Submissions to

The Honourable Robert Kaplan
Solicitor General of Canada

Re

RCMP Wrongdoing

From

Canadian Civil Liberties Association

Delegation

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In the opinion of the Canadian Civil Liberties Association, the government response to RCMP law breaking represents the most serious civil liberties issue in this country. Since the end of October 1977, there has been a wave of allegations, revelations, and outright admissions that members of the RCMP have been involved in a host of illegal activities. Despite the gravity and number of misdeeds involved (reportedly hundreds), as of this date not a single charge has been laid or disciplinary measure imposed. So long as this situation continues, much of the public will come to believe that there are double standards in this country, that civilian law breaking is punishable but RCMP law breaking is not. The most likely result is a growing erosion of confidence in the administration of justice. To whatever extent some constituencies can break the law with impunity, others may be encouraged to believe they can do likewise.

From the testimony at the McDonald Commission, it appears that much of the RCMP law breaking is being defended on the basis of the public interest. But this is not a unique claim. Many political dissidents have invoked similar defences when they were accused of law breaking. They too have argued that their offences were motivated by altruism,not self-interest; they too have maintained that a "higher interest" should excuse their misconduct. Time and again, however, these civilian law breakers have been told that idealistic motives are no defence to illegal behaviour.

Not quite two years ago, for example, the Canadian Union of Postal Workers violated a special statute which Parliament had enacted to terminate the fall 1978 postal strike. CUPW President Jean Claude Parrot was not saved by the fact that his conduct was motivated apparently by a concern for his members' welfare rather than by considerations of personal enrichment. Perhaps his arguable altruism might have been a mitigating factor in the punishment imposed by the court. But it did not stop the government from prosecuting him. Indeed, despite the fact that his troubles occurred a full year after the bulk of RCMP law breaking became public, there has been time for Mr. Parrot to be charged, tried, convicted, sentenced, and jailed. Contrast, therefore, the vigor with which the government chased the posties and the reluctance with which it has chased the Mounties.

The failure to apply a similar standard to RCMP wrongdoers threatens to unravel our voluntary infrastructures. Consider, for example, the position of the Canadian Labour Congress in the last postal strike. Despite its bitter opposition to the special Act of Parliament, the CLC declined to support CUPW at the point when the postal strike became unlawful. As the public knows, CLC President Dennis McDermott has been vigorously attacked for his stand by significant elements of his own constituency. What will this country say to its Dennis McDermotts the next time they face such movements to defy the law? Indeed, so long as RCMP wrongdoers remain immunized, what can anyone say?

While the McDonald Commission may well play an important role in these matters, it must no longer be used as the excuse for delay and inaction. That simply exacerbates public cynicism about the administration of justice and royal commissions. Indeed, the Commission has had certain credibility problems which are directly attributable to this perceived use of it by the government. The McDonald Commission may properly be used as a supplement to, but not substitute for, the normal processes of law enforcement.

In support of our views on this matter, we are presenting here the results of a special CCLA petition. In English or French version, this petition was signed by more than 15,000 people from every region of the country. Our petition is unique. Each signature was accompanied by a donation of at least one dollar. While petition signing might be perceived as an act which is often done thoughtlessly, no such belief surrounds the giving of money. Thus, whatever perception might exist with respect to other petitions, this one must be seen as a very serious expression of its signatories' opinions. Indeed, while each signatory contributed no less than one dollar, some contributed even more. In the result, our special fund on this matter accumulated more than $17,000.

With few exceptions, the signatures were collected during the several months before the 1979 federal election. Since that time, our efforts with respect to the petition were pretty well confined to some rather protracted attempts to arrange

an appointment for the presentation. The fall of the last government and the winter election campaign combined to delay this presentation much longer than we had anticipated.

In view of the relatively small size of our organization's staff and the fact that two postal strikes occurred during the period of the petition campaign, the amount of our support must be regarded as significant indeed. But perhaps even more noteworthy in this respect is our attempt to gather signatures on the streets of a number of Canadian cities. On many afternoons during the summer of 1978, for example, we had a volunteer-operated booth outside of our office building on Yonge Street in Toronto. When passers-by approached our booth indicating their interest, they were asked to read the petition and told that their signatures must be accompanied by a one dollar payment. This exercise proved to be one of the most successful and encouraging features of the campaign. On some days, more than one hundred signatures (and dollars) were collected in this way. Indeed, on sunny afternoons the average rate of collections was about twelve an hour. The significance of this experience stems from the fact that our support was coming essentially from random passers-by on the street, many of whom were relatively unfamiliar with our organization and its activities. Since we were able to gather what we did in such a relatively short period of time, the indication is very strong that our position commands a substantial amount of additional support throughout the community.

In our view, the CCLA request of the government in this matter is remarkably elementary. What we are seeking is nothing more than the immediate invocation of <u>normal</u> law enforcement against those government and RCMP officials with respect to whom there is evidence of wrongdoing. For such purposes, there is no need to await the report of a royal commission. In the very words of the petition which has been signed and financially supported by so many thousands of Canadians, the federal government should take the following steps now:

1. Initiate investigations, prosecutions, and disciplinary proceedings within its jurisdiction...
2. Transmit to the provincial attorneys general whatever evidence falls within their jurisdiction...

According to recent reports, it appears that the federal government has indicated a willingness "to discuss" with the relevant provincial attorneys general, the possible transmission to them of evidentiary details beyond what appears in the public transcripts of the McDonald Commission. Apparently, however, this offer

is confined to circumstances which are reported in these transcripts and it seems that the initiative must come from the concerned provinces. Beyond what is available to the general public, the federal authorities have not been routinely supplying their provincial counterparts with such material. Without necessarily exonerating any of the provincial governments for omissions on their part, we believe that a more forthright federal policy is called for. In our view, the federal government is obliged to do everything it can to activate the normal processes of law enforcement. This means the transmission of all the proper evidence to the concerned provincial attorneys general. This could include not only evidence that the McDonald Commission has publicly processed, but also what it has not yet heard, what it may never hear, and even what it has chosen to withhold. Moreover, there is no need to wait for a provincial request. The federal government, like any good citizen, should take the initiative in reporting evidence of crime to the proper authorities.

Normal law enforcement also means immediate action in those areas where the federal authorities have jurisdiction, for example, illegal access to tax records, mail opening, discipline, etc. Unfortunately, the public record hitherto reveals no such action. Indeed, the only hint of federal movement on such matters has concerned the possible creation of a mail opening power. In view of the government's general posture of deference to the McDonald Commission, the mere suggestion now of such a legislative amendment tends to reveal some rather disquieting priorities. Why the talk about amending the law and the silence about enforcing it? This dichotomy is bound to look like an exercise in selective impatience. Indeed, why should anyone trust that tomorrow's laws will be obeyed when today's laws remain unenforced?

This does not necessarily mean that all of the wrongdoers need be prosecuted or disciplined. Since the goal is equality with the civilian sector, there might be a case for leniency in some situations. Certainly that would be consistent with the exercise of normal prosecutorial discretion. Where relevant, those factors militating in favour of leniency or harshness in other cases should be applied to these matters. In short, the idea should be to duplicate as far as possible the treatment of delinquent officials with that of their counterparts in civilian life. In any event, there is no reason for any further delay. It is important at last to convey to the Canadian public that these double standards have no place in our administration of justice. At issue is nothing less than public respect for one of the most fundamental principles of Canadian democracy - the rule of law.