

THE TOXIC CULTURE OF THE RCMP:

MISOGYNY, RACISM, AND VIOLENCE
AGAINST WOMEN IN CANADA'S
NATIONAL POLICE FORCE

MAY 2022



THE CANADIAN FEMINIST ALLIANCE FOR
INTERNATIONAL ACTION
SHIVANGI MISRA, ASHLEY MAJOR, PAMELA PALMATER,
AND SHELAGH DAY





ABOUT FAFIA

The Canadian Feminist Alliance for International Action (FAFIA) is an alliance of women's organizations in Canada. It was founded after the Fourth World Conference on Women in Beijing in 1995.

FAFIA's mandate is to advance women's equality in Canada by working to secure the domestic implementation of international and regional human rights treaties that Canada has ratified. FAFIA monitors and reports regularly on Canada's compliance with its human rights obligations.

Contact:

Communications@fafia-afai.org

9-2020 Lanthier Dr, Suite #228,

Orleans, ON K4A 3V4

www.fafia-afai.org

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Cover Image: [Jude Freeman](#)



The Honourable Marco Mendicino
Minister of Public Safety

The Honourable Marc Lens
Minister for Women and Gender Equality and Youth

House of Commons
Ottawa, ON
K1A 0A6

May 9, 2022

Dear Ministers,

The Canadian Feminist Alliance for International Action (FAFIA) is pleased to transmit its new report on the Royal Canadian Mounted Police, *The Toxic Culture of the RCMP: Misogyny, Racism, and Violence against Women in Canada's National Police Force*.

FAFIA requests that you immediately establish an external review of Canada's national police force that will address and change its treatment of women, both as an employer and as a service-provider.

We note that in your mandate letters of December 16, 2021 the Prime Minister, the Right Honourable Justin Trudeau, enjoins you to work to "address the profound systemic inequities and disparities that remain present ...in our core institutions" and specifically to "accelerate action to reform the RCMP."

The evidence of systemic discrimination and violence against women perpetrated by the Royal Canadian Mounted Police is shocking, and it is growing. The RCMP's culture of misogyny, racism and homophobia, identified by the Honourable Michel Bastarache in his report *Broken Dreams, Broken Lives*, affects not only the treatment of women who are employed by the RCMP, but also the treatment of the women whom the RCMP is intended to serve.



Canada cannot have a credible National Action Plan on Violence against Women, or a credible National Action Plan on Missing and Murdered Indigenous Women and Girls, until we confront the deeply entrenched misogyny and racism in the culture of the RCMP.

An independent, external review of the RCMP, its practices, structure and future, is needed now.

We trust that this report will assist you.

Yours sincerely,

Barbara Cameron, Chair, Steering Committee (FAFIA)
on behalf of
The Canadian Feminist Alliance for International Action (FAFIA)

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Introduction

The evidence of harassment and violence against women by the Royal Canadian Mounted Police (RCMP) is shocking, and it is growing.

Over the last decade, numerous reports from legal experts and human rights organizations have documented violence against women by RCMP Officers, including harassment, sexual assault, rape, and sexualized verbal abuse. In addition, reports from international, regional and domestic inquiries, as well as from journalists and civil society organizations, have documented RCMP failures to protect women from violence by men in the community – including sexual assault, domestic violence, human trafficking, and murder. These reports show that Indigenous women are particular targets of sexualized violence by RCMP Officers, and, as the crisis of murders and disappearances reveals, their lives are also especially endangered by RCMP failures to protect them.

A recent report, *Broken Dreams, Broken Lives*, authored by former Supreme Court Justice Michel Bastarache, makes a unique and important contribution to public understanding of the causes of this record of violence and failure.¹ Justice Bastarache was appointed to oversee the claims process that was part of the \$125 million dollar settlement of a class action suit filed by two former RCMP Officers, Janet Merlo and Linda Gillis Davidson, and joined by 3,086 women RCMP Officers.²

The sexual harassment of female RCMP Officers by male RCMP Officers is a known and long-standing problem; there have been many complaints. But in his report on this massive, systemic claim, Justice Bastarache found that the sexual harassment of women RCMP Officers cannot be seen as a problem attributed to a few individual “bad apples”. Rather, the sexual harassment is fostered and permitted by an institutional culture of misogyny, racism and homophobia that operates at every level of the RCMP and in every jurisdiction. Justice Bastarache concluded that the RCMP is not capable of changing itself

¹ Michel Bastarache, *Broken Dreams, Broken Lives: The Devastating Effects of Sexual Harassment on Women in the RCMP, Final Report on the Implementation of the Merlo Davidson Settlement Agreement* (Ottawa: Merlo Davidson Settlement, November 11, 2020), <https://www.rcmp-grc.gc.ca/wam/media/4773/original/8032a32ad5dd014db5b135ce3753934d.pdf>.

² *Ibid.*, 33.

from within, and that the “time has come for the Government of Canada to ask some hard questions about the structure and governance of federal policing.”³

It is evident that the culture of misogyny, racism, and homophobia in the RCMP, identified by Justice Bastarache, affects not only the treatment of women who are employed by the RCMP, but also the treatment of the women whom the RCMP is intended to serve. The same “hard questions” that are raised by the RCMP’s treatment of the women it employs are also raised by the RCMP’s treatment of the women it polices.

Consequently, the goal of reform of Canada’s national police force, if reform is possible, must be not only to ensure that the RCMP is a safe and respectful place for women to work, but also to ensure that the RCMP does not perpetrate violence against women in their communities. Additionally, the RCMP must develop the capacity, which it now lacks, to effectively prevent, investigate, prosecute, and provide redress for violence against women.

This report provides an overview of the law concerning violence against women, with a particular focus on international human rights law. The analysis of violence against women as a violation of women’s right to equality and non-discrimination, and the obligations of governments to address it, have been articulated in detail in international and regional human rights instruments and jurisprudence. In particular, international human rights law spells out that the obligations of governments not to discriminate against women require them 1) to ensure that state actors do not perpetrate violence against women and 2) to prevent, investigate, prosecute and provide redress for violence against women by non-state actors.

The report reviews the evidence of harassment and violence against women committed by the RCMP that is provided in key reports, as well as the evidence of RCMP failures to prevent and investigate violence against women.

This report is a part of the follow-up work to the written and oral submissions to the National Inquiry into Missing and Murdered Indigenous Women and Girls.⁴ At the Inquiry, FAFIA partnered with Canada Without Poverty and Dr. Pamela Palmater, an Indigenous

³ Ibid., iii.

⁴ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, 2 vols. (Vancouver: Privy Council Office, 2019), <https://www.mmiwg-ffada.ca/final-report/>.

lawyer and Chair in Indigenous Governance at Ryerson University, and raised serious concerns about RCMP misogyny, racism and sexualized violence against Indigenous women and girls, as well as the RCMP failures to properly investigate exploitation, abuse, disappearances, and murders.⁵ There has been little substantive action taken in response. In its Calls for Justice, the National Inquiry recommended that federal and provincial governments establish Indigenous police oversight bodies which include Indigenous women, to oversee investigations into police misconduct, including rape and sexual offences.⁶ This has not been done. Because of the RCMP's key role in the crisis of murders and disappearances, there is a special focus on Indigenous women and girls in this report. Unfortunately, at this time, in the published reports on the RCMP, there are none dedicated specifically to RCMP treatment of Black women in Canada. While the Senate Committee on Public Safety and National Security report on Systemic Racism in Policing in Canada noted systemic racism in the RCMP directed at Indigenous and Black people generally, they did not investigate the intersectional nature of misogyny and racism that Black women experience.⁷ This is a major gap in the research, as many Black women advocates have long called for urgent action to address anti-Black racism and misogyny by police forces, including the RCMP. Robyn Maynard, a Black feminist writer, documents in her book: *Policing Black Lives: State Violence in Canada from Slavery to the Present*, the violent realities of anti-black racism and violence in policing from slavery to the present.⁸ More recently, Dr. El Jones, a strong advocate for Black women, co-authored a report entitled "Defunding the Police: Defining the Way Forward for HRM", which reports that generations of anti-Black racism in policing (including the RCMP), has resulted in a Defund

⁵ FAFIA, Pamela Palmater, and Canada Without Poverty, *A National Action Plan to End Violence against Indigenous Women and Girls: The Time is Now*, December 13, 2018, <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/02/FAFIA-Partners-Final-Written-Submission.pdf>.

⁶ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, vol. 1b, 184-85.

⁷ Senate of Canada, Standing Senate Committee on Public Safety and National Security, John McKay, *Systemic Racism in Policing in Canada: Report of the Standing Committee on Public Safety and National Security*, 2nd sess., 43rd parliament, 2021, https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/sec_urp06-e.pdf.

⁸ Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to the Present* (Halifax: Fernwood Publishing, 2017).

the Police movement generated by grassroots Black feminists to stop the targeting, violence and incarceration of Black women, men, and children.⁹

The work of Black feminist advocates is essential to understanding the full extent of misogyny and racism in the RCMP. It is critical that the voices of Black women be included in deciding how to address the critical problems within the RCMP.

The same gaps in research exist for RCMP interactions with other marginalized women, such as women with disabilities, women who are members of sexual or gender minorities, immigrant women and other racialized women. Further work is needed to ensure that the full story is available to inform government action moving forward.

Nonetheless, the already published documentation reveals that both RCMP employment of women and RCMP policing services for women are in a critical state. This cannot be ignored.

The Government of Canada is responsible for the RCMP and its conduct. This report concludes with a discussion of next steps and key recommendations for ensuring that Canada's national police force can discharge its duty to uphold the right of women to equality, non-discrimination and freedom from violence.

Violence Against Women and the Law

Section 15 of the *Canadian Charter of Rights and Freedoms* and statutory human rights laws in every jurisdiction guarantee equality to women and prohibit discrimination against them in public employment and services because of their sex, race, disability, and other status.¹⁰ These laws prohibit governments at all levels, and public institutions and public officials, from engaging in any conduct that discriminates against women, directly or indirectly.

⁹ Tari Ajadi et al., "Defunding the Police: Defining the Way Forward for HRM" (Halifax: Board of Police Commissioner's Subcommittee to Define Defunding the Police, 2022), <https://www.halifax.ca/sites/default/files/documents/city-hall/boards-committees-commissions/220117bopc1021.pdf>.

¹⁰ Statutory human rights laws also prohibit discrimination against women by private employers, landlords, and service-providers.

Around the world, violence against women is recognized as a form, or a manifestation of, discrimination against women. For example, the *Beijing Platform for Action* says:

Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns...linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society.¹¹

Sexual harassment and male violence against women are clearly violations of constitutional and statutory law in Canada, as well as violations of criminal law provisions that prohibit assault and sexual assault.

These domestic guarantees of equality and non-discrimination in Canada's constitutional and statutory law are fleshed out, and added to, by international and regional human rights treaties that Canada has ratified, and by declarations, agreements, and related jurisprudence. This body of international law and expert commentary adds detail, examples, and definitions that illuminate the meaning of the guarantees in Canadian law. It also enhances our understanding of violence against women as a systemic problem to be addressed by governments, not just as a problem of individual men assaulting and killing individual women.

International Human Rights Law: Treaties and Agreements

International human rights instruments that Canada has ratified are understood to be consistent with Canada's domestic laws. They provide a persuasive source for the interpretation of Canada's "ambiguous or open-textured domestic legal provisions."¹² The

¹¹ United Nations, *Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women; Action for Equality, Development and Peace*, A/CONF.177/20/Add.1 (Beijing: United Nations, 1995), para. 119, <https://www.refworld.org/docid/3dde04324.html>.

¹² The Poverty and Human Rights Centre, *The Role of International Social and Economic Rights in the Interpretation of Domestic Law in Canada*, law sheet, 2008, https://povertyandhumanrights.org/wp/wp-content/uploads/2009/07/domesticlaw_v6-1.pdf,

treaties set out norms and legal undertakings that Canada has agreed to comply with in all aspects of its governing, and at all levels of government.

Canada has signed and ratified human rights treaties guaranteeing a panoply of rights for women, including the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), the *Convention on the Rights of the Child* (CRC), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment* (CAT), the *Convention on the Elimination of Racial Discrimination* (CERD), and the *Convention on the Rights of Persons with Disabilities*.¹³

The human rights enshrined in international treaties, conventions, and declarations are interrelated and interdependent. Together, they articulate Canada's legal obligations to protect, respect, and fulfill the human rights of the people who live here.

The expert bodies that monitor these treaties (e.g. the United Nations Human Rights Committee) act as accountability mechanisms, reviewing Canada's compliance with its international treaty obligations through a regular reporting process. International and regional human rights systems also have petition and investigatory procedures that may be triggered when Canadians allege that Canada has violated rights guaranteed by a treaty and has failed to provide a domestic remedy.

In addition to the treaties that bind the nations that ratify them, United Nations bodies have outlined states' obligations to prevent and address discrimination against women in many non-binding yet influential instruments, including United Nations General Assembly

citing Stephen Toope, "Inside and Out: the Stories of International Law and Domestic Law" *University of New Brunswick Law Journal* 50, no. 11 (2001): 16. See also *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, para. 70, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1717/index.do>; and *Slaight Communications Inc. v. Davidson*, [1989] 1 S.C.R. 1038, 1056, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/450/index.do>.

¹³ Government of Canada, "International Human Rights Treaties to which Canada is a Party," last modified August 5, 2021, <https://www.justice.gc.ca/eng/abt-apd/icg-gci/ihrl-didp/tcp.html>.

Resolutions,¹⁴ the Beijing Platform for Action,¹⁵ CEDAW General Recommendations,¹⁶ the *Declaration on the Elimination of Violence Against Women* (DEVAW),¹⁷ and the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP). UNDRIP has now been formally adopted into Canadian law, and should have significant weight in any consideration of Indigenous women's rights.¹⁸ Additionally, the reports of the UN Special Rapporteur on violence against women, its causes and consequences (SP Violence against women), outline important recommendations and expectations for states.¹⁹

Canada is also a member of the Organization of American States (OAS). As a member, Canada is committed to respect, protect, and fulfill the rights set out in the *OAS Charter*

¹⁴ See for example United Nations General Assembly Resolutions, *Domestic Violence*, Resolution 40/36, A/RES/40/36 (New York: United Nations, November 29, 1985), https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1980-1989/1985/A-RES-40-36.pdf; United Nations General Assembly Resolutions, *Domestic Violence*, Resolution 45/114, A/RES/45/114 (New York, United Nations, December 14, 1990), <https://www.refworld.org/docid/3b00efe86f.html>; and United Nations General Assembly Resolutions, *Elimination of Domestic Violence Against Women*, Resolution 58/147, A/RES/58/147 (New York: United Nations, February 19, 2004), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N03/503/40/PDF/N0350340.pdf?OpenElement>.

¹⁵ United Nations, *Beijing Declaration and Platform for Action*, 10.

¹⁶ See for example Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 19; Violence Against Women*, A/47/38 (New York: United Nations, 1992), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf, and Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 35 on Gender-based Violence Against Women, Updating General Recommendation No. 19*, CEDAW/C/GC/35 (New York: United Nations, 2017), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en.

¹⁷ United Nations General Assembly, *Declaration on the Elimination of Violence against Women*, Resolution 48/104, A/RES/48/104 (New York: United Nations, December 20, 1993), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.21_declaration%20elimination%20vaw.pdf.

¹⁸ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, Resolution 61/295, A/RES/61/295 (New York: United Nations, September 13, 2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf; see also, Parliament of Canada, Bill C-15, *An Act Respecting the Rights of Indigenous Peoples*, 2nd sess., 43rd parliament, 2021, <https://parl.ca/DocumentViewer/en/43-2/bill/C-15/third-reading>.

¹⁹ United Nations Human Rights Council, "Special Rapporteur on Violence Against Women, Its Causes and Consequences," United Nations, <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>.

and the *American Declaration on the Rights and Duties of Man*.²⁰ The Declaration guarantees the right to life, liberty, and security of the person (Article 1) and the right to equal protection under the law without discrimination (Article 2).²¹ Although Canada has not ratified the *American Convention on Human Rights*, which was largely drawn from the *Declaration*,²² Canada is now considering ratifying the key regional human rights document on violence against women, the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women "Convention of Belem do Para"*.²³ Even without ratifying *Belem do Para*, however, all OAS states – including Canada and others that have not signed the *American Convention on Human Rights* – have obligations to prevent, investigate and prosecute violence against women.²⁴

State Obligations and Violence Against Women

Focused specifically on women, CEDAW is the key international text on the equal rights of women. By signing and ratifying CEDAW and international treaties and Optional Protocols that contain interrelated and interdependent rights, Canada has agreed not just

²⁰ Inter-American Court of Human Rights, *Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights*, Advisory Opinion OC-10/89, series A, no. 10 (Washington: Organization of American States July 14, 1989), http://hrlibrary.umn.edu/iachr/b_11_4j.htm.

²¹ Inter-American Commission on Human Rights, *American Declaration on the Rights and Duties of Man* (Washington: Organization of American States, 1948), <https://www.cidh.oas.org/basicos/english/basic2.american%20declaration.htm>.

²² Organization of American States, *American Convention on Human Rights 'Pact of San Jose, Costa Rica,' Signatories and Ratifications* (Washington: Organization of American States, November 22, 1994), http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm.

²³ Organization of American States, *Inter-American Convention on the Prevention and Eradication of Violence against Women Convention 'Convention of Belem do Para'* (Washington: Organization of American States, June 9, 1994), <https://www.oas.org/juridico/english/sigs/a-61.html>; FAFIA and other non-governmental organizations were informed that the federal government is consulting the provinces regarding ratifying the Convention of Belem do Para by David Dendooven, Co-Chair of the Senior Officials Committee on Human Rights and Assistant Deputy Minister of Strategic Policy, Planning and Corporate Affairs, Department of Canadian Heritage, during a videoconference held on November 29, 2021.

²⁴ See Inter-American Commission on Human Rights, *Jessica Gonzalez et al. v. United States*, case 1490-05, no. 52/07, OEA/Ser.L/V/II.130., doc. 22 (Washington: Organization of American States, July 24, 2007), <http://hrlibrary.umn.edu/cases/52-07.html>.

to refrain from discriminating against women, but also to take “all appropriate measures”²⁵ to realize the rights of women.

State Actors

International treaties articulate the obligations of governments to ensure that they do not engage in discrimination, either in law or in practice. This includes ensuring that all state actors – for example, health care providers, border guards, prison guards, police, court officials – do not discriminate against women, and do not engage in violence against them.

Article 2 of CEDAW says, in part:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: ...

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation...

Article 2 of the *Declaration on the Elimination of Violence against Women* states that violence against women “should not be perpetrated or condoned by the state.”²⁶ Article 7a. of the *Convention of Belem do Para* says:

The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:...refrain from engaging in any act or practice of violence against women and to ensure that their authorities,

²⁵ United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, (New York: United Nations, 1979), article 3 states: “States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

²⁶ United Nations General Assembly, *Declaration on the Elimination of Violence against Women*, article 2(c).

officials, personnel, agents, and institutions act in conformity with this obligation.²⁷

The obligation to refrain from engaging in any act or practice of discrimination against women clearly obligates the Government of Canada, and the RCMP itself, to ensure that no RCMP Officer engages in violence against women. When public officials commit acts of violence against women, the state engages directly in the discrimination it is obligated by law to prevent and eliminate.

Non-State Actors

In addition to the obligation to ensure that state actors do not engage in violence against women, governments are also required to prevent and respond effectively to violence against women by non-state actors – by husbands, lovers, acquaintances, or strangers.

Article 2(2) of CEDAW requires governments:

e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise

A standard of due diligence has been developed in international and regional human rights law that enables assessment of whether governments are fulfilling their obligation to protect women against violations of their rights by non-state actors.²⁸ This standard was developed through many avenues, including state negotiation of new human rights instruments, such as the *Convention of Belem do Para*; in General Comments issued by treaty bodies; in decisions by expert bodies, such as the CEDAW Committee and the Inter-American Court of Human Rights on petitions regarding alleged violations of treaty provisions.

²⁷ Organization of American States, *Convention of Belem do Para*, article 7(a).

²⁸ Accounts of the development of the standard of due diligence in international and regional human rights law can be found in Yakin Ertürk, *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women: Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, E/CN.4/2006/61 (Geneva: United Nations, 2006), <https://digitallibrary.un.org/record/565946?ln=en>, and in Christine Chinkin, *The Duty of Due Diligence, Ad Hoc Committee on Preventing and Combatting Violence against Women (CAHVIO)* (Strasbourg: Council of Europe, 2010), <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593fc8>.

Canada has been a vocal and consistent supporter of this development in international human rights law, supporting the drafting and adoption of the *Declaration on the Elimination of Violence against Women*, the creation of the mandate of the Special Rapporteur on violence against women, and numerous resolutions at the UN Human Rights Council.²⁹

Special Rapporteur Yakin Ertürk wrote in her 2006 report to the United Nations Commission on Human Rights (now United Nations Human Rights Council) that until the development of the due diligence standard, the public/private dichotomy in human rights law posed a particular problem for women's rights. Violence in the public sphere (violence by a state actor) was understood to be a human rights violation for which the state could be held to account, but violence in the private sphere (violence by a non-state actor) was not. "This normalized the use of violence in the home", says Ertürk.³⁰ The due diligence standard has now replaced a narrow reading of state responsibility, which excluded responsibility for non-state actors, and created a major obstacle to the enjoyment of rights by women.

The due diligence standard requires governments and public institutions to exercise due diligence to "prevent, investigate, punish, and provide redress" for acts of violence against women by non-state actors.³¹ A state that fails to act with due diligence violates the right of women to equality and non-discrimination.³²

²⁹ See Government of Canada, "Advancing Gender Equality and Empowering Women and Girls," last modified August 17, 2020, https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/gender_equality-egalite_des_genres/empowerment-autonomisation.aspx?lang=eng.

³⁰ Ertürk, *The Due Diligence Standard*, para. 59.

³¹ See United Nations Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13 (Geneva: United Nations, May 26, 2004), <https://www.refworld.org/docid/478b26ae2.html>. The Comments states at para. 8 that violations of Covenant rights can occur because of a State Party "failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress [violations] caused by ... private persons or entities."

³² Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women in British Columbia, Canada*, OEA/Ser.L/V/II., doc. 30/14 (Washington: Organization of American States, 2014), 13, <https://www.oas.org/en/iachr/reports/pdfs/indigenous-women-bc-canada-en.pdf>; Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 19*.

The due diligence standard is exacting. It requires that states adopt comprehensive measures to address violence against women.³³ These measures include addressing the risk factors leading to violence against women in their respective countries and strengthening the institutions that respond to it.³⁴ Specifically, states should create a robust legal framework and adopt targeted prevention strategies to address violence against women.³⁵

In its 2014 report, *Missing and Murdered Indigenous Women and Girls in British Columbia, Canada*, the Inter-American Commission on Human Rights (IACHR) set out the four elements of the due diligence standard. It also articulated four main principles for implementation and assessment.³⁶

First, a state violates its due diligence obligations if it fails to prevent, investigate, sanction, and provide reparations for violence against women.³⁷ Second, because discrimination causes violence against women, states must take steps to address the underlying discrimination that fuels violence against women. Third, the duty to act with due diligence necessitates the provision of effective judicial remedies for victims and their families.³⁸ Fourth, certain groups of women, especially Indigenous women have a heightened risk of violence due to discrimination arising from the intersections of race, ethnic background, gender, and the continuing effects of colonization and this heightened risk must be taken

³³ Inter-American Court of Human Rights, *Case of González et al. ("Cotton Field") v. Mexico: Preliminary Objection, Merits, Reparations and Costs*, series C, no. 205 (Washington: Organization of American States, 16 November 2009), para. 258, https://www.corteidh.or.cr/docs/casos/articulos/seriec_205_ing.pdf; Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, 75-76.

³⁴ *Ibid.*

³⁵ *Ibid.* The rulings of the Inter-American Court are authoritative for Canada, which is an OAS member and a signatory to the OAS Charter. Additionally, in a seminal report on due diligence, the UN Special Rapporteur on violence against women, its causes and consequences asserted that the duty to prevent and respond to acts of violence against women with due diligence had reached the status of customary law and was therefore binding on all states. See Ertürk, *The Due Diligence Standard*, para. 29.

³⁶ Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, paras. 158-59.

³⁷ *Ibid.*, para. 153.

³⁸ *Ibid.*, paras. 158-59.

into account in prevention and investigation practices.³⁹ Especially where policing failures fall “within a wider pattern of state negligence,”⁴⁰ there is a breach of due diligence.

Law Enforcement and Due Diligence

Law enforcement is a critical tool in a state’s response to violence against women by non-state actors. The obligations of a state to prevent, investigate, prosecute, and provide redress for violence against women are intrinsically connected to the role of policing – particularly with the duties to prevent and investigate violent crimes.⁴¹

As Canada’s national police force, the RCMP has a key responsibility to discharge Canada’s due diligence obligations. The RCMP currently provides contract policing services to eight provinces (all except Ontario and Québec) and three territories, and in approximately 200 municipalities and 600 Indigenous communities.⁴² The RCMP is the principal police service in most of rural and northern Canada.

The Duty to Prevent

The duty to prevent violence against women has specific implications for law enforcement. The ability of police forces to provide non-discriminatory and gender-sensitive services, to ensure that every incident of violence against women is taken seriously, to respond effectively to women’s calls for assistance, and to investigate thoroughly when violence occurs, are essential to a state’s ability to discharge its duty of due diligence.

Human rights law experts Bettinger-Lopez and Ezer note that both the United Nations and the Inter-American systems have highlighted the importance of police capacity to provide non-discriminatory and equality-promoting services to women. They note that

³⁹ Ibid., paras. 142-52, 159.

⁴⁰ Missing Women Commission of Inquiry, *Violence against Women: Evolving Canadian and International Legal Standards on Police Duties to Protect and Investigate*, June 2012, 71, <https://missingwomen.library.uvic.ca/wp-content/uploads/2010/10/Evolving-Canadian-and-International-Legal-Standards-on-Policing-Obligations.pdf>.

⁴¹ Caroline Bettinger-Lopez and Tamar Ezer, “Improving Law Enforcement Responses to Gender-Based Violence: A Human Rights Analysis,” in *Handbook of Policing, Society, and Communication*, ed. Howie Giles, Edward Maguire, and Shawn Hill (Maryland: Rowman and Littlefield, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3697459.

⁴² Royal Canadian Mounted Police, “About the RCMP,” last accessed April, 2022, <https://www.rcmp-grc.gc.ca/en/about-rcmp>.

the CEDAW Committee calls for “mandatory, recurrent and effective capacity-building, education and training of ... law enforcement officers... to adequately prevent and address gender-based violence against women.”⁴³ They also note that the *Convention of Belem do Para* requires states “to promote the education and training of all those involved in the administration of justice, police and other law enforcement” in order to advance “prevention, punishment and eradication of violence against women.”⁴⁴ While there are serious questions about the effectiveness of police training to change the deeply ingrained and pervasive misogynistic, racist and homophobic attitudes and practices of police,⁴⁵ these calls make the point that effective, unbiased policing is essential to discharging the duty to prevent violence.

The Duty to Investigate

The State’s duty to investigate violence against women is also a duty that police are responsible for discharging. To meet this duty, a state must show that it “carried out an immediate, exhaustive and impartial investigation”, one that gathered key evidence and explored all possible investigative leads.⁴⁶ States have a responsibility not only to prevent primary victimization of their citizens, but also to prevent secondary victimization that may occur when police officers mishandle sexual violence investigations.⁴⁷

A failure to properly investigate acts of violence against women affects more than the individual victims; as explained by the United Nations Human Rights Council, “a lack of accountability unacceptably reinforces social normalization of and tolerance for these crimes”.⁴⁸ The Inter-American Commission on Human Rights has identified the

⁴³ Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 35*, as cited in Bettinger-Lopez and Ezer, “Improving Law Enforcement,” 7.

⁴⁴ *Ibid.*

⁴⁵ The Bastarache Report concludes that change to the misogynist, racist and homophobic culture of the RCMP will not come from within, and that external pressure is needed. The Report also finds that the training currently being provided to RCMP recruits and Officers is part of the problem. See Bastarache, *Broken Dreams, Broken Lives*, iii, iv.

⁴⁶ Inter-American Commission on Human Rights, *Juan Carlos Abella et al. Argentina, Report on Merits*, case 11.137, no. 55/97, OEA/Ser.L/V/II.98 doc. 6 (Washington: Organization of American States, April 12, 1998), para. 412, <https://www.cidh.oas.org/annualrep/97eng/argentina11137.htm>

⁴⁷ Bettinger-Lopez and Ezer, “Improving Law Enforcement,” 9.

⁴⁸ United Nations Human Rights Council, *Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence*, Resolution

investigation stage as the most critical stage in cases involving violence against women: "The importance of due investigation cannot be overestimated, as deficiencies often prevent and/or obstruct further efforts to identify, prosecute, and punish those responsible."⁴⁹

When police are either not equipped by the state or are equipped and yet fail to properly investigate violence against women, the state is responsible for these failings.

The Duty to Prosecute

The obligation to prosecute perpetrators of violence against women is not the inherent duty of police. However, police failures to adequately investigate violence against women may preclude prosecution and other means of redress.

The Duty to Provide Redress

The duty to provide redress is grounded in the obligation of states to ensure that when rights are violated, victims can obtain an effective remedy. Article 2(3) of the *International Covenant on Civil and Political Rights*, which guarantees non-discrimination and equal protection of the law, states:

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity...

This duty is not inherently tied to policing. However, when police officers fail to respond effectively to threats to women, or to complete thorough and unbiased investigations, such acts prevent women from obtaining an effective remedy. In addition, women are entitled to remedies when their rights are violated because of police failures, as well as when police officers commit acts of harassment and violence themselves.

23/25, A/HRC/RES/23/25 (Geneva: United Nations, June 14, 2013),

2, https://ap.ohchr.org/documents/dpage_e.aspx?si=A%2FHRC%2FRES%2F23%2F25.

⁴⁹ Inter-American Commission on Human Rights, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V/II., doc. 68 (Washington: Organization of American States, January 20, 2007), para. 38, <http://www.cidh.org/women/access07/chap1.htm>.

In sum, fulfilling its legal obligations to women requires Canada and its institutions to ensure: 1) that police do not perpetrate violence against women; 2) that police effectively discharge their duties to prevent violence against women, and to investigate reports of violence thoroughly; 3) that police are held accountable for failures to prevent and investigate violence, as well as for direct perpetration of violence against women; and 4) that acts and failures to act by police do not create a culture of impunity for male violence against women. International human rights instruments and jurisprudence provide an essential framework for assessing Canada's fulfillment of its duties and commitments to women.

International Critiques of Canada

As documented above, Canada has a duty to create a robust justice system and an enabling environment for reporting violence against women as part of its due diligence obligations. United Nations human rights treaty monitoring bodies and mandate-holders have long criticized Canada for failing to do so.

In 2016, the Committee on the Elimination of Discrimination against Women (CEDAW Committee), in its periodic review of Canada's compliance with the CEDAW Convention, raised concerns about several issues regarding the state of violence against women in Canada, including:

- High rates of violence against women;
- Low reporting rates of violence to police;
- Low prosecution rates of and lenient penalties for perpetrators of gender-based violence;
- The lack of a federal national action plan on gender-based violence;
- The lack of available shelters and support services;
- The lack of statistical data on gender-based violence; and
- The repeal of a civil remedy for cyberviolence.⁵⁰

In 2018, the United Nations Special Rapporteur on violence against women, Dubravka Šimonović, made a country visit to Canada. In her concluding report, she pinpointed weaknesses in Canada's approach to addressing violence against women, particularly Indigenous women. She found that "Indigenous women face marginalization, exclusion,

⁵⁰ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined 8th and 9th Periodic Reports of Canada*, CEDAW/C/CAN/CO/8-9 (New York: United Nations, November 25, 2016), 7, <http://digitallibrary.un.org/record/3802136>.

and poverty because of institutional, systemic, multiple, intersecting forms of discrimination that have not been addressed adequately by the state”.⁵¹

Šimonović also recommended that Canada’s federal spending power be deployed to support improved criminal justice responses for survivors in all provinces and territories. These recommendations included specialized sexual assault training for police officers and prosecutors on awareness about rape myths, information about the legal standard for consent, and enhanced training on the specific needs and vulnerabilities of Indigenous women, women living with disabilities, and other vulnerable groups of women.

These international critiques highlight what women’s rights advocates have known and claimed for many years: Canada is failing to meet its obligations to respect, protect and fulfill the human rights of women.

The Evidence

Violence against Indigenous Women and Girls

Indigenous women and girls face disproportionately high levels of violence as compared to other women in Canada. They also experience higher rates of police violence. Indigenous land defenders and human rights advocates, many of whom are women, are vilified, surveilled, criminalized, and subjected to violence by the RCMP.⁵² Many have been assaulted, arrested, and forcibly removed from their territories for engaging in peaceful

⁵¹ Dubravka Šimonović, *Visit to Canada: Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, A/HRC/41/42/Add.1* (Geneva: United Nations, June 3, 2019), para. 75, <https://digitallibrary.un.org/record/3840224?ln=en>. For specific recommendations relating to Indigenous women, see para. 96 and its sub-paragraphs; see also Dubravka Šimonović, “End of Mission Statement by Dubravka Šimonović, United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences – Official Visit to Canada,” United Nations, April 23, 2018, <https://www.ohchr.org/en/statements/2018/04/end-mission-statement-dubravka-simonovic- united-nations-special-rapporteur?LangID=E&NewsID=22981>.

⁵² Justin Brake, “Women Speak Out Against Criminalization of Land Defenders, Water Protectors,” *APTN National News*, August 3, 2018, <https://www.aptnnews.ca/national-news/women-speak-out-against-criminalization-of-land-defenders-water-protectors/>; Matt Simmons, “‘Localized Harassment’: RCMP Patrol Wet’suwet’en Territory Dispute UN Calls for Withdrawal,” *The Narwhal*, February 22, 2021, <https://thenarwhal.ca/rcmp-wetsuweten-territory-february-2021/>.

land defence.⁵³ Some of these women are sent to prison adding to the crisis of over-incarceration of Indigenous women, who are the fastest growing prison population in Canada, representing 50% of the federal prison population although they are only 5% of the total population of women in Canada.⁵⁴ Within prisons, Indigenous women are over-securitized, disproportionately subjected to use of force, and no progress has been made on sexual coercion and violence in federal prisons. Sexual harassment, sexual exploitation and sexual assaults by prison guards are well-known and well-documented problems for Indigenous women in prison.⁵⁵

Canada's failures to prevent, investigate, punish, and provide redress for violence against women is most seriously manifested in the crisis of murders and disappearances of Indigenous women and girls. These failures not only violate the treaties that Canada has ratified, they also breach the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which Canada has endorsed and incorporated into Canadian law. The UNDRIP requires states to "take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."⁵⁶

⁵³ Ibid. See also concerns raised by the Committee on the Elimination of Racial Discrimination regarding Canada's treatment of Indigenous land defenders: Committee on the Elimination of Racial Discrimination, CERD/EWJAP/102nd session/2020/MJ/CS (Geneva: United Nations, November 24, 2020), https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_ALE_CAN_9296_E.pdf.

⁵⁴ Office of the Correctional Investigator, *Proportion of Indigenous Women in Federal Custody Nears 50%* (Ottawa: Government of Canada, 2021), <https://www.oci-bec.gc.ca/cnt/comm/press/press20211217-eng.aspx>; see also Office of the Correctional Investigator, *Annual Report 2020-2021* (Ottawa: Government of Canada, 2021), <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20202021-eng.pdf>.

⁵⁵ CBC News, "Former N.S. Prison Guard Pleads Guilty to Three Sexual Assaults," April 4, 2022, <https://www.cbc.ca/news/canada/nova-scotia/former-prison-guard-pleads-guilty-six-charges-nova-institute-for-women-truro-1.6407994>; see also Vancouver Sun, "New Lawsuit, Alleging Abuse by a Former Corrections Officer, Claims B.C. Jails Need 'Systemic Fix'," November 24, 2019, <https://vancouver.sun.com/news/local-news/part-2-of-prison-sex-assault-series>; see also Global News, "Canadian Human Rights Commission Says Inquiry on Sexual Violence in Prisons Needed," April 13, 2022, <https://globalnews.ca/news/8758266/canadian-human-rights-commission-sexual-violence-prisons/>.

⁵⁶ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, article 22(2).

Four major reports have documented a pattern of police failures regarding missing and murdered Indigenous women and girls. The RCMP is prominent among the police forces responsible for these failures.

The 2012 report of the B.C. Missing Women Commission of Inquiry (the Oppal Inquiry) outlined the failings of the RCMP and the Vancouver Police Department (VPD) to accept missing person complaints and properly investigate disappearances and murders of women from the Downtown Eastside of Vancouver, many of whom were Indigenous.⁵⁷ Because of botched investigations, Robert William Pickton was permitted to prey for many years on women from the Downtown Eastside of Vancouver, Canada's poorest neighbourhood. Pickton was convicted of nine murders and confessed to forty-nine.⁵⁸

The Oppal Report found critical mistakes throughout the RCMP and the VPD investigations, including failures to:

- Take proper notes and follow up on missing person reports;
- Undertake proper risk analyses and assessments;
- Design a proactive strategy to prevent further harm to women;
- Follow the proper internal policies and practices;
- Consider and pursue all investigative avenues;
- Coordinate effectively with other police services;
- Implement effective monitoring and review mechanisms;
- Complete fulsome investigations and follow-up work; and
- Communicate properly with families and treat them with due respect.⁵⁹

The 2014 Report of the Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women and Girls in British Columbia, Canada*, which studied the disappearances and murders of women from the Downtown Eastside of Vancouver and along the Highway of Tears in northern British Columbia, found that "the police have

⁵⁷ British Columbia, Missing Women Commission of Inquiry, Wally Oppal, *Forsaken: The Report of the Missing Women Commission of Inquiry* (Victoria: Distribution Centre-Victoria, 2012), <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/inquiries/forsaken-es.pdf>. This Inquiry examined the police response to the disappearances and murders of women from Vancouver's Downtown Eastside, many of whom were killed by Robert Pickton.

⁵⁸ CTV News, "Crown says Pickton Confessed to Killing 49," January 22, 2007, <https://www.ctvnews.ca/crown-says-pickton-confessed-to-killing-49-1.225554>.

⁵⁹ Oppal, *Forsaken*, 28, 43-54.

failed to adequately prevent and protect indigenous women and girls from killings, disappearances, and extreme forms of violence, and have failed to diligently and promptly investigate these acts.”⁶⁰ The RCMP, under a contract with the province, has 90 detachments providing police services in British Columbia, including in the Lower Mainland and in northern areas of the province.⁶¹

The 2015 *Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to CEDAW* found that Canada “failed to...ensure that its agents provide effective protection and conduct effective investigations and prosecutions...in relation to missing and murdered aboriginal women.”⁶² The Inquiry concluded that Canada failed to discharge its duty of due diligence to prevent and redress violence against Indigenous women and girls, and committed grave violations of the rights guaranteed in the Convention by failing to take effective measures to protect Indigenous women and girls from violence and also failing to ensure that public authorities and institutions refrain from discrimination against them.⁶³

In 2016, the Government of Canada, with the agreement of governments of all provinces and territories, appointed the National Inquiry into Missing and Murdered Indigenous Women and Girls (National Inquiry). At the time, the CEDAW Committee, having recently completed its own inquiry, expressed concern that the terms of reference for the National Inquiry did not explicitly mandate a review of policing practices or a mechanism for independent review of complaints about police investigations – concerns that had long been raised by Indigenous peoples and women’s groups.⁶⁴

⁶⁰ Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, para. 6.

⁶¹ British Columbia, Missing Women Commission of Inquiry, Melina Buckley, *Issues Related to the Structure and Organization of Policing Arising From the Missing Women Investigations* (Victoria: Distribution Centre-Victoria, April 2012), 13, <https://missingwomen.library.uvic.ca/wp-content/uploads/2010/10/POL-4-April-2012-MB-Issues-Related-to-Structure-Organization-of-Policing-Arising-from-the-MW-Investigations.pdf>.

⁶² Committee on the Elimination of Discrimination against Women, *Report of the Inquiry Concerning Canada of the Committee on the Elimination of Discrimination against Women Under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/OP.8/CAN/1 (New York: United Nations, March 30, 2015), para. 210, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW_C_OP-8_CAN_1_7643_E.pdf.

⁶³ *Ibid.*

⁶⁴ *Ibid.*, para. 182.

Though lacking a specific mandate to examine police failures or police acts of violence, the National Inquiry's Final Report examines, in a limited fashion, bias in policing, justice, and corrections, including multiple forms of racial discrimination and mistreatment of Indigenous women.⁶⁵ The Report documents first-hand accounts of violence, discrimination, and abuse perpetrated by RCMP Officers against Indigenous women and girls.⁶⁶ These testimonies also reveal RCMP apathy and improper investigative responses relating to violence committed against Indigenous peoples, especially women and girls.⁶⁷

The National Inquiry Report also highlights a key fact, one that is noted in all the reports on this subject: since its creation, the RCMP has been known for its abuse of, and discrimination against, Indigenous women and girls. The Northwest Mounted Police (NWMP), the predecessor to the RCMP, whose task was to assert "colonial control" over Indigenous peoples,⁶⁸ actively engaged in practices that sexualized, dehumanized, and villainized Indigenous women and girls.⁶⁹ Allegations of NWMP misconduct and violence against Indigenous women and girls were ignored and often discredited because the police investigated their own members – a practice that continues to this day in the RCMP.⁷⁰

In June 2018, RCMP Commissioner Brenda Lucki apologized on behalf of the RCMP to the families of missing and murdered Indigenous women and girls for the times they had felt "disrespected, ignored and neglected by the RCMP."⁷¹ Commissioner Lucki acknowledged that the RCMP could have done better at being the police force the families needed, and promised to do better by them in the future. However, since delivering that apology,

⁶⁵ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*.

⁶⁶ *Ibid.*, vol. 1a, 97, 101-2, 106, 108, 115, 122; vol. 1b, 103, 154-57, and 247-58.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, vol. 1a, 253.

⁶⁹ *Ibid.*, 254.

⁷⁰ *Ibid.*, 257; Pam Palmater, "Brenda Lucki Must Go," *Macleans*, June 18, 2020, <https://www.macleans.ca/opinion/brenda-lucki-must-go/>.

⁷¹ Royal Canadian Mounted Police, "Statement of Apology to Families of Missing and Murdered Indigenous Women and Girls," Government of Canada, June 25, 2018, <https://www.rcmp-grc.gc.ca/en/news/2018/statement-apology-families-missing-and-murdered-indigenous-women-and-girls>.

Commissioner Lucki has also denied that systemic racism is embedded in RCMP culture and has dismissed the call for an external review of the force.⁷²

In June 2021, in response to the 231 Calls for Justice set out in the National Inquiry's Final Report,⁷³ the Government of Canada released the National Action Plan: Ending Violence Against Indigenous Women, Girls and 2SLGBTQQIA+ People.⁷⁴ Unfortunately, this Plan does not address the racism and sexism that is manifest in the actions and inactions of the RCMP and other police forces. The Plan states that it is "vitally important that the RCMP and other police forces be more accountable" for their treatment of survivors and the families of MMIWG, as well as for how they investigate these cases.⁷⁵ However, the Plan lacks any detail on how this important goal will be met, or on how RCMP perpetrators of violence will be held to account for their own acts of violence.

In June 2021, the Parliamentary Standing Committee on Public Safety and National Security released a report on systemic racism within the RCMP. The report outlined racist abuses committed by the RCMP, including those against Indigenous women and girls. The report also recognized the need for extensive changes to the RCMP's training methods and overall paramilitary culture.⁷⁶

In addition to reports, investigations, and inquiries by international, regional, and domestic human rights bodies and government committees, there are a number of reports from important non-governmental organizations about RCMP abuse of Indigenous women and girls. These are explored in the next section of this report.

⁷² Palmater, "Brenda Lucki Must Go"; Samantha Beattie, "RCMP Perpetuates Misogynistic, Homophobic And Racist Culture: Report, But Commissioner Brenda Lucki said an Immediate External Review Isn't Necessary," *Huffington Post*, November 20, 2020, https://www.huffingtonpost.ca/entry/rcmp-racism-report_ca_5fb6c487c5b69969a6a323c8.

⁷³ Government of Canada, "Building a National Action Plan with Partners," last modified June 3, 2021, <https://www.rcaanc-cirnac.gc.ca/eng/1590950479157/1590950564663>.

⁷⁴ Government of Canada, *National Action Plan: Ending Violence Against Indigenous Women and Girls and 2SLGBTQQIA+ People* (Ottawa: Government of Canada, June 3, 2021), https://4c3tru4erdnui9g3ggftji1d-wpengine.netdna-ssl.com/wp-content/uploads/2021/06/NAP_Report_EN.pdf.

⁷⁵ *Ibid.*, 36.

⁷⁶ McKay, *Report of the Standing Committee on Public Safety and National Security*.

Human Rights Watch Report on British Columbia

In 2013, Human Rights Watch (HRW) published a report examining violence committed by RCMP members against Indigenous women and girls across ten cities in Northern BC.⁷⁷ Interviewees reported racist and sexist abuse, violence, and rape.⁷⁸ These acts occurred against a backdrop of police apathy towards missing Indigenous women and Indigenous women who are victims of domestic violence.⁷⁹ Many Indigenous women who are victims of domestic violence experienced blame, shame, and arrest in their interactions with police.⁸⁰ Moreover, anyone who used the RCMP's complaint mechanisms risked retaliation, as complaints were likely to be given to the RCMP or another police force to investigate.⁸¹ Even discussing their abuse with HRW investigators was too frightening for some. HRW noted that there were withdrawals or no-shows for interviews because of fear of police retaliation.⁸²

The report contains numerous recommendations and provides an extensive background on police violence against Indigenous women and girls in Canada. The authors allege that RCMP Officers may have been complicit in former provincial court judge David Ramsay's sexual assault of Indigenous girls,⁸³ and that some Officers may have exploited the girls themselves.⁸⁴ There were many delays in the investigations of these incidents by the RCMP. One disciplinary action was ultimately dismissed and other members who had been investigated were not charged. No formal inquiry was held.⁸⁵ Murders of Indigenous

⁷⁷ Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada* (New York: Human Rights Watch, 2013), <https://www.hrw.org/report/2013/02/13/those-who-take-us-away/abusive-policing-and-failures-protection-indigenous-women#>.

⁷⁸ *Ibid.*, 46-65.

⁷⁹ *Ibid.*, 67-68.

⁸⁰ *Ibid.*, 59-60.

⁸¹ *Ibid.*, 73.

⁸² *Ibid.*, 19.

⁸³ Former British Columbia provincial court judge David Ramsay sexually and physically abused Indigenous girls who appeared before him in court, including a twelve-year old. Ramsay solicited vulnerable Indigenous girls for sex and then violently abused them, all while holding the position of a judge. He was sentenced to seven years in prison for these crimes. See Jane Armstrong, "B.C. Judge Throws Book at Sex-Criminal Colleague," *Globe and Mail*, June 2, 2004, <https://www.theglobeandmail.com/news/national/bc-judge-throws-the-book-at-sex-criminal-colleague/article999827/>.

⁸⁴ Human Rights Watch, *Those Who Take Us Away*, 32.

⁸⁵ *Ibid.*, 32-33.

women along the Highway of Tears also failed to garner attention until a non-Indigenous woman went missing.⁸⁶

In the qualitative research section on police abuse, Indigenous women reported that RCMP officers automatically presumed they were taking part in criminal activities.⁸⁷ Indigenous girls were often incarcerated for intoxication instead of being driven home.⁸⁸ The report finds that these cruel and unnecessary police practices increased feelings of resentment and fear that victims had toward the police.⁸⁹

The report documents eight incidents of physical assault against girls across seven communities.⁹⁰ Two of the girls were injured in situations where the police were called to protect them.⁹¹ RCMP Officers reportedly used tasers on girls in two instances.⁹² Women and girls who were detained for intoxication were kept in cold temperatures, left unfed for hours, and sometimes released into below-freezing temperatures at night with insufficient clothing.⁹³ Injured women were also at times left unattended in custody. HRW received fifteen reports detailing abuse of women in custody, with eleven women speaking directly about abuse with eyewitnesses.⁹⁴ Such abuse took place both during and after arrests.⁹⁵

Rape or sexual assault by Officers was reported in five of the ten communities.⁹⁶ The reported assaults sometimes involved multiple Officers, threats, cover-ups, and other extreme abuses.⁹⁷ One case involving multiple Officers is on the public record, but was

⁸⁶ Ibid., 35-38.

⁸⁷ Ibid., at 47.

⁸⁸ Ibid.

⁸⁹ Ibid., 49.

⁹⁰ Ibid., 50-54.

⁹¹ Ibid., 50.

⁹² Ibid., 56.

⁹³ Ibid., 58. Service providers reported that women (disproportionately Indigenous) who were held for longer periods to await trial could be held for nearly a week without access to washing facilities. Fights without RCMP intervention were also common in the drunk tanks. Women often faced further charges arising from such incidents.

⁹⁴ Ibid., 62-65.

⁹⁵ Ibid.

⁹⁶ Ibid., 59.

⁹⁷ Ibid., 59-62.

deemed unfounded.⁹⁸ Intoxicated women were also subjected to sexual assaults in city cells.⁹⁹ HRW noted similarities among reports from interviewees and found that stories from service providers corroborated the modes of sexual assault across communities.

In response to the report, then RCMP Commissioner Bob Paulson wrote in an email to the force's 29,000 members, stating: "My message to you today is – don't worry about it, I've got your back."¹⁰⁰

Human Rights Watch Report on Saskatchewan

A 2017 Human Rights Watch report on policing in Saskatchewan found that physical violence, mistreatment in police custody, and strip searches of Indigenous women occurred in every community that was investigated, at the hands of both RCMP and municipal forces.¹⁰¹ The report documents six reports of excessive force and eight reports of strip searches.¹⁰² Similar to the experiences of Indigenous women in BC, victims of domestic violence were at times arrested for defending themselves.¹⁰³

Concerned about the systemic and repetitive nature of the discrimination, Human Rights Watch recommended that in order to comply with international law, police forces across Canada should collect and report ethnicity- and gender-disaggregated data on victims of crime and on complainants of police misconduct, with their voluntary participation, as a means of tackling systemic racism in policing institutions.¹⁰⁴

⁹⁸ Ibid., 61, citing Notice of Claim, *Jennifer Alexander (Plaintiff) v. Her Majesty the Queen in Right of the Province of British Columbia, et. al. (Defendants)* in the Supreme Court of British Columbia, No. 1241534, (August 27, 2012).

⁹⁹ Ibid., 61-62.

¹⁰⁰ Human Rights Watch, "Canada: RCMP Closes Ranks on Abuse. Independent Accountability Mechanisms for Police Misconduct Sorely Needed," February 19, 2013, <https://www.hrw.org/news/2013/02/19/canada-rcmp-closes-ranks-abuse>.

¹⁰¹ Human Rights Watch, "Submission to the Government of Canada on Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence," June 19, 2017, <https://www.hrw.org/news/2017/06/19/submission-government-canada-police-abuse-indigenous-women-saskatchewan-and>.

¹⁰² Ibid., 11-14. Strip searches were conducted by male officers, but the report notes that it was unclear whether this was done intentionally or because there were no women officers available.

¹⁰³ Ibid., 14.

¹⁰⁴ Ibid., 20, citing Ertürk, *The Due Diligence Standard*, para. 32.

The report is notable for its critique of the Civilian Review and Complaints Commission's process for dealing with complaints, which relies on an initial investigation by the RCMP itself.¹⁰⁵ One of its significant recommendations is a call for the Chief Commissioner of the Civilian Review and Complaints Commission to have the authority to require RCMP compliance with its recommendations.¹⁰⁶ This report also provides an overview of Canada's obligations under international law in line with recommendations from the Human Rights Watch Report on British Columbia.¹⁰⁷

Legal Services Board of Nunavut Letters

The Legal Services Board of Nunavut voiced concerns about prevalent police abuse, particularly against Inuit women, and called for a systemic review of policing in Nunavut.¹⁰⁸ Two letters sent to the Civilian Review and Complaints Commission by the Board detailed sexism, racism, and excessive use of force.

The first, written in 2019, summarized incidents of violence and racism.¹⁰⁹ It outlined how domestic violence and sexual assault complainants faced long wait times for police responses, had incidents dismissed, and in some cases, were told to cease calling police.¹¹⁰ One woman was charged for defending herself after police neglected to address multiple instances of violence.¹¹¹

The letter outlined the mistreatment and violence women faced from RCMP Officers in Nunavut, with women noting that the largely male force appeared to lack training in sexual assault cases.¹¹² One victim was pinned and arrested, while another was left post-

¹⁰⁵ Ibid., 17.

¹⁰⁶ Ibid., 24.

¹⁰⁷ Ibid., 21-23.

¹⁰⁸ Thomas Rohner, "Inuit Women in Nunavut Suffer 'Unnecessary Violence,' Racism from RCMP, Legal Aid Board Says," *CBC News*, June 8, 2020, <https://www.cbc.ca/news/canada/north/inuit-nunavut-rcmp-allegations-violence-racism-1.5599557>.

¹⁰⁹ Legal Services Board of Nunavut, *Request for Review of RCMP in Nunavut* (Gjoa Haven: Legal Services Board of Nunavut, June 13, 2019), <http://www.documentcloud.org/documents/6937877-ATIPP-LSB1-Compressed.html>. Document from the CBC.

¹¹⁰ Ibid., 3.

¹¹¹ Ibid., 4.

¹¹² Ibid., 5.

assault without assistance and was not taken to a health centre.¹¹³ Additional degrading and humiliating treatment was documented, including a male Officer forcibly removing a female detainee's undergarments, and Officers leaving an arrested woman in a restraint chair, naked, for hours.¹¹⁴

The letter stated: "RCMP-related deaths in Nunavut occur at nine times the rate of police-related deaths in Ontario".¹¹⁵ It further noted that fourteen RCMP-related deaths occurred from 1999–2016 in the territory, many of which resulted in formal recommendations for change.¹¹⁶ Incidents of disproportionate and unnecessarily violent responses to Inuit were reported as occurring during calls, arrests, and custodial situations.¹¹⁷

The letter explained that the abuses by the RCMP are tied to the history of colonialism in Nunavut, with the RCMP enforcing the relocation of Inuit peoples in the High Arctic, removing children to residential schools, and killing sled dogs.¹¹⁸

In a follow-up letter to the Civilian Review and Complaints Commission in January 2020, the Legal Services Board stated that despite an indication that CRCC was considering a systemic review of the RCMP in Nunavut, no action was taken.¹¹⁹ The letter reiterated the request for review, and highlighted two additional incidents of violence against Inuit women in custody, who were strip searched and degraded.¹²⁰ The letter reiterated the legal and policy history regarding strip searches, which have frequently been found to be unnecessary and humiliating.¹²¹

¹¹³ Ibid.

¹¹⁴ Ibid., 6.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 7-9.

¹¹⁸ Ibid., 17.

¹¹⁹ Legal Services Board of Nunavut, *Two Recent Incidents of Strip Searching of Women by the RCMP in Nunavut* (Gjoa Haven: Legal Services Board of Nunavut, January 23, 2020), <https://www.documentcloud.org/documents/6937878-ATIPP-LSB2.html>. Document from the CBC.

¹²⁰ Ibid., 1.

¹²¹ Ibid., 3-4.

Civilian Review and Complaints Commission Review of Strip Search Policies and Practices

As is evident from the letters and HRW reports, the RCMP has continued the practice of strip searching, despite critical commentary and legal challenges to the practice.¹²² In *R v Golden*, the Supreme Court found that “[s]trip searches are ... inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy.”¹²³ This judgment also set out a framework for *Charter*-compliant searches, which has, purportedly, informed the RCMP’s national policy.¹²⁴

However, the Civilian Review and Complaints Commission (CRCC) reviewed and reported on the RCMP’s national strip search policy in 2020, finding it “unclear and inadequate”.¹²⁵ They further found compliance disparities such as unclear grounds, insufficient supervision and training, and “the practice of routinely removing and/or searching a prisoner’s undergarments, which is inconsistent with RCMP strip search policies and relevant jurisprudence.”¹²⁶ At the Iqaluit Detachment, the CRCC found bras were regularly removed and searches were video-recorded.¹²⁷ The lack of clarity in reporting the grounds for strip searches was noted as a specific barrier to independent review.¹²⁸ Thousands of Prisoner Report Forms were found to lack key data, such as case identification numbers, gender, and dates of birth.¹²⁹ Moreover, many of the issues identified as grounds for strip-searching did not conform to the CRCC’s 2017 recommendations.¹³⁰

¹²² Civilian Review and Complaints Commission for the RCMP, *Review of the RCMP’s Policies and Procedures Regarding Strip Searches* (Ottawa: Government of Canada, July 2020), 29, https://www.crcc-ccetp.gc.ca/pdf/Strip_Search_Final_Report-eng.PDF. This includes strip searches of women by male officers. See also Michelle Psutka and Elizabeth Sheehy, “Strip Searching of Women in Canada: Wrongs and Rights,” *Canadian Bar Review* 94, no. 2 (2016): 241.

¹²³ *R. v. Golden* [2001] 3 S.C.R. 679, 2001 SCC 83, para. 90.

¹²⁴ *Ibid.*, para. 101; Psutka and Sheehy, “Strip Searching of Women in Canada,” 10.

¹²⁵ *Ibid.*, 2. Divisional policies varied.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*, 22, 28. For example, the CRCC found “significant underreporting of bra/undergarment removals as strip searches where removal of intimate clothing occurs as a matter of course.”

¹²⁹ *Ibid.*, 28, 30. Some Officers interviewed from the Iqaluit detachment did not know the definition of a strip search or used their own definitions. This led some Officers to view the removal of clothing for self-harm and safety purposes as different from a strip search (meaning they would not document the incident as a strip search).

¹³⁰ See for example *ibid.*, 26, 38-41.

Report from Pauktuutit Inuit Women Canada and Dr. Elizabeth Comack

A 2020 report from Pauktuutit Inuit Women Canada in collaboration with Dr. Elizabeth Comack focused on violence against women across the four regions of the Inuit Nunangat.¹³¹ Using qualitative interviews with forty-five Inuit women and forty service providers (including police), it examined police responses to male violence against women in the region.¹³² Many of the issues reported, such as slow response times,¹³³ and racist and/or violent police encounters,¹³⁴ echo the findings in the Legal Services Board letters and the BC and Saskatchewan studies by HRW. The report also assessed logistical issues facing remote policing, such as staffing and recruitment shortages, limited resources, and language barriers.¹³⁵ It expanded on the cultural and experiential barriers between Inuit and northern service providers, such as intergenerational trauma, that affect communication and behaviours.¹³⁶

Like the Legal Services Board letters, this report also addresses the violent history of the RCMP, and their role in assimilating and relocating Inuit to designated settlements, transporting Inuit children to residential schools, and slaughtering sled dogs. In short, the policing that the RCMP has engaged in was designed to enforce Inuit conformity to the colonial regime.¹³⁷

¹³¹ The Inuit Nunangat includes Nunavut and areas of the Northwest Territories, northern Quebec and northern Labrador.

¹³² Pauktuutit Inuit Women Canada and Elizabeth Comack, *Addressing Gendered Violence against Inuit Women: A Review of Policies and Practices in Inuit Nunangat* (Ottawa: Pauktuutit Inuit Women Canada, 2020), 5, https://www.pauktuutit.ca/wp-content/uploads/Pauktuutit_Addressing_Gendered_Violence_English.pdf.

¹³³ *Ibid.*, 59.

¹³⁴ *Ibid.*, 60-63, 77-84, 94. In addition to violent encounters between abuse victims and police, this report notes other problematic responses to domestic violence, including removing the women and children from their homes instead of the perpetrator. One woman reported the discomfort and scrutiny that staying in a shelter entailed. See *ibid.*, 46.

¹³⁵ *Ibid.*, 33-34, 68-69, 85. At the time of publication, the report found that only 3% of Nunavut RCMP officers were Inuit and fewer than 5% were fluent in Inuktitut.

¹³⁶ *Ibid.*, 45, 49-50. A service provider recounted how veiled and indirect language has been used to describe incidents of sexual assault, causing providers who are less aware of the pattern of male violence in the region to overlook issues. An interview with an Officer revealed that he made a distinction between "true" domestic violence victims, and those who ultimately return to their partners, whom he deemed "vindictive."

¹³⁷ *Ibid.*, 4.

The evidence provided by these reports reveals a shocking record of RCMP abuse and violence against Indigenous women, along with a continuing record of failures to prevent violence against Indigenous women and to investigate thoroughly when it occurs.

'Unfounding' of Sexual Assault Allegations

A key problem in Canada is the police practice of deeming sexual assault allegations to be "unfounded". Although documented by researchers over many decades,¹³⁸ it was not until 2017, when a *Globe and Mail* investigation of over 870 police forces across the country found that one in every five sexual assault allegations is deemed baseless, or "unfounded",¹³⁹ that this issue received national attention. "Unfounding" at alarmingly high rates continues, despite the fact that research shows that false allegations are rare.¹⁴⁰ The rate of unfounding of sexual assault cases was far higher for sexual assault cases than for other crimes.¹⁴¹ For the RCMP, the overall unfounded rate of sexual assault allegations was 17%,¹⁴² but unfounded rates for some RCMP detachments were much higher.¹⁴³ The study revealed variance in rates based on jurisdiction, meaning women are less likely to be believed in certain locations in Canada compared to others.¹⁴⁴ Unfounded rates were usually higher in the north, with the Northwest Territories and Nunavut, where the RCMP

¹³⁸ See for example the extensive writing by scholars Lorene Clark, Debra Lewis, Holly Johnson, Constance Backhouse, Blair Crew and Teresa DuBois, amongst others. Additionally, several chapters in the foundational book *Sexual Assault in Canada* explore in depth the issues of unfounding of sexual assault allegations and RCMP misconduct and violence. See Elizabeth Sheehy, ed., *Sexual Assault in Canada: Law, Legal Practice and Women's Activism* (Ottawa: University of Ottawa Press, 2012).

¹³⁹ Robyn Doolittle, "Unfounded: Why Police Dismiss 1 in 5 Sexual Assault Claims as Baseless," *Globe and Mail*, February 3, 2017, <https://www.theglobeandmail.com/news/investigations/unfounded-sexual-assault-canada-main/article33891309/>.

¹⁴⁰ Ibid.; see also Gary Mckenna, "Why Were 22% of Tri-City Sex Assaults Called 'Unfounded' in 2018?," *Tri-City News*, August 13, 2019, www.tricitynews.com/local-news/why-were-22-of-tri-city-sex-assaults-called-unfounded-in-2018-3105197.

¹⁴¹ Doolittle, "Unfounded."

¹⁴² Ibid. The article notes that data on unfounding of sexual assault cases was difficult to assess because Statistics Canada stopped tracking this information in 2003 due to cases being misclassified by police.

¹⁴³ Jen St. Denis and Alissa Thibault, "Sexual Assault Survivors Rally at RCMP Detachment to Protest Dismal 'Unfounded' Rate," *CTV News*, November 23, 2019, <https://bc.ctvnews.ca/sexual-assault-survivors-rally-at-rcmp-detachment-to-protest-dismal-unfounded-rate-1.4699301>.

¹⁴⁴ Doolittle, "Unfounded."

is the sole police force, having rates of 30% and 28% respectively.¹⁴⁵ The report noted that women often never heard back about their complaints or were not told that they had been deemed unfounded; the *Globe* noted that privacy regulations limited the information available to women seeking to view their files.¹⁴⁶

The over-classification of cases as unfounded stems from entrenched sexist attitudes and myths, and from systemic failures by police to deal with the realities of sexual assault and victim behaviours.¹⁴⁷ Research by Linda Light and Gisela Ruebsaat on BC sexual assault files found that women were more likely to be believed by police if force was used, the perpetrator was a stranger, the victim appeared upset, and the victim resisted or said “no”.¹⁴⁸ The researchers noted that unfounded cases also had less thorough investigations conducted, with suspects sometimes not being contacted at all.¹⁴⁹

Moreover, traditional police investigation techniques, such as, gathering information immediately and requesting chronological recounting, are not supported by accepted research on the ways that trauma manifests in victims — which can entail non-linear, sensory memories.¹⁵⁰ Citing psychologist David Lisak, the *Globe and Mail* report explained that the impacts of stress hormones and alcohol can last for several days after an incident, meaning immediate police interviews may be unhelpful.¹⁵¹ This research has led some activists and experts to call for national standards for handling cases from beginning to

¹⁴⁵ See Robyn Doolittle, “The Challenge of Handling Sex Assault in Canada’s North,” *Globe and Mail*, February 28, 2017, <https://www.theglobeandmail.com/news/investigations/the-challenges-of-handling-sex-assault-in-canadas-north/article34159543/>. Other issues that affect sexual assault reporting are cultural considerations that white, male RCMP Officers may not understand. High turnover rates in policing were also identified as a barrier to Indigenous people developing trust over time.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Linda Light and Gisela Ruebsaat, *Police Classification of Sexual Assault Cases as Unfounded: An Exploratory Study* (Ottawa: Department of Justice Canada, 2006), https://publications.gc.ca/collections/collection_2018/jus/J4-45-2006-eng.pdf. Three of the four police services investigated were RCMP detachments. While all women face barriers when reporting sexual assault, members of BIPOC and LGBTQ2S+ communities face additional stigmas. See for example: Jodie Murphy-Oikonen and Rachel Egan, “Sexual and Gender Minorities: Reporting Sexual Assault to the Police,” *Journal of Homosexuality* 69, no. 5 (March 2021): 773-95.

¹⁴⁹ Light and Ruebsaat, *Police Classification of Sexual Assault*, 35.

¹⁵⁰ Doolittle, “Unfounded.”

¹⁵¹ Ibid.

end, in order to help victims feel comfortable coming forward and supported through the process.¹⁵²

Recent interviews in a study with sexual assault survivors found that many experienced “second victimization” when reporting to police, who appeared judgmental or accusatory towards survivors.¹⁵³ Shame, self-blame, and feelings of unworthiness were examples of long-term effects arising from police encounters, along with a hesitancy to report future experiences. These feelings of mistrust and hesitancy were more frequently reported by racialized and gender-diverse persons.¹⁵⁴ All 23 women in the study “reported negative effects on their mental health, including Post Traumatic Stress Disorder (PTSD), depression, and escalation or initiation of alcohol or drug abuse.”¹⁵⁵

There have been many calls for changes to procedures and case reviews of unfounded files,¹⁵⁶ but progress on the problem of police unfounding of sexual assault complaints is slow. The Canadian Association of Police Chiefs includes case reviews undertaken in collaboration with community advocates in its list of best practices for dealing with

¹⁵² Ibid. The article notes that two provinces have standards for domestic violence response, although implementation of these standards appears ineffectual based on the other research highlighted.

¹⁵³ Karen McQueen et al., “Sexual Assault: Women’s Voices on the Health Impacts of Not Being Believed by Police,” *BMC Women’s Health* 217, no. 217 (May 2021): 222.

¹⁵⁴ Ibid., 222–3. See also two studies by TRANS Pulse Canada. The first study on racialized trans and non-binary people found that only 1 in 10 racialized respondents felt that police and courts would treat them fairly if they were sexually assaulted: Trans PULSE Canada, *Health and Well-being Among Racialized Trans and Non-binary People in Canada*, November 2, 2020, <https://transpulsecanada.ca/results/report-health-and-well-being-among-racialized-trans-and-non-binary-people-in-canada/>. The second study of trans and non-binary immigrants and newcomers found that “8 in 10 respondents would not anticipate fair treatment from the police and legal system” if they were sexually assaulted: Trans PULSE Canada, *Health and Well-being Among Trans and Non-binary Immigrants and Newcomers*, March 23, 2021, <https://vanierinstitute.ca/in-brief-trans-and-non-binary-immigrant-and-newcomer-well-being/>.

¹⁵⁵ McQueen et al., “Sexual Assault: Women’s Voices,” 223.

¹⁵⁶ See Meaghan Brackenbury, “Review of Sexual Assault Cases Must Be Followed by Action, Groups Say,” *Cabin Radio*, April 9, 2021, <https://cabinradio.ca/59612/news/health/review-of-sexual-assault-cases-must-be-followed-by-action-groups-say/>; Natalie Pressman, “RCMP Sexual Assault Reviews to Be Twice Yearly,” *NNSL Media*, April 5, 2021, <https://www.nnsl.com/yellowknifer/rcmp-sexual-assault-reviews-to-be-twice-yearly/>; CBC News, “Kelowna RCMP Apologizes for Failing to Investigate Sexual Assault Complaint at University Campus,” November 23, 2021, <https://www.cbc.ca/news/canada/british-columbia/kelowna-rcmp-sexual-assault-apology-1.6260372>.

violence against women.¹⁵⁷ But external case review procedures, where they exist at all, still have a tenuous hold. For example, in February 2021, the RCMP suddenly shut down a Yukon committee on unfounded cases that was composed of grassroots organizations and RCMP.¹⁵⁸ The RCMP cited privacy concerns as the reason for doing so. Committee members contended that privacy concerns were not an issue, as the review process was in line with the federal *Privacy Act*.¹⁵⁹ This review process was particularly important, as the Yukon has a sexual assault rate 3.5 times the national average and a 25% unfounded rate.¹⁶⁰

At this time, there is no consistent and reliable procedure in place for reviewing sexual assault complaints that are deemed by the RCMP to be unfounded.

Ignoring Violence against Women: Femicide and the RCMP Response to the Nova Scotia Shooting

"[B]y categorizing violence against women as a 'trigger' to the violence against strangers, the initial violence against the female victim is considered separately to, and as less significant than, the killing of strangers. Yet, the violence against the woman is typically part of the same incident or event." - Jude McCulloch & JaneMaree Maher¹⁶¹

In April 2020, Gabriel Wortman posed as an RCMP Officer¹⁶² and killed twenty-two people in Portapique, Nova Scotia. This mass shooting, which was the worst in Canada's history,

¹⁵⁷ Canadian Association of Chiefs of Police and Ontario Association of Chiefs of Police, *Canadian Framework for Collaborative Police Response on Sexual Violence* (Kanata: Canadian Association of Chiefs of Police, 2020), 20, https://www.cacp.ca/crime-prevention-committee.html?asst_id=2059.

¹⁵⁸ Fakiha Baig, "Women's Groups in Yukon Disappointed 'Unfounded' Sex Assault Project Terminated," *City News*, February 20, 2021, <https://toronto.citynews.ca/2021/02/20/womens-groups-in-yukon-disappointed-unfounded-sex-assault-project-terminated/>.

¹⁵⁹ Ibid.

¹⁶⁰ Chris Windeyer, "Yukon Women's Groups Slam RCMP Decision to Halt Sexual Assault Review Process," *CBC News*, February 11, 2021, <https://www.cbc.ca/news/canada/north/yukon-womens-groups-slam-rcmp-case-review-decision-1.5909498>.

¹⁶¹ Jude McCulloch and JaneMaree Maher, "The Intimate Connection between Mass Shootings and Violence Against Women," *Policy Options*, May 7, 2020, <https://policyoptions.irpp.org/magazines/may-2020/the-intimate-connection-between-mass-shootings-and-violence-against-women/>.

¹⁶² Advocate Johannah Black asserts that Workman's RCMP guise is relevant because of the "white, male entitlement" and the violence against racialized peoples that has characterized the

was labelled a “femicide” by Deputy Prime Minister Chrystia Freeland,¹⁶³ and has highlighted the connection between intimate partner violence and mass violence.¹⁶⁴ It has also served as a catalyst for examining RCMP culture and attitudes towards domestic violence.

Many people who knew Gabriel Wortman also knew that he abused his partner. She had approached neighbours for assistance in the past. Neighbours had also reported Wortman’s violence against his partner to the RCMP, but the RCMP refused to act because Wortman’s partner herself did not file a complaint.¹⁶⁵

After neighbours reported Wortman to authorities, he became hostile towards them. Wortman threatened a female neighbour and started driving past her home.¹⁶⁶ Some neighbours reported that they left the community altogether because of their fear of him.¹⁶⁷

Prior to the attack, the RCMP already knew about Wortman’s threats against his partner and others, his actual violence towards his partner, and his extensive collection of weapons.¹⁶⁸

On the day of the shooting, Wortman attacked his partner while she was in bed, fired several bullets in her direction, and then locked her in his replica RCMP car.¹⁶⁹ She managed to escape and hide in the woods for several hours while Wortman went on his

RCMP from its inception to the present day. See Johannah Black, “We’re Still Calling it Femicide: the Portapique Shooting has Exposed the Damage White, Male Entitlement Can Do,” *The Coast* April 18, 2021, www.thecoast.ca/halifax/were-still-calling-it-femicide/Content?oid=26237962.

¹⁶³ Sophia Ankel, “Evidence Mounts that Canada’s Worst-Ever Mass Shooter was a Woman-Hater and Misogyny Fuelled his Killing Spree that Left 22 Dead,” *Business Insider*, May 16, 2020, www.businessinsider.com/ex-neighbor-nova-scotia-gunman-said-she-reported-domestic-violence-2020-5.

¹⁶⁴ Black, “We’re Still Calling it Femicide.”

¹⁶⁵ Michael Tutton, “Neighbour Reported N.S. Mass Shooter’s Domestic Violence, Weapons to Police,” *CBC News*, May 13, 2020, <https://www.cbc.ca/news/canada/nova-scotia/mass-shooting-nova-scotia-firearms-gun-violence-1.5567330>.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Elizabeth McMillan, “N.S. Gunman Fired at Spouse Before Locking Her in Replica Cruiser, Documents Say,” *CBC News*, February 11, 2021, <https://www.cbc.ca/news/canada/nova-scotia/portapique-mass-shootings-lisa-banfield-police-statements-1.5911199>.

rampage.¹⁷⁰ After the shooting, RCMP Officers charged Wortman's partner for supplying him with ammunition. This charge demonstrates a failure to consider the realities of domestic violence and the likely consequences for Wortman's partner if she had refused to comply.¹⁷¹

Reporter Sophia Ankel describes a link between mass shootings and intimate partner violence, citing an American study which found that 54% of mass shooting perpetrators shot "a current or former intimate partner or family member."¹⁷² Mass shootings and attacks can themselves be gendered, as was seen in École Polytechnique, Isla Vista, the Toronto van attack murders, and the 2018 Tallahassee shootings.¹⁷³ McCulloch and Maher state:

¹⁷⁰ Ibid.

¹⁷¹ Heather Mallick, "It is 'Pure Cruelty' for the RCMP to Charge Abused Wife of N.S. Mass Killer," *Toronto Star*, December 8, 2020, <https://www.thestar.com/opinion/star-columnists/2020/12/08/it-is-pure-cruelty-for-the-rcmp-to-charge-abused-wife-of-ns-mass-killer.html>.

¹⁷² Ankel, "Canada's Worst-Ever Mass Shooter was a Woman-Hater.," Everytown for Gun Safety, *Guns and Violence Against Women: America's Uniquely Lethal Intimate Partner Violence Problem*, October 17, 2019, everytownresearch.org/reports/guns-intimate-partner-violence/; Everytown for Gun Safety, *Ten Years of Mass Shootings in the United States*, November 21, 2019, everytownresearch.org/massshootingsreports/mass-shootings-in-america-2009-2019/; Feminist Coalition Féministe, "Statement on Mass Killings in Nova Scotia," University of Saskatchewan, April 29 2020, <https://research-groups.usask.ca/resolve/documents/nova-scotia-mass-shooting.php>.

¹⁷³ That is, motivated by hatred towards women. See Ankel, "Canada's Worst-Ever Mass Shooter was a Woman-Hater.," Alison Northcott, "How the Way We Remember the Montreal Massacre has Changed 30 Years Later," *CBC News*, December 5, 2019, www.cbc.ca/news/canada/montreal/ecole-polytechnique-thirty-years-anti-feminist-1.5381510; BBC News, "Elliot Rodger: How Misogynist Killer Became 'Incel Hero'," April 26, 2018, www.bbc.com/news/world-us-canada-43892189; Dakin Andone and Artemis Moshtaghian, "Gunman in Florida Yoga Studio Shooting Made Misogynistic Comments on YouTube, NYT Reports," *CNN*, November 3, 2018, www.cnn.com/2018/11/03/us/tallahassee-shooting-yoga-studio/index.html. See also Leyland Cecco, "Toronto Van Attack Suspect Says He Was 'Radicalized' Online by 'Incels'," *The Guardian*, September 27, 2019, <https://www.theguardian.com/world/2019/sep/27/alek-minassian-toronto-van-attack-interview-incels>. For articles discussing the role of misogyny in the Nova Scotia attack, see Elizabeth Renzetti, "Misogyny is Often Behind the Acts We Deem 'Senseless'," *Globe and Mail*, April 24, 2020, <https://www.theglobeandmail.com/opinion/article-misogyny-is-often-behind-the-acts-we-deem-senseless/>; Johannah Black, "Call it by its Name: Misogynist Violence," *The Coast*, April 25 2020, <https://www.thecoast.ca/halifax/call-it-by-its-name-misogynist->

Most men who assault their intimate partners, mothers and sisters don't go on to attack random people. However, we can state with increasing confidence that most of those who do commit mass casualty attacks have committed violence against women, usually in the context of an intimate or family relationship either as part of the attack or previously.¹⁷⁴

Given the attack's connection to domestic violence, women's rights advocates called for a public inquiry into the shooting that would include a consideration of RCMP handling of complaints of violence against women, as well as the RCMP's delayed and flawed response to Wortman's attack.¹⁷⁵ The RCMP have been criticized for ignoring the misogynistic and gendered nature of this mass homicide, as well as more general failure to treat complaints of domestic violence against women and children with the seriousness they warrant.¹⁷⁶

A Mass Casualty Commission¹⁷⁷ has been appointed to conduct a public inquiry into the shooting. The Inquiry's Final Report will be completed in November 2022.¹⁷⁸

violence/Content?oid=23948217; Tutton, "Neighbour Reported N.S. Mass Shooter's Domestic Violence."

¹⁷⁴ McColloch and Maher, "Mass Shootings and Violence Against Women."

¹⁷⁵ Canadian Femicide Observatory for Justice & Accountability, *Statement Concerning the Nova Scotia Mass Killings*, April 23, 2020, https://womenshomelessness.ca/wp-content/uploads/CFOJA-STATEMENT_APRIL-23-2020.pdf; Alex Cooke, "Advocates Decry Lack of Feminist Lens in N.S. Shooting Review," *CBC News*, July 24, 2020, <https://www.cbc.ca/news/canada/nova-scotia/ns-shooting-review-feminist-analysis-1.5661593>; Steve McKinley, "Why a Feminist 'Lens' Could be Key to Understanding the Nova Scotia Mass Shooting," *Toronto Star*, July 21, 2020, <https://www.thestar.com/news/canada/2020/07/21/why-a-feminist-lens-could-be-key-to-understanding-the-nova-scotia-mass-shooting.html>; Jennifer Henderson, "Petition Calls for Mass Murder Inquiry with 'Feminist Lens'," *Halifax Examiner*, July 14, 2020, <https://www.halifaxexaminer.ca/featured/petition-calls-for-mass-murder-inquiry-with-feminist-lens/>; Michael Tutton, "'It's Painful,' Says Nova Scotia MP of String of Abusive Calls, Veiled Threats," *CTV News*, July 6, 2020, <https://atlantic.ctvnews.ca/it-s-painful-says-nova-scotia-mp-of-string-of-abusive-calls-veiled-threats-1.5012704>.

¹⁷⁶ McKinley, "Feminist 'Lens' Could be Key to Understanding the Nova Scotia Mass Shooting."

¹⁷⁷ See Mass Casualty Commission, "Commission Team," last accessed April 28, 2022, <https://masscasualtycommission.ca/about/commission-team/>. Given the many findings of misogyny in policing institutions, the high representation of former police officers on the Commission Team is a concern.

¹⁷⁸ McMillan, "N.S. Gunman Fired at Spouse."

Complaints against the RCMP

Due to the key role of the RCMP in policing in Canada, and the plethora of accounts of failures and overt violence, an effective accountability and oversight mechanism for the RCMP is essential. The Civilian Review and Complaints Commission (CRCC) is responsible for overseeing the review of complaints about RCMP Officers' conduct.¹⁷⁹ In 2013, the *Enhancing Royal Canadian Mounted Police Accountability Act* gave the CRCC the power to investigate on its own initiative, without a complaint from the public, when it is in the public interest to do so.¹⁸⁰

Although the CRCC investigative process appears to be external to the RCMP, in fact the CRCC and the RCMP are completely intertwined.¹⁸¹ In most instances, when the CRCC receives a complaint, it forwards it to the RCMP to investigate itself.¹⁸² The RCMP then investigates and forwards the results of its investigation to the complainant. If the complainant is not satisfied, she can request that the CRCC review the RCMP's investigation. The CRCC will then review the RCMP report and, if it disagrees, the CRCC will submit a report with recommendations to the RCMP Commissioner. These recommendations are not binding; the RCMP Commissioner makes the ultimate decision on how to proceed.

¹⁷⁹ Civilian Review and Complaint Commission for the RCMP, "Complaint and Review Process," Government of Canada, last modified February 9, 2021, <https://www.crcc-cctep.gc.ca/en/complaint-and-review-process>.

¹⁸⁰ Government of Canada, *Enhancing Royal Canadian Mounted Police Accountability Act*, Statutes of Canada 2013, c.18, assented to 19 June 2013, https://laws-lois.justice.gc.ca/PDF/2013_18.pdf.

¹⁸¹ Relatedly, the vast majority of independent investigators looking into police misconduct, in forces and units across the country, are white men who are former police officers. The lack of an intersectional, representative investigative force that is truly independent from the police leads to public mistrust of such processes. See Kelly Geraldine Malone, "Most Police Watchdog Investigators are White and Former Officers, Canada Press Tally Finds," *CBC News*, June 19, 2020, <https://www.cbc.ca/news/canada/police-investigators-white-former-officers-majority-1.5620358>.

¹⁸² Civilian Review and Complaint Commission for the RCMP, "Complaint and Review Process Flowchart," Government of Canada, last modified February 28, 2020, <https://www.crcc-cctep.gc.ca/en/complaint-and-review-process-flowchart>; Alex Ballingall, "Who Investigates Complaints about the RCMP? In '99.9%' of Cases, it's the RCMP," *The Toronto Star*, June 17, 2020, <https://www.thestar.com/politics/federal/2020/06/17/who-investigates-complaints-about-the-rcmp-in-999-of-cases-its-the-rcmp.html>.

The RCMP Commissioner must respond to the CRCC report, identifying what actions, if any, will be taken. But the RCMP Commissioner's office has delayed responding to reports, sometimes for months or years,¹⁸³ keeping them from public release.¹⁸⁴

As of September 2021, the CRCC had completed nearly 200 public investigations in the 2021 calendar year and disagreed with the RCMP's initial findings in almost half.¹⁸⁵ CRCC reports that have been released criticize the conduct and conclusions of RCMP investigations, including several improperly conducted investigations and arrests.¹⁸⁶

Responding to calls for greater transparency, the RCMP began to post some CRCC recommendations publicly.¹⁸⁷ The RCMP has posted 101 recommendations arising from approximately a dozen different cases reviewed by the CRCC in 2021.¹⁸⁸ The RCMP has indicated that it has implemented 22 of these recommendations.¹⁸⁹ However, CRCC representatives state that this reporting back is unsatisfactory, since the RCMP does not have to explain how, or to what extent, the recommendations have been implemented.¹⁹⁰

Reports from international expert bodies and national NGOs have identified the weaknesses of Canadian mechanisms for review and response to police failures and violence. They recommend that Canada create truly independent civilian oversight mechanisms capable of holding officials to account, through "administrative, disciplinary

¹⁸³ Karin Larsen, "Complaints Commissioner Says RCMP Sitting on Year-Old Report into Alleged Abuses of Power," *CBC News*, February 20, 2020, <https://www.cbc.ca/news/canada/british-columbia/wet-suwet-en-rcmp-exclusion-zone-report-1.5469786>; Kristy Kirkup, "B.C. Civil Liberties Association Launches Lawsuit Against RCMP Commissioner Brenda Lucki," *Globe and Mail*, November 10, 2020, <https://www.theglobeandmail.com/politics/article-bc-civil-liberties-association-launches-lawsuit-against-rcmp/>.

¹⁸⁴ Catharine Tunney, "RCMP Watchdog's Misconduct Reports Caught in Limbo, Stalling their Release," *CBC News*, June 7, 2020, <https://www.cbc.ca/news/politics/rcmp-complaint-watchdog-1.5594861>.

¹⁸⁵ Catharine Tunney, "RCMP Mishandled Teen's Sexual Assault Claim, Says Watchdog in New Mountie Misconduct Report," *CBC News*, September 28, 2021, <https://www.cbc.ca/news/politics/rcmp-civilian-review-complaints-commission-police-misconduct-1.6175194>.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ Catharine Tunney, "RCMP Says It Implemented 22 Watchdog Recommendations—but Status of Dozens of Complaints Still Unknown," *CBC News*, October 13, 2021, <https://www.cbc.ca/news/politics/rcmp-crcc-recommendations-progress-1.6207890>.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

or criminal measures.”¹⁹¹ For example, the B.C. Civil Liberties Association has called the CRCC “a broken system”, and recently launched a suit against the RCMP because of a seven-year delay in responding to a serious complaint about the treatment of Indigenous land defenders in British Columbia.¹⁹² In December 2021, the Federal Court of Canada ruled that this delay by the RCMP Commissioner caused her to violate her statutory obligation under the *Royal Canadian Mounted Police Act*¹⁹³ to respond to a CRCC report on a complaint “as soon as feasible”. The Court held that a reasonable interpretation of “as soon as feasible” is “maximum six months”.¹⁹⁴

In 2019, Parliament introduced Bill C-98 to amend the *RCMP Act* and the *Canada Border Services Agency Act (CBSA Act)* in the 42nd Parliament. The same amending legislation was reintroduced as Bill C-3 in the 43rd Parliament.¹⁹⁵ The Bill proposed to change the name of the CRCC to the Public Complaints and Review Commission, and to authorize it to review complaints against the Canadian Border Services Agency (CBSA) in addition to those against the RCMP. Such an expansion in duties poses an immediate concern about effectiveness, since the CRCC is currently under-resourced and has a significant backlog of complaints it has yet to address.¹⁹⁶

¹⁹¹ Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, para. 314. See also Committee on the Elimination of Discrimination against Women, *Report of the Inquiry Concerning Canada*, para. 217(k), (l); Human Rights Watch, *Those Who Take Us Away*, iv; Šimonović, *Visit to Canada*, para 96(x), (y), (z).

¹⁹² Jon Hernandez, “B.C. Civil Liberties Association Heads to Court over RCMP Complaint Delays,” *CBC News*, September 10, 2021, <https://www.cbc.ca/news/canada/british-columbia/b-c-civil-liberties-association-heads-to-court-over-rcmp-complaint-delays-1.6170329>.

¹⁹³ Government of Canada, *Royal Canadian Mounted Police Act*, Revised Statutes of Canada 1985, c.R-10, sec. 45.76, <https://laws-lois.justice.gc.ca/eng/acts/r-10/>.

¹⁹⁴ *British Columbia Civil Liberties Association v. Canada (Royal Mounted Police)* [2021] F.C. 1475, <https://bccla.org/wp-content/uploads/2022/01/RCMP-Judgement-and-Reasons.pdf>.

¹⁹⁵ Parliament of Canada, Bill C-98, *An Act to Amend the Royal Canadian Mounted Police Act and the Canada Border Services Agency Act and to Make Consequential Amendments to Other Acts*, 1st sess., 42nd parliament, 2019, <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-98/first-reading>; Parliament of Canada, Bill C-3, *An Act to Amend the Royal Canadian Mounted Police Act and the Canada Border Services Agency Act and to Make Consequential Amendments to Other Acts*, 1st sess., 43rd parliament, 2020, <https://www.parl.ca/LegisInfo/en/bill/43-1/C-3>.

¹⁹⁶ Latoya Farrell, Karla Lottini, and Harsha Walia, “CBSA is Not a Fair or Accountable Agency’: Why We Need Canada Border Services Agency Oversight,” British Columbia Civil Liberties Association, March 12, 2020, <https://bccla.org/2020/03/cbsa-is-not-a-fair-or-accountable-agencywhy-we-need-canada-border-services-agency-oversight/>.

Most importantly, Bill C-3, which was given second reading in the House of Commons in February 2020, does not address or respond to the well-documented weaknesses of the CRCC.

The ineffectiveness of the CRCC as a complaint and oversight mechanism for the RCMP is widely acknowledged. In light of the record of RCMP violence against women, and the record of RCMP failures to prevent violence against women, the weakness and inadequacy of the CRCC constitutes a failure on the part of Canada to ensure that women enjoy equal protection of the law and have access to effective remedies when that right is violated.

Sexual Harassment, Violence and Discrimination inside the RCMP

The RCMP is a workplace that is notorious for sexual harassment, violence, and discrimination against women.

A number of successful sexual harassment and discrimination claims have been made against the RCMP, the first of which occurred in 1989 when Constable Alice Clark was awarded \$93,000.¹⁹⁷ Lydia Petrovics and Cheryl Cook made claims for sexual harassment and discrimination in 1997,¹⁹⁸ as did Constable Krista Carle, Corporal Victoria Cliffe, and two other female members in 2004.¹⁹⁹ Constable Nancy Sulz received a \$950,000 settlement for harassment she faced because she took maternity leave. At least ten other suits and human rights complaints were made between 2006 and 2013.²⁰⁰

In 2012 two former RCMP Officers, Janet Merlo and Linda Gillis Davidson filed a class action suit alleging sexual harassment by male RCMP Officers, which 3,086 women RCMP Officers joined. The Government of Canada ultimately settled the lawsuit for over \$125 million in 2016.²⁰¹ The claims process was overseen by former Supreme Court Justice Michel Bastarache and is explored further below.

There are several ongoing class actions and lawsuits against the RCMP. Some of the more prominent of these legal proceedings include: a class action against the RCMP for

¹⁹⁷ Bastarache, *Broken Dreams, Broken Lives*, 34.

¹⁹⁸ *Ibid.*, 35, citing *Petrovics v. Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton); *Cook v. Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton).

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*, 3.

excessive force against Inuit in the Territories²⁰²; a class action against the RCMP for systemic racism against Indigenous RCMP Officers²⁰³; and a \$1.1 billion civil suit against the RCMP for “systemic negligence” relating to bullying and intimidation of Officers.²⁰⁴

Since 2007, at least 15 reports (both internal and external) have highlighted workplace issues at the RCMP and have, at least in part, addressed harassment (including sexual harassment and sexual assaults).²⁰⁵ The CRCC has itself issued two large reports on workplace harassment, the 2013 *Public Interest Investigation into RCMP Workplace Harassment*²⁰⁶ and the 2017 *Report into Workplace Harassment in the RCMP*.²⁰⁷

One notable report is an internal “E-Division” review conducted by the RCMP itself in British Columbia in 2012. In the review, employees identified major barriers to reporting complaints, including mistrust of command’s ability to assess them fairly and seriously.²⁰⁸ Victims of harassment interviewed in this report and others describe inadequate complaint processes and a lack of mental health supports.²⁰⁹ The E-Division review

²⁰² Sarah Rogers, “Hundreds of Inuit Could Join Class Action Suit Against RCMP Abuse, Lawyer Says,” *Nunatsiaq News*, June 24, 2021, <https://nunatsiaq.com/stories/article/hundreds-of-inuit-could-join-class-action-suit-against-rcmp-abuse-lawyer-says/>.

²⁰³ Marcella Bernardo and Kathryn Tindale, “Former Mountie Leads Systemic Racism Lawsuit Against RCMP,” *City News*, July 13, 2020, <https://vancouver.citynews.ca/2020/07/13/former-mountie-leads-systemic-racism-lawsuit-against-rcmp/>.

²⁰⁴ Catharine Tunney, “Lawsuit Alleging ‘Systemic Negligence’ of Bullying, Harassment Claims in RCMP Moves Ahead,” *CBC News*, September 23, 2021, <https://www.cbc.ca/news/politics/rcmp-negligence-bullying-lawsuit-1.6185298>.

²⁰⁵ Bastarache, *Broken Dreams, Broken Lives*, 35–39.

²⁰⁶ Civilian Review and Complaints Commission for the RCMP, *Public Interest Investigation into RCMP Workplace Harassment* (Ottawa: Government of Canada, 2013) <https://www.cccc-cctcp.gc.ca/pdf/rep-rap-eng.pdf>.

²⁰⁷ Civilian Review and Complaints Commission for the RCMP, *Report into Workplace Harassment in the RCMP* (Ottawa: Government of Canada, 2017) <https://www.cccc-cctcp.gc.ca/pdf/harassmentFinR-eng.pdf>.

²⁰⁸ Bastarache, *Broken Dreams, Broken Lives*, 37, citing Royal Canadian Mounted Police, *Summary Report on Gender Based Harassment and Respectful Workplace Consultations: “E” Division* (Ottawa: Government of Canada, 2012), <http://redwalljanehall.com/wp-content/uploads/2013/03/E-Div-Summary-Report-Final-Version-Simmie-Smith.pdf>. Women employees of the RCMP express remarkably similar sentiments to those shared by Indigenous women interviewed by Human Rights Watch: they do not believe that the officials they are required to complain to will not retaliate against them for making complaints.

²⁰⁹ *Ibid.*, 38, citing Judy A. Sgro and Grant Mitchell, *Shattered Dreams: Addressing Harassment and Systemic Discontent within the RCMP*, December 2014, http://redwalljanehall.com/wp-content/uploads/2015/03/Shattered-Dreams_Final.pdf.

claimed that “rampant” harassment was not present, a finding that raises doubts about the RCMP’s ability to accurately assess its own conduct.²¹⁰

In 2014, Parliament enacted changes to the Royal Canadian Mounted Police Accountability Act (RCMP Accountability Act).²¹¹ The amendments made changes to procedures of the RCMP External Review Committee (ERC), expanding the purview of the RCMP External Review Committee to include appeals of decisions involving harassment.²¹²

The ERC is an independent tribunal that reviews the appeals of certain RCMP employment and labour relations matters; before an appeal file comes to the ERC, the case will have first been addressed through internal RCMP procedures. The ERC reviews files and makes recommendations to the RCMP Commissioner on steps to take, but ultimately, the Commissioner does not need to follow these recommendations and will make the final decision.²¹³

A 2017 report by former Auditor General Sheila Fraser found that the RCMP “as an entity has difficulty formally acknowledging that some of its workplace units are dysfunctional. I am of the view that there is a tendency to downplay the transgressions in order to protect the reputation of the organization.”²¹⁴

²¹⁰ Bastarache, *Broken Dreams, Broken Lives*, 37.

²¹¹ *Ibid.*, 39, citing Government of Canada, *Enhancing Royal Canadian Mounted Police Accountability Act*.

²¹² *Ibid.*, see Government of Canada, “Mandate of the RCMP External Review Committee (ERC),” last modified September 25, 2019, <https://www.erc-cee.gc.ca/cnt/bt/mndt-en.aspx>. Following the 2014 legislative and regulatory amendments, the RCMP External Review Committee expanded mandate includes: (1) an appeal relating to a decision that a member, on a balance of probabilities, contravened the Code of Conduct by engaging in harassment; (2) an appeal relating to a decision to discharge or demote on the grounds of (i) a disability, as defined in the *Canadian Human Rights Act*, (ii) being absent from duty without authorization or having left an assigned duty without authorization, (iii) a conflict of interest; (4) an appeal of a decision to revoke an appointment; (5) an appeal of a discharge or demotion for ground of unsatisfactory performance; (5) an appeal of a decision ordering the stoppage of pay or allowance for reasons listed in paragraph 22.(2)(b) of the RCMP Act; and (7) a decision that a complaint was not submitted within the prescribed timeframe.

²¹³ *Ibid.*

²¹⁴ Sheila Fraser, *Review of Four Cases of Civil Litigation against the RCMP on Workplace Harassment: Report to the Minister of Public Safety and Emergency Preparedness – March 2017*, (Ottawa: Public Safety Canada, March 30, 2017),

The Bastarache Report

"... I conclude that the time has come for an in depth, external and independent review of the organization and future of the RCMP as a federal policing organization."

- Hon. Michel Bastarache, C.C., Q.C.

In 2016, former Supreme Court Justice Michel Bastarache was commissioned to administer the RCMP sexual harassment compensation claims process arising from the Merlo Davidson litigation. Bastarache conducted 644 interviews with current or former female RCMP employees who had experienced sexual harassment and discrimination based on their sex or sexual orientation.

It is important to note that some women could not receive compensation under the agreement because of eligibility restrictions. Others were too afraid to come forward.²¹⁵ The fear of shaming and retaliation is common amongst people reporting discrimination, sexual harassment, and assault to the RCMP from both within and outside the institution.

On November 11, 2020, Bastarache issued the *Final Report on the Implementation of the Merlo Davidson Settlement Agreement - Broken Dreams, Broken Lives: The Devastating Effects of Sexual Harassment on Women in the RCMP* (Bastarache Report). The Final Report provides a robust, in-depth view of the systemic internal failings of the RCMP. It outlines the systemic misogyny and homophobia that pervades all operations of the RCMP.²¹⁶ It also definitively calls for an independent and external review of the RCMP as a federal policing body.²¹⁷

Although Bastarache made many "stop-gap" recommendations, he concluded that the RCMP is likely incapable of changing itself.²¹⁸ Bastarache wrote:

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rcmp-wrkplc-hrsmnt-css/rcmp-wrkplc-hrsmnt-css-en.pdf>

²¹⁵ Bastarache, *Broken Dreams, Broken Lives*, 17, 24-6. Late claims not eligible for extension were also not filed.

²¹⁶ *Ibid.*, ii, 56.

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*, iii.

I have concluded, based on everything I was told over the past 3 years, that the culture of the RCMP is toxic and tolerates misogyny and homophobia at all ranks and in all provinces and territories. This culture does not reflect the stated values of the RCMP, and it is found throughout the organization. RCMP members and officers are forced to accept that they must function in the context of this culture to succeed...

...a fundamental restructuring may be necessary to resolve entrenched issues of misogyny, racism and homophobia...[C]ultural change is highly unlikely to come from within the RCMP. It has had many years and many reports and recommendations and yet the unacceptable behaviours continue to occur ... It is my belief the time has come for the Government of Canada to ask some hard questions about the structure and governance of federal policing.²¹⁹

While noting recent and pending reforms that were made before and after the Merlo Davidson Settlement, Bastarache viewed these initiatives as having been ineffectual at changing the culture of the RCMP.²²⁰ He noted that some complainants spoke of male Officers mocking the compensation process and harassment "in all its manifestations". He concluded that the government must take more effective action to reform the RCMP.²²¹

Detailed Findings of Harassment

The findings of Bastarache's Final Report demonstrate how the culture of the RCMP stands in stark contrast to the RCMP's purported values, including accountability and respect.²²² Under the heading: "The RCMP's Culture is Toxic and Must Be Addressed by the Government", the report examines sexual misconduct; racist, sexist and homophobic language; exclusion from work and advancement opportunities; and other forms of abuse ranging from psychological abuse to the denial of backup in dangerous instances.²²³ The report recounts the devastating, long-term mental and physical health consequences for women who experienced this treatment.²²⁴

²¹⁹ Ibid.

²²⁰ Ibid., 43-44.

²²¹ Ibid., 44.

²²² Ibid., 45.

²²³ Ibid., 49.

²²⁴ Ibid.

Bastarache found that sexual misconduct occurred “with a surprising frequency”.²²⁵ This included flashing, propositioning, inappropriate conversations, forced viewing and display of violent pornography, and sexual assault.²²⁶ Office “pranks” were gendered, including the placement of tampons, dildos, and condoms on/in desks as well as the doctoring of complainants’ images to appear sexualized.²²⁷ Complainants noted that the term “fresh meat” was used commonly to refer to female Officers newly on the job.²²⁸

Both work-related and extracurricular activities were described as sexualized, with drinking events often facilitating sexual harassment and assault.²²⁹ Harassment and assault occurred on the job, especially in situations where women were isolated with men such as on outposts, trips, and undercover missions.²³⁰ Indigenous women Officers reported having witnessed the mistreatment of other Indigenous women by their colleagues, including sexual predation and cruel treatment.²³¹ The Report found that harassment and assault was condoned and committed by senior Officers who would look out for one another when complaints were raised.²³² Similar loyalties may have affected women’s chances at training and advancement opportunities.²³³ The Report found that perpetrators were often transferred in response to complaints, including serial harassers.²³⁴

The Report found 131 cases of “outright rape”, sometimes occurring in situations where women were forced to engage in, or were incapable of consenting to, sexual activity.²³⁵ Sexual assaults were also “more frequent than the Assessors could have imagined” and were perpetrated by police and RCMP doctors alike.²³⁶

In addition to being passed over for training opportunities, women reported being sidelined or treated abusively while on the job. One woman reported being “dumped in

²²⁵ Ibid., 46-47

²²⁶ Ibid., 46-47

²²⁷ Ibid., 46.

²²⁸ Ibid.

²²⁹ Ibid., 46-47.

²³⁰ Ibid., 47-48.

²³¹ Ibid., 47.

²³² Ibid., 47-48

²³³ Ibid. Access to training opportunities, the Report notes, is needed for promotions.

²³⁴ Ibid., 47.

²³⁵ Ibid., 48.

²³⁶ Ibid.

a trench of manure” on the Musical Ride.²³⁷ Others reported that members tampered with their equipment in ways that risked injury.²³⁸

On undercover teams, women were often props or “eye candy” for male Officers. Many sexual assaults allegedly occurred during these operations.²³⁹ Rejection of sexual advances could result in backup being denied.²⁴⁰

Another tactic used against women in the force was encouraging members of the public to file a complaint against them or criminally charge them.²⁴¹ Other women were put into dangerous situations that forced them to “prove themselves”, or were mocked for de-escalating and avoiding violence.²⁴² For some women, punishment amounted to being refused psychological care for traumatic situations or being purposely scheduled in a way that prevented them from spending times with their families.²⁴³

Impact on Claimants and Families

The Report notes that the harm done to claimants and their families is nearly indescribable.²⁴⁴ It states that “[i]n several interviews, the Assessors realized that they were seeing a woman whose life had not just been changed for the worse, or damaged, or disrupted. It was worse: some of the women have been destroyed.²⁴⁵ Gender, sexual orientation, and/or the decision to have children made women “Constables-For-Life”, unable to advance in their careers.²⁴⁶ Women who had hoped to help others in need found their trust and confidence broken.²⁴⁷ Many of the women interviewed were diagnosed with major psychological injuries such as personality changes, PTSD, anxiety, depression, self-harming, and substance dependence.²⁴⁸

²³⁷ Ibid., 49. The RCMP Musical Ride is an event showcasing skills performed by 32 cavalry who are regular members of the force. The event is held in Canada and worldwide to promote the RCMP.

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ Ibid. This occurred in several files.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid., 50.

²⁴⁵ Ibid., 52.

²⁴⁶ Ibid., 50.

²⁴⁷ Ibid.

²⁴⁸ Ibid., 50-51.

Their experiences also manifested physically, such as through ulcers, nausea, injuries, and permanent disabilities.²⁴⁹ The Report notes “a number of cases in which claimants described having breast reductions or other surgery to deal with their colleagues’ relentless focus on their bodies”.²⁵⁰ Some isolated themselves from their families and adopted harmful coping mechanisms to deal with the abuse at work.²⁵¹

The report concludes: “In response to the question of whether the RCMP is broken, I can only state with clarity that, at the very least, the RCMP has broken, and continues to break, the lives of countless women and shattered their dreams. This is, in my opinion, a tremendous waste.”²⁵²

Conclusion

The RCMP, Canada’s national police force, is regularly violating the human rights of the women it employs and the women it is intended to protect.

Countless recommendations have been made regarding the need to reform the RCMP, including by the Bastarache Report, the Human Rights Watch Reports, the Inter-American Commission Report, the CEDAW Inquiry Report, the Oppal Report, the Final Report of the National Inquiry on Missing and Murdered Indigenous Women and Girls, the Pauktuutit Report, and the letters from the Legal Services Board of Nunavut, among others.²⁵³ Human Rights Watch noted that Indigenous women had a “palpable fear of the police” that was accompanied by a “normalized expectation that if one was an Indigenous woman or girl police mistreatment is to be anticipated.”²⁵⁴

It is apparent from these reports that the RCMP is a perpetrator of harassment and violence against women, and Indigenous women experience this violence disproportionately. And, as noted in the Introduction to this report, there is a need for specific investigation into RCMP treatment of Black women and other racialized

²⁴⁹ Ibid., 50.

²⁵⁰ Ibid., 51.

²⁵¹ Ibid., 52-53.

²⁵² Ibid., 53.

²⁵³ See Šimonović, *Visit to Canada*, para 96 (x), (y), (z); see also McKay, *Report of the Standing Committee on Public Safety and National Security*.

²⁵⁴ Human Rights Watch, *Those Who Take Us Away*, 34.

women,²⁵⁵ women with disabilities, especially mental health issues, and members of sexual and gender minorities.²⁵⁶

What is clear from the record is that the RCMP cannot be relied on to effectively discharge Canada's obligations to ensure that public officials do not engage in violence against women, and to act with due diligence to prevent violence against women by non-state actors.

The RCMP has been made aware of its failings over many years. In a response to the Bastarache report, the RCMP Commissioner promised to bring internal reforms to improve training, develop a model for an independent, civilian-staffed harassment regime outside of the RCMP and address systemic barriers by launching the RCMP Diversity, Equity and Inclusion Strategy.²⁵⁷ The specific recommendation of the Bastarache report, to hold an independent review on the future of the RCMP as an institution, has not been accepted by the RCMP or the Government of Canada.

External review and reform is required now because the RCMP has shown that it is unable or unwilling to make the necessary reforms itself.

In December 2021, the Minister of Public Safety Mandate Letter tasked the Minister to "accelerate action to reform the RCMP" and to launch "an external review of the RCMP's sanctions and disciplinary regime to determine the adequacy of existing sanctions and whether they are applied properly and consistently."²⁵⁸ Stop-gap measures and small fixes to an inherently flawed and discriminatory institution are demonstrably inadequate.

²⁵⁵ Meghan Grant, "Racism at Play in RCMP Investigation into Complaint of Black Woman Arrested Unlawfully, says Report," *CBC News*, February 4, 2022, <https://www.cbc.ca/news/canada/calgary/brooks-rcmp-arrest-black-woman-investigation-crcr-report-1.6336648>.

²⁵⁶ Bastarache, *Broken Dreams, Broken Lives*, 45; see also National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, vol. 1a, 451; Jamie Watt, "Toronto Police Culture Still Harms LGBTQ Community," *Toronto Star*, February 11, 2018, <https://www.thestar.com/opinion/star-columnists/2018/02/11/toronto-police-culture-still-harms-lgbtq-community.html>

²⁵⁷ Royal Canadian Mounted Police, "RCMP Response to the Report of the Independent Assessors Regarding the Claims Made Under the Merlo/Davidson Settlement Agreement," Government of Canada, November 19, 2020, <https://www.rcmp-grc.gc.ca/en/rcmp-response-the-report-the-independent-assessors-the-claims-made-the-merlodavidson-settlement>.

²⁵⁸ Catherine Tunney, "Federal Government Promises Probe of RCMP's Approach to Sexual Misconduct in the Ranks," *CBC News*, January 25, 2022, <https://www.cbc.ca/news/politics/rcmp-discipline-mendicino-1.6321653>.

Canada cannot develop a credible National Action Plan on Violence Against Women, or an effective response to the National Inquiry on Missing and Murdered Indigenous Women and Girls, unless it undertakes an independent, external, and thorough review of its national police force – its practices, culture, and future.

As the Final Report of the National Inquiry stated:

The RCMP have not proven to Canada that they are capable of holding themselves to account – and, in fact, many of the truths shared here speak to ongoing issues of systemic and individual racism, sexism, and other forms of discrimination that prevent honest oversight from taking place.²⁵⁹

It is time for an external review and extensive restructuring or dismantling of a police force that is no longer a national symbol of pride, but a manifestation of Canada's failure to uphold its human rights obligations to women.²⁶⁰

Recommendations

The following measures are needed:

1. Initiate the independent, in-depth review of the RCMP called for by the Bastarache Report, the UN Special Rapporteur on violence against women, and Indigenous women advocates, with the goal of determining whether and how radical changes can be made to RCMP oversight, transparency, accountability, structure, culture, and practices. This review needs to consider options for restructuring, or dismantling, the RCMP.²⁶¹
2. Implement the 52 "stop-gap" recommendations of the Bastarache Report and establish an oversight body for reviewing and reporting specifically on the implementation of those recommendations.

²⁵⁹ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, vol. 1a, 71.

²⁶⁰ Ken MacQueen, "The RCMP: a Royal Canadian Disgrace," *MacLeans*, November 18, 2011, <https://www.macleans.ca/news/canada/a-royal-canadian-disgrace/>.

²⁶¹ Pam Palmater, "Canada Should Declassify, Deconstruct, and Defund the RCMP," *Canadian Dimension*, June 15, 2020, <https://canadiandimension.com/articles/view/declassify-deconstruct-and-defund-the-rcmp>.

3. Take immediate steps to investigate, prosecute and make reparations for RCMP Officer-perpetrated violence against Indigenous women and girls in an open and transparent manner, with independent oversight that includes Indigenous women experts.
4. Replace the CRCC and the ERC with a genuinely independent and adequately resourced oversight body that can investigate and report publicly on all complaints against the RCMP and hold the institution and individual RCMP Officers to account for individual and systemic failures, neglect, harassment, abuse, misconduct, assault, and violence against women.
5. Make effective legislative changes to ensure that a new oversight body has full access to RCMP information, files, statistics, reports and any relevant documentation, and that investigations of complaints regarding Officer misconduct can lead to employment, civil and/or criminal consequences. These legislative changes must include a zero-tolerance policy for discrimination and violence against women as recommended by the UN Special Rapporteur on violence against women.
6. Ensure that the focus and goal of any reform is to make the RCMP capable of meeting Canada's, and the RCMP's, human rights obligations to ensure that public officials do not perpetrate violence against women, and that they prevent, investigate, prosecute, and provide effective remedies for violence against women.
7. Include women, especially Indigenous women, in the design of oversight mechanisms and in their operation, and as key participants in decision-making regarding the future of the RCMP.