

New Brunswick Anti-Shale Gas Alliance

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Dear Minister Lametti,

I am writing as the Spokesperson for the New Brunswick Anti-Shale Alliance (NBASGA), which originally called for an investigation of the RCMP raid at Rexton.

We have many concerns about the Civilian Review Complaints Commission report on that issue, a number of which are expressed below in our Commentary, which appeared on the NBMedia Coop website, and in their print publication, "*The Brief*".

We also share the concerns expressed in the accompanying response by the groups involved in the Rexton raid about the accuracy and sufficiency of the CRCC investigation, the many contradictions and unanswered questions it contained, and its conclusion that there was no underlying racism.

NBASGA's comments largely address the processes underlying the investigation, the conclusions concerning Charter violations, the RCMP's response to the CRCC report, and troubling trends in the justice system. Following the Commentary is a brief discussion of some recent, related events, concluding with the issues we would like to see addressed.

The Brief

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RCMP shrugs off findings it acted illegally at Rexton raid on anti-shale gas protesters

By JIM EMBERGER

The RCMP is refusing to accept several findings made by the Civilian Review and Complaints Commission on the RCMP response to the 2013 RCMP raid on the anti-shale gas camp in Rexton, New Brunswick.

Among the Commission's findings, released on November 12, were that the RCMP violated citizens' Charter Rights on issues of warrantless searches, stops and spot checks, and the retention of personal and social media data gathered by the RCMP, even after it was established that an individual was cleared of any criminal or security concerns.

The final report comes seven years after the New Brunswick Anti-Shale Gas Alliance called for the investigation.

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Without offering any new evidence to support its views, the RCMP rejected the Commission's findings. In fact, it clearly implied that only the RCMP could judge the constitutionality of actions by its officers.

So, if it can simply dismiss the Civilian Review Commission, is the RCMP accountable to anyone outside of its own ranks?

That the report took seven years to complete is an obvious failure of the system, and emphasizes that 'justice delayed is justice denied.' Except for those who were there, few may remember much about the event beyond pictures of burning cars.

Many who testified before the Commission as eyewitnesses may read this report and marvel that some of its conclusions directly contradict their testimony. This was especially true in instances where it was alleged that the RCMP arrested Indigenous protesters, while they only dispersed non-indigenous protesters.

The Commission concluded that this did not occur, primarily because there was no supporting video evidence, and so simply resolved this issue in favour of RCMP claims.

Multiple witnesses, who independently testified about such events (myself included), will not accept the conclusion that they didn't occur, whether or not they were widespread or videotaped.

This report also cast doubts on the RCMP's competence and judgment. The Commission found that RCMP negotiators had reached an agreement with the protesters to calm down the tense situation, just as the tactical force was finalizing the next morning's raid. Had the two groups actually just talked with each other, the entire incident may have been avoided.

A primary reason for justifying the raid was 'unverified rumours' of weapons at the protestors' encampment. Yet the RCMP's own testimony revealed that its infiltrators, vehicle spot checks, personal searches and continuous surveillance had not turned up a single observation of any firearms. They had simply 'heard rumours' about weapons.

The RCMP also admitted that it made a tactical error in letting several police cars remain unmanned, which led to them being burned. The implication at the time was that they were burnt by protesters.

Credible witnesses testified that non-indigenous people, unknown to local residents, were able to approach and burn the cars and escape, without any intercession by the RCMP. As no perpetrators were ever identified, the Commission attributed the incident to a RCMP error, and they didn't attribute the burning of the cars to the protestors or anyone else specifically.

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They did, however, dismiss the possibility that it was the result of agent provocateurs, based solely on the RCMP saying so. So, incompetence or cover-up? We'll never know.

If one thinks that such speculation is a step too far, then I would suggest they read some academic research on this topic, such as, *"Policing Indigenous Movements: Dissent and the Security State"* (Andrew Crosby and Jeffrey Monaghan, Fernwood Publishing). The book covers four Indigenous movements, concluding with the raid on the anti-shale gas camp near the Mi'kmaw First Nation of Elsipogtog in Rexton.

To quote from the book's promotion, it "raises critical questions regarding the expansion of the security apparatus, the normalization of police surveillance targeting social movements, the relationship between police and energy corporations, the criminalization of dissent and threats to civil liberties and collective action in an era of extractive capitalism and hyper surveillance."

It also provides context to the Commission report, which focuses solely on RCMP actions. We should not lose sight of, nor excuse, those who were ultimately responsible for this tragedy.

New Brunswick's Alward government refused for years to engage in discussions with a united province-wide opposition, despite huge demonstrations, petitions from tens of thousands of citizens, and expert testimony. Its intransigence, and its obvious collusion with the gas industry, led directly to the raid at Rexton. Ironically, that may have been the event that finally doomed shale gas and spelled the end of the Alward government.

Unfortunately, current events, like the RCMP's violent actions against Wet'suwet'en opposition to the Coastal GasLink LNG pipeline in BC, and its failure to protect Mi'kmaw fishers in Nova Scotia, illustrate that government practices that allow the RCMP and the security services to abet corporate interests (especially fossil fuels) continue unabated.

Commercial rights continue to supersede personal rights, and especially treaty rights, in a peculiar and twisted hierarchy of justice overlaying a barely hidden foundation of racism.

The RCMP's contention that it is the sole arbiter of the correctness or legality of its actions emphasizes that it, along with the intelligence services, governments, and fossil fuel interests will learn no lessons from the Commission report. And without real accountability they never will.

Jim Emberger is Spokesperson for the New Brunswick Anti-Shale Gas Alliance.

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After this Commentary was written, and during the preparation of this response, several events occurred that strengthened the validity of our concerns. We had mentioned the RCMP's violent actions against the Wet'suwet'en people, but now have learned that their complaints, made a year ago, have not even advanced to the CRCC, and still remain in the hands of the RCMP, who are the subject of the complaint and are accused of continuing abuse.

{A Year Later, Complaint about RCMP Actions During Wet'suwet'en Conflict in Limbo <https://thetyee.ca/News/2021/01/15/Year-Later-Complaint-RCMP-Actions-Wetsuweten-Conflict-Limbo/> }

This clearly speaks to a flawed process, and it also reinforces the charges of institutional racism made by the Wet'suwet'en, and by the Mi'kmaw in the Rexton incident.

We also just learned that in 2019, the RCMP sent officers to a book signing event for a university book launch of *'Unearthing Justice: How to Protect Your Community from the Mining Industry'*, with author Joan Kuyek. The hosting professor described this action as; "this conforms to existing patterns of police surveillance directed at activists, land defenders, and others who might be opposed to resource extraction."

We had not raised this issue previously in the CRCC investigation, though we have suspected it was true, as academic research (See *'Policing Indigenous Movements'* above) have noted that, "Furthermore, the mere expression of opposition to oil and gas development, or public discussion of the health and environment impacts of this industry, was perceived by elements of the RCMP as being criminal in itself. "

{Did the RCMP attend a university book launch to stop a crime? <https://nbmediacoop.org/2021/01/22/did-the-rcmp-attend-a-university-book-launch-to-stop-a-crime/> }

This speaks to our concern about the constitutionality of the RCMP activities in relation to civil rights. As our Commentary noted, and as the CRCC explicitly stated, the RCMP rejected several CRCC's findings that the RCMP's actions in Rexton were violations of the Charter of Rights.

The following are our concerns, and issues we believe must be addressed in the national interest. We would like to hear how you view them, and what you can do to remedy the ills they describe.

- Seven years for an investigation is unconscionable. The CRCC must be given the resources, personnel, and authority to conduct timely and complete investigations and to hold RCMP to rules of procedures.
- The RCMP ignores deadlines for its responses with apparent impunity, extending investigations for years. That must stop.

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- After a reasonable and short amount of time for the RCMP to directly resolve a complaint, the complaint should go to the CRCC. The RCMP should not be investigating itself a year after a complaint is registered.
- The RCMP cannot be used as the enforcement arm for corporate aims, particularly for resource corporations. Doing so destroys public confidence and fosters corruption within the RCMP and the government at large. Surveillance and intimidation of individuals, based solely on the fact that they exercise legal means of civil protest, must stop.
- There must be a clear and defined role for the CRCC that the public understands.
 - In the case at hand, the RCMP apparently remains the sole arbiter of whether or not its actions are Charter compliant. It dismissed several of the CRCC conclusions on such matters out of hand.
 - Is there an appeal process to that judgement in the ministry of justice?
 - After seven years, is the RCMP's judgement the final word on the interpretation of Charter rights, short of a court challenge?

Thank you for your consideration of these matters of national interest.

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