same protection to be provided to his parents. The RCMP, however, refused to provide any protection to Jaworski's parents<sup>44</sup>. Angered, Jaworski refused to testify in court unless his parents were protected, and he

sought to overturn an order forcing him to do so<sup>45</sup>. Jaworski argued that if he were forced to testify, it would lead to the death of his parents<sup>46</sup>. The provincial court refused to hear Jaworski's case on its merits, finding firstly that the order was validly issued and, secondly, that it could not order for the protection of Jaworski's parents because they were living outside of Canada at the time<sup>47</sup>. After the Court of Appeal declined to consider the case, Jaworski appealed to the Supreme Court of Canada. The Supreme Court concluded that Jaworski's parents found themselves outside of Canada partly because of the RCMP's decision not to offer them protection<sup>48</sup>. Given the special circumstances of the case, the Supreme Court ordered the provincial court to rehear Jaworski's application and determine whether his parents were at risk and whether they should be accorded RCMP protection<sup>49</sup>. The provincial court quickly reconsidered the matter and ordered that the RCMP protect Jaworski's parents<sup>50</sup>.

### **Marcella Glambeck**

Marcella Glambeck was an RCMP drug informant between 1985 and 1986 who entered the witness protection program in May 1986<sup>51</sup>. During her time in the program, Glambeck had grown disenchanted with the RCMP, complaining that they had breached a promise to pay her \$250,000 and relocate her to ensure her safety<sup>52</sup>.

After viewing Leonard Mitchell's complaints on national television, Glambeck sought written commitments from the RCMP concerning, among other things, her award for assisting the police<sup>53</sup>. In February 1987, the RCMP sent to Glambeck, for her signature, a Letter of Acknowledgement (LOA) outlining each party's responsibilities. Glambeck objected to some of the provisions in the LOA, particularly one permitting the RCMP to investigate and charge her with prior offences<sup>54</sup>. RCMP officers had promised Glambeck in 1985 that she would not be prosecuted for any drug offences committed up to that time, so long as she co-operated with the police<sup>55</sup>. A revised LOA to prevent Glambeck from being charged with pre-1985 drug offences was presented to her in March 1987<sup>56</sup>. Glambeck did not sign the revised document because she wanted her lawyer to review it first. In February 1988, Glambeck's lawyer and the RCMP reached an agreement in which she accepted a reward of \$40,000 but without prejudice to her right to pursue the alleged \$250,000<sup>57</sup>. Despite this result, Glambeck's discontent with the RCMP

grew. On 5 January 1989 she revealed her general location, though her appearance was concealed, by appearing on a local television network to air her complaints with the RCMP<sup>58</sup>. She also gave interviews to journalists and protested in front of the Parliament buildings in Ottawa with a paper bag on her head<sup>59</sup>.

In 1989 Glambeck filed a complaint against various RCMP officers with the RCMP Public Complaints Commission. The RCMP Public Complaints Commission's mandate is to provide civilian oversight of RCMP conduct so as to hold the RCMP accountable to the public<sup>60</sup>.

The Commission commenced a public hearing into Glambeck's complaint in 1991<sup>61</sup> and released its final report in 1993<sup>62</sup>. The Commission found that no promise was made to pay Glambeck \$250,000 and that the RCMP did not breach a promise to protect her<sup>63</sup>. The Commission, however, did find that it had become impossible to protect Glambeck because of her growing willingness to publicise her complaints. Though it ascribed no blame to either party on this issue, the Commission decided that both Glambeck and the RCMP had to share responsibility for this breakdown in the aims of the program<sup>64</sup>.

Even though the Commission dismissed Glambeck's complaint, it nonetheless concluded that something did indeed go "very wrong in this case"<sup>65</sup>. Recognising that the witness protection program was in its "infancy stage"<sup>66</sup> when Glambeck entered it and that much had since been done to improve it, the Commission outlined what it thought had gone wrong and made recommendations to help improve the program<sup>67</sup>. Among other things, the Commission noted that no one had prepared Glambeck for the transition from the interesting and demanding RCMP informant assignments in which she thrived to a position of relative anonymity upon entrance into the program<sup>68</sup>. The RCMP also concluded that an identity change was necessary for the Glambecks but that the force was unable to provide them with new identities promptly. Without provable identities, the Glambecks were unable to seek employment<sup>69</sup>. Additionally, Glambeck and her family were not briefed on cover stories, histories or ways to avoid drawing attention to themselves<sup>70</sup>. The Glambecks were also relocated twice. The suitability of these locations should have been assessed to determine if they met the social, business and employment needs of the Glambecks<sup>71</sup>. When the Glambecks were relocated, their new RCMP "handlers" were not briefed<sup>72</sup>. Among other

things, the Commission found that the officers who handled the Glambecks could have benefited from training with those who had been involved in police work of this kind<sup>73</sup>.

In response to the report, the RCMP Commissioner noted that, while future changes to the witness protection program might be desirable, their implementation would be limited by financial constraints. The RCMP Commissioner took the Public Complaints Commission's recommendations under advisement only.

## **SECOND PERIOD : 1994-1996**

In 1994, after some of his constituents complained of their experience with the RCMP program, Liberal Member of Parliament Tom Wappel introduced a Private Member's Bill in the House of Commons<sup>74</sup>. Bill C-206 sought to formalise the RCMP witness protection program and have it administered by the federal government<sup>75</sup>. The consensus was that there would be fewer misunderstandings if the program's fundamental principles, criteria and procedures were expressly set out in a law<sup>76</sup>.

Bill C-206 received a great deal of support in the House of Commons and passed second reading<sup>77</sup>. The Parliamentary Secretary to the Solicitor General acknowledged that the government must ensure the safety of those who assist police and prosecutors, but noted that issues such as the cost of the program and how it would be administered required further review before the government could propose legislation on the subject<sup>78</sup>.

On 23 March 1995 the Solicitor General introduced, on behalf of the Liberal government, Bill C-78, the *Witness Protection Program Act*, in the House of Commons<sup>79</sup>. The Solicitor General recognised the importance of Wappel's contribution in bringing the issue before the House of Commons<sup>80</sup>. Because the government's bill achieved the same goal of legislating the protection and relocation of witnesses, Wappel withdrew his bill<sup>81</sup>.

Like Wappel's Private Member's Bill, Bill C-78 sought to make the administrative RCMP witness protection program operate more openly and effectively<sup>82</sup>. The Bill was designed to ensure that applicants who entered the program and the RCMP had a clear understanding of their respective rights and obligations and of the extent and scope of the protection and

benefits to be provided. Bill C-78 also laid out the admission criteria for witnesses, stressed the need for consistency across the country in handling cases, specified the responsibilities and obligations of both the administrators of the program and individuals entering the program, indicated the management structure within the RCMP for the day-to-day operation of the program, and required the tabling in the House of Commons of an annual report on the operation of the program<sup>83</sup>. The *Witness Protection Program Act* was adopted by Parliament<sup>84</sup> and came into force on 20 June 1996<sup>85</sup>. As of that date, the RCMP witness protection program has been functioning on the basis stated in this Act. Accordingly, it now seems appropriate to examine more closely some of the main provisions of the latter.

### **3 WITNESS PROTECTION PROGRAM ACT**

The witness protection program is administered by the Commissioner of the RCMP<sup>86</sup>. Agreements for protection made before 20 June 1996 were deemed to be made under the relevant provisions of the Act and governed by it<sup>87</sup>. Importantly, the Act has no bearing upon witness protection programs run by provincial and municipal law enforcement agencies. It does, however, permit the Commissioner to enter into agreements with other law enforcement agencies to protect witnesses<sup>88</sup>.

#### **Definition of "witness"**

The Act defines a witness as someone who gives or agrees to give information or evidence or who participates or agrees to participate in a matter relating to an investigation or the prosecution of an offence<sup>89</sup>. In relation to the investigation or prosecution, the person may require protection because of the risk to their security. For the purposes of the program, the Act also defines a witness as any person who, because of their relationship to the witness, may also require protection<sup>90</sup>. A person receiving protection under the program is referred to as a "protectee" by the Act<sup>91</sup>. However, for consistency throughout the present document, a person receiving protection will continue to be referred to as a "witness".

#### **Definition of "protection"**

Protection under the Act may include relocation, accommodation, change of identity, counselling and financial support for these purposes or any others to ensure the witness's security or to facilitate the witness's re-establishment or ability to become self-sufficient<sup>92</sup>.

#### **Admission into the program**

Witnesses entering the witness protection program are deemed to be in the program for life<sup>93</sup>. They are encouraged to become as self-sufficient as possible, but it is understood that their outstanding court and other legal commitments can severely restrict the likelihood of finding and maintaining employment<sup>94</sup>.

Sections 6 and 7 of the Act set out the criteria for admission into the program. It is necessary for a law enforcement agency to recommend the candidate for the program<sup>95</sup>. The candidate must also provide the Commissioner with information<sup>96</sup> that will allow him or her to consider the following factors :

- the nature of the risk to the security of the witness
- the danger to the community if the witness is admitted to the program
- the nature of the inquiry, investigation or prosecution involving the witness and the importance of the witness in the matter
- the value of the information or evidence given or agreed to be given or of the participation by the witness
- the likelihood of the witness being able to adjust to the program considering the witness's maturity, judgment, personal characteristics and family relationships
- the cost of maintaining the witness in the program
- alternative methods of protecting the witness without admitting the witness into the program
- such other factors as the Commissioner deems to be relevant<sup>97</sup>

The RCMP usually addresses witness protection considerations as early as possible in the investigation process. In a drug investigation, for example, when the use of an informant in an undercover agent capacity is first proposed, the police unit involved will provide a proposal to witness protection personnel for approval<sup>98</sup>. Witness protection personnel then assess whether the proposed informant could successfully infiltrate the target group, follow the directions of the police and maintain the security of the investigation<sup>99</sup>. Witness protection personnel also determine what kind of protection may be required for the informant during and after the investigation<sup>100</sup>.

### **The protection agreement**

Finally, if a candidate is deemed suitable, he or she must enter into a protection agreement with the Commissioner<sup>101</sup>. A protection agreement contains basic clauses outlining the obligations of both parties, but is otherwise drafted to fit the specific case.

Under the Act, the RCMP Commissioner is deemed to have the obligation to take such reasonable steps as are necessary to provide the protection referred to in the agreement<sup>102</sup>.

The witness is, on his or her part, deemed to have the obligation to :

- provide information or evidence, or participate as required in the investigation or prosecution to which the protection relates
- meet all financial obligations incurred at law that are, by terms of the agreement, not payable by the Commissioner
- meet all legal obligations, including any regarding the custody and maintenance of children
- refrain from activities that break the law or might otherwise compromise the security of the witness, another witness in protection or the program
- accept and give effect to reasonable requests and directions made by the Commissioner in relation to the protection provided<sup>103</sup>

Protection agreements may, among other things, outline the amount and duration of financial support that will be provided to the witness for matters such as interim accommodations, living expenses, monthly accommodations, monthly utilities, psychological counselling and treatment for substance abuse. Most protection agreements are reviewed every six months or sooner, depending on the circumstances<sup>104</sup>.

### **Other situations**

Notwithstanding the above requirements, the Commissioner may, in case of an emergency and not for more than 90 days, provide protection to a person who has not entered into a protection agreement<sup>105</sup>. Furthermore, a determination may be made to provide a candidate with funds to assist in his or her own relocation in the following situations : where the candidate is not suitable for the program, where the threat level is so low that ongoing subsistence payments cannot be justified or where the witness does not wish to maintain a relationship with the police<sup>106</sup>.

### **Foreign states**

The Solicitor General of Canada may enter into a reciprocal agreement with a foreign government to admit foreign nationals into the witness protection program<sup>107</sup>. The Solicitor General of Canada may make a

similar arrangement with an international court or tribunal<sup>108</sup>. In any event, the Solicitor General of Canada must consent to the individual's admittance into the program<sup>109</sup>. Importantly, before a foreigner can be admitted into Canada pursuant to a reciprocal agreement, the additional consent of the Minister of Citizenship and Immigration is required<sup>110</sup>. Once accepted, the RCMP's role in such cases is to administer the agreement between the foreign country and its witness. Witness protection in such cases is provided on a cost-recovery basis<sup>111</sup>.

### **Changing and protecting the witness's identity**

If a witness in the program requires a name change, the RCMP must arrange for and provide the witness with federal documents reflecting the new identity<sup>112</sup>.

It is an offence to knowingly disclose information about the location or change of identity of a protected witness. It is also an offence to disclose such information about a witness who is no longer under protection. It is not an offence for a witness to disclose information, so long as the disclosure does not endanger others in the program or compromise the program's integrity.

The Commissioner may disclose the location, or the change in identity, of a witness or former witness in the program in the following situations :

- with the consent of the witness or former witness
- if the witness or former witness previously disclosed the information or acted in a way that results in the disclosure
- if disclosure is essential to the public interest<sup>113</sup>
- in criminal proceedings where disclosure is essential to establish the innocence of a person<sup>114</sup>

Before disclosing any information the Commissioner must take reasonable steps to notify the person and allow him or her an opportunity to respond<sup>115</sup>. The Commissioner is not obligated to do so if it would impede the investigation of an offence<sup>116</sup>. The following factors must be considered in determining whether or not to disclose information :

- the reasons for the disclosure
- the danger or adverse consequences of the disclosure in relation to the person and the integrity of the program

- the likelihood that the information will be used solely for the purpose for which the disclosure is made
- whether the need for the disclosure can be effectively met by another means
- whether effective means are available to prevent further disclosure of the information<sup>117</sup>

### **Terminating protection**

The Commissioner may terminate protection if the witness deliberately contravenes an important obligation of the protection agreement<sup>118</sup>. The Commissioner may also remove from the program a witness who made a significant misrepresentation or failed to disclose information relevant to his or her admission into the program<sup>119</sup>. Reasonable steps must be taken to notify the witness of the decision and to allow him or her a chance to respond<sup>120</sup>.

### **Annual report**

The Act attempts to make the witness protection program more transparent by requiring the Commissioner to submit a yearly report to the Solicitor General of Canada, who must then table the report in Parliament<sup>121</sup>. To maintain the integrity of the program and the safety of the people within it, the annual report only provides statistics in the most relevant areas, without any details of the individual cases or processes involved.

The annual reports disclose some interesting developments with the witness protection program. The 1999-2000 annual report shows a 67% decrease in identity changes and nearly a 50% drop in the total cost of the program from the previous year<sup>122</sup>. The report suggests that the diminishing numbers can be attributed to several factors : improvements in the selection of agents for use in investigations ; the use of other investigation methods ; and a new RCMP mandate to target higher-level criminal organisations which, being typically longer in duration, results in conducting fewer investigations<sup>123</sup>.

In 2000-2001, there was close to a 50% drop in the number of witnesses accepted into the program. The report explains this result by pointing out that 23 witnesses refused the protection offered, compared to only

four in the preceding year<sup>124</sup>. Witnesses refused protection because they found the program too restrictive and were unwilling to leave their extended family, friends and loved ones behind<sup>125</sup>.

The most recent report for 2002-2003 discloses a significant increase in both the number of people accepted into the program (from 29 to 61) and the cost to run the program (from 1.5 million to 3.4 million dollars)<sup>126</sup>. The increased budget resulted from new funding to fight organised crime and new funding for public safety and antiterrorism<sup>127</sup>. Importantly, the 2002-2003 report is the first in which there was a failure of witness protection caused by the RCMP. According to the report, the failure in protection resulted from an inadvertent disclosure of information in Court. The matter was subsequently resolved to the satisfaction of all concerned parties<sup>128</sup>.

Regardless of the number of people it admits, the witness protection program remains a valuable tool to provide protection to witnesses who fear reprisals and would otherwise not co-operate with the justice system. However, the usefulness of the program depends on a continuous monitoring of its operation and on a systematic identification and assessment of threats.

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Ottawa  
November 2004

**DATA ON THE FEDERAL WITNESS PROTECTION PROGRAM<sup>129</sup>**

<b>Witnesses</b>	<b>1996 1997</b>	<b>1997 1998</b>	<b>1998 1999</b>	<b>1999 2000</b>	<b>2000 2001</b>	<b>2001 2002</b>	<b>2002 2003</b>
Accepted into the program <sup>130</sup>	152	110	92	72	37	29	61
Witnesses who refused protection	5	2	2	4	23	11	13
Accepted from another law enforcement agency	30	22	23	12	17	23	34
Accepted from a foreign country	0	0	5	6	0	5	4
Number of identity changes	46	19	36	11	14	24	26
Relocations outside the province of origin	71	51	30	25	14	23	25
Relocations within the province of origin	31	9	9	15	15	12	20
Voluntary terminations from the program	4	9	6	7	8	9	13
Involuntary terminations from the program	3	4	7	2	1	1	3
Failure of protection caused by the RCMP	0	0	0	0	0	0	1
Lawsuits / complaints <sup>131</sup>	3	5	4	4	5	1	1
Total cost of the program <sup>132</sup>	\$1,579,869	\$3,058,966	\$3,794,478	\$1,942,983	\$1,626,428	\$1,538,658	\$3,397,647

## CHECKLIST

Summary of the main questions to be considered  
when establishing a witness protection program

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### **NEED**

Are there certain types of crime that are being targeted?  
Can a witness protection program satisfactorily contribute to the fight  
against these types of crime?  
Are there other means through which witnesses can be protected?

### **ORGANISATION AND OPERATION**

#### **Legal status**

Should the program be created by legislation or by some other  
means?

#### **Administration**

Should the program be administered :  
- by an existing law enforcement agency?  
- by a new agency created specifically for this purpose?  
What training should witness protection personnel receive?  
Is there a need for a network of contacts in other governmental agen-  
cies to help facilitate the protection of witnesses?  
Can such a network of contacts be established and remain confiden-  
tial?

#### **Financial resources**

What should be the level of funding?  
Who should provide the necessary financial resources?

#### **Admission**

Who should be eligible or ineligible for the program?  
What factors should be considered when evaluating a candidate for  
the program?  
How early in the investigation process should witness protection is-  
sues be considered?  
Who should be responsible for assessing candidates for the program?  
Who makes the final decision on admission to the program?  
Should the final decision be subject to appeal?

#### **Benefits**

What should be the extent of the benefits granted under the program?

#### **Obligations**

What should the obligations of the protecting agency and the witness  
be?  
Should these obligations be in writing and signed by both parties?

#### **Protection**

What forms of protection should be available?  
What should the duration of the protection be?  
Should protection be possible for foreign nationals?  
How can protection be terminated?

#### **Security**

Should any aspect of the program be public knowledge?  
Should there be penalties for those who compromise the security of a  
protected witness or the integrity of the program?

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## NOTES

<sup>1</sup> At least two terms may describe those who provide police with information that is not otherwise available : "contacts" and "informants". A "contact" is a person who provides information but usually without seeking anything in return. An "informant" is a person who provides information gained through criminal activity or association with others involved in criminal activity. An "undercover agent" is a person tasked by investigators to assist in the development of a targeted operation.

<sup>2</sup> Statistics Canada, Canadian Centre for Justice Statistics. – Ron Logan. – *Police resources in Canada, 2002*. – Ottawa : Minister of Industry, 2002. – Page 5.

<sup>3</sup> The RCMP is organised under the authority of the *Royal Canadian Mounted Police Act*, Revised Statutes of Canada, 1985, chapter R-10.  
Available at <http://laws.justice.gc.ca/en/R-10/text.html>

<sup>4</sup> [www.rcmp-grc.gc.ca/nps/nps\\_e.htm](http://www.rcmp-grc.gc.ca/nps/nps_e.htm)

<sup>5</sup> On 12 December 2003 the Prime Minister announced the creation of the Ministry of Public Safety and Emergency Preparedness. This new ministry became responsible for the Solicitor General of Canada portfolio which, in addition to the RCMP, included these operational agencies : the Correctional Service of Canada (CSC) ; the National Parole Board (NPB) ; and the Canadian Security Intelligence Service (CSIS). The new ministry is also responsible for the Office of Critical Infrastructure Protection and Emergency Preparedness, the National Crime Prevention Centre, and the new Canada Border Services Agency. See :  
[www.psepc-sppcc.gc.ca/publications/corporate/2003\\_sustainable\\_e.asp#2](http://www.psepc-sppcc.gc.ca/publications/corporate/2003_sustainable_e.asp#2)

Though created on 12 December 2003, the government did not introduce legislation to establish the Department of Public Safety and Emergency Preparedness until 8 October 2004. Bill C-6, *An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts*, provides for, among other things, the legislative foundation to establish the powers, duties and functions of the Minister. Clause 8 of the Bill transfers the powers, duties and functions of the Solicitor General of Canada to the Minister of Public Safety and Emergency Preparedness. Clause 34 of the Bill contains changes in terminology to, among other Acts, the *Royal Canadian Mounted Police Act* and the *Witness Protection Program Act*. The definition of "Minister" in each of these acts will be changed from "Solicitor General of Canada" to "Minister of Public Safety and Emergency Preparedness".

At the time of completion of this document, Bill C-6 had only received second reading in the House of Commons. Thus, upon the coming into force of Bill C-6 (on a day to be fixed by order of the Governor in Council), every reference in this document to "Solicitor General" will be replaced by a reference to the "Minister of Public Safety and Emergency Preparedness".

<sup>6</sup> Statistics Canada, Canadian Centre for Justice Statistics. – Ron Logan. – *Police resources in Canada, 2002*. – Ottawa : Minister of Industry, 2002. – Page 5. Municipal policing may also consist of enforcing laws in several adjoining municipalities that comprise a region, such as the Durham Regional Police in the province of Ontario.

<sup>7</sup> Statistics Canada, Canadian Centre for Justice Statistics. – Ron Logan. – *Police resources in Canada, 2002*. – Ottawa : Minister of Industry, 2002. – Page 5. The Royal Newfoundland Constabulary is a provincial police service that polices four municipalities in Newfoundland and Labrador. The remaining municipalities and rural areas are policed under contract by the RCMP. The RCMP provides police services under the terms of municipal policing agreements to many other municipalities throughout Canada.

- <sup>8</sup> Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4495.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>9</sup> The program was called the "Source-Witness Protection Program" : Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4495. Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>10</sup> The Information Commissioner of Canada. – Annual Report 1994-1995. – Ottawa, Minister of Public Works and Government Services of Canada, 1995. – ISBN 0-662-61862-9. – Page 17.  
Available at [www.infocom.gc.ca/reports/pdf/OIC94\\_5E.PDF](http://www.infocom.gc.ca/reports/pdf/OIC94_5E.PDF)
- <sup>11</sup> The Information Commissioner of Canada. – Annual Report 1994-1995. – Ottawa, Minister of Public Works and Government Services of Canada, 1995. – ISBN 0-662-61862-9. – Page 17. Available at [www.infocom.gc.ca/reports/pdf/OIC94\\_5E.PDF](http://www.infocom.gc.ca/reports/pdf/OIC94_5E.PDF)
- <sup>12</sup> The Information Commissioner of Canada. – Annual Report 1994-1995. – Ottawa, Minister of Public Works and Government Services of Canada, 1995. – ISBN 0-662-61862-9. – Page 17. Available at [www.infocom.gc.ca/reports/pdf/OIC94\\_5E.PDF](http://www.infocom.gc.ca/reports/pdf/OIC94_5E.PDF)
- Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4496.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>13</sup> Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4496.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>14</sup> Herb Gray (Solicitor General of Canada), Evidence before the Standing Committee on Justice and Legal Affairs, meeting number 177, House of Commons, First session, Thirty-fifth Parliament, 18 October 1995.  
Available at [www.parl.gc.ca/committees/jula/evidence/177\\_95-10-18/jula177\\_blk101.html](http://www.parl.gc.ca/committees/jula/evidence/177_95-10-18/jula177_blk101.html)
- <sup>15</sup> Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4495.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- Nick Discepola (Parliamentary Secretary to Solicitor General of Canada), House of Commons Debates, Volume 134, Number 079, 1996. – Page 5013. Available at [http://collection.nlc-bnc.ca/100/201/301/hansard-e/35-2/079\\_96-10-02/079PB1E.html](http://collection.nlc-bnc.ca/100/201/301/hansard-e/35-2/079_96-10-02/079PB1E.html)
- <sup>16</sup> Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4495.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>17</sup> Don Boudria, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4495.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>18</sup> Mary Clancy (Parliamentary Secretary to Minister of Citizenship and Immigration), House of Commons Debates, Volume 133, Number 266, 1995. – Page 16917.  
Available at [www.parl.gc.ca/english/hansard/previous/266\\_95-11-28/266GO3E.html](http://www.parl.gc.ca/english/hansard/previous/266_95-11-28/266GO3E.html)
- <sup>19</sup> Corporal Jeff Warren, RCMP, Evidence before the Standing Senate Committee on Legal and Constitutional Affairs, Issue 10, Senate of Canada, Second session, Thirty-fifth Parliament, 9 May 1996.  
Available at [www.parl.gc.ca/english/senate/com-e/lega-e/10ev-e.htm](http://www.parl.gc.ca/english/senate/com-e/lega-e/10ev-e.htm)
- <sup>20</sup> Corporal Jeff Warren, RCMP, Evidence before the Standing Senate Committee on Legal and Constitutional Affairs, Issue 10, Senate of Canada, Second session, Thirty-fifth Parliament, 9 May 1996.  
Available at [www.parl.gc.ca/english/senate/com-e/lega-e/10ev-e.htm](http://www.parl.gc.ca/english/senate/com-e/lega-e/10ev-e.htm)

- <sup>21</sup> Shaughnessy Cohen, House of Commons Debates, Volume 133, Number 238, 1995. – Page 15263. Available at [www.parl.gc.ca/english/hansard/previous/238\\_95-10-05/238GO1E.html](http://www.parl.gc.ca/english/hansard/previous/238_95-10-05/238GO1E.html)
- <sup>22</sup> Geoff Regan, House of Commons Debates, Volume 133, Number 238, 1995. – Page 15266. Available at [www.parl.gc.ca/english/hansard/previous/238\\_95-10-05/238GO1E.html](http://www.parl.gc.ca/english/hansard/previous/238_95-10-05/238GO1E.html)
- <sup>23</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 24.
- <sup>24</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Pages 29-30.
- <sup>25</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 30.
- <sup>26</sup> All amounts mentioned in this document are in Canadian dollars.
- <sup>27</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 136.
- <sup>28</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 144.
- <sup>29</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 44.
- <sup>30</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Pages 155, 163-164. Before relocating Mitchell in the program, the RCMP evaluated his business and proposed a financial settlement to compensate for its loss and the loss of other business opportunities.
- <sup>31</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 151. The RCMP provided Mitchell with a weekly allowance.
- <sup>32</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 165.
- <sup>33</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 168.
- <sup>34</sup> James F. Kelleher (Solicitor General of Canada), Evidence before the Standing Committee on Justice and Solicitor General, Issue Number 3, House of Commons, Second session, Thirty-third Parliament, 4 December 1986. – Pages 3 : 22 - 3 : 23.
- <sup>35</sup> Robert Simmonds (Commissioner of the RCMP), Evidence before the Standing Committee on Justice and Solicitor General, Issue Number 6, House of Commons, Second session, Thirty-third Parliament, 16 December 1986. – Page 6 : 21.
- <sup>36</sup> Robert Simmonds (Commissioner of the RCMP), Evidence before the Standing Committee on Justice and Solicitor General, Issue Number 6, House of Commons, Second session, Thirty-third Parliament, 16 December 1986. – Page 6 : 23.
- <sup>37</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 171.

- <sup>38</sup> Leonard Mitchell ; Peter Rehak. – Undercover agent. – Toronto, McClelland and Stewart, 1988. – ISBN 0-7710-6061-0. – Page 171.
- <sup>39</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 72.
- <sup>40</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 21.
- <sup>41</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 21.
- <sup>42</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 151.
- <sup>43</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 153.
- <sup>44</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 196.
- <sup>45</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Pages 194-195.
- <sup>46</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 203.
- <sup>47</sup> *The Queen v. A.* – Decision of the Supreme Court of Canada, 15 February 1990 – [1990] 1 Supreme Court Reports. – Pages 995-1004, at page 998.
- <sup>48</sup> *The Queen v. A.* – Decision of the Supreme Court of Canada, 15 February 1990 – [1990] 1 Supreme Court Reports. – Pages 995-1004, at page 998.
- <sup>49</sup> *The Queen v. A.* – Decision of the Supreme Court of Canada, 15 February 1990 – [1990] 1 Supreme Court Reports. – Pages 995-1004, at page 999.
- <sup>50</sup> Peter Edwards. – The big sting. – Toronto, Key Porter Books, 1991. – ISBN-1-55013-360-8. – Page 206.
- <sup>51</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>52</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>53</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
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- <sup>54</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)

- <sup>55</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>56</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>57</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>58</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>59</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>60</sup> Where the Commission Chairman considers it advisable in the public interest, a public hearing to inquire into a complaint may be instituted. The Commission Chairman then assigns members of the Commission to conduct that hearing. When the hearing is completed, an interim report is prepared, setting out the Commission’s findings and recommendations. This report is sent to the Solicitor General of Canada, the RCMP Commissioner and to all parties and their counsel appearing at the hearing. The RCMP Commissioner must, upon receipt of the interim report, review the complaint in light of its findings and recommendations. The RCMP Commissioner, who is not bound by the report, then notifies the Chairman of any further action that has or will be taken with respect to the complaint or reasons for not acting. After this is done, the Chairman prepares a final report setting out findings and recommendations with respect to the complaint. That report is sent to the complainant, the members who are the subject of the complaint, the RCMP Commissioner and the Solicitor General of Canada.
- <sup>61</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>62</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>63</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>64</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>65</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
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- <sup>66</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)

- <sup>67</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>68</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>69</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>70</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>71</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>72</sup> The term "handlers" here refers to RCMP officers who are tasked with closely monitoring and guiding witnesses in the program.
- <sup>73</sup> RCMP Public Complaints Commission. – Chairman’s final report after a public hearing. – 26 February 1993. – File Numbers : 2000-PCC-89212, 2000-PCC-89213.  
Available at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=312](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=312)
- <sup>74</sup> Tom Wappel, House of Commons Debates, Volume 133, Number 012, 1994. – Page 677. Private Members' Bills are legislative initiatives sponsored by a private Member, that is, a Member who is not a Minister. These bills are public policy initiatives that affect whole or part of the general public.  
[www.parl.gc.ca/common/bills\\_about.asp?Language=E&Parl=37&Ses=2](http://www.parl.gc.ca/common/bills_about.asp?Language=E&Parl=37&Ses=2)
- <sup>75</sup> Bill C-206, *An Act to provide for the relocation and protection of witnesses*, First session, Thirty-fifth Parliament, 1994. Bill C-206 proposed that the Governor in Council designate a member of the Privy Council as the "Minister" responsible for making decisions as to whether people should be protected and relocated. In making this decision, Bill-206 provided that the Minister have regard to the degree of danger to the person, alternatives to relocation and protection, any information obtained concerning the psychological condition of the person, impact on the person’s family and any other factor considered relevant. Before providing protections and relocation, Bill C-206 required the Minister to enter into a memorandum of understanding with the person setting out each party’s responsibilities. Bill C-206 would have made the Minister’s decision final and insulated it from review or appeal by any court. Bill C-206 would also have shielded any decision of the Minister from lawsuits.
- <sup>76</sup> Pat O’Brien, House of Commons Debates, Volume 133, Number 072, 1994. – Page 4499.  
Available at [www.parl.gc.ca/english/hansard/previous/072\\_94-05-26/072PB1E.html](http://www.parl.gc.ca/english/hansard/previous/072_94-05-26/072PB1E.html)
- <sup>77</sup> A Private Member’s Bill follows the same legislative process as a government bill, but the time allotted for its consideration is very limited. Consequently, very few Private Members’ Bills complete the process and become law.
- <sup>78</sup> Patrick Gagnon (Parliamentary Secretary to the Solicitor General of Canada), House of Commons Debates, Volume 133, Number 053, 1994. – Page 3306.  
Available at [www.parl.gc.ca/english/hansard/previous/053\\_94-04-20/053PB1E.html](http://www.parl.gc.ca/english/hansard/previous/053_94-04-20/053PB1E.html)
- <sup>79</sup> Herb Gray (Leader of the Government in the House of Commons and Solicitor General of Canada), House of Commons Debates, Volume 133, Number 173, 1995. – Page 10859.

Available at [www.parl.gc.ca/english/hansard/previous/173\\_95-03-23/173RP1E.html](http://www.parl.gc.ca/english/hansard/previous/173_95-03-23/173RP1E.html)

- <sup>80</sup> The Department of the Solicitor General of Canada. – *Solicitor General Herb Gray introduces bill to establish legislated federal witness protection program.* – Ottawa, 23 March 1995. Available at [www.psepc-sppcc.gc.ca/publications/news/19950323\\_e.asp](http://www.psepc-sppcc.gc.ca/publications/news/19950323_e.asp)
- <sup>81</sup> Tom Wappel, House of Commons Debates, Volume 133, Number 242, 1995. – Pages 15535-15536. Available at [www.parl.gc.ca/english/hansard/previous/242\\_95-10-18/242RP1E.html](http://www.parl.gc.ca/english/hansard/previous/242_95-10-18/242RP1E.html)
- <sup>82</sup> The Department of the Solicitor General of Canada. – *Solicitor General Herb Gray introduces bill to establish legislated federal witness protection program.* – Ottawa, 23 March 1995. Available at [www.psepc-sppcc.gc.ca/publications/news/19950323\\_e.asp](http://www.psepc-sppcc.gc.ca/publications/news/19950323_e.asp)
- <sup>83</sup> The Department of the Solicitor General of Canada. – *Solicitor General Herb Gray introduces bill to establish legislated federal witness protection program.* – Ottawa, 23 March 1995. Available at [www.psepc-sppcc.gc.ca/publications/news/19950323\\_e.asp](http://www.psepc-sppcc.gc.ca/publications/news/19950323_e.asp)
- <sup>84</sup> The first session of the thirty-fifth Parliament ended on 2 February 1996 before Bill C-78 completed the legislative process. It was reintroduced as Bill C-13 on 8 March 1996 in the second session of the thirty-fifth Parliament.
- <sup>85</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 4. There have been some minor amendments to the Act since its coming into force.
- <sup>86</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, sections 4 and 5. Though the Commissioner is ultimately responsible for the program's administration, he may delegate responsibility to another member of the force.
- <sup>87</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 19.
- <sup>88</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 14. Such protection is provided on a cost-recovery basis.
- <sup>89</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 2.
- <sup>90</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 2.
- <sup>91</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 2.
- <sup>92</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 2.
- <sup>93</sup> Ottawa, presentation at RCMP headquarters on the Witness Protection, Human Source and Undercover Program, 21 January 2003.
- <sup>94</sup> Ottawa, presentation at RCMP headquarters on the Witness Protection, Human Source and Undercover Program, 21 January 2003.
- <sup>95</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 6(1)(a).
- <sup>96</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 6(1)(b). The Commissioner can authorise a member of the Force who holds a rank no lower than Chief Superintendent to decide whether to admit a witness to the program : The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 15(a).
- <sup>97</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 7.

- <sup>98</sup> As explained in *Edwards v. Canada (Attorney General)*, – Decision of the Ontario Superior Court of Justice, 31 July 2000, – [2000] 35 Criminal Reports (5th Edition), – Pages 270-289, at paragraph 13.
- <sup>99</sup> As explained in *Edwards v. Canada (Attorney General)*, – Decision of the Ontario Superior Court of Justice, 31 July 2000, – [2000] 35 Criminal Reports (5th Edition), – Pages 270-289, at paragraph 13. If the use of an agent is approved, the agent must sign a letter of agreement outlining the obligations of the RCMP and agent. This letter is separate and distinct from a witness protection agreement which, if protection is deemed necessary, is signed after completion of the agent’s work.
- <sup>100</sup> As explained in *Edwards v. Canada (Attorney General)*, – Decision of the Ontario Superior Court of Justice, 31 July 2000, – [2000] 35 Criminal Reports (5th Edition), – Pages 270-289, at paragraph 13.
- <sup>101</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 6(1)(c).
- <sup>102</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 8(a).
- <sup>103</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 8(b).
- <sup>104</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 6(2).
- <sup>105</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 6(2).
- <sup>106</sup> Ottawa, presentation at RCMP headquarters on the Witness Protection, Human Source and Undercover Program, 21 January 2003.
- <sup>107</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 14(2).
- <sup>108</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 14(3).
- <sup>109</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 14(2). There must also be an agreement in place between the RCMP and the foreign law enforcement agency (Ottawa, presentation at RCMP headquarters on the Witness Protection, Human Source and Undercover Program, 21 January 2003).
- <sup>110</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 14(2).
- <sup>111</sup> Ottawa, presentation at RCMP headquarters on the Witness Protection, Human Source and Undercover Program, 21 January 2003.
- <sup>112</sup> Subject to confidentiality requirements imposed by any other Act, departments and agencies of the Government of Canada must, to the extent possible, co-operate with the Commissioner in the administration of the program : The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 18.
- <sup>113</sup> Disclosure for the purpose of public interest, such as : the investigation of a serious offence where there is reason to believe the witness in the program (or former witness in the program) can provide material information in relation to, or has been involved in the commission of, the offence ; to prevent a serious offence ; or for reasons of national security or national defence. The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 11(3)(c).
- <sup>114</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 11(3).
- <sup>115</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 11(5).
- <sup>116</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 11(6).

- <sup>117</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 12.
- <sup>118</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 9(1)(b).
- <sup>119</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, paragraph 9(1)(a).
- <sup>120</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, subsection 9(2).
- <sup>121</sup> The *Witness Protection Program Act*, Statutes of Canada, 1996, chapter 15, section 16.
- <sup>122</sup> House of Commons, "Witness Protection Program Act Annual Report 1999-2000" in Sessional Paper 8560-362-7-02.
- <sup>123</sup> House of Commons, "Witness Protection Program Act Annual Report 1999-2000" in Sessional Paper 8560-362-7-02.
- <sup>124</sup> House of Commons, "Witness Protection Program Act Annual Report 2001-2002" in Sessional Paper 8560-372-7-01.
- <sup>125</sup> House of Commons, "Witness Protection Program Act Annual Report 2001-2002" in Sessional Paper 8560-372-7-01.
- <sup>126</sup> House of Commons, "Witness Protection Program Act Annual Report 2002-2003" in Sessional Paper 8560-372-7-02.
- <sup>127</sup> House of Commons, "Witness Protection Program Act Annual Report 2002-2003" in Sessional Paper 8560-372-7-02.
- <sup>128</sup> House of Commons, "Witness Protection Program Act Annual Report 2002-2003" in Sessional Paper 8560-372-7-02.
- <sup>129</sup> This information was compiled from the *Witness Protection Program Act* annual reports : House of Commons, "Witness Protection Program Act Annual Report 1996-1997" in Sessional Paper 8560-361-7 ; House of Commons, "Witness Protection Program Act Annual Report 1997-1998" in Sessional Paper 8560-362-7A ; House of Commons, "Witness Protection Program Act Annual Report 1998-1999" in Sessional Paper 8560-362-7-01 ; House of Commons, "Witness Protection Program Act Annual Report 1999-2000" in Sessional Paper 8560-362-7-02 ; House of Commons, "Witness Protection Program Act Annual Report 2000-2001" in Sessional Paper 8560-371-7-01 ; House of Commons, "Witness Protection Program Act Annual Report 2001-2002" in Sessional Paper 8560-372-7-01 ; House of Commons, "Witness Protection Program Act Annual Report 2002-2003" in Sessional Paper 8560-372-7-02. Apart from the 1996-1997 report, which covers the period from 20 June 1996 to 31 March 1997, each report deals with the assistance provided by the RCMP between 1 April and 31 March of the following year.
- <sup>130</sup> This number includes family members who were relocated with the person.
- <sup>131</sup> Lawsuits filed in court or complaints with the RCMP Public Complaints Commission.
- <sup>132</sup> The costs reported are expenses directly associated with various measures of protection afforded to witnesses. They do not include the salary expenses of RCMP members or the cost of investigations and subsequent court costs. The costs for 1998-1999 and 1999-2000 include the costs recovered for the protection of foreign witnesses. The costs for 2000-2001, 2001-2002 and 2002-2003 include costs recovered for the protection of foreign witnesses and costs associated with cases from previous years. All figures in Canadian dollars.