

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20251120**

**Docket: A-377-24**

**Citation: 2025 FCA 206**

**CORAM: RENNIE J.A.  
GLEASON J.A.  
LOCKE J.A.**

**BETWEEN:**

**CAROLINE O'DRISCOLL**

**Appellant**

**and**

**ROYAL CANADIAN MOUNTED POLICE COMMISSIONER  
MICHAEL DUHEME and ATTORNEY GENERAL OF CANADA**

**Respondents**

Heard at Calgary, Alberta, on October 22, 2025.

Judgment delivered at Ottawa, Ontario, on November 20, 2025.

**REASONS FOR JUDGMENT BY:**

**RENNIE J.A.**

**CONCURRED IN BY:**

**GLEASON J.A.**

**LOCKE J.A.**

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**REASONS FOR JUDGMENT**

**RENNIE J.A.**

[1] This appeal arises from a decision of the Federal Court (*O'Driscoll v. Canada (Royal Canadian Mounted Police*, 2024 FC 1660, *per* Lafrenière J.), (Federal Court Decision) dismissing the appellant's application for judicial review as it did not challenge a matter within the scope of section 18.1 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 (Federal Courts Act). The Federal Court also dismissed the appellant's application for *mandamus* as the appellant

failed to identify a public legal duty to act on the part of the respondent Royal Canadian Mounted Police (RCMP) Commissioner.

[2] The facts giving rise to the appellant's judicial review application are set out in the Federal Court Decision and need not be repeated. The judge observed that it was "difficult to piece together a chronology of events" given the appellant's "disjointed affidavits that mixed random and selective facts, hearsay, allegations and submission", an observation which I share (Federal Court Decision at para. 8). It is therefore sufficient for the purposes of this appeal to note that the appellant's sister and then brother-in-law became embroiled in lengthy divorce, custody, and access proceedings in the Alberta Court of King's Bench. The appellant's sister subsequently made allegations of domestic and child abuse against her then husband to the RCMP.

[3] In February 2021, the appellant filed two complaints to the Civilian Review and Complaints Commission for the RCMP (CRCC) requesting that it investigate the RCMP's conduct in its response to her sister's allegations. Under the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10 (RCMP Act), an individual may make a complaint concerning the conduct of a member of the RCMP in the performance of a duty or function (RCMP Act, s. 45.53(1)). A review of the mandate and procedures of the CRCC can be found in *British Columbia Civil Liberties Association v. Canada (Royal Mounted Police)*, 2021 FC 1475 at paras. 7-8, *per* Gagné, A.C.J.

[4] The appellant also requested the CRCC address “the overall management and conduct of the Cochrane and Airdrie detachments and the failure of senior management to address the issues of management within these detachments.” The CRCC did not address this issue as it was beyond its jurisdiction and referred the appellant’s request in this respect to the Commissioner. This allegation was then directed to the RCMP’s Office of Investigative Standards and Practices (OISP) for an internal administrative review.

[5] In April, May and June 2023, the appellant sent the Commissioner several emails, requesting disclosure of the OISP review. In an email dated May 26, the appellant requested confirmation that the OISP review would be disclosed in family law proceedings between the appellant’s sister and former husband in the Alberta Court of King’s Bench. In a June 19<sup>th</sup> email the appellant requested “response and clarification” to 20 questions the appellant had concerning the OISP review of the allegation of mismanagement of the detachments.

[6] The June 19<sup>th</sup> email set a deadline for response of June 23, 2023, failing which the appellant would consider the RCMP's lack of response to be a reviewable decision. The June 19<sup>th</sup> email described the decision as follows:

[...] as of June 19, 2023, the RCMP Commissioner and/or the RCMP have made the reviewable decision to not address the ongoing conduct of the RCMP relating to my [Public Complaint] and matters relating to same. (Appeal Book, p. 125) (emphasis in original)

[7] The Department of Justice responded to the June 19<sup>th</sup> email on behalf of the Commissioner. Counsel sought clarification of the appellant’s request as well as confirmation whether she had been retained as counsel in the Alberta Court of King’s Bench proceeding.

[8] Shortly thereafter, the appellant filed the judicial review application that came before Lafrenière J.

[9] In his reasons for judgment dismissing the application, the judge noted (at para. 21) that the broad relief sought in the notice of application had been whittled down at the hearing to a declaration that the Commissioner breached his duty under subsection 5(1) of the RCMP Act, an order setting aside the alleged decision, and an order for *mandamus* directing the Commissioner to address and investigate the alleged issues of misconduct and mismanagement in the Cochrane and Airdrie detachments.

[10] Questions as to what constitutes a “matter” within subsection 18.1(1) of the Federal Courts Act go to the jurisdiction of the Court and are assessed on the standard of correctness (*Canadian Judicial Council v. Girouard*, 2019 FCA 188 at para. 30; *Air Canada v. Toronto Port Authority*, 2011 FCA 347, at para. 26). Similarly, the first criterion for *mandamus*, namely whether there is a public legal duty, is assessed on a correctness basis, with the balance of the *mandamus* criteria raising questions of mixed fact and law reviewable on a standard of palpable and overriding error (*Apotex Inc. v. Canada (Attorney General)*, [1994] 1 FC 742 (FCA), 51 CPR (3d) 339 [Apotex]; *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235).

[11] I see no error in the reasons of the Federal Court.

[12] As the Federal Court noted, a matter that fails to affect legal rights, impose legal obligations, or cause prejudicial effects is not reviewable (*Democracy Watch v. Canada*

(*Attorney General*), 2021 FCA 133 at para. 29; *Air Canada v. Toronto Port Authority* at paras. 24, 29; *Democracy Watch v. Conflict of Interest and Ethics Commissioner*, 2009 FCA 15, 175 A.C.W.S. (3d) 303 at paras. 9-13, leave to appeal to SCC refused, 33086 (11 June 2009) [*Democracy Watch 2009*]). The Commissioner's lack of response to the appellant's June 19<sup>th</sup> email did not constitute a reviewable decision as it did not affect the appellant's legal rights, impose legal obligations, or have prejudicial effects. The appellant had no legal right to be provided with answers to her questions, the Commissioner had no legal duty or obligation to respond to the appellant's questions, and the non-response did not have prejudicial effects.

[13] The same reasoning applies to the OISP review. The Commissioner was under no legal duty to conduct an internal review of the allegations, nor do the results of that review, if any, affect the appellant's legal rights.

[14] The appellant places considerable emphasis on the importance of judicial review to ensure that public officers conduct themselves according to law and argues that judicial review is the only way in which the RCMP can be held accountable for what she says was misleading the Alberta Court of King's Bench.

[15] This argument parallels that made by the appellant in *Democracy Watch, 2009* where it was argued that the failure of the Ethics Commissioner to undertake an investigation harmed public confidence in the integrity of government decision making. The argument was rejected by this Court which concluded that the Ethics Commissioner had no duty to investigate beyond that

prescribed by statute. The refusal to investigate did not affect the applicant's rights and the Ethics Commission was under no statutory duty to act on the applicant's request.

[16] Where Parliament creates a formal complaints procedure with a concomitant duty on an agent of Parliament or public officer to investigate, it does so expressly (*Canada (Attorney General) v. Democracy Watch*, 2020 FCA 69 at paras. 32-35). In establishing the CRCC process, Parliament did not create a general complaints procedure that gave rise to a legal obligation on the Commissioner to respond to demands beyond the scope of what is required by statute, such as many demands set forth in the June 19<sup>th</sup> email. By statute, the appellant had a right to file a complaint, to have it investigated and to receive a response, which she now has. I note, parenthetically, that the question whether the appellant, who was neither the spouse nor the mother at the center of the domestic and child abuse allegations, had standing to file a complaint was not raised before us.

[17] The RCMP delivered its report on the two complaints on January 25, 2024. It addressed each of the appellant's 14 allegations in considerable detail. The report concluded:

Please be advised that pursuant to section 45.64 of the RCMP Act, I am notifying you that the investigation into this complaint has now been concluded. Furthermore, according to section 45.7(1), if you are not satisfied with the manner in which your complaint has been disposed by the RCMP, you may request a review by the CRCC by writing to them within 60 days after receiving this RCMP Final Report at the following address or online at the following webpage. [...]

[18] I turn next to the request for an order of *mandamus*.

[19] The Federal Court concluded that the appellant did not meet the test for *mandamus* set out in *Apotex*. That test requires the appellant establish, *inter alia*, that the Commissioner owed her a public legal duty to act, and that she has a clear right to the Commissioner's performance of that duty.

[20] The appellant cites subsection 5(1) of the RCMP Act, which grants the Commissioner the responsibility and authority for the management and control of the RCMP, as the source of the legal right to have the Commissioner respond to her questions and investigate the allegations of systemic misconduct in the Cochrane and Airdrie detachments. The appellant also contends that a public legal duty to act arises from the common law duties of police as described by the Supreme Court in *R. v. Godoy*, such as preservation of the peace, the prevention of crime and the protection of life and property ([1999] 1 S.C.R. 311, 168 DLR (4th) 257).

[21] These arguments fail.

[22] Subsection 5(1) is the source of the Commissioner's authority for the management and control of the RCMP. Absent an effect on a legally cognizable right or interest, a grant of statutory authority to a public official does not give rise to a legal right on the part of a citizen to require that the associated administrative discretion of management and control be exercised in a certain way, or at all (see, for example, *Reisdorf v. Canada*, 2023 FCA 188 at para. 8). There is therefore no error in the Federal Court's finding that "the Commissioner had no legal obligation to respond within the unilateral, arbitrary and extremely short deadline" imposed in the June 19<sup>th</sup> email (Federal Court Decision, at para. 27).



[23] The appellant's reliance on the common law duties of the police does not assist her position. Whatever the scope of those duties, they do not translate into a positive duty on the part of the Commissioner to respond to the appellant's email.

[24] The appeal will therefore be dismissed with costs which I would fix in the all-inclusive amount of \$2,500.

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“Donald J. Rennie”

J.A.

“I agree.

Mary J.L. Gleason J.A.”

“I agree.

George R. Locke J.A.”

**FEDERAL COURT OF APPEAL**  
**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-377-24

**STYLE OF CAUSE:** CAROLINE O'DRISCOLL v.  
ROYAL CANADIAN MOUNTED  
POLICE COMMISSIONER  
MICHAEL DUHEME and  
ATTORNEY GENERAL OF  
CANADA

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** OCTOBER 22, 2025

**REASONS FOR JUDGMENT BY:** RENNIE J.A.

**CONCURRED IN BY:** GLEASON J.A.  
LOCKE J.A.

**DATED:** NOVEMBER 20, 2025

**APPEARANCES:**

Caroline O'Driscoll	ON HER OWN BEHALF
Cameron G. Regehr	FOR THE RESPONDENTS ROYAL CANADIAN MOUNTED POLICE COMMISSIONER MICHAEL DUHEME and ATTORNEY GENERAL OF CANADA

**SOLICITORS OF RECORD:**

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