

is a secrets man spilling secrets. An analyst and investigator for the RCMP Public Complaints Commission, he says the RCMP treats the commission staff with contempt, and often refuses to disclose their files. And the former head of the commission he claims, ordered staff to rewrite reports and change their conclusions. **Andrew McIntosh** reports.



OTTAWA • François Lavigne leans back in a restaurant booth around the corner from Parliament Hill, nervously hauling on a cigarette as he tells a story he still has a hard time believing.

He is handsome, deep-voiced, and perfectly bilingual. But he has lost his health, his family, and the respect he once held for the important federal government agency he used to work for.

Mr. Lavigne is a senior analyst and investigator for the RCMP Public Complaints Commission.

He went home ill and burned out late one afternoon in December 1996, and hasn't been back since. He remains on disability leave without pay. The agency never sent him a get well card, but dumped his personal belongings on his doorstep in the rain.

Mr. Lavigne begins explaining what has happened by pulling documents — internal commission memorandums, audit reports, and other documents — from thick files.

The RCMP Public Complaints Commission was created 10 years ago to investigate complaints against the Royal Canadian Mounted Police and its 15,000 officers. But Mr. Lavigne, 39, says the commission cannot properly do its job.

"The RCMP Public Complaints Commission is not an independent agency," he says. "Its investigators have no powers. It doesn't come close to what it was supposed to do when it was created. It was botched."

Mr. Lavigne is an atypical whistleblower: he is a former secrets man spilling his secrets. He was a counterintelligence and counterterrorism officer with the Canadian Security Intelligence Service between 1984-1988. The separated father of three also worked for the Solicitor General in security operations and aboriginal policing before joining the complaints commission in 1990.

He knows that his decision to speak out might cost him the job he once cherished. But he thinks Canadians, particularly the student protesters pepper-sprayed by RCMP members in Vancouver last year, ought to know they aren't likely to get a full and fair probe into their complaints.

The federal government has named a new executive director, Horst Intscher, a former assistant deputy Solicitor General, and a new chairman, Shirley Heafey, to the complaints commission to address some but not all of the problems Mr. Lavigne detailed in his lengthy interview with *The National Post*.

Mr. Lavigne isn't satisfied. He

wants the commission, which reports to the Solicitor General, replaced with a truly independent agency with real resources and investigative powers which reports to Parliament.

When he is asked why, he calmly and clearly enumerates reasons and provides documents.

Mr. Lavigne states he was often ordered, during his years at the commission, to rewrite draft reports and change conclusions when fault was found with the RCMP and its officers' conduct. The officers were then cleared.

The orders came from the former executive director of the commission, the late Bertrand Giroux, Mr. Lavigne said. Mr. Giroux was a 35-year RCMP veteran, former director general of the RCMP security service and deputy commissioner who joined the agency in 1988. He served as interim commission chairman in 1992.

"It was impossible for me to do my job without compromising my integrity," Mr. Lavigne said. "We put out reports that didn't follow the law, that didn't follow the rules. Bert Giroux was there to make sure the RCMP didn't get criticized."

Mr. Giroux died at age 68 in September, 1997, following a long struggle with leukemia and Parkinson's disease. In the commission's latest annual report, there is a full-page tribute to him as a man of "honesty and shining integrity."

Mr. Lavigne's statements about the rewriting of reports were confirmed by the recently retired general counsel of the commission, Pierre-Yves Delage, who left the commission in March.

"What Mr. Lavigne says is true. I heard about a lot of reports which were rewritten. It was tainted," Mr. Delage said. "I don't think Mr. Giroux was dishonest. You just couldn't ask a man who'd been an RCMP officer for 35 years to suddenly be objective. He was a lot more biased in favour of the police."

Mr. Delage said Mr. Lavigne was a hard worker whose investigations and analysis were top notch.

Mr. Intscher declined to comment, saying he was not there at the time and Mr. Giroux is now dead. He does say he will not employ former RCMP officers.

Mr. Lavigne states that commission investigators, who lack powers to gain access to documents, are often treated with contempt. RCMP members deny commission staff access to reports until threatened with a public hearing. Even then, files are still not disclosed; again, Mr. Delage agrees.

"If they keep telling us to buzz off, how are we supposed to find



Thomas (Ted) Finn, former director of the Canadian Security Intelligence, Bertrand Giroux, former executive director of the RCMP Public Complaints Commission.

out who is right and who is wrong?" Mr. Lavigne said.

The commission's executive director, Mr. Intscher, described such concerns as a "red herring." It can order the production of documents when public hearings are held, he says, but he admits few cases go that far.

Mr. Lavigne said that when the commission received a complaint from Montreal criminal lawyer Daniel Rock to examine RCMP officers' conduct during a covert operation (the officers operated a Montreal currency exchange business from 1990-1994) Mr. Lavigne and his colleagues were told by RCMP officers and Justice Department lawyers to drop it.

Then commission chairman Jean-Pierre Beaulne issued a report in 1996, saying the officers had acted properly during the sting, and noted that a Quebec Court judge had ruled the operation was legal. Mr. Lavigne says it may have been legal, but it was plagued by problems and the commission staff never saw the force's internal files.

The Ottawa Citizen obtained four years' worth of operational files on the sting. In a series published in June, it was revealed that the operation was undermined by security breaches and a lack of proper resources.

The problems allowed organized criminals to buy and import into Eastern Canada 5,000 kilos of cocaine with the \$140-million they laundered through the police-run exchange.

RCMP officers came close to being charged with crimes in the U.S. They failed to get proper Cabinet approval before launching the sting and even lost \$400,000 overseas.

Mr. Lavigne said the commission should be called to account for failing to properly probe the case. "We sidestepped our responsibility to ensure that the RCMP had acted properly. There

was no oversight," he said.

Mr. Lavigne says the RCMP has so much contempt for the commission, it has at least twice made large cash payments to citizens who made misconduct complaints just as public hearings were about to be launched.

In the first, documents show, the commission was deeply disturbed when a Quebec RCMP informant named Louis Audet was paid \$105,000 in compensation by the force to drop his complaint and a civil suit in Federal Court.

Mr. Audet claimed his RCMP handlers hung him out to dry and failed to pay him for undercover work during a secret contraband tobacco and alcohol probe. The commission found evidence his story was accurate.

In the second case, a Saskatchewan man, John Farness, was paid \$10,000 in compensation for his injuries after claiming he was assaulted by an

'IT WAS IMPOSSIBLE FOR ME TO DO MY JOB WITH INTEGRITY.'

off-duty RCMP officer who tried to arrest him for making a U-turn.

Another police officer called to the scene claimed the turn was legal, but did not arrest the Mountie for assault. The commission's final report on the fairness case has still not been released.

Though RCMP said the payments were for injuries or wages, it also made Mr. Farness and Mr. Audet sign letters to the commission stating they wished to drop their complaints.

Both men later said they were forced to sign the letters to get the money and asked the commission to ignore the letters and continue its probes.



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nee Service, left; at right, the late-
complaints Commission.

RCMP spokesman Sergeant André Guertin said: "The vast majority of citizen complaints we get are settled informally and satisfactorily. It's not the public hearing we're afraid of, we're just using an alternative dispute resolution mechanism to settle claims against the Crown which are deemed to be clearly justifiable."

Sgt. Guertin could not explain why the RCMP waited so long to make the cash payments if the claims were justified.

Mr. Lavigne says a year's worth of complaints have not been reviewed by commission staff, because its \$3.6-million budget does not allow the agency to do its job in a timely manner.

In contrast, Quebec's Police Ethics Commission alone has a \$2.25-million annual budget.

The Auditor General of Canada expressed concern about the complaint backlog in December 1997, saying there were more than 400 unresolved complaint cases. The Auditor even said a database the commission uses to track the time it takes to process complaints was of "uncertain reliability." The commission blamed the problems on "high turnover."

Mr. Intscher said that since he took over, the commission has received more money from the federal government, partly to pay for its costly APEC public hearings and cut the backlog. It has already resolved 100 old cases.

Mr. Intscher thinks lack of money was not a factor in the backlog, saying the commission under-spent its budget in each of the last five years, largely due to stringent controls on overtime. Instead, he blames the "convoluted" system it used to process complaints. He has abolished the system and aims to finish the remaining 300 cases within 2 years. He talks of shifting the commission's focus to speedier complaint resolution from finding faults with the po-

lice.
Mr. Lavigne states — confirmed by Mr. Delage — that while staff struggled to reduce the backlog on a shoestring budget, the commission found money to install a private bathroom in the office of former chairman Jean-Pierre Beaulne. After Mr. Beaulne had knee surgery, a device was also installed so the chairman could close his office door without getting up.

Mr. Lavigne states that the commission is so stacked with former law enforcement officials, including himself, that the atmosphere was often not sufficiently adversarial. Mr. Giroux and others continued to socialize and fraternize with senior RCMP officers, dine in the RCMP officers' mess, have golf tournaments together and hire police friends as consultants.

One stood out: Thomas D'Arcy (Ted) Finn, the former director of the Canadian Security Intelligence Service who resigned in disgrace in 1986 after he reviewed, approved, and signed an error-ridden affidavit for a secret wiretap prepared by spies working on the service's ill-fated Air India probe.

Using the Access to Information Act, Mr. Lavigne obtained contracts showing Mr. Finn, now a private lawyer, earned \$45,000 as a commission consultant since 1995. Mr. Finn said he reviews complaints made against RCMP officers, the officers' responses to the complaints, and writes draft reports about the cases.

The contracts awarded to Mr. Finn were sole-sourced. No mention was made of his CSIS resignation when officials justified the deals by saying he was "unusually suitable" for the work.

Mr. Lavigne and Mr. Delage said people outside the commission who learned of Mr. Finn's work thought him an odd hire. "They thought there couldn't be any independence at the commission with people like Mr. Finn working there," Mr. Delage said.

Mr. Finn angrily dismissed the suggestion he's not impartial because of past RCMP and CSIS jobs. "That's bullshit! I've worked with police for years and years and years. I thought it was a really good fit for someone of my professional qualifications. I'm surprised the matter is even raised," he said.

Mr. Intscher says Mr. Finn's contract, which expired March 31, was not renewed. Mr. Lavigne says he was surprised when nobody in the commission's senior ranks raised any concern about Mr. Finn's consulting. But after that, a lot of things happened at the commission that didn't surprise him any more.