

Royal Canadian Mounted Police
Commission of Inquiry Respecting the Death of Donald Dunphy
Phase II - Investigation of Officer-Involved Serious Incidents in Newfoundland and Labrador
March 9, 2017

Royal Canadian Mounted Police

The RCMP has long supported the concept of an independent external agency to investigate serious incidents which involve the RCMP. (See definition of serious incident & injuries below).

The experiences from other Canadian jurisdictions demonstrate public trust and confidence in policing, and the justice system, increases when a credible and independent entity is in place to investigate serious incidents involving police.

The RCMP would prefer not to conduct investigations into serious incidents involving RCMP members. As independent investigative bodies may not always be available, *The Royal Canadian Mounted Police Act (Part VII.1)* and RCMP policy establish steps to be taken (see attached flow chart) when serious incidents involving the RCMP occur.

Newfoundland & Labrador RCMP

When a serious incident takes place which involves the RCMP, the decision to request involvement of an independent investigative body or a police force other than the RCMP must include consideration of public perception.

Until provincial legislation and agreements are in place, interim practices have been undertaken. When a serious incident, as defined under *Section 45.79(1) of the RCMP Act* occurs, the RCMP notifies the Assistant Deputy Minister (ADM) of Justice and Public Safety Newfoundland & Labrador without delay.

The RCMP provides the ADM with available details and requests the engagement of an external agency to investigate, monitor or review the involvement of the RCMP in the serious incident.

Not all matters which involve the police reach the threshold of serious incident. In cases where the threshold has not been met, the RCMP has national policies which include the use of provincial police services, municipal police services or other RCMP divisions to investigate, monitor or review such matters. These RCMP policies may be applicable in a case where the ADM determines an external agency is not appropriate, or one is not available.

Civilian Review and Complaints Commission (CRCC)

The response to serious incidents which involve the RCMP is shared between the Division and RCMP National Headquarters. The Division's Criminal Operations unit is responsible for

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notifying the Provincial Designated Authority; National Headquarters oversees the application of the policy and provides notification to the CRCC of matters determined to be serious incidents.

Policing Agreement – Canada and Newfoundland & Labrador

The Provincial Police Service Agreement (PPSA) entered into between the Government of Canada and the Province of Newfoundland & Labrador (2012), confirms the province has constitutional jurisdiction over the administration of justice, including policing. The RCMP is committed to aiding the administration of justice for the Province and harmonizing RCMP standards or procedures with those established for other police services in the province.

RCMP Guiding Principles – External Investigation & Review

The RCMP understands that effectiveness of policing is dependent upon the level of trust and support the public has in its policing institutions.

RCMP policies and directives specify the procedures outlined under Part VII.1 of the *RCMP Act*. These procedures ensure fair, effective, thorough, and impartial investigations of RCMP employees.

Related Experience of Assistant Commissioner Peter Clark

From 2002 until 2009 Assistant Commissioner Clark served in command level positions within Alberta RCMP. During this time, the Alberta Association of Chiefs of Police (AACP) recognized the need to have an investigative body external to police services. Police leaders requested the Government of Alberta to introduce (what is today) the Alberta Serious Incident Response Team (ASIRT).

While serving as the Commander for Southern Alberta District Assistant Commissioner Clark had a number of occasions to request ASIRT be engaged in serious incidents.

Between 2010 and 2016, Assistant Commissioner Clark served as the Commanding Officer for the RCMP in the Yukon. During this time, he partnered with First Nations and Territorial Government in a multi-year project to "*Review Yukon's Police Force*".

The final report, "*Sharing Common Ground, a Review of Yukon's Police Force (2010)*" contained 33 recommendations. These recommendations included acquisition of an external investigative

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body. As a result, agreements were entered into and ASIRT became available to investigate, monitor or review serious incidents involving the RCMP in the Yukon.

The RCMP, Government of Yukon and ASIRT agreements included a process whereby the Government of Yukon identified and engaged a Community Liaison when ASIRT conducted investigations.

While serving as the Commanding Officer for Yukon RCMP, Assistant Commissioner Clark had a number of occasions to request that ASIRT respond to serious incidents which involved Yukon RCMP.

RCMP Definitions:

Designated Authority means the person appointed for a province/territory, pursuant to [Subsec. 45.79\(2\), RCMP Act](#), by the lieutenant governor in council of the province/territory, to make decisions regarding the investigation, or independent observation of the investigation, of serious incidents as outlined in [Part VII.1., RCMP Act](#).

Investigative body means a provincial/territorial entity, other than a police force, whose authority includes the power to investigate a serious incident for the purpose of determining whether an offence under federal or provincial law has occurred.

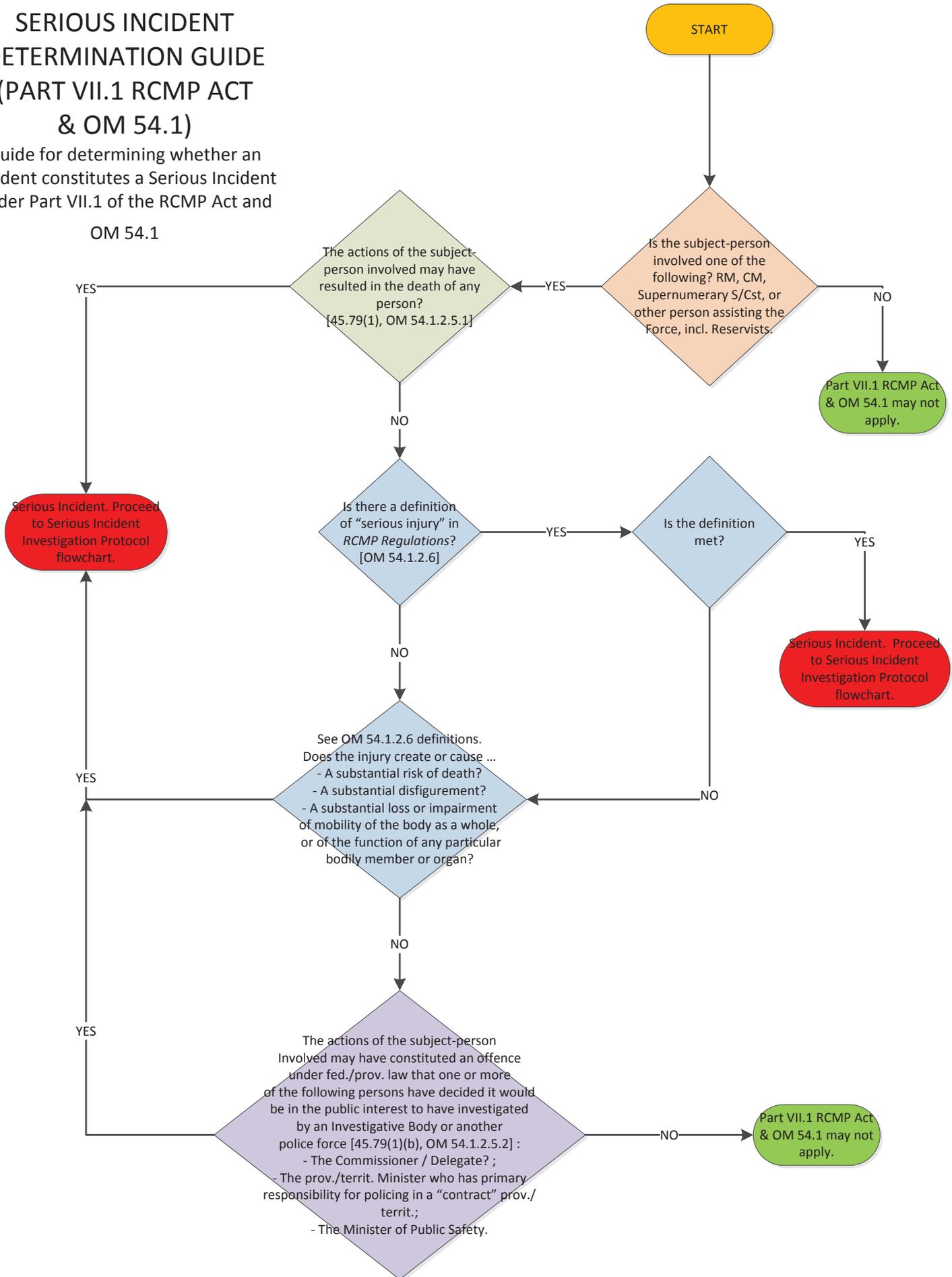
Serious incident means an incident where the actions of a member, or other person appointed or employed under [Part I, RCMP Act](#), or any person assisting the RCMP in exercising its powers or performing its duties and functions under the *RCMP Act* may have: resulted in *serious injury* to, or the death of, any person; or constituted an offence under federal, provincial, or territorial law, and that it would be in the public interest to have the actions investigated by an investigative body, or by a police force other than the RCMP.

Serious injury, in the absence of a definition in the [RCMP Regulations](#), means an injury that: creates a substantial risk of death; causes substantial disfigurement; or causes substantial loss or impairment of mobility of the body as a whole, or of the function of any particular bodily member or organ.

SERIOUS INCIDENT DETERMINATION GUIDE (PART VII.1 RCMP ACT & OM 54.1)

Guide for determining whether an incident constitutes a Serious Incident under Part VII.1 of the RCMP Act and

OM 54.1



SERIOUS INCIDENT INVESTIGATION PROTOCOL

Guide for the determination of investigative entity and notification, reporting and observer requirements under Part VII.1 of the RCMP Act and OM 54.1

