HUMAN RIGHTS WATCH

# THOSE WHO TAKE US AWAY

## Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada

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## Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada

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# Those Who Take Us Away

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# Summary and Recommendations

The Tachie reserve in northern British Columbia. In Carrier, the indigenous language in Tachie and many indigenous communities in northern BC, the literal translation of the word for police is "those who take us away." An RCMP report on the historical involvement of the police in Canada's residential school system found that "The police were not perceived as a source for help but rather as an authority figure who takes members of the community away from the reserve or makes arrests for wrong-doing."

# THOSE WHO TAKE US AWAY

Photographs © 2012 Samer Muscati/Human Rights Watch

On December 5, 2012, a man walking his dog found the murdered body of 16-year old Summer Star (C.J.) Fowler in a ravine near the British Columbia (BC) town of Kamloops.[1] The Gitanmaax[2] teenager from Hazelton in northern BC, remembered as a sweet girl with a beautiful smile by her family, had been visiting friends a few days previously and was just hours away from taking a bus back home when she disappeared and was ultimately killed in circumstances still under investigation by police.[3] Speaking at a news conference, her father said, "We would just like to stop this violence ... We want some answers and we don't want this case to be another they stick under the rug."[4]

A woman wears a T-shirt with a slogan about police brutality in Prince George, British Columbia. In ten towns across northern British Columbia, Human Rights Watch documented failures in policing and protection of indigenous women and girls.

(above) Photographs of a 17-year old girl's injuries after a member of the Royal Canadian Mounted Police repeatedly punched her while she was handcuffed in British Columbia in 2011.

(left) Dog bite wounds are shown on the left leg of a 12-year old girl who was attacked by a police dog in 2012 when police searched for and arrested her after she was reported to have sprayed someone with bear mace. [Photos provided by the girl's mother to Human Rights Watch for publication.]

(opposite page) A community worker in a northern British Columbia town holds underwear that she distributes to women on the street, some of whom reported to her having been raped by police and having their underwear taken.

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C.J. Fowler is just one of several hundred indigenous women and girls who have been murdered or gone missing across Canada over the last several decades. By the time government funding for data collection on missing and murdered indigenous women and girls ended in 2010, the Native Women's Association of Canada (NWAC) had documented 582 such cases nationally. Many happened between the 1960s and the 1990s, but 39 percent occurred after 2000, or about 20 a year. If women and girls in the general Canadian population had gone missing or been murdered at the same rate, NWAC estimates the country would have lost 18,000 Canadian women and girls since the late 1970s.

The province of British Columbia has been particularly badly affected by violence against indigenous women and girls and by the failure of Canadian law enforcement authorities to deal with the phenomenon. Cutting through the small communities policed by the Royal Canadian Mounted Police (RCMP) in northern BC is the Highway of Tears, a 724-kilometer stretch of road which has become infamous for the dozens of women and girls who have gone missing or been murdered in its vicinity.

The high rates of violence against indigenous women and girls have drawn widespread expressions of concern from national and international human rights authorities, which have repeatedly called for Canada to address the problem. But these calls for action have not produced sufficient change and indigenous women and girls continue to go missing or be murdered in unacceptably large numbers.

The failure of law enforcement authorities to deal effectively with the problem of missing and murdered indigenous women and girls in Canada is just one element of the dysfunctional relationship between the Canadian police and indigenous communities. This report addresses the relationship between the RCMP and indigenous women and girls in northern BC and documents not only how indigenous women and girls are under-protected by the police but also how some have been the objects of outright police abuse. The report further documents the shortcomings of available oversight mechanisms designed to provide accountability for police misconduct and failure to protect.

In ten towns across the north, Human Rights Watch documented RCMP violations of the rights of indigenous women and girls: young girls pepper-sprayed and Tasered; a

12-year old girl attacked by a police dog; a 17-year old punched repeatedly by an officer who had been called to help her; women strip-searched by male officers; and women injured due to excessive force used during arrest.

Human Rights Watch heard disturbing allegations of rape and sexual assault by RCMP officers, including from a woman who described how in July 2012 police officers took her outside of town, raped her, and threatened to kill her if she told anyone. Human Rights Watch strongly urges an independent civilian-led investigation of these allegations with the aim of achieving criminal accountability for the alleged crimes. Human Rights Watch would eagerly cooperate with such an investigation to the extent we are able to without compromising the safety and privacy of victims.

For many indigenous women and girls interviewed for this report, abuses and other indignities visited on them by the police have come to define their relationship with law enforcement. At times the physical abuse was accompanied by verbal racist or sexist abuse. Concerns about police harassment led some women—including respected community leaders—to limit their time in public places where they might come into contact with officers. The situations documented in this report—such as a girl restrained with handcuffs tight enough to break her skin, detainees who had food thrown at them in their cells, a detainee whose need for medical treatment was ignored—raise serious concerns about tactics used in policing of indigenous communities in BC and about the police's regard for the well-being and dignity of indigenous women and girls.

Incidents of police abuse of indigenous women and girls are compounded by the widely perceived failure of the police to protect women and girls from violence. Not surprisingly, indigenous women and girls report having little faith that police forces responsible for mistreatment and abuse can offer them protection when they face violence in the wider community. As a community service provider told Human Rights Watch, "The most apparent thing to me is the lack of safety women feel. A lot of women, especially First Nations women we see never feel safe approaching the RCMP because of the injustices they've experienced … The system is really failing women."

One aspect of this is the apparent apathy of police towards the disappearances and murders of indigenous women and girls that has been such a persistent and well-publicized stain on Canada's human rights record. Less well-publicized but equally pernicious have been the shortcomings of the police in their response to domestic violence.

Two unidentified women hitchhike in northern British Columbia.

The RCMP has instituted progressive policies addressing violence in domestic relationships, but it appears the police do not apply those policies consistently when policing in indigenous communities. According to survivors of domestic violence and the community service providers who work with them, indigenous women and girls often do not get the protection afforded by these polices. Women who call the police for help may find themselves blamed for the abuse, are at times shamed for alcohol or substance use, and risk arrest for actions taken in self-defense. Similarly, despite policies requiring active investigation of all reports of missing persons, some family members and service providers who had made calls to police to report missing persons said the police failed to promptly investigate the reports.

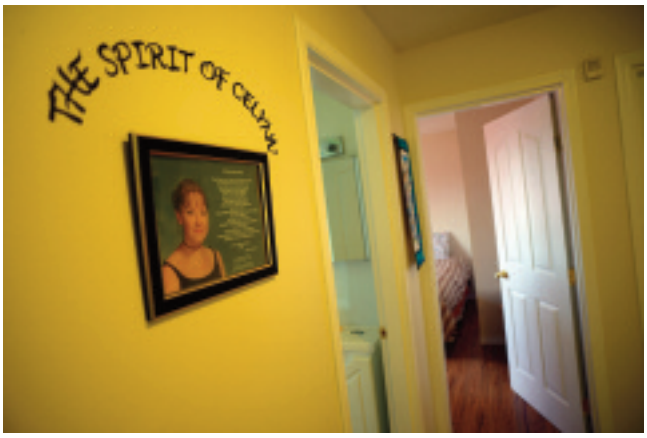
When they experience abuse at the hands of the police or when the police fail to provide adequate protection, women and girls have limited recourse. They can lodge a complaint with the Commission for Public Complaints against the RCMP, but the process is time consuming and the investigation of the complaint will likely fall to the RCMP itself or an external police force. Fear of retaliation from police runs high in the north, and the apparent lack of genuine accountability for police abuse adds to long-standing tensions between the police and indigenous communities. The title of this report "Those Who Take Us Away," is a literal translation of the word for police in Carrier, the language of a number of indigenous communities in northern BC.

The Independent Investigations Office (IIO), a recently established provincial mechanism for civilian investigation of police misconduct, offers some promise, but most complaints will fall outside the office's mandate, which is limited to incidents involving death or certain serious bodily injuries. The exclusion of rape and sexual abuse from this definition represents an unacceptable discriminatory omission on the part of the provincial legislature. It sends a loud message that assaults on women are not important.

Canada has strong legal protections around violence against women and the federal and provincial governments have made some attempts to address murders and disappearances of indigenous women through studies, task forces, and limited funding initiatives. However, the persistence of the violence indicates a need for deeper, coordinated interventions to address the systemic nature of the problem.

In northern British Columbia, a highway sign warns girls of the dangers of hitchhiking along the Highway of Tears.

At a community center in Prince George, BC, Georgia I. (a pseudonym) said that she was raped by a member of the Royal Canadian Mounted Police almost 40 years ago as a 16-year old returning home from a pizza parlor. "I'm looking at filing an application to the Attorney General about the rape. He [the perpetrator] is still on the force...how many other young girls has he hurt, as he hurt me?"




A photo hangs in Phoenix House, a women's crisis shelter in Prince George, British Columbia, honoring Celynn Cadieux. Cadieux, now deceased, spoke out against the child sexual exploitation she and others experienced by provincial court judge David Ramsay, who died in jail after pleading guilty in 2004 to sexual assault, breach of trust, and buying sex from a minor.

A swing set stands on the former grounds of the Lejac Residential School, one of the compulsory boarding schools for indigenous children that operated until 1976 and a site of reported sexual and physical abuse.

A woman from Haida Gwaii said police detained her as a child in Prince Rupert and then shipped her to Port Alberni residential school where she survived physical and sexual abuse. "The cops took me right off the streets ... I was walking home ... I always remember, it was 5 after 9.... The cops grabbed me, threw me in their car. Grabbed me by the hair, threw me into their cell, and I was in there for about three days, almost got raped by a couple of ladies.... This was in the 50s. I got shipped to Port Alberni then."

Mabel Jack holds up a photograph of her son and his family who have been missing since 1989. “I want everyone to know what happened to my family.... I still miss them. Some people—friends—they ask me how I am. I said, “I'm okay, but I'm not ... I hurt more than anybody else.”

Community members participate in a spirit healing walk in Burns Lake, British Columbia, in remembrance of missing and murdered women.

In Terrace, British Columbia, a woman discusses how police told her it was “too early” for them to do anything when she reported that her grandniece (whom she considers her granddaughter) had been missing for 14 hours. She said she told the police: “There are enough girls missing out there already, I want to know where my granddaughter is.”

A woman shows a paper she has kept displaying the photos of women, some of whom she knew, who disappeared from the downtown eastside of Vancouver, British Columbia, in the 1990s.

The memorial stone for the Downtown Eastside's missing and murdered women located in Crab Park, Vancouver. The stone reads: "The heart has its own memory, dedicated July 29 2007. In honor of the spirit of the people murdered in the Downtown Eastside. Many were women and many were Native aboriginal women. Many of these cases remain unsolved. All my relations."

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[1] "National chief keeps up calls for inquiry after aboriginal B.C. teen's murder," *Canadian Press*, December 9, 2012, http://www.globaltvbc.com/national+chief+keeps+up+calls+for+inquiry+after+aboriginal+bc+teens+murder/6442768931/story.html (accessed December 17, 2012).

[2] Fowler was from the Gitanmaax First Nation, an indigenous community in northern British Columbia.

[3] "Funeral for slain First Nations teen Thursday," *CBC News*, December 20, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/12/20/bc-cj-fowler-kamloops.html (accessed January 2, 2013).

[4] John Colebourn, "Grieving parents of murdered teen appeal for witnesses to come forward," *The Province*, December 12, 2012, http://www.theprovince.com/news/Grieving+parents+murdered+teen+appeal+witnesses+come+forward/7690642/story.html#ixzz2GqgcVoFv (accessed January 2, 2013).

# RECOMMENDATIONS

## TO THE GOVERNMENT OF CANADA

- **Establish a national commission of inquiry into the murders and disappearances of indigenous women and girls before the end of 2013; ensure the inquiry's terms of reference are developed with leadership from affected communities and that they include the examination of the current and historical relationship between the police and indigenous women and girls, including incidents of serious police misconduct, and the systemic socio-economic marginalization of indigenous women and girls that predispose them to high levels of violence;**
- **With leadership from indigenous communities, develop and implement a national action plan to address violence against indigenous women and girls that addresses the structural roots of the violence as well as the accountability and coordination of government bodies charged with preventing and responding to violence;**
- **Establish independent civilian investigations of reported incidents of serious police misconduct, including incidents of rape and other sexual assault, in all jurisdictions;**
- **Cooperate with the United Nations Committee on the Elimination of Discrimination against Women's inquiry into the issue of missing and murdered indigenous women and girls, including by granting permission for a site visit, and provide similar cooperation to other international human rights bodies that may seek to engage the government on these issues;**
- **Ratify the American Convention on Human Rights and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará).**

## TO THE PROVINCIAL GOVERNMENT OF BRITISH COLUMBIA

- **Ensure that a public inquiry takes place into the violence experienced by indigenous women and girls in northern British Columbia. The inquiry could be part of a national commission of inquiry or a standalone inquiry for the province. The inquiry should include both the murders and disappearances of indigenous women and girls along Highway 16 and police abuse of indigenous women and girls. The inquiry's terms of reference should be defined in cooperation with indigenous communities, and adequate financial and victim supports for non-government community participation and interests should proportionately equal those provided for government and police;**
- **Expand the mandate of the Independent Investigations Office to include authority to investigate allegations of sexual assault by police;**
- **Provide adequate shelters and social services for victims of violence, including in rural areas and with specific culturally-sensitive services;**
- **Renew the commitment to implementing the recommendations of the 2006 Highway of Tears Symposium, updated, as necessary, in cooperation with northern indigenous communities;**
- **Expand non-incarceration options for publicly intoxicated individuals, including sobering centers where medical personnel can provide appropriate care.**

## TO THE ROYAL CANADIAN MOUNTED POLICE

- **Collect and make publicly available (as ethically appropriate) accurate and comprehensive, disaggregated data that includes an ethnicity variable on violence against indigenous women and girls in cooperation with indigenous community organizations and the National Centre for Missing Persons and Unidentified Remains (NCMPUR); the development of NCMPUR should be part of a national RCMP strategy for the elimination of violence against indigenous women and girls that ensures consistency in data collection, immediate reporting, and access to information by police, coroners, and medical examiners;**
- **Expand training for police officers to counter racism and sexism in the treatment of indigenous women and girls in custody and to improve police response to violence against women and girls within indigenous communities; such training should be developed through collaboration between indigenous and human rights organizations, the Canadian Police College, and the Department of Public Safety Canada; and focus specifically on Canada's colonial history that has predisposed indigenous women to suffer from gross levels of violence and on human rights norms, including women's and girls' rights to live free from violence and discrimination and be treated with dignity and respect in custody;**
- **Ensure that properly trained officers are stationed at detachments in the north for a sufficient amount of time to develop strong relationships with the local community;**
- **Eliminate searches and monitoring of women and girls by male police officers in all but extraordinary circumstances and require documentation and supervisor and commander review of any such searches; prohibit cross-gender strip searches under any circumstances;**
- **Prohibit the use of conducted energy weapons (Tasers) on youth and re-examine the rules for the use of police dogs and pepper spray on youth with a view to limiting their use to extraordinary circumstances that are then documented and subject to supervisor and commander review; all RCMP and municipal police policies on conducted energy weapons, police dogs and pepper spray should be made publicly accessible;**
- **Enforce existing rules mandating that parents or guardians be contacted immediately in the case of their child's arrest and that youth not be detained in cells with adults or children of the opposite sex;**
- **Consider, in consultation with indigenous communities in northern British Columbia, changing the criteria for cases to be investigated by the E-PANA task force to include a greater number of the murders and disappearances of women in the north;**

- **Develop a timeline for NCMPUR to complete and implement specialized and standardized protocols for police response when indigenous women and girls are reported missing or found murdered; these protocols should be part of the national RCMP strategy and be made in cooperation with indigenous organizations; protocols should include:**
  - **Oversight and accountability mechanisms that track a police investigation of a missing or murdered indigenous woman or girl from the time such an incident is reported;**
  - **Clear, publicly available communication standards for informing family and the general community about the progress of an investigation as it proceeds, and what they can or are expected to do to contribute to an investigation during its different phases;**
  - **Goals to involve an Aboriginal liaison officer in all cases of missing and murdered indigenous women and girls to work with affected families and the police;**
  - **Goals to review police response to missing and murdered indigenous women and girl cases at regular intervals to compile and make public a report on best practices and lessons learned that can then contribute to more successful police investigations and community response in the future.**

## TO THE UN HUMAN RIGHTS COUNCIL

- **Raise the issue of violence against indigenous women and girls in Canada as part of the United Nations Human Rights Council's Universal Periodic Review;**
- **Encourage Canada to launch a national inquiry into the murders and disappearances of indigenous women and girls.**

# Methodology

Human Rights Watch undertook the research on which this report is based after Justice for Girls (JFG), a Vancouver-based organization advocating for the rights of girls in British Columbia, submitted a briefing paper to Human Rights Watch in November 2011 describing human rights violations against indigenous teen girls in northern British Columbia.[5] In collaboration with JFG, Human Rights Watch conducted five weeks of field research in British Columbia in July and August 2012, most of which was spent traversing Highway 16 from Prince George to Prince Rupert, and Highway 97 between Prince George and Williams Lake. The Carrier Sekani Tribal Council passed a resolution welcoming Human Rights Watch into the territory and supporting the research. Human Rights Watch attended the annual general meeting of the Carrier Sekani and spoke with community members about police treatment of girls and women, and the murders and disappearances along Highway 16.

In total Human Rights Watch conducted 87 interviews for this report. We spoke with 42 indigenous women and 8 indigenous girls,[6] ranging in age from 15 to late 60s, in the communities we visited. The interviews were arranged with the assistance and coordination of advocates, organizations, and local community members who connected us to individuals they believed to have information pertinent to police treatment of indigenous women and girls. Human Rights Watch also interviewed19 community service providers, including staff at domestic violence transition houses and homeless shelters, and youth outreach workers; community leaders; and family members of victims of violence or police mistreatment. In addition, we spoke with seven current and former officers of the "E" Division of the Royal Canadian Mounted Police (RCMP) in three interviews arranged through unofficial channels.

Human Rights Watch researchers were assisted by two indigenous leaders and women's rights experts: Mavis Erickson and Sharon McIvor. Erickson is an attorney, former Elected Tribal Chief of the Carrier Sekani Tribal Council (CSTC), and representative for the CSTC on

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[5] Justice for Girls, "Human Rights Violations against Indigenous Teen Girls in Northern British Columbia," November 2011, on file with Human Rights Watch.

[6] The term "girls" in this report refers to female persons under 18 years of age, consistent with the definition of child under article 1 of the United Nations Convention on the Rights of the Child. The age of majority in British Columbia, however, is 19 (*Age of Majority Act*, RSBC 1996, c 7, s 1(1)).

issues related to missing and murdered indigenous women. She is a Nadleh Whut'en band member and a citizen of Nak'azdii near Fort St James. McIvor is an attorney, co-founder of the Canadian Feminist Alliance for International Action, and an instructor at the Nicola Valley Institute of Technology. She is a Lower Nicola Band member and brought a ground-breaking constitutional challenge to sex-discrimination in the Indian Act in *McIvor v. Canada*.[7]

The individual women, girls, and family members interviewed for this report were fully informed about the nature and purpose of our research and how we would use the information they provided. Human Rights Watch obtained verbal consent for each of the interviews. No incentives were provided to individuals in exchange for their interviews. The majority of the interviews were conducted in private with only the researcher and a single interviewee present, but in a number of cases interviewees chose to speak with family members or advocates present. Four of the interviews were conducted by phone; the rest were in-person. The interviews with individual women and girls were open-ended discussions of the experiences the women, girls, and family members had had with the police and what, if any, recommendations they had for improvements in policing. Care was taken to ensure that interviews about past traumatic events did not further traumatize interviewees, and where appropriate, Human Rights Watch offered interviewees referrals to local organizations providing counseling and other services.

In several towns we visited, women and girls who expressed interest in meeting and talking to Human Rights Watch later withdrew their request to be interviewed. They cited fear of exposure and potential retaliation from police as inhibiting factors. Community service providers noted that the fear of exposure is particularly acute in the small towns of the north where police and community members would be likely to identify a person by a few details of their story. Consequently, Human Rights Watch has not identified the precise

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[7] In 2009, the BC Court of Appeal ruled in *McIvor v. Canada* that section 6 of the *Indian Act* was unconstitutional and discriminatory under section 15 of the *Canadian Charter of Rights and Freedoms*. *McIvor v. Canada* (*Registrar of Indian and Northern Affairs*), 2009 BCCA 153, http://www.courts.gov.bc.ca/jdb-txt/CA/09/01/2009BCCA0153err2.htm (accessed December 18, 2012). This litigation resulted in 2010-2011 court-ordered legislative reform process that has made 45,000 indigenous women and their descendants newly eligible for status registration. Notwithstanding this ground-breaking litigation victory, thousands more were left behind by the 2011 legislative amendments to the *Indian Act*. The case of *McIvor v. Canada* is the subject of an ongoing petition under the complaints protocol of the International Covenant on Civil and Political Rights. Sharon McIvor and Jacob Grismer, "Communication Submitted for Consideration under the first optional protocol to the International Covenant on Civil and Political Rights," November 24, 2010, http://povertyandhumanrights.org/wp-content/uploads/2011/08/McIvorApplicantsPetition1.pdf (accessed December 18, 2012).

location of interviews, and where necessary we have also redacted details from victim and witness accounts in order to reduce the risk that they will be identified. We have also used pseudonyms for all victims and family members interviewed. Nonetheless, certain accounts in this report that have previously received public attention may be recognizable, a possibility which was discussed with the women and girls involved as part of their full and informed consent to their participation in the research. The names of community service providers and others have also been withheld where their relationship with police would otherwise have prevented them from speaking freely.

Due to concern for the privacy and security of interviewees, Human Rights Watch did not inform the RCMP of our intention to conduct the research in advance or approach detachments for interviews during the field research. In September 2012, Human Rights Watch wrote to the RCMP to advise the national headquarters and the "E" Division in British Columbia of our research and to solicit the police force's input to a series of questions raised by the research. The RCMP responded in November 2012 with answers to our questions and associated policy documents. Human Rights Watch reviewed those materials and they have been taken into account in the report's analysis. Human Rights Watch did not include details of particular incidents in its letter on September 2012 due to the deep seated fear of retaliation on the part of victims if they were identifiable to those accused of perpetrating the abuses. Human Rights Watch is committed to pursuing the issues raised by this report with authorities and to addressing particular situations of concern with British Columbia's Independent Investigations Office (IIO) to the extent we are able to without compromising the safety and privacy of victims.

We have also communicated with the British Columbia (BC) Minister of Justice and Attorney General Shirley Bond and IIO Director Richard Rosenthal regarding the limitations of the mandate of the IIO.

# Terminology

> Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, their ethnic identity, as the basis of their continued existence as peoples in accordance with their own cultural patterns, social institutions, and legal systems.
>
> —Martinez Cobo, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, United Nations Commission on Human Rights[8]

This report primarily uses the term "indigenous" to refer to the women and girls interviewed for this report. We recognize, however, that other terms, such as "First Nations" and "Aboriginal" are commonly used in British Columbia and Canada. We also recognize that there are many unique identities and cultures within the indigenous communities of British Columbia which are not captured by a single term. We have chosen to use "indigenous" because it is the terminology used by the United Nations and applicable human rights standards.

In order to ensure accuracy, we have not changed the terms used by interviewees and in source material. For example, we refer to the number of Aboriginal women and girls in Canada, because that is the term used by Statistics Canada in the study cited. For ease of reference we include the following definitions of relevant terms, excerpted from a glossary provided by the government of Saskatchewan:[9]

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[8] UN Commission on Human Rights, Report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Martinez Cobo, Study of the Problem of Discrimination against Indigenous Populations, E/CN.4/Sub.2/1982/21/Add.8, September 30, 1983, Chapter XXI-XXII Conclusions, proposals and recommendations, para. 379.

[9] Human Rights Watch reviewed definitions in a number of glossaries, including the guide to terminology published by the "National Aboriginal Health Organization. Terminology Guidelines," http://www.naho.ca/publications/topics/terminology/ (accessed December 26, 2012). The Saskatchewan provincial government's glossary largely shares those definitions and has been excerpted because it was most suited to a concise glossary of key terms used in this report. Government of

*Aboriginal*: The term "Aboriginal" is appropriate when referring to matters that affect First Nations (Indian) and Métis peoples. The word is most appropriately used as an adjective (e.g., Aboriginal person).

*Aboriginal Peoples*: Section 35 of the Constitution Act, 1982 recognizes three groups of Aboriginal peoples -- Indians, Métis and Inuit peoples.

*Band*: As defined by the Indian Act, a Band is a body of Indians for whose common use and benefit lands have been set aside or monies held by the Government of Canada or declared by the Governor in Council to be a Band. Today, many Bands prefer to be known as First Nations.

*First Nation(s)*: A term that came into common usage in the 1970s to replace the word "Indian". Although the term First Nation is widely used, no legal definition of it exists. The term has also been adopted to replace the word "Band" in the naming of communities.

*Indian*: The term "Indian" is narrowly defined by the Indian Act. Indian peoples are one of three groups of people recognized as one of Canada's Aboriginal peoples in the Constitution Act, 1982. There are three legal definitions that apply to Indians in Canada: Status Indians, Non-status Indians and Treaty Indians.

*Inuit*: An Aboriginal people in northern Canada, who live above the tree line in the Northwest Territories, and in Nunavut, Northern Quebec and Labrador.[10] The word means "people" in the Inuit language - Inuktitut. The singular of Inuit is Inuk.

*Métis*: The term refers to Aboriginal people of mixed First Nation and European ancestry who identify themselves as Métis people, as distinct from First Nations people, Inuit or non-Aboriginal people. The Métis have a unique culture that draws on their diverse ancestral origins, such as Scottish, French, Ojibway and Cree.

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Saskatchewan First Nations and Métis Relations, "Aboriginal Community Glossary", 2012, http://www.fnmr.gov.sk.ca/community/glossary/ (accessed December 10, 2012).

[10] Human Rights Watch inserted Nunavut in the definition provided by the Government of Saskatchewan. Nunavut became a separate territory from the Northwest Territories in 1999. The Inuit are 84 percent of Nunavut's population. (Statistics Canada, "2006 Census: Aboriginal Peoples in Canada in 2006: Inuit, Métis and First Nations, 2006 Census: Inuit," April 2011, http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/p6-eng.cfm (accessed January 30, 2012).)

*Native*: A term used to refer generally to Aboriginal peoples. The term "Aboriginal person" is preferred to "native."

*Non-status Indian*: An Indian person who is not registered as an Indian under the Indian Act. This may be because his or her ancestors were never registered, or because he or she lost Indian status under former provisions of the Indian Act. Bill C-31 in 1985 has restored Indian status to those who lost it through marriage.

*Status Indian (Registered Indian)*: Refers to an Indian person who is registered (or entitled to be registered) under the Indian Act. The Act sets out the requirements for determining who is a status Indian.

*Reserve*: Land set aside by the federal government for the use and occupancy of an Indian group or Band. Legal title rests with the Crown in right of Canada.

*Treaty Indian*: A person affiliated with a First Nation that has signed, or whose ancestors signed, a treaty with the Crown and who now receives land rights and entitlements as prescribed in a treaty.

# Map of British Columbia

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# I. Background

## Violence against Indigenous Women and Girls in Canada

Indigenous women and girls are far more likely than other Canadian women and girls to experience violence and to die as a result. Between 1997 and 2000, the rate of homicide overall for Aboriginal women was 5.4 per 100,000, compared to 0.8 per 100,000 for non-Aboriginal women – almost seven times higher.[11] The Canadian government has acknowledged to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) that the rate of spousal violence against Aboriginal women and girls is more than three times higher than for other Canadian women and that Aboriginal women are eight times more likely to be a victim of spousal homicide.[12] In 2012, the United Nations Committee on the Rights of the Child (CRC) expressed concern about the levels of sexual exploitation of Aboriginal girls and the failure of authorities to fully investigate when those girls have gone missing or were murdered.[13]

The Native Women's Association of Canada (NWAC) collected data showing that nationally, between the 1960s and 2010, 582 Aboriginal women and girls went missing or were murdered in Canada.[14] Data collected as of March 31, 2010, indicate that two-thirds of the cases logged were murders; one-fifth were disappearances; and the remainder were suspicious deaths or unknown.[15] Some cases date back to the 1960s and 70s, but 39 percent occurred since 2000.[16] NWAC's data indicates that the majority of the victims were under the age of 31 and many were mothers.[17] According to NWAC's data, Aboriginal women are more likely to be killed by a stranger than non-Aboriginal women, and nearly

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[11] Vivian O'Donnell and Susan Wallace, "First Nations, Métis and Inuit Women," Women in Canada: A Gender-based Statistical Report, Statistics Canada Catologue no. 89-503-X, July 2011, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.htm (accessed December 13, 2012), p. 43.

[12] Government of Canada, Combined sixth and seventh periodic reports of States parties Canada, CEDAW/C/CAN/7, August 17, 2007, http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm (accessed October 22, 2012), para. 29.

[13] United Nations Committee on the Rights of the Child, "Consideration of Reports Submitted by States parties under Article 44 of the Convention Concluding Observations: Canada," CRC/C/CAN/CO/3-4, October 5, 2012, http://www2.ohchr.org/english/bodies/crc/crcs61.htm (October 15, 2012), para. 48.

[14] Native Women's Association of Canada, "What Their Stories Tell Us," 2010, http://www.nwac.ca/programs/sis-research (accessed December 13, 2012), pp. 1, 20-21.

[15] Ibid, p. 18.

[16] Ibid, pp. 20-21.

[17] Ibid, p. ii.

half of the murders are unsolved.[18] Amnesty International published a report on Canada's missing and murdered indigenous women in 2004 that, among other findings, concluded that "Despite assurances to the contrary, police in Canada have often failed to provide Indigenous women with an adequate standard of protection."[19]

The collection of data about the levels of violence against indigenous women is essential for developing an effective response to the violence, but in 2010 the government stopped funding NWAC's data initiative on the murders and disappearances of indigenous women. The government is funding related initiatives as part of the "Missing and Murdered Aboriginal Women strategy," as well as the NWAC "Evidence to Action" project, but it did not renew funding for the organization's statistical monitoring of cases of missing and murdered indigenous women and girls.[20] As a result, no comprehensive sex – and race – disaggregated data to track the numbers of missing and murdered indigenous women and girls since 2010 are available. The government contends that the responsibility for continued data collection will be assumed by the National Centre for Missing Persons and Unidentified Remains (NCMPUR) run by the Royal Canadian Mounted Police (RCMP).[21] The NCMPUR, according to the government, will include "one resource, linked to National Aboriginal Policing *S*ervices, to ensure a focus on the specific issue of missing Aboriginal

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[18] Ibid.

[19] Amnesty International, "Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada," AMR 20/003/2004, October 2004, http://www.amnesty.ca/research/reports/stolen-sisters-a-human-rights-response-to-discrimination-and-violence-against-indig (accessed December 13, 2012), p. 2.

[20] "Letter from Minister Nicholson and Minister Ambrose to the Native Women's Association of Canada," Status of Women Canada news release, November 24, 2010, http://www.swc-cfc.gc.ca/med/news-nouvelles/2010/1124-eng.html (accessed December 13, 2012); Native Women's Association of Canada, "Small Steps on a Long Journey," December 2011, www.un.org/esa/socdev/unpfii/documents/EGM12_NWAC.pdf *(accessed December 13, 2012), p. 5; Native Women's Association of Canada, "Evidence to Action," undated,* http://www.nwac.ca/programs/evidence-action *(accessed December 13, 2012).*

[21] "Backgrounder A: Addressing the Issue of Missing and Murdered Aboriginal Women," Department of Justice Canada news release, October 2012, http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc_32564.html (accessed December 13, 2012); "Letter from Minister Nicholson and Minister Ambrose to the Native Women's Association of Canada," Status of Women Canada news release, http://www.swc-cfc.gc.ca/med/news-nouvelles/2010/1124-eng.html. The "National Police Support Centre for Missing Persons" noted in the Status of Women Canada news release refers to NCMPUR. (Royal Canadian Mounted Police, "Canadian Police Centre for Missing and Exploited Children," February 23, 2012, http://www.rcmp-grc.gc.ca/cpcmec-ccpede/index-eng.htm (accessed January 30, 2013).) On January 31, 2013, the RCMP launched a website, www.canadasmissing.ca, to "engage the public in reporting tips and information related to ongoing cases." The new site contains a sampling of missing persons and unidentified remains cases from across Canada. (Royal Canadian Mounted Police, "RCMP Launches National Public Website for Missing Persons and Unidentified Remains," January 31, 2013, http://www.rcmp-grc.gc.ca/news-nouvelles/2013/01-31-ncmpur-cnpdrni-eng.htm (accessed February 4, 2013).)

persons."[22] However, there is currently no precedent for the standardized collection of ethnicity data by police forces in Canada.[23] Consequently, it is unclear going forward how the government and the public will have access to information comparable to what NWAC had provided about the number and circumstances of these cases.

While the Canadian government has issued statements and undertaken studies indicating that it appreciates the gravity of the situation, it has stopped short of establishing a public national inquiry into the murders and disappearances of indigenous girls and women or developing a national action plan to address the issue. [24] An inquiry into this issue could provide an opportunity to examine through public hearings the root causes of the violence against indigenous women and girls as well as the law enforcement response, with the full participation of the affected communities. The Assembly of First Nations, the Native Women's Association of Canada, and Canadian Feminist Alliance for International Action are among the many groups that have called for a national inquiry.[25]

Government studies have found that violence against indigenous women and girls is linked to broader, long-standing patterns of discrimination faced by indigenous women and girls

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[22] "Backgrounder A: Addressing the Issue of Missing and Murdered Aboriginal Women," Department of Justice Canada news release, http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc_32564.html.

[23] Native Women's Association of Canada, "Small Steps on a Long Journey," www.un.org/esa/socdev/unpfii/documents/EGM12_NWAC.pdf, p. 5. The Department of Justice Canada "Backgrounder A: Addressing the Issue of Missing and Murdered Aboriginal Women," notes that the RCMP "has enhanced the Canadian Police Information Centre (CPIC) to capture additional missing persons data such as biological and cultural affinity." It is not clear that this will result in comprehensive race-disaggregated data for missing persons cases; further, this does not address the need for race-disaggregated data in homicide cases.

[24]House of Commons Standing Committee on the Status of Women (FEWO), "Ending Violence Against Aboriginal Women and Girls: Empowerment – A New Beginning," December 2011, http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5322860&Language=E&Mode=1&Parl=41&Ses=1 (accessed September 26, 2012), pp. 43-44; Missing Women Working Group, "Report and Recommendations on Issues Related to the High Number of Murdered and Missing Women in Canada," January 2012, http://www.ag.gov.bc.ca/missing_women_working_group/index.htm (accessed October 18, 2012). The report includes 52 recommendations, none of which call for a national public inquiry or a national action plan; Status of Women Canada, "Joint Statement by Ministers Nicholson and Ambrose on the fifth Annual Sisters in Spirit Vigils," October 4, 2010, http://www.swc-cfc.gc.ca/med/sta-dec/2010/1004-eng.html (accessed January 7, 2013).

[25] Assembly of First Nations, "Call for a Royal Commission on Violence Against Indigenous Girls & Women," Resolution no. 02/2011, adopted in Moncton, NB, July 12, 2011, http://www.afn.ca/index.php/en/policy-areas/i-pledge.-end-violence (accessed January 7, 2013), p. 4 of Resolutions; "Native Women's Association of Canada and Canadian Feminist Alliance For International Action Respond to Oppal by Calling for a National Public Inquiry and a Framework for Action to End Violence," Native Women's Association of Canada joint news release, December 17, 2012, http://www.nwac.ca/media/release/17-12-12 (accessed January 7, 2013).

in British Columbia and in Canada at large.[26] Although a thorough discussion of these well documented patterns is beyond the scope of this report, it is important to note that the context in which indigenous women and girls are subjected to violence is one of structural discrimination linked to social and economic inequality, according to government and academic experts.[27] In 2006, 35 percent of Aboriginal women over 25 had not completed high school, compared with 20 percent for non-Aboriginal women.[28] When asked why she did not complete high school, nearly one in five women cited "pregnancy or to take care of children," according to the 2006 Aboriginal Peoples Survey.[29] Also in 2006, 8 percent of Aboriginal girls aged 15 to 19 were parents, compared to 1.3 percent of non-Aboriginal girls in the same age bracket.[30] In British Columbia, the Ministry of Children and Family Development reported that, while Aboriginal children constitute only 8 percent of the province's children, they were 52 percent of all children in government care in 2007-08.[31]

This inequality carries over into women's adult lives, from poverty to unemployment to housing insecurity. In 2005, 30 percent of Aboriginal women were considered low income, compared with 16 percent of non-Aboriginal women.[32] The unemployment rate was twice as high for Aboriginal women as non-Aboriginal women in 2006, and Aboriginal peoples

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[26] Government of Canada, House of Commons Standing Committee on the Status of Women, "Ending Violence Against Aboriginal Women and Girls: Empowerment – A New Beginning," December 2011, 41st Parl., 1st sess., http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5322860&Language=E&Mode=1&Parl=41&Ses=1 (accessed September 26, 2012), p. 60; Government of Canada, House of Commons Standing Committee on the Status of Women, "Interim Report Call into the Night: An Overview of Violence Against Aboriginal Women," March 2011, 40th Parl., 3rd sess., http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5056509&Language=E&Mode=1&Parl=40&Ses=3 (accessed September 26, 2012), p. 6.

[27] Fiske, Jo-anne. "Political Status of Native Indian Women: Contradictory Implications of Canadian State Policy," in *In the Days of Our Grandmothers*, Mary-Ellen Kelm and Lorna Townsend, eds. (Toronto: University of Toronto Press, 2006), p. 338; Government of Canada, House of Commons Standing Committee on the Status of Women, "Interim Report Call into the Night: An Overview of Violence Against Aboriginal Women," March 2011, 40th Parl., 3rd sess., http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5056509&Language=E&Mode=1&Parl=40&Ses=3 (accessed September 26, 2012), p. 10, 31.

[28] Vivian O'Donnell and Susan Wallace, "First Nations, Métis and Inuit Women," Women in Canada: A Gender-based Statistical Report, Statistics Canada Catalogue no. 89-503-X, July 2011, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.htm (accessed December 13, 2012), p. 35.

[29] Ibid.

[30] Ibid, p. 20.

[31] Anna Kozlowski, Vandna Sinha, Shawn Honey and Linda Lucas, "First Nations Child Welfare in British Columbia (2011)," Canadian Child Welfare Research Portal, http://cwrp.ca/infosheets/first-nations-child-welfare-british-columbia (December 13, 2012).

[32] Vivian O'Donnell and Susan Wallace, "First Nations, Métis and Inuit Women," Women in Canada: A Gender-based Statistical Report, Statistics Canada Catalogue no. 89-503-X, July 2011, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.htm (accessed December 13, 2012), p. 34.

lost jobs at a higher rate than non-Aboriginal people during the 2008 economic downturn.[33] In 2006, 14 percent of First Nations women and girls lived in crowded homes, a rate more than three times higher than for their non-Aboriginal counterparts.[34] In addition, 28 percent of First Nations women and girls lived in homes in need of "major repairs," compared with 7 percent of non-Aboriginal women and girls.[35]

### *Residential Schools*

The legacy of colonialism and the Canadian government's historical assimilation policy remain an open wound in the north, particularly the inter-generational effects of the so-called residential school system. The residential school system existed from the late 1880s to the 1990s in Canada, although some cite that residential schools existed in Canada as early as the 1830s.[36] Across Canada, approximately 150,000 children were removed from their families and communities and placed in schools where they were forbidden to speak their own languages or practice their culture.[37] Many were also subjected to physical and sexual abuse. In 1920, residential school attendance became compulsory, and the RCMP played a role in ensuring that indigenous children attended. As consequence, a report commissioned by the RCMP found, "The police were not perceived as a source for help but rather as an authority figure who takes members of the community away from the reserve or makes arrests for wrong-doing."[38]

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[33] Ibid, p. 30.

[34] [34] Ibid, p. 23; a "crowded home" is one that has more than one person per room (bathrooms, halls, vestibules and rooms used solely for work are not counted as rooms in the study). (Ibid, p. 22).

[35] Ibid.

[36] *The Canadian Encyclopedia*, undated, s.v. "Residential Schools," http://www.thecanadianencyclopedia.com/articles/residential-schools (accessed January 7, 2013); The University of British Columbia Library, "Chronology of Federal Policy Towards Aboriginal People and Education in Canada," undated, http://www.library.ubc.ca/edlib/canadian/chronology.html (accessed January 7, 2013); and Vivian O'Donnell and Susan Wallace, "First Nations, Métis and Inuit Women," Women in Canada: A Gender-based Statistical Report, Statistics Canada Catalogue no. 89-503-X, July 2011, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.htm (accessed December 13, 2012), p. 39.

[37] "RCMP 'herded' native kids to residential schools," *CBC News*, October 29, 2011, http://www.cbc.ca/news/canada/story/2011/10/29/truth-reconciliation-rcmp-report.html (accessed December 13, 2012).

[38] Marcel-Eugène LeBeuf on behalf of the Royal Canadian Mounted Police, "The Role of the Royal Canadian Mounted Police During the Indian Residential School System," undated, http://www.rcmp-grc.gc.ca/aboriginal-autochtone/irs-spi-eng.htm (accessed January 8, 2013).

In 2004, the RCMP issued an apology for the police force's part in the residential school system.[39] However, the history of the force's involvement looms large in the relationship between the RCMP and indigenous communities in the north. "My older brother still says that the RCMP is my enemy. They are still the enemy of my community when they come in," one interviewee, whose sister is among the missing and murdered, told Human Rights Watch.[40] In addition, residential school trauma often contributes to some social issues – such as dependence on alcohol or other substances and homelessness – that bring those involved into contact with the police. Beverly Jacobs and Andrea J. Williams write in their article on the links between residential schools and missing and murdered indigenous women and girls:

> Residential school attendance, particularly when accompanied by physical and sexual abuse, has been linked to problems of alcoholism, drug abuse, powerlessness, dependency, low self-esteem, suicide, prostitution, gambling, homelessness, sexual abuse, violence, and, as this paper argues, missing and murdered women. Some Survivors and/or their descendants have been in conflict with the legal system, including the criminal justice system and the child welfare system.[41]

Alcohol and substance use is a problem for indigenous communities in Canada, including in northern BC. Aboriginal youth are at two to six times greater risk for alcohol-related problems than non-Aboriginal youth, and the rate of death due to alcohol use in the Aboriginal population is double the rate in the general population.[42] Many of the police abuses documented in this report occurred in the context of the policing of public intoxication. While public intoxication can give rise to legitimate safety concerns, especially when children are involved, it is no justification for mistreatment of individuals

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[39] Royal Canadian Mounted Police, "RCMP apology," January 24, 2012, http://www.rcmp-grc.gc.ca/aboriginal-autochtone/apo-reg-eng.htm (accessed December 13, 2012).

[40] Human Rights Watch interview with Peter M., British Columbia, July 2012.

[41] Beverley Jacobs and Andrea Williams, "Legacy of Residential Schools: Missing and Murdered Aboriginal Women," in Marlene Brant Castellano, Linda Archibald, and Mike DeGagné, eds., *From Truth to Reconciliation Transforming the Legacy of Residential Schools* (Ottawa: Aboriginal Healing Foundation, 2008), pp. 119-142; also available online, *london.cmha.ca/download.php?docid=294 (accessed December 13, 2012), p. 126*.

[42] Deborah Chansonneuve, Aboriginal Healing Foundation, "Addictive Behaviours
Among Aboriginal People in Canada," 2007, http://www.ahf.ca/downloads/addictive-behaviours.pdf (accessed January 1, 2013), pp. 25-26.

in custody. Furthermore while incarceration may not always be the most appropriate and effective way of dealing with the problem, in many parts of BC the authorities have failed to provide alternative remedies. A report by the British Columbia Civil Liberties Association (BCCLA) noted the lack of sobering centers in the north, finding that "the challenge for police of dealing with those who are drunk or high in public is a major issue across the north…. Police have become *de facto* medical practitioners across the north for people suffering from alcohol overdoses or acute drug intoxication."[43]

## *The Shadow of Past Abuses*

Beyond the legacy of the residential school system, to understand the relationship between the RCMP and indigenous girls and women in northern British Colombia today, it is important to acknowledge the impact that several historical policing failures have had on the lives of indigenous women and girls.

### Judge Ramsay and the legacy of sexual exploitation in Prince George

David Ramsay, a provincial court judge, pleaded guilty in 2004 to sexual assault causing bodily harm, obtaining sexual services from someone under 18 and breach of trust by a public officer.[44] The plea came after indigenous girls came forward to report that the judge had hired them for sex off the street when they were between ages 12 and 17, and had violently abused them in a number of incidents.[45] In one such incident, Ramsay rammed a girl's head into his car's dashboard, raped her, and then left her without her clothes in an outlying area, forcing her to hitchhike into town in the nude.[46] Ramsay later died in prison in 2008.[47] His crimes continue to cast a shadow over law enforcement in Prince George, in

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[43] BCCLA, "Small Town Justice: A report on the RCMP in Northern and Rural British Columbia," March 22, 2011, http://bccla.org/our_work/small-town-justice-a-report-on-the-rcmp-in-northern-and-rural-british-columbia/ (accessed December 13, 2012), p. 21.

[44] *R. v. Ramsay*, 2004 BCSC 756, Oral Reasons for Judgment, June 1, 2004, http://www.courts.gov.bc.ca/jdb-txt/sc/04/07/2004BCSC0756err1.htm (accessed December 17, 2012).

[45] "Former B.C. judge denied parole," *CBC News*, September 12, 2007, http://www.cbc.ca/news/canada/british-columbia/story/2007/09/12/bc-ramsay.html (accessed December 18, 2012); Justice for Girls, "Court Case Summaries R. v. David William Ramsay," undated, http://www.justiceforgirls.org/justicesystemmonitoring/cc_Ramsay%20Updated.html (accessed December 18, 2012).

[46] See Justice for Girls, "Court Case Summaries R. v. David William Ramsay;" Petti Fong, "RCMP mistake halts B.C. sex case Mountie accused of buying sex from teens," *The Globe and Mail*, October 5, 2006.

[47] "Former judge David Ramsay dies in jail," *The Vancouver Sun*, January 20, 2008, http://www.canada.com/vancouversun/news/story.html?id=8de2faob-83co-48e3-a35d-3846e3d5f490&k=68738 (accessed December 18, 2012).

part because of the unresolved questions about who else was involved or knew of the abuse. Allegations were made that as many as ten RCMP officers were involved in sexually exploiting and abusing the girls.

At age 13, Celynn Cadieux became one of Ramsay's victims. She died in April 2007 at the age of 22.[48] Her father Bob Sandbach told Human Rights Watch that police officers were involved in the sexual exploitation of his daughter:

> We were sitting in the car driving to Rock Creek, going to church, she was starting to cry. The only way I can explain it is if your child came to you and said the neighbor's kid took her favorite toy. She is sobbing – the sincerity in her body told me exactly what she said happened… For sexual favors [the police] would stop her on the road and put their hands down her pants saying they were searching her [for drugs] ... She was 18, 17.[49]

The RCMP investigated the allegations of police involvement in the sexual exploitation but only after delays.[50] An RCMP review board dismissed disciplinary action brought against an officer who was alleged to have paid a child $60 for oral sex and then struck her in the face when she insisted he use a condom.[51] The board dismissed the action because it was taken more than one year after the commanding officer became aware of the allegations.[52] Other officers were investigated but none were criminally charged in the matter.[53] Calls from indigenous community leaders for a formal inquiry into the Ramsay situation were not

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[48] "Young woman who helped convict B.C. judge mourned," *CBC News*, Thursday April 12, 2007, http://www.cbc.ca/news/canada/british-columbia/story/2007/04/12/bc-woman.html (accessed December 18, 2012).

[49] Human Rights Watch interview with Bob Sandbach, British Columbia, July 2012.

[50] "RCMP's internal probe fizzled," *The Vancouver Province*, November 27, 2007, http://www.canada.com/story_print.html?id=601f98b1-eddd-43a0-9809-fd7e04f9a17a&sponsor (accessed December 18, 2012).

[51] "Suspended Mountie to return to duty," *The Vancouver Sun*, July 10, 2007, http://www.canada.com/vancouversun/news/westcoastnews/story.html?id=5d9f4899-2a62-470a-b57b-e1d09a61ac79 (accessed December 22, 2012).

[52] Ibid.

[53] The officer whose disciplinary action was dismissed and another who was investigated each sued the RCMP over the investigation. "2nd Mountie sues RCMP over sex crime probe," *CBC News*, September 17, 2008, http://www.cbc.ca/news/canada/british-columbia/story/2008/09/17/bc-rcmp-law-suit.html (accessed January 26, 2013).

heeded.[54] In the absence of a public review of the events, the community has little assurance that the guilty were held accountable.

Long after the Ramsay case came to light, reports continue to circulate in Prince George about connections linking the law enforcement and legal establishments with use of children in sex work and other forms of child sexual exploitation. An indigenous woman who had spent a lot of her youth in group homes for children in the custody of child welfare services told Human Rights Watch that four or five years ago she went with a girl from a group home to that girl's court appearance:

> My "sister" worked in the shacks [as a prostitute]. I was waiting for her for 45 minutes to say goodbye to people at the courthouse. I asked, "How do you know these people?" "They're my regulars," she said. Judges, lawyers, police… She killed herself a month before her 19th birthday.[55]

### Earlier Incidents of Police Abuse

In the course of our research into the current relationship between police and indigenous communities in British Columbia, Human Rights Watch spoke to several women whose alleged experience of abuse at the hands of the police dated back decades, but who were still waiting for their cases to be taken seriously so they could see justice. The scarring of their experiences and determination to seek redress has not waned as the decades have passed. For example, Human Rights Watch interviewed Georgia I. who wants British Columbia's attorney general, in whose department the IIO is based, to provide justice for her rape almost 40 years ago:

> When I was 16 I was raped by a police officer and became pregnant. I got an abortion because otherwise I would have done it to myself with a coat hanger…. I was working for a police officer who had a pizza joint. Some of his young officers would come in to eat and one night one offered me a ride home. That was the first time he raped me. The second time he caught me. I didn't ask for a ride, but he got me…. I'm looking at filing an application to

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[54] "Ramsay case a lesson, say community activists," *CBC News*, June 2, 2004, http://www.cbc.ca/news/canada/british-columbia/story/2004/06/02/bc_judge_reax20040602.html (accessed December 18, 2012).

[55] Human Rights Watch interview with Ashley G., British Columbia, July 2012.

> the Attorney General about the rape. He [the perpetrator] is still on the force … how many other young girls has he hurt, as he hurt me....[56]

Likewise in a series of incidents in 1990 and 1991, Elaine H. said she was harassed by one police officer and then by a second officer. She described the daily harassment of the first:

> At the time I was a single aboriginal woman from here. I was freshly divorced.… I hadn't dated in 11 years. I went out to a pub with a friend. A gentleman came up trying to be really cute and I said, "I'm sorry, I'm not ready to meet anyone. I'm not interested in male companionship." He was a police officer and he stalked me for a year and a half. He would park outside of my house or pull up next to my car. He'd pull me over anytime.... It got so bad I couldn't go to the grocery store because he'd park behind my car ... if I was at the bank, he'd park behind my car ... if I was at the video store ... anywhere my vehicle went ... this man would pull behind me … he phoned me on my birthday to tell me he was leaving town and to apologize for being a nuisance, as he would call it, I said ... a nuisance ... you stalked me, I became a mom who couldn't even come out of my house because I was too scared to come out....[57]

Elaine H. reported the stalking to the Commission for Public Complaints against the RCMP, but they were dismissive of her complaint and failed to take remedial action.[58]

Human Rights Watch researchers were struck when carrying out this research by the high levels of fear of police among the women interviewed, levels of fear that Human Rights Watch normally finds in communities in post-conflict or post-transition countries such as Iraq where security forces have played an integral role in state abuses and enforcement of authoritarian policies. The palpable fear of the police was accompanied with a notable matter of fact manner when mentioning mistreatment by police, reflecting a normalized expectation that if one was an indigenous woman or girl police mistreatment is to be anticipated.

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[56] Human Rights Watch interview with Georgia I., British Columbia, July 2012.

[57] Human Rights Watch interview with Elaine H., British Columbia, July 2012.

[58] Ibid.

## Missing and Murdered Women in BC and the Highway of Tears

The Native Women's Association of Canada documented 160 cases of indigenous women and girls who went missing or were murdered in British Columbia between the 1960s and 2010, significantly more than any other province or territory in Canada.[59] The province also had the highest unsolved rate of murders of indigenous women and girls.[60] The 724-kilometer stretch of Highway 16 that runs through small rural towns between Prince George and Prince Rupert has come to be called the Highway of Tears, because of the murders and disappearances that have occurred in its vicinity. Since 1969, dozens of women and girls – perhaps more than 40 – have gone missing or been murdered in close proximity to three highways in northern and central BC (Highways 16, 97, and 5).[61] The RCMP includes 18 murders and disappearances in its roster of Highway of Tears cases.[62] However, indigenous community estimates have always been higher than the numbers maintained by the RCMP due, in large part, to the RCMP's requirement for the disappearance or murder to have happened within a mile of Highway 16, 97, or 5 to be included in its E-PANA project, a special task force formed to investigate unsolved cases related to the Highway of Tears. A 2006 report by several indigenous groups about the Highway of Tears referenced community activities in memory of 32 victims.[63] Later estimates have topped 40.[64] Media reports highlight the fact that a number of the victims were hitchhiking at the time of their disappearance, but circumstances in other cases have varied.[65] Indigenous women are

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[59] Native Women's Association of Canada, "Fact Sheet: Missing and Murdered Aboriginal Women and Girls in British Columbia," 2010, www.nwac.ca/programs/sis-research (accessed December 13, 2012), p. 1.

[60] Ibid, p. 5.

[61] "The [Missing Women] Commission heard that the number ranges from 18 to 43 girls and women. What is clear is that the majority are Aboriginal and most were young, between the ages of 14 and 25." Linda Locke, QC, Missing Women Commission of Inquiry, "Standing Together and Moving Forward: Report on the Pre-Hearing Conference in Prince George and the Northern Community Forums," February 2012, http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Report-on-the-Pre-Hearing-Conference-in-Prince-George-and-the-Northern-Community-Forums-00263779.pdf (accessed January 8, 2013), p. 8.

[62] RCMP, "Project E-PANA," September 25, 2012, http://bc.cb.rcmp-grc.gc.ca/ViewPage.action?siteNodeId=1525&languageId=1&contentId=-1 (accessed December 13, 2012).

[63] Lheidli T'enneh First Nation, Carrier Sekani Family Services, Carrier Sekani Tribal Council, Prince George Native Friendship Center, and Prince George Nechako Aboriginal Employment & Training Association, "A collective voice for the victims who have been silenced: The Highway of Tears Symposium Recommendations Report," June 16, 2006, www.ubcic.bc.ca/files/PDF/highwayoftearsfinal.pdf (accessed January 30, 2013), pp. 10, 33.

[64] Canadian Feminist Alliance for International Action, "Disappearances and Murders of Aboriginal Women and Girls in Canada Submission to the United Nations Committee on the Elimination of Racial Discrimination," January 2012, http://www2.ohchr.org/english/bodies/cerd/cerds80.htm (accessed December 18, 2012), p. 11.

[65] Jessica McDiarmid, "B.C. Highway of Tears: RCMP accused of not taking women's disappearances seriously," *Toronto Star*, December 28, 2012, http://www.thestar.com/news/gta/article/1308261--b-c-highway-of-tears-rcmp-accused-of-not-taking-women-s-disappearances-seriously (accessed January 25, 2013); Wendy Leung, "B.C. Hitchhikers Left to 'Highway of Tears'

disproportionately represented among the missing and murdered. Of the 18 Highway of Tears victims identified by the RCMP, 10 are indigenous.

### *Investigations*

Human Rights Watch did not conduct a case-by-case review of the Highway of Tears murders and disappearances. We interviewed family members of several victims and community members familiar with the cases (including some that are not on official Highway of Tears lists). We also reviewed media reports about the investigations of cases of missing and murdered indigenous women and girls in order to identify persistent problems in police response. Family members reported their experiences with the police, telling us that they felt the investigating officers were biased against the victims because they were indigenous women and girls. As indicated above, this distrust has roots in experiences of discrimination and neglect that stretch back decades. One woman whose sister was murdered in the late 1960s told Human Rights Watch that "[the police] assumed because she was Indian that she went out drunk and went out and asked for it. She had a tampon and they played it up that she used this for birth control.... Why not treat everyone's case the same way?"[66]

The sister of another young woman who went missing and was ultimately found murdered in the 1990s, said that discriminatory police assumptions misdirected the focus of the search:

> The police said, "Oh, she probably just needed a break from you guys. She probably just ran away." We tried to say that this was out of character, that she could leave any time she wanted and say where she was going. So they never believed us. They had my mom on this wild goose chase. She thought she was going to go to Vancouver because they put it into her head that she might be there. We would have looked local. That really threw things off, instead of looking in our own hometown where she was [found murdered].[67]

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Mercy," *Women's eNews*, November 18, 2007, http://womensenews.org/story/the-world/071118/bc-hitchhikers-left-highway-tears-mercy (accessed January 25, 2013).

[66] Human Rights Watch interview with Irene P., British Columbia, July 2012.

[67] Human Rights Watch interview with Patricia L., British Columbia, July 2012.

A number of interviewees pointed to the disappearance of Nicole Hoar in 2002 as a turning point in the Highway of Tears cases. Hoar, a white, 25-year-old tree planter, disappeared after setting out from Prince George in June 2002 with plans to hitchhike to visit her sister. She has never been found. Some community members, including a former police officer, point to Hoar's race as the reason her case garnered extensive media attention, and say that the police also expended more resources on her case.[68] Hoar's family has stood in solidarity with the indigenous families who have lost loved ones on the highway. Some community members were quite pointed in their assessment of discrimination in the effort and approach of the police to the missing women cases. As one RCMP member commented, "The native girls on the highway – I was up there. If they're natives, nobody gives a shit."[69] An elected official told Human Rights Watch, "We may need a particular inquiry about Highway 16 to look at whether we are resourcing that particular investigation appropriately. It took too long for people to connect the dots between the incidents of women going missing."[70]

The police have made some significant improvements in the investigations of these cases. In 2006, the RCMP established Project E-PANA with a dedicated team of investigators to look into cases involving women who went missing or were murdered within one mile of Highways 16, 97, or 5. The 18 cases they identified as meeting that criteria span 1969 to 2006.[71] The RCMP reports that since it started the project, it has investigated 1,413 persons of interest, collected 750 DNA samples, administered 100 polygraphs, and conducted 2,500 interviews.[72] In September 2012, the project announced a major breakthrough in their investigations. DNA evidence conclusively linked a US man, Bobby Jack Fowler, to the murder of 16-year-old Colleen MacMillen in 1974.[73] Fowler died in an Oregon prison in 2006,

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[68] Human Rights Watch interview with RCMP officer, British Columbia, July 2012, community leader, British Columbia, July 2012; and community advocate, British Columbia, July 2012.

[69] Human Rights Watch group interview with five RCMP officers, British Columbia, August 2012.

[70] Human Rights Watch telephone interview with Bob Simpson, Independent Member of the Legislative Assembly of British Columbia (MLA) for Cariboo North, July 2012.

[71] RCMP, "Project E-PANA," September 25, 2012, http://bc.cb.rcmp-grc.gc.ca/ViewPage.action?siteNodeId=1525&languageId=1&contentId=-1 (accessed December 13, 2012).

[72] Lori Culbert, "Thirty-nine years later, family of Highway of Tears victim Gale Weys hopes for answers," *The Vancouver Sun*, September 26, 2012, http://www.vancouversun.com/news/family+highway+tears+victim+gale+weys+appeals+tips/7303801/story.html (accessed December 13, 2012).

[73] RCMP, "E-PANA Announce Significant Development and Request for Public Assistance," September 25, 2012, http://bc.cb.rcmp-grc.gc.ca/ViewPage.action?siteNodeId=1075&languageId=1&contentId=27095 (accessed December 13, 2012).

after being sentenced to 16 years in prison in 1996 for attempted rape, assault, and kidnapping convictions.[74] He is considered a suspect in two other Highway of Tears cases, a person of interest in seven, and he has been excluded as a suspect in eight.

### *Accountability*

> Unless we have accountability there will be no justice, no closure, no equality.
>
> —Family member of a Highway of Tears victim[75]

A provincial Missing Women Commission of Inquiry that concluded in November 2012 provided important, but insufficient, insight into some of the issues related to missing and murdered indigenous women and girls including the underlying factors that put them at risk and the shortcomings of the authorities' response. The inquiry was established in 2010 to look into the police response to the cases of missing and murdered women in the Downtown Eastside of Vancouver between January 1997 and February 2002 – many of whom were indigenous women, sex workers, and/or drug users – and to make recommendations to improve investigations of missing and murdered women.[76] In his final report, Commissioner Wally Oppal concluded that "the initiation and conduct of the missing and murdered women investigations were a blatant failure."[77] Among other policing problems, he pointed to poor report-taking and follow up on reports of missing women; failure to consider and properly pursue all investigative strategies; and failure of

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[74] "Deceased U.S. convict linked to 3 B.C. cold cases," *CBC News*, September 25, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/09/25/bc-highway-tears-macmillen-fowler.html (accessed December 13, 2012).

[75] Human Rights watch telephone interview with Cindy N., November 2012.

[76] Missing Women's Commission of Inquiry, "Terms of Reference," 2012, http://www.missingwomeninquiry.ca/terms-of-reference/ (accessed December 18, 2012). Many of these murders and disappearances were ultimately linked to serial killer Robert Pickton. Pickton was convicted of six counts of second-degree murder in 2009 and is currently serving a life sentence. In August 2010, the crown stayed the remaining 20 charges of murder against him. Reports of women missing from the Downtown Eastside of Vancouver started in the early 1980s and yet the police did not have their first discussion of the possibility of a serial killer until 1991. Pickton was arrested in 1997 for an attempted murder, yet the charge was dropped in 1998. Part of the Missing Women Commission of Inquiry's brief was to examine why the 1997 charge was stayed. For additional information, see *R v. Pickton*, 2009 BCCA 299, http://www.courts.gov.bc.ca/jdb-txt/CA/09/02/2009BCCA0299cor1.htm (accessed December 18, 2012); Wally T. Oppal, QC, "Forsaken: The Report of the Missing Women Commission of Inquiry," Executive Summary, November 19, 2012, http://www.ag.gov.bc.ca/public_inquiries/index.htm (accessed December 18, 2012), pp. 4, 29-40.

[77] Wally T. Oppal, QC, "Forsaken: The Report of the Missing Women Commission of Inquiry," Executive Summary, November 19, 2012, http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-ES-web-RGB.pdf (accessed December 26, 2012), p. 26.

internal review and external accountability mechanisms. The report identifies overarching reasons for these failures, including discrimination, system institutional bias, and political and public indifference.[78]

The commission included consultations in the north and a study based on those consultations, but the murders and disappearances in the north were not included as part of its formal mandate.[79] The commission's final report included a proposed "measure" that the government develop and implement an enhanced public transit system to provide a safer travel option connecting the Northern communities, particularly along Highway 16.[80] BC's Ministry of Transportation and Infrastructure has announced that it will be developing a targeted consultation plan to address this recommendation.[81] Nonetheless, the core findings of the commission, while illuminating, are specific to Vancouver's Downtown Eastside and do not necessarily translate to the rural north. As one family member of a Highway of Tears victim told Human Rights Watch, "The only thing I would like to see is a public inquiry into missing and murdered women in this area – Prince George to Prince Rupert specifically. There needs to be one specifically for the north. The dynamics are different and the demographics are different."[82]

The Missing Women Commission of Inquiry failed to ensure meaningful participation of indigenous and women's groups including the Native Women's Association of Canada. The commission floundered when many of the nongovernmental organizations (NGOs) granted standing in the inquiry were unable to partake due to the lack of provincial government funding for the legal representation the groups would have needed to participate in the public hearings and review the extensive documentation involved.[83] The majority of civil

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[78] Ibid, p. 28.

[79] See Missing Women's Commission of Inquiry, "Terms of Reference;" Missing Women's Commission of Inquiry, "The Study Commission," 2012, http://www.missingwomeninquiry.ca/reports-and-publications/ (accessed December 13, 2012).

[80] Wally T. Oppal, QC, "Forsaken: The Report of the Missing Women Commission of Inquiry," Executive Summary, November 19, 2012, http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-ES-web-RGB.pdf (accessed December 26, 2012), p. 160.

[81] British Columbia Ministry of Justice, "Government takes immediate action on missing women report," December 17, 2012, http://www2.news.gov.bc.ca/news_releases_2009-2013/2012JAG0324-002043.pdf (accessed December 23, 2012).

[82] Human Rights Watch interview with Patricia L., British Columbia, July 2012.

[83] "May 24, 2011 – Statement by Commissioner Wally Oppal, Q.C., Regarding BC Government Decision on Funding For Groups Participating in the Missing Women Inquiry," Missing Women Commission of Inquiry news release, May 24, 2011, http://www.missingwomeninquiry.ca/2011/05/may-24-2011-statement-by-commissioner-wally-oppal-q-c-regarding-bc-government-decision-on-funding-for-groups-participating-in-the-missing-women-inquiry/ (December 13, 2012).

society groups representing the interests of the missing and murdered indigenous women then refused to engage with the inquiry, citing concerns that the failure to involve the affected communities in determining the inquiry's terms of reference and the lack of representation for groups during the public hearings had made the process exclusionary and discriminatory.[84]

The resignation of Robyn Gervais, the inquiry's first appointed independent counsel for indigenous interests, over the lack of attention to indigenous communities' concerns – including the entrenched discrimination, poverty, and economic and social inequalities that contribute to indigenous women's exposure to violence – further undermined the inquiry's legitimacy.[85] Gervais told Human Rights Watch:

> We need a national inquiry that really looks at the issue of why are so many indigenous women going missing. We could hear strategies from different provinces, hear from First Nations around Canada about what will work in their communities. We could address the RCMP. Something like the truth and reconciliation commission around residential schools, in a format that would work for communities – meetings, not like a trial – to look at different needs of the communities. Transport and hitchhiking may be problems in one community but not in another.

## Policing in British Columbia

Policing falls within the responsibilities of the provincial government. The province of British Columbia has chosen to contract policing in most areas to the Royal Canadian Mounted Police (RCMP), a national police force headquartered in Ottawa, Ontario. Eleven municipalities operate their own independent police departments, but in the rest of the province, where 70 percent of the population resides, the detachments of the British

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[84] "Groups affirm boycott of discriminatory Missing Women Commission," British Columbia Civil Liberties Association news release, April 10, 2012, http://bccla.org/news/2012/04/groups-affirm-boycott-of-discriminatory-missing-women-commission/ (accessed December 13, 2012). For an analysis of the Missing Women Commission of Inquiry and its lessons for public inquiries, see British Columbia Civil Liberties Association, Pivot Legal, and West Coast Legal Education and Action Fund, "Blueprint for an Inquiry Learning from the Failures of the Missing Women Commission of Inquiry," 2012, http://bccla.org/our_work/blueprint-for-an-inquiry-report/ (accessed December 17, 2012).

[85] Ian Mulgrew, "MULGREW: Break with aboriginal community destroys inquiry's credibility," *The Vancouver Sun*, March 6, 2012, http://www.vancouversun.com/life/MULGREW+Break+with+aboriginal+community+destroys+inquiry+credibility/6262051/story.html (accessed December 13, 2012).

Columbia "E" Division of the RCMP serve as the provincial police force.[86] In April 2012, the province renewed its contract with the RCMP for twenty years.[87] Human Rights Watch conducted the research for this report in areas policed by the RCMP.

The "E" Division has been heavily criticized for its policing practices by civil liberties advocates and others. The British Columbia Civil Liberties Association conducted a series of workshops in communities across northern and rural BC and released a report in 2011 identifying problems in policing, including poor treatment of aboriginal people, inadequate police accountability, inadequate holding cells in police facilities, and a lack of de-escalation skills among officers for resolving confrontations with members of the public with a minimum use of force.[88] Human Rights Watch saw evidence of the persistence of all these problems while researching this report.

A recent class action law suit brought by RCMP officers alleges gender-based discrimination and sexual harassment within the national police force, raising added concerns about discrimination within police operations. More than 200 current or former female RCMP officers have reportedly sought to join the suit.[89] Corporal Catherine Galliford, who had been a spokesperson for the RCMP in BC, has filed a separate suit alleging harassment over two decades that included groping, unwanted sexual advances, and a range of verbal and physical harassment from other officers.[90] The RCMP has denied her claims.[91] A recent survey of 426 RCMP members found that female members do not have confidence in the process for addressing sexual harassment, fearing retaliation and

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[86] Braidwood Inquiry, "Part 5 British Columbia Police Department's Policies on Conducted Energy Weapon Use," 2008, http://www.braidwoodinquiry.ca/report/P1_html/05-PoliciesOnCEWUse.php (accessed December 13, 2012).

[87] "New B.C. RCMP contract empowers Province, municipalities," British Columbia Newsroom, BC Government Online News Source news release, March 21, 2012, http://www.newsroom.gov.bc.ca/2012/03/new-bc-rcmp-contract-empowers-province-municipalities.html (accessed January 9, 2013); "RCMP gets 20-year contract renewal in B.C.," *CBC News*, March 21, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/03/21/bc-rcmp-contract.html (accessed December 13, 2012).

[88] BCCLA, "Small Town Justice: A report on the RCMP in Northern and Rural British Columbia, " March 22, 2011, http://bccla.org/our_work/small-town-justice-a-report-on-the-rcmp-in-northern-and-rural-british-columbia/ (accessed December 13, 2012).

[89] "High-profile former mountie joins RCMP harassment lawsuit," *CBC News*, August 2, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/08/02/bc-rcmp-harassment-valerie-maclean.html (accessed January 30, 2013).

[90] "B.C. Mountie sues force for harassment," *CBC News*, May 9, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/05/09/bc-galliford-civil-claim.html (accessed December 31, 2012).

[91] "RCMP says force is changing after sexual harassment allegations," *CBC News*, November 8, 2012, http://www.cbc.ca/news/canada/british-columbia/story/2012/11/07/bc-rcmp-galliford.html (accessed December 31, 2012).

lacking assurance that perpetrators will be held accountable.[92] A male indigenous police officer commented that he, too, was exposed to the misogynist attitudes of the police in BC: "They [other RCMP members] used to fax racist and sexist jokes around and wonder why I didn't laugh – I'm First Nations and I have sisters."[93]

## Police Complaint Mechanisms

In British Columbia, three bodies with varying jurisdiction handle complaints of police misconduct. First, the provincial Office of the Police Complaint Commissioner addresses complaints against police officers belonging to members of municipal police forces.[94]

Second, the national Commission for Public Complaints against the RCMP (CPC) has jurisdiction over complaints against RCMP members. Since our research took place in areas policed by the RCMP, the CPC would be the option available to the women and girls interviewed for this report. The CPC's role is primarily to monitor the processing of complaints by the RCMP. The main investigative authority resides with the RCMP and the RCMP ultimately determines what remedial action will be taken. When a complaint is received, the RCMP arranges for an investigation according to its procedures (outlined below) and reports back to the complainant.[95] If the complainant is not satisfied, the CPC reviews the RCMP's report and if they find it unsatisfactory, they can investigate the complaint themselves, ask the RCMP to investigate further, hold a public hearing, or review the complaint without further investigation. After taking whichever step is chosen, the CPC prepares an interim report for the RCMP Commissioner who then informs the CPC what actions, if any, will be taken. That result is included in a final report by the CPC, which marks the end of the process.

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[92] Ibid.

[93] Human Rights Watch interview with RCMP officer, British Columbia, July 2012.

[94] *Police Act*, RSBC 1996, c 367, Part 9, available at http://www.qp.gov.bc.ca/statreg (accessed December 13, 2012). See also Office of the Police Complaints Commissioner, "About Us," 2012, https://www.opcc.bc.ca/aboutus/ (accessed December 13, 2012).

[95] Commission for Public Complaints Against the RCMP, "Complaint and Review Process Flowchart," December 7, 2012, http://www.cpc-cpp.gc.ca/cnt/srv/sta-norm/cp-pp-eng.aspx (accessed December 13, 2012). See also *RCMP Act*, RSC 1985, c. R-10, http://laws-lois.justice.gc.ca/eng/acts/R-10/ (accessed December 13, 2012). Parts VI and VII of the *RCMP Act* detail the duties of the CPC.

In 2011, the provincial legislature created a third body to handle serious allegations of police misconduct, the Independent Investigations Office (IIO).[96] Civil society has hailed the establishment of the IIO as a major step forward in ensuring police accountability. The office became operational in September 2012 and is currently mandated to provide independent civilian "criminal investigations regarding police-related incidents involving death or serious harm."[97] Serious harm is defined by statute to mean "injury that (a) may result in death, (b) may cause serious disfigurement, or (c) may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ."[98] Significantly, this definition does not provide the office with jurisdiction in most cases of police rape and other forms of sexual assault.

The Canadian authorities need urgently to address this omission if they are to ensure accountability for the worst cases of officer misconduct. The legislation creating the office provided for a potentially broader mandate, stating that reporting to the IIO would be required when a police officer "may have contravened a prescribed provision of the *Criminal Code* or a prescribed provision of another federal or provincial enactment."[99]

However, no regulation exists prescribing the particular provisions, which means that portion of the act is not operational. Minister of Justice and Attorney General Shirley Bond has indicated that the government "will wait until the IIO has been in operation for a sufficient period of time to assess its workload and capacity before deciding whether to expand the IIO's mandate through regulations. Prior to January 1, 2015, a special committee of the Legislative Assembly will review the general operations of the IIO and make recommendations as it sees appropriate."[100]

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[96] *Bill 12 – 2011 Police (Independent Investigations Office) Amendment Act*, was given Royal Assent on June 2, 2011 (Votes and Proceedings of the Legislative Assembly of British Columbia, "Progress of Bills," October 3, 2011, http://www.leg.bc.ca/39th3rd/votes/progress-of-bills.htm (accessed December 13, 2012)). The duties of the IIO are now provided for in Part 7.1 of the BC *Police Act*.

[97] British Columbia Ministry of Justice, "Independent Investigation Office," 2012, http://www.pssg.gov.bc.ca/policeservices/iio/index.htm (accessed December 13, 2012).

[98] *Police Act*, RSBC 1996, c 367, s 76, available at http://www.qp.gov.bc.ca/statreg (accessed December 13, 2012).

[99] Ibid, s 38.09(1)(b) and 38.10(1)(c).

[100] Email communication from Shirley Bond, Minister of Justice and Attorney General of British Columbia, to Human Rights Watch, December 12, 2012.

The RCMP rules for the reporting and investigation of complaints of police misconduct recognize the jurisdiction of the IIO. The operations manual for "E" Division calls for reporting to the IIO in cases of a major police incident.[101] Where the IIO mandate does not apply or the office declines to investigate, the RCMP operations manual indicates that the preferred course of action is to have an external, non-RCMP police agency investigate.[102] In British Columbia, this could be one of the municipal police forces, or if there is no local force available, then an extra-provincial police force. If that is not possible, another RCMP division can be called in to investigate. In the event none of these resources are available, the independent external investigation will be delegated to the "appropriate 'E' Division resources."[103]

In June 2012, the government introduced legislation (Bill C-42) that would overhaul RCMP officer grievance and discipline procedures; revise the process for addressing sexual harassment complaints within the RCMP; and create a new Civilian Review and Complaints Commission to replace the Commission for Public Complaints Against the RCMP.[104] The new commission's procedures for investigations of serious incidents would largely follow the RCMP rules outlined above, in that the provinces would be given the opportunity to refer an investigation to their own independent bodies like the IIO, or else the RCMP would refer the investigation to an external police force or, as a last resort, investigate itself. The new commission would have the authority to appoint civilian observers to assess an investigation's impartiality if it were taken up by either the RCMP or an external police force.[105] The legislation is pending, and has been criticized by some for its failure to grant

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[101] RCMP "E" Division Operational Manual, Chapter 54.1. RCMP External Investigation or Review, sec. 1.1.1 and sec. 3.8., on file with Human Rights Watch. The IIO and the RCMP also have a Memorandum of Understanding setting out their responsibilities. British Columbia Ministry of Justice, "Independent Investigation Office," 2012, http://www.pssg.gov.bc.ca/policeservices/iio/index.htm (accessed December 13, 2012).

[102] RCMP Headquarters Operational Manual, Chapter 54.1. RCMP External Investigation or Review, sec. 2.3., on file with Human Rights Watch; RCMP "E" Division Operational Manual, Chapter 54.1. RCMP External Investigation or Review, sec. 2.6.

[103] RCMP Headquarters Operational Manual, Chapter 54.1. RCMP External Investigation or Review, sec. 2.5; RCMP "E" Division Operational Manual, Chapter 54.1. RCMP External Investigation or Review, sec. 14.2.

[104] Parliament of Canada, LEGISInfo, "C-42, An Act to Amend the Royal Canadian Mounted Police Act and to make related and consequential amendments to other Acts," June 2, 2011-present, http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5683261 (accessed January 9, 2013).

[105] Public Safety Canada, "Improving the Transparency and Public Accountability of Criminal Investigations of Serious Incidents involving RCMP Members," June 20, 2012, http://www.publicsafety.gc.ca/media/nr/2012/nr20120620-2-eng.aspx (accessed December 18, 2012).

sufficient information access powers to the new commission or for its lack of protection for whistleblowers.[106]

[106] See Paul Kennedy, "Bill C-42 fails to provide real accountability over the RCMP," *iPolitics.ca*, October 29, 2012, http://www.ipolitics.ca/2012/10/29/paul-kennedy-bill-c-42-fails-to-provide-real-accountability-over-the-rcmp/ (accessed December 18, 2012); Government of Canada, House of Commons Standing Committee on Public Safety and National Security, Minutes of Proceedings, 41st Parl., 1st Sess., Meeting No. 55, October 29, 2012, http://mppac.ca/wp-content/uploads/2012/09/Bill_C-42_MPPAC_Presentation_Committe_Oct_29_-2012.pdf (accessed December 18, 2012), p. 12.

# II. Abusive Policing of Indigenous Women and Girls

The following chapter presents qualitative data about police abuse gathered by Human Rights Watch in 10 towns in northern British Columbia, from Prince George to Prince Rupert and as far south as Williams Lake. Human Rights Watch does not contend that this information proves a pattern of routine systematic abuse, but when such incidents take place in the context of an already deeply fractured relationship with the police they have a particularly harmful, negative impact. Some of the accounts of harm done to women and girls by police appear to be the result of poor policing tactics, over aggressive policing, and insensitivity to the welfare and vulnerability of the victims. Others however, such as the alleged sexual assaults of women by members of the police, are deliberate criminal acts and could only be perpetrated by the particular officers in the expectation that they will never have to answer for their crimes.

Obstacles to documenting police abuse include victims' fear of retaliation by police and fear of public exposure, particularly in small towns where victims who provide information may be easily identified. While the testimonies that Human Rights Watch gathered do not establish the prevalence of abuse, they do, together with other studies, raise serious concerns about police practices, police misconduct, and mistrust of police, all of which impact the safety of indigenous women and girls.

## Indigenous Girls and Women in the Criminal Justice System

In British Columbia, as in Canada as a whole, disproportionate numbers of indigenous youth, and indigenous girls in particular, come into conflict with the criminal justice system.[107] According to Statistics Canada, in British Columbia Aboriginal girls, although 8 percent of the overall girl population,[108] make up 54 percent of girls held in pretrial custody, 50 percent of girls sentenced to custody, and 48 percent girls on probation.[109]

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[107] Christopher Munch, Statistics Canada, "Youth correctional statistics in Canada, 2010/2011," *Juristat*, catalogue no. 85-002-X, October 11, 2012, http://www5.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=85-002-X201200111716&lang=eng (accessed December 17, 2012), pp. 3, 7.

[108] Human Rights Watch calculations based on data in Statistics Canada, "2006 Census data products," March 15, 2012, http://www12.statcan.gc.ca/census-recensement/2006/dp-pd/index-eng.cfm (accessed January 16, 2013).

[109] See Paul Kennedy, "Bill C-42 fails to provide real accountability over the RCMP," iPolitics.ca, October 29, 2012, http://www.ipolitics.ca/2012/10/29/paul-kennedy-bill-c-42-fails-to-provide-real-accountability-over-the-rcmp/ (accessed December 18, 2012); Government of Canada, House of Commons Standing Committee on Public Safety and National Security,

Victims of abuse, as well as community activists interviewed by Human Rights Watch, believe that RCMP officers bring a general presumption of criminality to their interactions with indigenous girls in the north.[110] Sometimes police appear to target indigenous girls and women for the most trivial of reasons. "I used to use eye make-up and put dots and hearts around my eyes with liquid eyeliner," said Sophie B., a young woman who was punched by an officer in 2011 when she was 17.[111] After filing a complaint about the assault, "they [the police] were telling me that I was gang-related because I had tattoos on my face."

Police insisted on handcuffing a 17-year-old girl, Cara D., when transporting her to the hospital for medical attention after her mother choked her and her grandmother broke her nose during a fight in late 2011. "The cops were calling me 'a little bitch.' …. They told me I had to be handcuffed in the back of the car… The ambulance attendant saw me and was saying to the cops to take the handcuffs off me," Cara told Human Rights Watch.[112] She summed up the approach taken by police. "You're just native scum. Cops still treat great some members of society, but if you're teenage, female and native . . ."[113]

Harriet J., a victim service provider in another town, observed that police routinely incarcerate indigenous girls for intoxication if they are found to have consumed alcohol and are in need of transportation home (a particular challenge in northern communities with almost no public transportation), while white girls in the same situation are likely to be driven home by the police.[114] While it is appropriate for police to intervene when children are intoxicated in public because they are in a vulnerable state, the insistence on incarceration with respect to indigenous girls appears to reflect a discriminatory approach.

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Evidence, 41st Parl., 1st Sess., Meeting No. 55, October 29, 2012, http://mppac.ca/wp-content/uploads/2012/09/Bill_C-42_MPPAC_Presentation_Committe_Oct_29_-2012.pdf (accessed December 18, 2012), p. 12.

[110] Human Rights Watch interview with Cara D. and Lisa E., British Columbia, July 2012; Human Rights Watch interview with Samantha T., British Columbia, July 2012; Human Rights Watch interview with community service provider (#2), British Columbia, July 2012; Human Rights Watch interview with community service provider (#14), British Columbia, July 2012.

[111] Human Rights Watch interview with Sophie B. and her mother, Kathryn S., British Columbia, July 2012.

[112] Human Rights Watch interview with Cara D. and Lisa E., British Columbia, July 2012.

[113] Ibid.

[114] Human Rights Watch interview with Harriet J., community service provider (#1), British Columbia, July 2012. The same difference in treatment was noted as happening with respect to adults by an indigenous woman whom police officers turned down a ride home and who later saw the same officers giving a ride to two young white women. Human Rights Watch interview with Cindy A., British Columbia, July 2012.

As indigenous girls grow into women, they remain under intense scrutiny from police. Government statistics from 2008 and 2009 show that 35 percent of women admitted to adult-sentenced custody identified as Aboriginal, even though Aboriginal women and men make up only 3 percent of the adult Canadian population.[115] In British Columbia, Aboriginal women account for more than 30 percent of all female admissions in 2008 and 2009, and yet only make up 4 percent of the general adult female population in the province.[116] In the small towns of the north, a woman's run-ins with the police as a girl, or even those of her older relatives, can set off a cycle of contact with the police. "We're a small community. When officers are new in town, they will take them around and show them which people are a problem. No one gets a fresh chance, even if you want to make a change," said one service provider.[117] An advocate in another town who works with women in prison noted, "Certain last names have been associated with crime for decades, so you're not presumed innocent by the RCMP."[118]

Stark as they are, the statistics on the disproportionate numbers of indigenous women in sentenced custody fail to capture the full extent of the problem. Not included in these numbers is the regular temporary detention of women in the "drunk tank" who are not charged. In community after community visited by Human Rights Watch, women, girls, advocates, and service providers reported that the police appeared to target indigenous people for public intoxication arrests. In some reported incidents, the police abused their discretion by detaining people who were not intoxicated.

One indigenous woman, Jennifer R., told Human Rights Watch:

> Three years ago we were coming home from fireworks. I was with my hubby [then boyfriend]. There were these cops picking on these native guys and

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[115] At 35 percent, the disproportionate representation of Aboriginal women is greater than that of Aboriginal men who make up 23 percent of men admitted to adult sentence custody, according to Statistics Canada. Tina Mahony, "Women and the Criminal Justice System," February 24, 2012, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11416-eng.htm (accessed December 17, 2012).

[116] Statistics Canada, "Chart 13 Proportion of adults admitted to sentenced custody who were Aboriginal, 2008/2009," February 24, 2012, http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11416/c-g/c-g013-eng.htm (accessed January 16, 2013); Human Rights Watch calculations based on data in Statistics Canada, "2006 Census data products," March 15, 2012, http://www12.statcan.gc.ca/census-recensement/2006/dp-pd/index-eng.cfm (accessed January 16, 2013).

[117] Human Rights Watch interview with community service provider (#2), British Columbia, July 2012.

[118] Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

> girls and they were just throwing them around. They were yanking them around. One would go to walk away, saying, "I'm going home," and they'd pull her back. Another said, "Yeah, sure, I've had some drinks. I'm just trying to make my way home." The officers just talked over them… I've known [those girls] since I was a little girl. I know they are good girls…I felt for them. I know that they are fragile people.
>
> I piped up – I should have listened to my boyfriend, but I knew them. I said, "Let me take them home with me. I'm sober, I don't do drugs." But they ended up taking me too. They held me to the next day (from 11:30 p.m. to 8am). It was cold. And I hadn't eaten and I was so hungry. Didn't give me any food. Just told me to shut up. Only thing she gave me was a cup for water. It just so happened to be me and my boyfriend's first date. Our first date and we went to the drunk tank and we weren't even drunk. They threatened to keep us over the weekend - said something about "fucking natives."[119]

Community service providers decried the reliance on jailing as a means of addressing public intoxication in communities plagued by high alcoholism rates linked to decades of trauma. "The former [head of the local police detachment] would just pick up intoxicated individuals and throw them in the drunk tank," said one provider who had seen the "drunk tank" become a revolving door. "What is going to happen down the road?"[120] The aggressive policing of public intoxication also breeds hostility and creates more occasions for outrage to boil over into violent confrontation. When survivors of the residential school system have interactions with police related to their alcohol use, those interactions may be particularly fraught given the abuse they have suffered by authorities.

Providers lamented that police did not have more knowledge of First Nations history, including residential schools, so that they could see individual behavior and current community problems in context. A lack of appreciation for the context was linked both to over-policing as well as to police misconduct. "When we talk about the RCMP and police brutality [against First Nations women], there is a lack of knowledge of the bigger picture,"

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[119] Human Rights Watch interview with Jennifer R., British Columbia, July 2012.

[120] Human Rights Watch interview with community service provider (#1), British Columbia, July 2012.

said one social service provider in northern British Columbia working with the homeless and domestic violence survivors. "Why is she there? She's there because our system has failed her. She may be there just coping."[121]

## Abusive Policing Tactics

### *Excessive Use of Force against Girls*

Human Rights Watch documented eight incidents in which police physically assaulted or used questionable force against girls under the age of 18. In four of those cases, the girls themselves described the events to us; in the others, our information came from eye witnesses or from parents or service providers with knowledge of the events. The incidents occurred in seven different communities in the north, and four of the eight occurred in 2012. In two of the cases, the police injured girls who they had been called in to protect.

#### 17-year-old girl assaulted by an officer in the back of a police car, 2011

Sophie B. reported to Human Rights Watch that she was walking through a field from a friend's house when she heard people screaming, and shortly after found herself being chased by gang members. Passing a woman on a balcony she asked her to call the police before she hid behind a fence. More than four police cars came, with at least two police officers in each car. "The cops came. They lifted me up and threw me to the ground… they put my arms behind my back and slammed me on the ground," Sophie said. Sophie's mother, Kathryn S., whom she had called earlier because of the gang, arrived at the area soon after. She told Human Rights Watch, "When I got there [Sophie] was laying down on the ground. I noticed she was in a panic attack. When she saw I was there, she calmed down. But the police officer wouldn't let me take her. That got her upset. They said she was violent because she was kicking around and intoxicated." The police officers then picked Sophie up and dragged her to the back of a police car.

Sophie told Human Rights Watch:

> I was yelling at them saying: "I was the one who called for help. Why are you guys chasing me?" And they didn't say anything else… They roughed me up. They handcuffed me and put me in the back of the police car and

[121] Human Rights Watch interview with community service provider (#4), British Columbia, July 2012.

> would not allow my mother to come see me… One of them came up and said [through the police car window], "Keep kicking and see what happens." … He punched me in the face more than six times. Half of his body was in the police car. Both my mom and sister saw him punch me. Then my mom came over and saw my face swollen up. I said, "Look what they did to me!" My mom said, "It's going to be okay."

But her mother was not sure it was all going to be okay. Following the beating Sophie endured while handcuffed in the back of the police car, the police took Sophie back to city cells for the night. "All that night I couldn't sleep wondering what was going to happen to her. I kept looking at the clock, counting the hours," she recalled. At city cells, male officers pulled the elastics out of Sophie's hair when they brought her in. She remembered that one said, "Stupid Indian," and that another laughed at her. The next day the family picked her up from jail and they went straight to the hospital. Young Sophie's face was swollen and there were cuts all over her gums and cheek from the impact of the punches hitting her face and shredding the inside of her mouth against the braces on her teeth. "I was walking around with a bandana over my face," she told Human Rights Watch. "It was pretty bad… My face was so bad that they let me go at my job at [a restaurant.]" [122] The family filed a complaint and the RCMP detachment initially retaliated by filing charges against Sophie B. for assaulting an officer. The charges were later dropped and, following an investigation by an external police force, the officer was charged with criminal assault. Those charges are currently pending.

### A 15-year-old girl's arm broken by police officer during response to domestic violence call, 2012

> I will never forget that day. It's the worst thing I ever did. I wish I didn't call [the police].
>
> Lena G., British Columbia, July 2012

Lena G. called the police and asked for their help in the spring of 2012 when it seemed that an argument was out of control between her 15-year-old daughter, Emily G., and Emily's 22-year-old boyfriend who had a history of abusive behavior.[123] Police had previously been

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[122] Human Rights Watch interview with Sophie B., British Columbia, July 2012.

[123] Human Rights Watch interview with Emily G. and Lena G., British Columbia, July 2012.

called regarding incidents in which Emily's adult boyfriend—the father of her infant daughter who had been committing statutory rape by having a sexual relationship with Emily—had strangled and assaulted her. On this occasion, Lena told the operator that her daughter had said that she would rather die than live in her mother's house, but Lena specifically told the operator that she believed this was a teenage expression of frustration rather than a genuine indication of suicidal feeling. By the time the police responded to the call, the argument had settled down, and Emily and her boyfriend were sitting on opposite sides of the room. Emily described how the situation escalated:

> One of the cops saw me and asked what was happening. I said it had calmed down. I was calm. The cop asked if I was taking anything. I guess he saw [my baby's] medicine on the ground. After [telling him no], I told him that I'm really mad, angry, and stuff and I needed to go for a walk. I went to get my purse and he told me to get my jacket so he could bring me outside. He said he was going to take me to mental health. I told him in a raised voice that I didn't need a jacket. I guess I raised my voice.
>
> The officer who had been talking to [my boyfriend], Constable [Name], told me to calm down. He stopped me by stepping front of me. He was holding the curtain open between the part of the room where I was and where [my boyfriend] was. He had his finger in my face in front of my eyes. I was yelling and telling him to fuck off. He just barely touched my face and I pushed it away. I barely moved his finger. He grabbed my arm and pushed me up against the wall. He pulled my arm way back and pushed it so I was up on my tip toes and that was when my arm broke… He let go and the cuffed arm fell with the cuff and then I felt all the pain. I yelled, "What did you do to my arm?" three times. He handed the cuff over to the other cop and he held it while we walked out.

After some discussion among the officers, an ambulance was called to take Emily to the hospital where an x-ray showed that her arm was broken. Later she had to travel with her family to another city for surgery on her arm. "When we left every single bump on the road was like killing me," Emily said.

Although Emily and Lena reported that police made no mention of concern for her mental state at the hospital, the RCMP subsequently told the press that the officers responded to a suicidal teenager and arrested her under the Mental Health Act as well as for assaulting an officer. An external police investigation into the incident is underway.

### A 12-year-old girl injured in attack by police dog, 2012

Police arrested Mary H. after an incident in May 2012 in which she reportedly sprayed someone with bear mace at a fair. Her mother, Rachel H., who was present during Mary's police interview, told Human Rights Watch about the incidents surrounding the arrest, during which Mary was wounded by a police dog:

> I'm a mother of five. She's my youngest. She's had some trouble – run-ins with the police over the last year or two [for theft, mischief, non-violent offenses] ... She just turned 13, she was 12 at the time…With this incident, it seems that the police knew who they were looking for – they knew she was 12. They had to have talked to the people she allegedly assaulted, [who] knew her older sister… The officers knew that the bear mace had been used on the victims. She said she had thrown it away when she was running.
>
> She fled the scene and was hiding. She saw the cops with the dogs coming. She shouted, "I'm only 12 years old." The cops didn't give her an opportunity to give herself up. They didn't warn her that they were going to let the dog loose. The compound she was in was behind a locked fence. They had to use a bolt cutter. She was hiding inside a wooden box. She saw a handler with a ball cap. The dog jumped into the box. The officer looked into the box. The box fell over. The dog was on top of her and started to attack her leg… The photos show punctures from the dog's teeth. Her leg was so swollen. It was more than just a dog bite, it was an attack… She couldn't walk or even hop because of the pressure … She had to stay on the couch for a week and had to go to the hospital to have the bandages changed… the scars are going to be there (on her upper left leg) forever.[124]

[124] Human Rights Watch interview with Rachel H., British Columbia, August 2012.

According to Rachel, the police failed to immediately inform her that her daughter had been arrested, as required by law. After arresting Mary at about 11:30 p.m., the police transported her to the hospital where she requested the officers call her mother. They did not call her mother until she was transported to the jail around 2 a.m.

Investigators from a municipal police department – not part of the RCMP – are currently investigating the use of force in this case. Under RCMP use of force policy, police dogs are considered intermediate force. There are no restrictions on the use of police dogs with youth, despite calls from advocacy groups for the police to prohibit their use with children or severely restrict their use to situations presenting a threat of death or grievous bodily harm.[125] While the Vancouver Police Department has released information on police dog incidents involving youth, the RCMP has refused requests from advocacy groups to provide such statistics.[126]

### Additional Cases

In addition to the incidents described above, Human Rights Watch learned of other cases of the use of force against girls. They include:

- In April 2012 police officers detaining a 13-year-old, applied the handcuffs "so tight it was peeling the skin off her hand," according to a witness. [127]
- In July 2012 police hit Grace F., a slight 16-year-old, on the back of the head and on both of her legs with a baton, after she and a friend had a verbal confrontation with a couple of officers.[128]
- In 2010, police pepper sprayed the then 14-year-old Hayley A. after a verbal confrontation with officers escalated. Hayley A. had yelled at police officers from the back of a car that had been pulled over during a traffic stop.[129] After they

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[125] "Police Dogs Shouldn't be Used on Children, Youths," Carrier Sekani Tribal Council news release, August 1, 2012, http://www.carriersekani.ca/news/police-dogs-shouldnt-be-used-on-children-youths/http://www.carriersekani.ca/news/police-dogs-shouldnt-be-used-on-children-youths/ (accessed September 11, 2012).

[126] "12 year-old girl bitten by police dog sparks call for reform," Pivot Legal news release, August 1, 2012, http://www.pivotlegal.org/pivot-points/press-releases/12-year-old-girl-bitten-by-police-dog-leads-to-calls-for-reform (accessed December 16, 2012); see the accompanying document, "Backgrounder – Controversial Deployment of Police Dogs," to the news release.

[127] Human Rights Watch interview with Samantha T., British Columbia, July 2012.

[128] Human Rights Watch interview with Grace F., British Columbia, July 2012.

[129] Human Rights Watch interview with Hayley A., British Columbia, July 2012.

pepper sprayed her in response, Hayley A said, "I couldn't breathe and I couldn't open my eyes." [130]

### *Use of Tasers*

Police use of Tasers[131] – electroshock weapons, frequently referred to as conducted energy weapons – which are considered firearms pursuant to regulations under the *Criminal Code* of Canada, in response to low level threats has drawn substantial criticism in recent years. Public Safety Canada guidelines state that use of a conducted energy weapon on a young child should be avoided.[132] However, the Commission for Public Complaints against the RCMP has documented extensive police use of Tasers on teenagers, with 194 recorded uses on youth aged 13 to 17 between 2002 and 2009. [133] In 2009, 8.3 percent of reports of the use of conducted energy weapons involved female youths.[134] The analysis did not disaggregate by ethnicity.

In 2007, a constable deployed a 50,000-volt Taser for a full 5-second cycle on a handcuffed 15-year-old girl at a facility for young offenders in Inuvik, Northwest Territories.[135] In 2009 the Commission for Public Complaints against the RCMP deemed the action unreasonable and found that it reflected a continuing "need for the RCMP to clarify to its members and to the public when it is permissible to deploy the Taser. It is clear that confusion in this area continues to reign."[136]

Following an investigation into the death of man Tasered at Vancouver International Airport in 2007, the RCMP reported that, among other steps, it was emphasizing de-escalation in training and that its April 2010 policy on conducted energy weapons clarified

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[130] Ibid.

[131] Taser® is the brand name of the conducted energy weapons authorized for use by the RCMP (Royal Canadian Mounted Police, "Operational Manual – Conducted Energy Weapon," April 29, 2010, http://www.rcmp-grc.gc.ca/ccaps-spcca/cew-ai/operations-17-7-eng.htm (accessed October 23, 2012).

[132] Public Safety Canada, "Guidelines for the Use of Conducted Energy Weapons," October 15, 2010, http://www.publicsafety.gc.ca/prg/le/gucew-ldrai-eng.aspx (accessed October 23, 2012).

[133] Commission for Public Complaints Against the RCMP, "RCMP Use of the Conducted Energy Weapon (CEW): January 1, 2009 to December 31, 2009," June 24, 2010, http://www.cpc-cpp.gc.ca/cnt/tpsp-tmrs/cew-ai/cew-ai-10-eng.aspx (accessed December 17, 2012).

[134] Ibid.

[135] Commission for Public Complaints Against the RCMP, "RCMP Taser use on handcuffed 15-year-old female not justified," December 11, 2009, http://www.cpc-cpp.gc.ca/cnt/nrm/nr/2009/20091211-eng.aspx (accessed October 22, 2012).

[136] Ibid.

they may only be used in situations in which a subject is causing bodily harm or when it is reasonably believed the subject will cause bodily harm imminently.[137]

Despite this a representative of an advocacy group who facilitated a meeting among indigenous girls, ages 12 to 15, reported that two of the girls said they had been Tasered in separate incidents between 2009 and 2011 when each was about 12.[138]

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[137] Commission for Public Complaints Against the RCMP, "Chair's Final Report After Commissioner's Notice – In-custody death of Mr. Robert Dziekanski, October 14, 2007, involving the use of a conducted energy weapon at the Vancouver International Airport," February 10, 2011, http://www.cpc-cpp.gc.ca/cnt/decision/pii-eip/dziekanski/facn-faac-eng.aspx (accessed October 23, 2012). See also, "Operational Manual – Conducted Energy Weapon," Royal Canadian Mounted Police, April 29, 2010, http://www.rcmp-grc.gc.ca/ccaps-spcca/cew-ai/operations-17-7-eng.htm (accessed October 23, 2012). The change came in response to the Tasering of Robert Dziekanski, a man who was acting erratically in the international arrivals section of Vancouver International Airport, after what the Commission for Public Complaints described as "a very brief encounter." Shortly after he was Tasered, the man died in custody. The Commission concluded that the Taser was deployed prematurely and without appreciation for its nature as a weapon "[b]ecause the RCMP positions the CEW as an intermediate weapon and trains its members that it is appropriate to use the CEW in response to low levels of threat because it is a relatively less harmful means of controlling a subject…" (Commission for Public Complaints Against the RCMP, Chair's Final Report After Commissioner's Notice – In-custody death of Mr. Robert Dziekanski, October 14, 2007, involving the use of a conducted energy weapon at the Vancouver International Airport, February 10, 2011, http://www.cpc-cpp.gc.ca/prr/rep/rev/chair-pre/dziekanski/facn-faac-eng.aspx (accessed October 23, 2012).) A provincial commission of inquiry also found that the use of force was unjustified. (Braidwood Commission of Inquiry, "Use of Taser on Robert Dziekanski not justified, says commissioner Thomas Braidwood," June 18, 2010, http://www.braidwoodinquiry.ca/whats_new/press_release_10-06-18.pdf#zoom=100 (accessed October 23, 2012).) The Braidwood Commission of Inquiry into the use of conducted energy weapons in British Columbia also concluded in 2009 that the threshold for use be revised from "active resistance" to the much higher standard of "causing bodily harm." Although this recommendation was made at the end of the first phase of the Braidwood Commission's Inquiry, which was supposed to exclude the RCMP, the Commissioner said that it would be incongruous for the recommendation not to apply in most of the province which is policed by the RCMP. (Braidwood Commission, "Commissioner's comments on phase one report of Braidwood Inquiry into Taser use in British Columbia," July 23, 2009, http://www.braidwoodinquiry.ca/whats_new/press_release_09-07-23.pdf#zoom=100 (accessed October 23, 2012).) In May 2012, the Legislative Assembly of British Columbia formed a special committee to monitor the implementation of the recommendations from the Braidwood Commission's phase one report (Legislative Assembly of British Columbia, "Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints," Terms of Reference, December 3, 2012, https://www.leg.bc.ca/cmt/39thparl/session-4/rpa/5-39-4-41-2.htm (accessed October 23, 2012)). In addition, in April 2011, RCMP officers in Prince George, British Columbia, used a Taser on an 11-year-old indigenous boy after an altercation at a group home resulted in the stabbing of an adult employee. An investigation by an external police department found the officers acted appropriately, but no further details about the incident have been disclosed. The Commission of Public Complaints Against the RCMP and British Columbia's Representative for Children and Youth are conducting separate investigations into the incident. "RCMP Taser Case: No Charges For Using Device On 11-Year-Old B.C. Boy," *The Canadian Press*, September 15, 2011, http://www.huffingtonpost.ca/2011/09/15/no-charges-for-using-rcmp-taser-bc-boy_n_965098.html (accessed October 23, 2012).

[138] Human Rights Watch telephone interview with advocacy group representative, October 18, 2012.

### *Cross-Gender Searches*

Human rights standards state that body searches by government authorities or medical personnel should only be conducted by persons of the same sex.[139] However, RCMP policy allows for male officers to search women and girls if another officer is present. "It's a hiccup in policy," said one community advocate for indigenous youth to whom indigenous girls have reported being touched inappropriately by police. "A number of female youth will tell you about being searched by male officers…. girls will say some officers searched them differently."[140]

Human Rights Watch interviews confirm that cross-gender searches take place, although it is unclear whether this is due to female staffing shortages or if the absence of female guards is used as a pretext in some situations.[141] In either case, reports of irregular, inappropriate searches of women by male officers point to the need to correct this policy "hiccup."

Police picked up Jan K. during an altercation in 2010 and took her to the "drunk tank." She told Human Rights Watch that at the police station two male cops took her to a room that appeared to be a janitor's closet where there were no cameras visible. They told her to remove her clothes except for undergarments. Afterwards they gave back the clothes but said she could either have her sweater or a t-shirt but not both.[142]

### *Conditions in City Cells*

In interviews with Human Rights Watch, women and girls raised a number of issues related to conditions in city cells. Women detained in city cells for public intoxication reported being held for extended periods without food,[143] kept in cold temperatures without

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[139] UN Human Rights Committee, General Comment 16, The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17), U.N. Doc. HRI/GEN/Rev.9 (Vol. 1) (2008), http://www2.ohchr.org/english/bodies/hrc/comments.htm (accessed December 16, 2012), para. 8.

[140] Human Rights Watch interview with community service provider (#13), British Columbia, July 2012.

[141] Human Rights Watch interview with Nancy M., British Columbia, July 2012, Samantha T., British Columbia, July 2012, community service provider (#3), British Columbia, July 2012, Ashley G., British Columbia, July 2012; community service provider (#13), British Columbia, July 2012, and Naomi F., British Columbia, July 2012.

[142] Human Rights Watch interview with Jan K., British Columbia, July 2012.

[143] Human Rights Watch interview with Nancy M., British Columbia, July 2012 (reported being held for 19.5 hours without food). Others also reported extended periods without food. Human Rights Watch interview with Jan K., British Columbia, July 2012, and Jennifer R., British Columbia, July 2012.

blankets,[144] and released in the middle of the night, sometimes into arctic temperatures, inadequately clothed and in grave danger of hypothermia and frost bite.[145]

Community service providers said that women transferred to city cells for trial, among whom indigenous women are disproportionately represented, can be held four to five days without access to washing facilities. "That's a lot of abuse, especially when they're on their cycle [menstruating]," said one provider. "[They] wear the same clothes that length of time so they are not ready to go to court to defend themselves…You're a mess when you go into court and they're in the same cells as the drunk tank so you could get into a fight with a drunk and then you have more charges."[146]

Fights in city cells take place and women reported a failure on the part of guards to intervene.[147]:

> One night a week ago I ended up in the drunk tank... This lady attacked me in the same cell. There were three of us. She was talking something about her boyfriend and must have thought I said something and came and attacked me. She grabbed me by my hair and pounded me against the cement and I stopped her and then she kicked me and started dragging me around by my hair. And they didn't do anything. They have cameras there. The night guard didn't even come to see what was going on. It was loud. There was screaming... I yelled for help. Guess no cops were there and the night guard never did a thing.[148]

Women reported that they were placed in the cells after suffering injuries and were not provided with medical attention. Anna T. was "jumped" in May 2012 and knocked unconscious with a beer bottle. When the police responded, they took her to the city cells rather than the hospital. She told Human Rights Watch:

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[144] Human Rights Watch interview with Jan K., British Columbia, July 2012, Nancy M., British Columbia, July 2012, Brenda C., British Columbia, July 2012, Naomi F., British Columbia, July 2012, Abby C., British Columbia, July 2012, and Hayley A., British Columbia, July 2012.

[145] Human Rights Watch interview with Jan K., British Columbia, July 2012.

[146] Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

[147] Human Rights Watch interviews with Naomi F., British Columbia, July 2012, and community service provider (#2), British Columbia, July 2012.

[148] Human Rights Watch interview with Naomi F., British Columbia, July 2012.

> I woke up in cells, I'm covered in blood... A cop came over and said, "[Anna], you've been assaulted. We don't know what happened. You got verbal with one of the officers so we detained you." They let me out at 5 a.m. and said, "We'll give you a ride to the hospital." They let me out the door and then just shut it. I waited five minutes and no one came. My nose was broken. I had two black eyes. My hair was balled up in blood… If you have an injured woman, take her to the hospital.

## Sexual and Physical Abuse by Police

### *Rape and Sexual Assault*

In 5 of the 10 towns Human Rights Watch visited in the north, we heard allegations of rape or sexual assault by police officers. Human Rights Watch was struck by the level of fear on the part of women we met to talk about sexual abuse inflicted by police officers. Even though Human Rights Watch conducted outreach to women and girls through trusted service providers with long histories of working in these communities, on several occasions, women who initially expressed interest in talking with Human Rights Watch about their experiences of police sexual abuse later declined to speak or did not appear for interviews. Fear of retaliation, a frequent reason why women and girls do not report police abuse in general, is compounded by fear of stigma and feelings of shame in cases of sexual abuse. As a consequence, it was very difficult to gather first-hand testimony to support the allegations we heard.

However, in one town, Human Rights Watch met Gabriella P., a homeless woman, who reported that in July 2012 she had been taken to a remote location outside of the town and raped by four police officers whose names she knew but would not provide. "I feel so dirty," Gabriella said through tears, the first time she spoke with Human Rights Watch. "They threatened that if I told anybody they would take me out to the mountains and kill me and make it look like an accident."[149] Gabriella said that she had been raped by police in similar circumstances on previous occasions. Human Rights Watch was able to find and photograph the remote location, which is inaccessible by public transportation, that Gabriella described. In a brief second meeting with her almost a week later, Gabriella reviewed the photographs and reacted with visible fear and distress. Pointing to details in

[149] Human Rights Watch interview with Gabriella P., British Columbia, August 2012.

the photographs, she further explained that the officers had made her stand with her hands against the side of a building while she was being raped. Human Rights Watch is not publishing the photos or further details in order to protect her identity.

In addition, in the second meeting, Gabriella said that she had been raped by police again two days earlier in a different location outside of town and that the officers had taken her underwear after she was assaulted. Human Rights Watch was unable to ask for further details about this rape because Gabriella abruptly ended the conversation out of fear of being seen talking to the Human Rights Watch researcher.

A community worker in the town said that she keeps packages of underwear for women living on the streets because other women have reported to her that they have been sexually assaulted by police and had their underwear confiscated. These allegations are deeply disturbing and demand action. Respecting Gabriella's wishes that an individual complaint to authorities not be made on her behalf, Human Rights Watch coordinated with a community worker to ensure that Gabriella had housing through friends and family that would limit her risk of further abuse. However, the lack of faith that victims have in the safety and effectiveness of current complaint processes, coupled with the exclusion of rape and sexual assault from the mandate of the new BC Independent Investigations Office, leaves victims of egregious abuse without a place to turn. As it stands, it also limits the options that human rights groups have to take these matters to the authorities, including in situations that raise concerns about ongoing abuse. Due to victims' fears of retaliation, Human Rights Watch did not alert authorities to the details of these allegations. Human Right Watch strongly urges an independent civilian-led investigation of these allegations with the aim of achieving criminal accountability for the alleged crimes. Human Rights Watch would eagerly cooperate with such an investigation to the extent we are able to without compromising the safety and privacy of victims.

Another allegation of police rape and sexual assault involving multiple officers is in the public record. A civil suit filed in August 2012 alleges that in the city of Prince George in August 2010, members of the RCMP took a woman they had arrested to a basement where they physical and sexually abused her. The civil complaint alleges that in the basement of a private house, the woman was:

i) Forcibly confined in the basement against her will;
ii) Repeatedly struck, punched, and kicked while verbally denigrated and threatened with the death and disappearance from her family;
iii) Forcibly stripped to a state of nakedness, sexually assaulted and sodomised.[150]

After the officers allegedly drugged her and doused her with alcohol, the complaint states that the woman was taken to the Prince George RCMP detachment where she was "forcibly strip searched without purpose, legal justification and contrary to the procedural standards, if any, in force at the time of the search."[151] The civil suit follows an RCMP investigation and subsequent inquiry by the Vancouver Police which found the woman's report of abuse in the basement to be unfounded.[152] The search, however, was deemed to be in breach of RCMP protocol.

Human Rights Watch was also told of indigenous women and girls being sexually abused in city cells after passing out due to intoxication. In 2007, when Hannah J. was 25, police put her in city cells when she was intoxicated. She woke up to find herself naked from the waist down:

I remember [two male officers] putting me in the cells and I passed out. I woke up with my pants and panties off. I asked the lady guard if I could look at the cameras. She asked why. She didn't let me look at the tape…. My pants were in the cell beside me. My panties weren't there… I felt funny, wet down there [pointing to between her legs]. I just went home and cried... Why did this happen to me? Why didn't they just leave me on the street?[153]

Hannah said that she felt too ashamed do file a complaint or even seek medical attention.[154] Similar circumstances were described by secondary sources, involving victims whom Human Rights Watch was unable to interview. We present that information for context. We received a secondary report from a woman whose friend told her that she had

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[150] 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.

[151] Ibid.

[152] DeLynda Pilon, "Investigation clears RCMP officers accused of wrongdoing," *Prince George Free Press*, August 17, 2011, http://www.pgfreepress.com/news/127973173.html?mobile=true (accessed January 23, 2013).

[153] Human Rights Watch interview with Hannah J., British Columbia, July 2012.

[154] Ibid.

awoken in police holding cells in 2012 to find herself being sexually assaulted by a police officer.[155]

A representative of an advocacy organization recounted a similar incident in another town reported by a young woman who had been between 13 and 15 years old when it happened to her between 2006 and 2008. The young woman said that it had happened when she had been brought to the cells while she was intoxicated. She described attempting to pull down her shirt to cover herself after regaining consciousness to find that she had nothing on her bottom half and was being watched by a male guard.[156]

## *Physical Abuse of Women*

Human Rights Watch received 15 reports of police physically mistreating women in cells and on the street in the communities we visited in the north. The reports ranged from routine rough handling during arrest to an outright beating in cells. Abuse and mistreatment occurred at all stages of the women's interaction with the police, including when they were arrested, while they were in custody and upon their release. Eleven women told us directly about physical abuse and additional information was taken from eye witnesses and community service providers.

### Abuse During Arrest

Women interviewed by Human Rights Watch reported varying levels of physical abuse when police took them into custody. Jan K., arrested in 2010, was thrown into the police wagon after she was handcuffed, smashing her legs against the bottom of the wagon, resulting in bruises all over her legs, wrists, and elbows.[157] Nancy M. showed us white scars on her wrist where handcuffs were fastened so tightly, they had broken the skin months earlier. She had asked the police to be careful because her collar bone was broken, but they pulled her arm back anyway and would not take her to obtain medical attention when she complained of pain.[158] Melinda B. was walking home from a bar in 2012 when two police officers called her over to their patrol car. She said she would be happy if they would offer her a ride home but they told her "the only ride you're getting is to the drunk

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[155] Human Rights Watch interview with Ally F., British Columbia, July 2012.

[156] Human Rights Watch telephone interview with advocate, October 18, 2012.

[157] Human Rights Watch interview with Jan K., British Columbia, July 2012.

[158] Human Rights Watch interview with Nancy M., British Columbia, July 2012.

tank."[159] When she refused to go with them, the officers wrestled her to the ground with such force that they tore a ligament, causing her to lose three weeks of work and experience pain more than six months later.[160] Social service workers in one city praised the local police but said that women transferred from other detachments reported being punched, kicked, and having their hair pulled in custody by police.[161]

Service providers who hear the complaints of mistreatment are concerned about the issue of abuse during arrest, but sometimes need to turn to the police for assistance. "People come in often and share that they were pushed around in the drunk tank, or, 'that officer he hits me.' It happens often enough that it's become a normalized thing that women experience,"[162] said one homeless shelter staffer. Another staffer said that police officers kicked indigenous people found passed out on the streets in order to get them up. "There's nothing that gets done. It's an old boys club. [We] had a person picked up here and they were all nice and professional coming in, but then you see them being put in the car . . ."[163] In another town, a shelter worker had to call the police in mid-2012 because an intoxicated woman was threatening to beat her up. In the process of removing the petite woman, the police officer crushed her throat, injuring her. "I had to watch her being assaulted and the whole point [of calling the police] was to make everyone safe," the staffer told Human Rights Watch.[164]

Rough treatment during arrest at times results in injuries beyond bruises. In 2006, an ex-boyfriend of Dina A. called the police and on his own admission falsely accused her of being violent towards him. Officers arrived on the reserve, found Dina, took her into custody but did not tell her why. "A cop handcuffed one wrist and banged it against the bun wagon… [He] put me in handcuffs and put me in the back and took me to the station." They kept her at the station for 8 to 12 hours, a portion of which was spent with a woman who "was shouting and violent and enraged." They refused Dina's requests to be separated from the woman, as well as her request that they take her to the hospital for an x-ray. "I had to walk up there myself after I was released (about a kilometer walk). The x-ray

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[159] Human Rights Watch telephone interview with Melinda B., December 2012.

[160] Ibid.

[161] Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

[162] Human Rights Watch interview with community service provider (#4), British Columbia, July 2012.

[163] Human Rights Watch interview with community service provider (#3), British Columbia, July 2012.

[164] Human Rights Watch interview with community service provider (#17), British Columbia, July 2012.

showed that the smaller bone was broken and the bigger bone was fractured. I had to have a cast for eight weeks."[165] When Dina complained, the police took eight months to investigate and concluded that the other woman in the cell had broken her wrist, even though Dina told them the woman had not touched her.

### Abuse While in Custody

Women also reported aggressive treatment after the arrest, during the process of being searched and physically placed into holding cells. Joy I. described how her experience in 2011 went beyond a routine search:

> I was in a fight and getting beat up. [The police] picked me up. They tore my sweater off and jeans off in the holding cell. There were three or four of them – men – a female guard was watching. I tried to sit up and they pepper sprayed me twice. They kept pushing me down and tearing my clothes off. I was all dressed up before I went in there. They ripped off my jeans and put them in a bag.

She was left without her jeans, but with her underwear, that night. They released her the next morning without charges, and did not allow her to put her jeans back on. "The next day I had to walk back to my brother's like that – no pants; clothes in bag." [166]

In Anna T.'s case, the police told her that they were going to beat her before putting her in cells in early 2012. Anna had called the police because a friend was being beaten by her boyfriend. Intoxicated and angry because the police had failed to come out on another occasion, Anna spit on one of the officers when the police arrived. They took her into custody and brought her to the police holding cells. Anna explained to Human Rights Watch what happened:

> "Here's your choice, [Anna], you either get charged with assaulting an officer or you take the beating," [said one of the officers.] Stupid me I said, "I'll take the beating." She grabbed me, slammed me up on the wall and I hit my head. Then she slammed me on the ground. A male cop drove his

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[165] Human Rights Watch interview with Dina A., British Columbia, July 2012.

[166] Human Rights Watch interview with Joy I., British Columbia, July 2012.

knee into my back while she stripped earrings out of my ears and elastics out of my hair. “Have you had enough?” “Yes, I’ve had enough. I’m sorry.”[167]

[167] Human Rights Watch interview with Anna T., British Columbia, July 2012.

# III. Police Failures to Protect Indigenous Women and Girls

## Women and Girls' Lack of Confidence in Police Protection

> What would they do to me if I need to call the cops? Police officers – you're supposed to look up to them. I needed help and they didn't help me. We've been having gang people come to our house. Who do we call? It's just pretty sad. We've got nobody to go to for help.
>
> —Sophie B., who was assaulted by a police officer when he responded to a distress call

Police abuse undermines women and girls' safety far beyond the direct physical consequences of any physical mistreatment. The impact is felt in the reticence of indigenous women and girls to call the police for help when they fear or have experienced violence. The problem is not limited to those who have experienced police abuse directly. According to a youth service provider, addressing the exploitation of girls by other youth in co-ed programs run by some organizations has been challenging because the girls do not trust the RCMP enough to report.[168] The possibility of abuse in cells also inhibits some community members from turning to the police when they see youth in a compromised position. One woman whose sister was raped by a police officer decades ago and who since has received periodic reports of police rape from others told Human Rights Watch:

> Every time we see drunk kids stumbling around the streets it's hard to know whether to let them stay on the street vulnerable to what can happen on the street or to call the RCMP, given my brother's and my sister's experiences. I remember all the things that have happened. What do you do? Leave them vulnerable to perverts on the street or call the RCMP and risk that they could be abused sexually or physically?[169]

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[168] Human Rights Watch interview with community service provider (#13), British Columbia, July 2012.

[169] Human Rights Watch interview with Penelope N., British Columbia, July 2012.

## Police Response to Disappearances and Murders

The E-PANA task force on the unsolved Highway of Tears cases is an important step forward. However, it does not on its own ensure that all cases of missing and murdered women in the north are handled with due diligence. As noted, some estimates put the number of cases of missing and murdered women along Highway 16 at more than 40, more than double the number taken up by E-PANA.[170] In addition, the task force does not reach cases that are mishandled at the point they are reported. A leader in the indigenous community with a law enforcement background told Human Rights Watch that he reported a 14-year-old girl missing from a group home in late 2011.[171] He said the officer taking the report initially reacted by asking: "Why are you calling us about this? What do you expect us to do?" The officer apologized after learning about his position in the community, and took steps to look for the girl, who was ultimately found safe. However, the leader was left concerned about how others without his standing in the community were treated.

This concern was echoed by others. According to a community provider of services to domestic violence survivors, the reaction of the police to missing person reports depends on the officer and whether the missing person is a repeat criminal offender or known to the criminal justice system.[172] The community service provider told Human Rights Watch about reporting a woman missing in 2011 who had previous contact with the criminal justice system:

> We reported a young aboriginal woman missing this past fall and it took three weeks before they even started to look for her. The police officer called and asked questions about her after three weeks. There was no explanation of why he'd taken that long. But all of a sudden he needed this and this. I thought: "Why am I doing your job for you?"[173]

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[170] Linda Locke, QC, Missing Women Commission of Inquiry, "Standing Together and Moving Forward: Report on the Pre-Hearing Conference in Prince George and the Northern Community Forums," p. 8.

[171] Human Rights Watch interview with community leader, British Columbia, July 2012.

[172] Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

[173] Ibid.

RCMP policy states that people reporting a missing person should never be told they must wait a certain amount of time.[174] However, Rose L. told Human Rights Watch that in 2010 her sister's 16-year-old granddaughter (whom she considered and referred to as her granddaughter) went missing.[175] "She had a drug problem and was on probation. I called [the police] to find out where she was after she was missing for 14 hours and the police wouldn't do anything because it was too early." She later found out that her granddaughter had been in jail, having been arrested for allegedly beating up a man who witnesses said had attempted to sexually assault her.

For families whose loved ones have gone missing or been murdered, detailed information about the investigation's developments is critical. For the police, updating the families is important for maintaining their trust and cooperation. At the same time, releasing certain details could jeopardize the investigation. Human Rights Watch's interviews suggest that the RCMP still needs to find the right balance.[176] "One of the things they need to do is to explain what the investigative process is rather than just saying 'We're investigating,'" said one family member. "We need to be told point by point. Otherwise we don't understand and just feel like nothing is happening."[177]

## Police Response to Domestic Violence and Sexual Assault

Domestic violence survivors and community organizations in northern British Columbia reported to Human Rights Watch that calls to the police by indigenous women and girls seeking help with violence are frequently met with skepticism and victim-blaming questions and comments, and that police often arrest victims of abuse for actions taken in self-defense. While these problems occur in many communities, service providers emphasized that indigenous women and girls are especially likely to be treated as blame-

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[174] RCMP "E" Division Operational Manual, Chapter 37.3. Missing Persons, sec. 1.4: "Under no circumstances will a complainant be advised that he or she must wait a specific period of time before a report of a missing person can be made" (no emphasis added); the manual further reiterates that a missing person investigation must involve "a diligent early response" (sec. 37.3.1.2.1.), "the early and efficient gathering of witness accounts/leads/information/facts" (sec. 37.3.1.2.2."), and "no delays in collecting required information/facts" (sec. 37.3.1.2.3.). Missing children are considered high risk (sec. 37.3.1.3.1.) and high risk missing persons cases should "especially" be given prompt and thorough attention (sec. 37.3.1.3.).

[175] Human Rights Watch interview with Rose L., British Columbia, July 2012.

[176] Human Rights Watch interviews with Peter M., British Columbia, July 2012, and Patrice L., British Columbia, July 2012.

[177] Human Rights Watch interview with Patrice L., British Columbia, July 2012.

worthy by police.[178] This treatment was evident in the response of the police to Lena G.'s call regarding the dispute between her 15-year-old daughter and her abusive adult boyfriend, discussed above, which resulted in the police handcuffing and breaking her daughter's arm.[179]

The RCMP Operations Manual instructs officers responding to Violence in Relationships (VIR) calls to identify the primary aggressor and states that dual arrests should be rare.[180] In determining who the primary aggressor was, officers are supposed to consider the history of the relationship, among other factors, and to keep in mind that "An allegation of mutual aggression is often raised by the Primary Aggressor as a defense with respect to an assault against a partner."[181] Human Rights Watch learned of several incidents indicating that police fail to implement this instruction consistently. One service provider told Human Rights Watch that she had seen a number of indigenous women charged as first-time offenders because they defended themselves in the context of domestic abuse, including a woman who had recently been arrested after police found bite marks on her abuser's arm that she had left in attempt to free herself from a chokehold.[182] Service providers in different communities in the north said that police in general tend to side with the person who calls the police, and that abusers will manipulate that to their advantage.[183] "The man's the first one to the phone and she's arrested even when there is physical evidence of abuse," said one provider.

Several service providers told Human Rights Watch that RCMP officers responded dismissively to calls from indigenous women out of apparent frustration with seeing women remain in violent relationships.[184] They complained that the abuse was taken less seriously when the police had responded repeatedly to a particular household, and that officers lacked an appreciation for the financial and other barriers that make it difficult for women to leave abusive men.

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[178] Human Rights Watch interview with community service provider (#1), British Columbia, July 2012.

[179] Human Rights Watch interview with Emily G. and Lena G., British Columbia, July 2012.

[180] RCMP "E" Division Operational Manual, Chapter 2.4. Violence in Relationships, sec. 6.1.

[181] Ibid, sec. 5.3.

[182] Human Rights Watch interview with community service provider (#11), British Columbia, July 2012.

[183] Human Rights Watch interviews with community service provider (#2), British Columbia, July 2012, community service provider (#8), British Columbia, July 2012, and community service provider (#11), British Columbia, July 2012.

[184] Human Rights Watch interview with community service provider (#1), British Columbia, July 2012, and community service provider (#2), British Columbia, July 2012.

When women reporting violence have been using alcohol or drugs, getting the police to take their complaints seriously can be even more difficult. "Police still have the attitude: 'All he did was punch her,' and with Aboriginal women: 'Were you drinking? Using?'" said one community service provider.[185] Amy N. told Human Rights Watch that she had called the police for help with an abusive partner on two separate occasions in different towns during the years that she was in active addiction. She said both times the police were more interested in the drugs than the abuse.[186] On the second occasion in 2006, a police officer told her, "You're pretty much asking for it when you're high on that stuff." Amy N. concluded that "They're always going to ask if you're under the influence and once that information was available, I was treated much differently."[187] Dina A., from another town, was injured in an automobile accident deliberately caused by her cousin's boyfriend. When she went to the police to complain about her cousin's boyfriend's actions, the police dismissed her on the basis that she had been drinking prior to the incident:

> [My sister and I] got into my cousin's vehicle [which she was driving] – she was begging me to go for a ride. My cousin's boyfriend was there and he said to her, "Hey, you know how we were talking about suicide? Why don't we do it now with these two bitches in the car?" I buckled my sister's seatbelt in fast... He reached over and grabbed the wheel and turned us into the ditch… [After the crash,] my sister dragged me out of the vehicle. We went to the house of people we know and called a cab and went to the hospital. I was in and out of consciousness for 4 to 5 hours. I had a head injury – 24 stitches on the side of the head. I lost so much blood. They had to give me two and a half pints of blood...
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> The next day I went to the police to report in the morning. There were three cops standing there. I said I'm here to give my report about the accident I was in last night because when [the police] came to the hospital they only asked about who was driving and whose vehicle it was. The police officer was just like, "You guys were intoxicated." They didn't even want to listen to me.[188]

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[185] Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

[186] Human Rights Watch interview with Amy N., British Columbia, July 2012.

[187] Ibid.

[188] Human Rights Watch interview with Dina A., British Columbia, July 2012.

Indigenous women and girls who survive sexual assault may face similar challenges to accessing effective protection from sexual violence. An elected official in the north said that in his location there is a general sense that cases of sexual abuse are a low priority for the RCMP detachment and that he has heard from community members on a nearby reservation that there is not a seriousness or timeliness to investigations into sexual abuse. He said that it may be a workload issue, and that cases could be de-prioritized because they take a lot of time to investigate and then may be dropped if the victim decides not to pursue it further.[189] According to victim advocates, the low priority placed on these cases acts as a disincentive to reporting for women, who believe their cases will not be taken seriously.[190]

When investigations do occur, victim-blaming by police officers is a problem. One service provider told Human Rights Watch:

> I had a woman about two years ago who decided to report to the RCMP – very rare. I have worked with many women sexually assaulted and only a handful go forward with charges. She was made to feel that she was to blame. "Why had you been drinking with him?" I had to work triple time to work through her natural feelings of guilt… You have a system of authority that puts the blame on the victim.[191]

Cara D., a 17-year-old victim of attempted rape in 2012, reported the crime to the police and became the subject of scrutiny. After an initial visit by a female officer who took pictures of bruises on her leg and arm, Cara received a succession of visits from male officers questioning her story:

> The cops came to the house to talk about it at all hours… earlier than 6 a.m.... Different cops, same questions. They were all male and you could tell they didn't believe me. They acted like they wanted to leave. "Are you lying to us?" They basically said I might have to do a lie detector test, but it didn't happen. They took [the perpetrator] in for questioning and he refused

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[189] Human Rights Watch telephone interview with Bob Simpson, Independent Member of the Legislative Assembly of British Columbia (MLA) for Cariboo North, July 2012.

[190] Human Rights Watch interview with community service provider (#2), British Columbia, July 2012.

[191] Human Rights Watch interview with community service provider (#4), British Columbia, July 2012.

> to make a statement. They let him go. There was a two-month investigation and they dropped all the charges. The guy had charges of sexual assault before but it was still not enough for them to not drop the charges… What was I supposed to do – let him rape me so you would have evidence?[192]

The man who attacked Cara was originally charged with attempted rape but the charges were later dropped and temporary restrictions which had been imposed on his movements were lifted. However no one told Cara. "I found out that he got off because I saw him out," she said.

Anna T. was a prominent member of her community before the abuse by her white ex-husband climaxed in a rage one night in 2009. She told Human Rights Watch about her near escape and the police failure to gather key evidence:

We were walking home from the bar and we walked past my street. I got this bad feeling. I said to my friend, "Something's wrong. I need to go to my house." I got to the door and opened the lock. My ex was high on crack. "What are you doing? Where are the kids?" I asked. I had found him and a friend in the smoke room. Crack was on the table. I kicked out the friend. Me and my husband went upstairs and got into an argument about why he had disappeared for a week. He grabbed me by the neck and threw me up against a wall. He said: "The only reason I was gone for a week is because I wanted to kill you and the kids." He was choking me and I was slapping him. He dragged me by my hair toward the bedroom. We were weapons collectors. We had bows and swords all around the house. He grabbed a weapon and said, "You're not going to get out of this room. You're going to die tonight." He stumbled and I was able to get away. I was running down the street and he was chasing me all the way to my neighbor's house. There we called police. They said to stay inside. I said I was worried about the kids. "I'm afraid he's going to kill the kids because he's going back to the house," I said. Six cop cars came because of his criminal record. When cops got into the house they found that the kids were okay. Cops took him away and tried to charge him with assault…

Six to eight months later the charges against Anna's ex-husband had to be reduced because there was insufficient evidence of the attempt on her life. Anna faults the police for the reduced charge because they never interviewed the neighbor who helped her escape that night. With the reduced charge, her ex-husband's only punishment was a year probation. The limited accountability he faced for the attempt on her life has had ongoing implications. In coping with the trauma of the assault and seeing him set free, Anna turned to drugs and alcohol. Her substance use was a factor in her ex-husband getting primary custody of their daughter. He continues to behave violently, including choking a 14-year-old daughter from another marriage.

[192] Human Rights Watch interview with Cara D. and Lisa E., British Columbia, July 2012.

# IV. Inadequate Complaint and Oversight Procedures

As noted in the background section of this report, most complaints of police misconduct are investigated by police themselves. RCMP policy calls for complaints of misconduct to be investigated by an independent provincial body or, failing that, an external non-RCMP police department. If neither of those is available, another RCMP detachment will investigate, or as a last resort, the detachment at issue will conduct an internal investigation.

Although a civilian complaints commission monitors the processing of public complaints against the RCMP and external police teams investigate the more serious allegations, the practice only provides an independent civilian accountability mechanism for a small portion of the complaints of police misconduct. Some hope that British Columbia's new civilian Independent Investigations Office will end impunity for police abuses in the province. But, as discussed, the limitations of the office's mandate mean that it holds little promise of justice for victims of sexual assault. Recourse for many complaints will be limited to the existing complaint mechanisms.

Five women and girls we interviewed filed complaints about RCMP officer misconduct, including physical assault and sexual harassment. Two of the complaints were being investigated by external, non-RCMP police forces at the time of the interview. Responses to the other complaints raise concerns about all the different types of investigative mechanisms. Dina A., whose wrist was broken by an officer during her arrest in 2006, made a complaint that was investigated by the local detachment. The investigation took more than eight months and the detachment did not question any witnesses at the scene of the arrest, instead blaming another woman held in city cells that night.[193]

Investigation by an outside RCMP detachment does not guarantee independence. Two RCMP officers who had experience investigating complaints against members in other detachments said that the process was hardly impartial. One remembered being told to go up to a particular northern town and "investigate this Tasering that didn't happen."[194] The

[193]Human Rights Watch interview with Dina A., British Columbia, July 2012.

[194] Human Rights Watch group interview with five RCMP officers, British Columbia, August 2012.

other said that he wrote up reports of investigations that were returned for revision when they did not reflect the outcome desired by his supervisors.[195]

As noted above, in Sophie B.'s case, an officer was eventually put on trial for assault following an investigation by an external police department. However, before that happened the detachment to which the officer belonged launched its own investigation and laid assault charges against the girl who had filed the complaint.[196] The charges were later dropped.

Many of those we interviewed did not file a complaint. Fear of retaliation obstructs access to complaint mechanisms, particularly for women and girls who live in small communities, are homeless, or have had multiple contacts with the criminal justice system. "I never filed a complaint," said Anna T. who was beaten by two officers in city cells, "because I'm well known and if you go back in its probably going to be worse."[197] Another woman who reported a serious sexual assault by police officers said the officers threatened to kill her if she told anyone.[198] She has chosen not to make any complaints against them.

Individuals interviewed by Human Rights Watch expressed skepticism about the independence and effectiveness of complaint processes through the RCMP itself and of the Commission for Public Complaints against the RCMP. An indigenous community leader anxious to see the Independent Investigations Office get up and running remarked of the RCMP complaint process, "How far is that going to get?"[199] The mother of a girl assaulted by a police officer told another officer standing by at the incident that she planned to complain and received the response: "You're Aboriginal, what is anyone going to do?"[200] Another woman said she told her friends about her experience waking up in a jail cell without her underwear in order to warn them. But she did not complain to the police because "they'll just lie for each other."[201] Service providers told us they informed their

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[195] Human Rights Watch interview with RCMP officer, British Columbia, July 2012.

[196] Human Rights Watch interview with Emily G., British Columbia, July 2012.

[197] Human Rights Watch interview with Anna T., British Columbia, July 2012.

[198] Human Rights Watch interview with G. P., British Columbia, July 2012.

[199] Human Rights Watch interview with community leader, British Columbia, July 2012.

[200] Human Rights Watch interview with Emily G., British Columbia, July 2012.

[201] Human Rights Watch interview with Hannah J., British Columbia, July 2012.

clients about the complaint mechanisms but rarely, if ever, saw their clients use the mechanisms. One told Human Rights Watch:

> I have not seen the complaint process go forward. We have suggested that to people before. People don't trust that. Where's that going to go? There's great mistrust in that. No feeling of safety in doing that. When you don't have that sense of safety, I wouldn't want to come forward and complain. Who do you go to then?[202]

Elaine H. told Human Rights Watch that her local police told her to take her complaint about the officer who was stalking her to the Commission for Public Complaints against the RCMP:

> Well, there really aren't any systems in place because I phoned the police department, who then said, sorry this is happening to you, you need to call the police complaints center, so I called them and wrote several letters… On the phone the woman asked for a description. "Well I'm five feet eight inches, 130 pounds, I've got dark hair. I'm told I'm pretty attractive." The response was: "No wonder why this is happening."[203]

A year and a half later the officer was transferred, but it was not clear whether her complaint had triggered the transfer. Shortly after that, a second police officer began harassing her but she did not bother to make a complaint because after the response to the earlier situation "it seemed pointless to make a complaint."[204]

Human Rights Watch asked the RCMP how many complaints of police misconduct relating to interaction with indigenous women and girls had been lodged over the past five years. The RCMP responded that it "does not collect race data for purposes outside the legitimate police mandate" and that "Asking a victim or accused person to self identify may give rise to human rights and privacy concerns."[205] Although a requirement that complainants

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[202] Human Rights Watch interview with community service provider (#4), British Columbia, July 2012.

[203] Human Rights Watch interview with Elaine H., British Columbia, July 2012.

[204] Ibid.

[205] Email communication from the RCMP to Human Rights Watch, November 15, 2012.

provide information on their ethnicity would certainly be problematic, giving them the option of doing so would open up the possibility of tracking whether police interaction with certain groups has generated a disproportionate number of complaints. Notably, the Canadian government failed to provide complete information in response to a request from the Committee on the Rights of the Child (CRC) for the number of reported cases of abuse and maltreatment of children occurring during their arrest and detention.[206]

Video cameras comprise another component of RCMP oversight of police officer activity in detachment cells. Closed circuit video equipment monitoring (CCVE) is a part of British Columbia Provincial Policing Standards and the RCMP has stated its commitment to ensuring that all facilities achieve compliance by the effective date of January 30, 2015.[207] CCVE monitoring has been important for corroborating victims' accounts of abuse in some cases. However, it is not a complete solution. As RCMP officers who spoke with Human Rights Watch noted, there are always blind spots known to officers and there can be events like power outages that result in the loss of recordings.[208]

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[206] In the "List of issues concerning additional and updated information related to the third and fourth periodic reports of Canada," adopted by the Committee on the Rights of the Child in advance of the examination of Canada's combined Third and Fourth Report on the Convention on the Rights of the Child (CRC), the Committee calls for data on the number of reported cases of abuse and maltreatment of children occurring during their arrest and detention to be disaggregated by age, sex, ethnic group, and type of crime. CRC/C/CAN/Q/3-4, March 14, 2012, http://www2.ohchr.org/english/bodies/crc/crcs61.htm (accessed January 22, 2013), Part III, para. 7(g). See "Canada's response to the list of issues adopted by the Committee on the Rights of the Child in advance of the examination of Canada's combined Third and Fourth Report on the Convention on the Rights of the Child (CRC)(CRC/C/CAN/3-4)," CRC/C/CAN/3-4, September 2012, http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.CAN.Q.3-4.Add.1_en.pdf (accessed December 17, 2012), p. 120. In this response only information for the province of Newfoundland and Labrador is provided, and no disaggregated data is presented.

[207] Email communication from the RCMP to Human Rights Watch, November 15, 2012. See "British Columbia Provincial Policing Standards," PSSG11-015-December 2011, http://www.pssg.gov.bc.ca/policeservices/standards/index.htm (accessed January 22, 2013), Subject 4.1.1.

[208] Human Rights Watch group interview with five RCMP officers, British Columbia, August 2012.

# V. Canada's Obligations under International Law

Canada's international treaty obligations require that the government take measures to prevent and address with due diligence violence against indigenous women and girls. They must also ensure that police do not treat individuals in violation of the prohibition on inhuman and degrading treatment, but treat them with respect and dignity in a non-discriminatory manner. United Nations human rights treaty monitoring bodies – including those committees addressing children's rights violations, torture, discrimination against women, and civil and political rights violations – have criticized Canada for the inadequate government response to violence against indigenous women and girls.[209] The United Nations Committee on the Elimination of Discrimination against Women (CEDAW) has gone even further and taken the exceptional step of announcing an inquiry with respect to disappearances and murders of indigenous women and girls.[210]

## The Responsibility to Address Violence against Women and Girls

Among their most basic human rights, women and girls have the right to bodily integrity, to security of person, and to freedom from torture and cruel, inhuman, or degrading treatment. These rights are enshrined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), acceded to by Canada in 1976,

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[209] Committee on the Rights of the Child, Concluding Observations on Canada's 3rd and 4th review, October 2012, CRC/C/CAN/CO-3-4, http://www2.ohchr.org/english/bodies/crc/crcs61.htm (accessed January 30, 2013), paras. 48; Committee on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding Observations on Canada's 6th review, June 2012, CAT/C/CAN/CO/6, http://www2.ohchr.org/english/bodies/cat/cats48.htm (accessed January 30, 2013), para. 20; Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Canada's 7th review, November 2008, CEDAW/C/CAN/CO/7, http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm (accessed January 30, 2013), para. 32; Human Rights Committee, Concluding Observations on Canada's 5th review, April 2006, CCPR/C/CAN/CO/5, http://www2.ohchr.org/english/bodies/hrc/hrcs85.htm (accessed January 30, 2013), para. 23. The Committee on the Elimination of Racial Discrimination has also expressed its concern that "Aboriginal women and girls are disproportionately victims of life-threatening forms of violence, spousal homicides, and disappearances," and recommended the Government of Canada "facilitate access to justice for Aboriginal women victims of gender-based violence, and investigate, prosecute and punish those responsible". Committee on the Elimination of Racial Discrimination, Concluding Observations on Canada's 19th and 20th review, March 2012, CERD/C/CAN/CO/19-20, http://www2.ohchr.org/english/bodies/cerd/cerds80.htm (accessed January 30, 2013), para. 17.

[210] "Press Release – For Immediate Release," Native Women's Association of Canada news release, December 13, 2011, http://www.nwac.ca/media/release/13-12-11 (accessed December 15, 2012).

and the Convention against Torture, ratified by Canada in 1987.[211] In addition, violence against women constitutes a form of discrimination, triggering government responsibilities under the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Canada in 1981.[212] By agreeing to these international treaties, Canada assumed a positive obligation to address violence against women. Whether the violence is perpetrated by the government authorities or by others, international law requires that Canada exercise due diligence to prevent, investigate, prosecute, and punish acts of violence against women.[213] Canada has also assumed the obligation to take appropriate measures to protect children from physical or mental violence while in the care of their parents, guardians, or any other person.[214]

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[211] UDHR, adopted December 10, 1948, G.A. Res 217A(III), U.N. Doc. A/810 at 71 (1948), http://www.un.org/en/documents/udhr/index.shtml (accessed December 15, 2012), art. 3 and 5; ICCPR, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, http://www2.ohchr.org/english/law/ccpr.htm (accessed December 15, 2012), arts. 7 and 9; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, http://www2.ohchr.org/english/law/cat.htm (accessed December 15, 2012), art. 2.

[212] CEDAW, adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, http://www2.ohchr.org/english/law/cedaw.htm (accessed December 15, 2012), art. 1; UN Committee on the Elimination of Discrimination against Women, "General Recommendation No. 19: Violence against women," (Eleventh session, 1992), http://www2.ohchr.org/english/bodies/cedaw/comments.htm (accessed December 15, 2012), paras. 1, 6.

[213] UN Committee on the Elimination of Discrimination against Women, "General Recommendation No. 19: Violence against women," (Eleventh session, 1992), http://www2.ohchr.org/english/bodies/cedaw/comments.htm (accessed December 15, 2012), para. 24(a) and (t); UN Human Rights Committee, "HRC, General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties: general legal obligation on states parties to the Covenant," U.N. Doc. CCPR/C/21/Rev.1/Add.13, (Eightieth session, 2004), http://www2.ohchr.org/english/bodies/hrc/comments.htm (accessed December 15, 2012), para. 8; UN Committee Against Torture, "General Comment No. 2: Implementation of Article 2 by States Parties," CAT/C/GC/2, (2008), http://www2.ohchr.org/english/bodies/cat/comments.htm (accessed December 15, 2012), paras. 1-3; UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development, A/HRC/7/3, January 15, 2008, http://www2.ohchr.org/english/bodies/hrcouncil/7session/reports.htm (accessed January 23, 2013), paras. 30-32; UN Declaration on the Elimination of Violence Against Women, December 20, 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), http://www.un.org/documents/ga/res/48/a48r104.htm (accessed January 30, 2013), art. 4(c); Fourth World Conference on Women, Report of the Fourth World Conference on Women ("Beijing Declaration and Platform for Action"), Beijing, 4-15 September 1995, A/CONF.177/20, October 17, 1995, , http://www.un.org/esa/gopher-data/conf/fwcw/off/a--20.en (accessed September 20, 2012), para. 124 (b); Inter-American Court of Human Rights, Velásquez-Rodríguez Case, Judgment of July 29, 1998, Inter-Am. Ct.H.R., (Ser. C) No. 4 (1988), para. 172.

[214] Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Canada on December 13,1991, http://www2.ohchr.org/english/law/crc.htm (accessed December 15, 2012), art. 19.

Determining whether Canada has exercised due diligence in this context requires assessing the government's performance of a number of duties. Chief among these is the duty to investigate cases of violence against women and girls. An effective investigation, according to international human rights tribunal case law, is one capable of leading to the identification and punishment of those responsible.[215] Police omission of basic steps like interviewing key witnesses or following up on tips limits the effectiveness of an investigation. International standards also apply to how authorities should treat victims and their families in the course of investigations. The Inter-American Commission on Human Rights (IACHR) has commented on the need for those involved to have access to information about the progress of an investigation[216] and to be treated with respect by authorities. [217] Young victims and witnesses are due particular attention and support appropriate to their age to avoid further trauma.[218] Victim-blaming in particular can alienate people from the justice system and deprive them of redress for violence. [219] The UN special rapporteur on violence against women recommends training of law enforcement personnel to sensitize them to the needs of women as one component of due diligence.[220]

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[215] See amongst others, the European Court of Human Rights' (ECHR) decisions in *Kaya v. Turkey*, judgment of 19 February 1998, (1998) Reports 1998-I, para. 107; *Hugh Jordan v. the United Kingdom*, judgment of 4 May 2001, no. 24746/94, ECHR 2001-III (extracts), para. 107; *Finucane v. the United Kingdom*, judgment of 1 July 2003, no. 29178/95, ECHR 2003-VIII, para. 69; *Isayeva v. Russia*, judgment of 24 February 2005, no. 57950/00, para. 212; *Adali v. Turkey*, judgment 31 March 2005, no. 38187/97, para. 223; all ECHR decisions available at http://www.echr.coe.int/ECHR/EN/Header/Case-Law/Decisions+and+judgments/HUDOC+database/.

[216] IACHR, Application filed with the Inter-American Court of Human Rights in the case of Campo Algodonero: Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez (Cases 12.496, 12.497, 12.498) against the United Mexican States, November 4, 2007, http://www.oas.org/en/iachr/decisions/cases.asp (accessed December 15, 2012), para. 281: "The victims' next of kin should have full access and the capacity to participate in all the stages and instances of said investigations, in accordance with domestic law and the norms of the American Convention." Inter-American Court of Human rights, González et al. ("Cotton Field") v. Mexico, Judgment of November 16, 2009, Inter-Am.Ct.H.R., (Ser. C) No. 205 (2009), para. 424.

[217] IACHR, "Access to Justice for Women Victims of Violence in the Americas," OEA/Ser.L/V/II, Doc. 68, January 20, 2007, http://www.cidh.org/women/Access07/chap2.htm (accessed December 15, 2012), para. 134.

[218] See Economic and Social Council, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Resolution E/RES/2005/20, July 22, 2005, www.un.org/en/ecosoc/docs/2005/resolution%202005-20.pdf (accessed October 11, 2012), preambulatory para. 6. In addition, article 7(a) recognizes girls' particular vulnerability.

[219] IACHR, "Access to Justice for Women Victims of Violence in the Americas," OEA/Ser.L/V/II, Doc. 68, January 20, 2007, http://www.cidh.org/women/Access07/chap2.htm (accessed December 15, 2012), para. 135.

[220] UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Indicators on violence against women and State response, A/HRC/7/6, January 29, 2008, http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx (accessed December 15, 2012), paras. 110-111.

Holding police officers to account for demonstrating that sensitivity and following through with effective investigations constitutes another complementary piece.[221]

Effective and conscientiously conducted investigations serve a broader preventative function as well. They may not only prevent future crimes by the specific perpetrator, they signal to the community that violence against women and girls will not be tolerated. In contrast, police apathy in cases involving violence against women and girls – or violence against certain groups of women and girls – sends a message that such behavior is accepted and will carry no consequence for perpetrators.[222] It may, in effect, encourage the targeting of certain groups for violence. For this reason, in evaluation after evaluation of Canada's human rights record, expert bodies have called on Canada to fully investigate the murders and disappearances of indigenous women and girls, and to examine the reasons that full, transparent, and accountable investigations did not proceed from the outset.[223] Project E-Pana, an investigation into the Highway of Tears cases, and the Missing Women's Commission of Inquiry in British Columbia represent important efforts to heed those calls. However, there remains a clear need for a broader examination of police handling of

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[221] IACHR, Application filed with the Inter-American Court of Human Rights in the case of Campo Algodonero: Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez (Cases 12.496, 12.497, 12.498) against the United Mexican States, November 4, 2007, http://www.oas.org/en/iachr/decisions/cases.asp (accessed December 15, 2012), para. 156; UN General Assembly, "Declaration on the Elimination of Violence Against Women," Resolution A/RES/48/104, December 20, 1993, www.un.org/documents/ga/res/48/a48r104.htm (accessed October 3, 2012), art. 4(c), (f), and (i).

[222] IACHR, Maria Da Penha Maia Fernandes (Brazil), Case 12.051, Report no. 54/01, April 16, 2001, http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Merits/Brazil12.051.htm (accessed December 16, 2012), para. 55.

[223] UN Committee on the Rights of the Child, "Consideration of reports submitted by States parties under article 44 of the Convention Concluding Observations Canada," CRC/C/CAN/CO/3-4, October 5, 2012, http://www2.ohchr.org/english/bodies/crc/crcs61.htm (accessed October 15, 2012), paras. 48 and 49(b); UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, "Consideration of reports submitted by States parties under article 19 of the Convention Concluding observations of the Committee against Torture Canada," CAT/C/CAN/CO/6, June 25, 2012, http://www2.ohchr.org/english/bodies/cat/cats48.htm (accessed December 16, 2012), para. 20; UN Committee on the Elimination of Racial Discrimination, "Consideration of reports submitted by States parties under article 9 of the Convention Concluding observations of the Committee on the Elimination of Racial Discrimination," CERD/C/CAN/CO/19-20, March 9, 2012, http://www2.ohchr.org/english/bodies/cerd/cerds80.htm (accessed October 29, 2012), para. 17(b); UN Human Rights Council, Report of the Working Group on the Universal Periodic Review Canada, A/HRC/11/17*, (Eleventh Session, 2009), http://www.ohchr.org/EN/HRBodies/UPR/Pages/CASession4.aspx (accessed September 21, 2012), paras. 86 (33), (35), and (36); UN Committee on the Elimination of Discrimination against Women, "Concluding observation of the Committee on the Elimination of Discrimination against Women Canada," CEDAW/C/CAN/CO/7, November 7, 2008, http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CAN-CO-7.pdf (accessed October 18, 2012), paras. 32 and 53; UN Human Rights Committee, "Consideration of reports submitted by states parties under article 40 of the Covenant Concluding observations of the Human Rights Committee Canada," CCPR/C/CAN/CO/5, April 20, 2006, http://www2.ohchr.org/english/bodies/hrc/hrcs85.htm (accessed October 22, 2012), para. 23.

violence against indigenous women and girls that provides for the meaningful participation of indigenous communities in identifying past failures and searching for solutions.

For these and all efforts aimed at addressing violence against women and girls, accurate data on the scope of the problem is essential.[224] Collecting comprehensive data on violence against women and girls is a key part of the government's due diligence obligation.[225] The Committee on the Elimination of Discrimination against Women commended Canada for funding the NWAC Sisters in Spirit data Initiative, which tracked cases of missing and murdered indigenous women across Canada. However, as detailed in the background section of this report, funding for that data initiative has since ended and it is not clear that data collection by the police will adequately track the specific number of murders and disappearances of indigenous women. The absence of race-disaggregated data will obscure the racial dimensions of the violence and inhibit efforts to identify discrimination in efforts to prevent and respond to violence.

Broader prevention efforts are also required that address domestic and sexual violence. The Declaration on the Elimination of Violence Against Women calls on governments to "[d]evelop, in a comprehensive way, preventative approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions."[226] The Canadian government has made some efforts in this regard but has yet to develop a national action plan to address the high levels of violence against indigenous women and girls.

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[224] UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Indicators on violence against women and State response, A/HRC/7/6, January 29, 2008, http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx (accessed December 15, 2012), paras. 20, 21.

[225] Ibid, para. 30; UN Commission of Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, The Due Diligence Standard as a Tool for the Elimination of Violence Against Women," E/CN.4/2006/61, January 20, 2006, http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/PDF_UN_Sp_Rapp_report_due_diligence_standard.pdf (accessed December 16, 2012), para. 32.

[226] UN Declaration on the Elimination of Violence Against Women, December 20, 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), www.un.org/documents/ga/res/48/a48r104.htm (accessed January 30, 2013), art. 4(f).

## The Responsibility to Protect the Rights of Persons in Custody

Women and girls taken into custody by the RCMP do not lose their fundamental rights. The International Covenant on Civil and Political Rights (ICCPR) provides that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."[227] The Human Rights Committee, which oversees the implementation of the ICCPR, has explained that governments have a positive obligation to see that individuals in custody suffer no "hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all of the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment."[228] Police brutality and risk of custodial sexual abuse, in addition to constituting criminal acts under Canadian law, violate those rights and in some cases may constitute torture or cruel, inhuman, or degrading treatment prohibited under the Convention against Torture.[229]

In addition to addressing the absolute prohibition on rape and sexual assault of persons in detention, international human rights bodies have specifically addressed the subject of body searches in custody. The Human Rights Committee has determined that preserving prisoners' rights to privacy necessitates that body searches by government authorities or medical personnel should only be conducted by persons of the same sex.[230] Under the UN

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[227] ICCPR, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 10(1).

[228] UN Human Rights Committee, General Comment No. 21, Replaces general comment 9 concerning humane treatment of persons deprived of liberty (Art. 10)," U.N. Doc. A/47/40 (1992), http://www2.ohchr.org/english/bodies/hrc/comments.htm (accessed January 23, 2012), para. 3.

[229] *Criminal Code*, RSC 1985, c C-46, s 271-273; UN Committee Against Torture (CAT) decision in *V.L. v. Switzerland* found that "sexual abuse [multiple rapes and other acts] by the police in this case constitutes torture even though it was perpetrated outside formal detention facilities," (CAT/C/37/D/262/2005, November 20, 2006, http://www.unhcr.org/refworld/docid/47975afd21.html (accessed December 16, 2012), para. 8.10); Inter-American Court of Human Rights, Raquel Martí de Mejía Case, Case 10.970, annual report 1995, OEA/Ser.L/V/II.91. Doc. 7. rev., endnotes, p. 9 (Report No. 5/96, Inter-Am.C.H.R., OEA/Ser.L/V/II.91 Doc. 7 (1996)), see http://www.cidh.org/annualrep/95eng/Peru10970.htm (accessed December 16, 2012), endnote 47; and UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development, Summary, A/HRC/7/3, January 15, 2008, http://ap.ohchr.org/documents/dpage_e.aspx?m=103 (accessed December 16, 2012), para. 34.

[230] UN Human Rights Committee, General Comment 16, The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17), U.N. Doc. HRI/GEN/Rev.9 (Vol. 1) (2008), http://www2.ohchr.org/english/bodies/hrc/comments.htm (accessed December 16, 2012), para. 8.

Standard Minimum Rules for the Treatment of Prisoners, women prisoners are to "be attended and supervised only by women officers."[231] The Committee on the Elimination of Discrimination against Women has called on Canada to "discontinue the practice of employing male guards as front-line staff in women's institutions" and to "ensure that girls are not held in mixed-sex youth prisons or detention centres."[232] Although this report concerns searches in holding cells and on the streets, rather than long-term imprisonment, the privacy concerns in these contexts are similar.

Specific protections apply to children in custody. As a preliminary matter, children should be deprived of their liberty only as a last resort.[233] According to the Committee on the Rights of the Child, "respect for the dignity of the child requires that all forms of violence in the treatment of children in conflict with the law must be prohibited and prevented"[234] and protection from violence must "extend to their contacts with police officers, as well as to custodial institutions and any other place of detention…"[235] The committee recently expressed concern that law enforcement in Canada lacked understanding and training on the Convention on the Rights of the Child.[236] When girls are taken into custody, international standards require that authorities provide for their specific protection needs, including protection from physical, sexual, and emotional abuse and exploitation.[237]

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[231] UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, http://www2.ohchr.org/english/law/treatmentprisoners.htm (accessed October 2, 2012), Rule 53(3).

[232] UN Committee on the Elimination of Violence against Women, "Concluding observation of the Committee on the Elimination of Discrimination against Women Canada," CEDAW/C/CAN/CO/7, November 7, 2008, http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CAN-CO-7.pdf (accessed October 18, 2012), para. 34.

[233] UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted December 14, 1990, G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990), http://www.un.org/Depts/dhl/resguide/r45.htm (accessed September 20, 2012), Rule 2.

[234] UN Committee on the Rights of the Child, General Comment No. 10 (2007), Children's rights in juvenile justice, U.N. Doc. CRC/C/GC/10, April 25, 2007, http://www2.ohchr.org/english/bodies/crc/comments.htm (accessed September 18, 2012), para. 13.

[235] UN Committee on the Rights of the Child, Day of General Discussion, "State Violence Against Children," CRC/C/97 (Twenty-fifth session, 2000), http://www2.ohchr.org/english/bodies/crc/discussion.htm (accessed September 18, 2012), p. 3.

[236] UN Committee on the Rights of the Child, "Consideration of reports submitted by States parties under article 44 of the Convention Concluding Observations Canada," CRC/C/CAN/CO/3-4, October 5, 2012, http://www2.ohchr.org/english/bodies/crc/crcs61.htm (October 15, 2012), para. 26.

[237] UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 87(d); UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), approved by the Economic and Social

Women and girls who feel that their rights have been violated while in government custody should have recourse to an effective complaint mechanism. The Convention against Torture provides that an individual alleging torture must have the "right to complain to, and to have his case promptly and impartially examined by, its competent authorities" and be protected against retaliation.[238] Under the ICCPR, individuals whose civil and political rights have been violated have a right to an effective remedy "notwithstanding that the violation has been committed by persons acting in an official capacity."[239] Further, principles developed by the United Nations regarding use of force, state that "Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process."[240]

## The Responsibility to Address Discrimination

The disproportionate rates of violence against indigenous women and girls, as well as the socio-economic indicators and historical context that predispose those same women and girls to be at an increased risk for police abuse, call for an examination of the government's fulfillment of its duties to address discrimination.

Canada is party to a number of treaties that prohibit discrimination on the basis of race and sex, among other protected categories. The International Convention on the Elimination of Racial Discrimination, ratified by Canada in 1970, requires states to prohibit and eliminate racial discrimination and to guarantee equality before the law, particularly with regard to the "right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution."[241] Like many of the community service providers who spoke with Human Rights Watch, the Committee on the Elimination of Racial Discrimination has recommended that

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Council by its resolution 2010/16 of July 22, 2010, www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf (accessed October 9, 2012), Rule 36.

[238] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), art. 13.

[239] ICCPR, art. 2.

[240] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by theEighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990), Principle 23.

[241] International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, http://www2.ohchr.org/english/law/cerd.htm(accessed January 30, 2013), art. 5(b).

Canada "take effective measures to provide culturally-sensitive training for all law enforcement officers, taking into consideration the specific vulnerability of aboriginal women and women belonging to racial/ethnic minority groups to gender-based violence."[242] Also instructive is the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)[243]. The UNDRIP states that governments "shall 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."[244] The need for joint action between government and indigenous organizations in Canada has been emphasized by indigenous groups, women's groups, and human rights organizations, which fault the government for failing to develop a comprehensive national action plan to respond to the violence.

The government has a responsibility to address any differential treatment of indigenous women and girls by law enforcement and the criminal justice system, especially when the over-policing of indigenous women and girls is linked to incidents of police abuse. In 2012, the Committee on the Elimination of Racial Discrimination expressed concern "at the disproportionately high rates of incarceration of Aboriginal people including Aboriginal women, in federal and provincial prisons across Canada" and recommended that the government "reinforce measures to prevent excessive use of incarceration of indigenous peoples."[245]

The violence against indigenous women and girls is integrally linked to the social and economic disadvantages that are the product of years of structural discrimination. The

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[242] Committee on the Elimination of Racial Discrimination, "Consideration of reports submitted by states parties under article 9 of the Convention Concluding observations of the Committee on the Elimination of Racial Discrimination Canada," CERD/C/CAN/CO/18, May 25, 2007, http://www2.ohchr.org/english/bodies/cerd/cerds70.htm (accessed October 22, 2012), para. 20.

[243] Canada issued a statement formally endorsing the UNDRIP on November 12, 2010, after voting against its passage in September 2007 at the UN General Assembly (Aboriginal Affairs and Northern Development Canada, "Canada's Endorsement of the United Nations Declaration on the Rights of Indigenous Peoples," May 2, 2012, http://www.aadnc-aandc.gc.ca/eng/1309374807748/1309374897928 (accessed December 16, 2012).

[244] United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted September 13, 2007, G.A. Res. 61/295, U.N. Doc. A/61/L.67 and Add.1 (2007), www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf *(accessed January 30, 2013),* art. 22(2).

[245] UN Committee on the Elimination of Racial Discrimination, "Consideration of reports submitted by States parties under article 9 of the Convention Concluding observations of the Committee on the Elimination of Racial Discrimination Canada," CERD/C/CAN/CO/19-20, March 9, 2012, http://www2.ohchr.org/english/bodies/cerd/cerds80.htm (accessed October 29, 2012), para. 12.

responsibility for addressing these social and economic disadvantages falls squarely within the state's international legal commitments to address discrimination and to fulfill the rights to work and education, social security, and an adequate standard of living, which are set out in the International Covenant on Economic, Social and Cultural Rights, ratified by Canada in 1976.[246] The House of Commons Standing Committee on the Status of Women observed that "addressing the violence against Aboriginal women will require interventions on a number of fronts in a strategic, coordinated effort" and cited to article 21(1) of the UN Declaration on the Rights of Indigenous Peoples: "Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining housing sanitation, health and social security."[247] The Committee on the Elimination of Discrimination against Women in its 2008 Concluding Observations has urged Canada to "develop a specific and integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves….including poverty, poor health, inadequate housing, low school completion rate, low employment rates, low income and high rates of violence…"[248] Similar recommendations have been made by the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Racial Discrimination.[249] In 2009, during its first Universal Periodic Review by the United Nations Human Rights Council, recommendations were made to Canada to "study and address the root causes of domestic violence against women, in particular Aboriginal women" and to "take measures to combat socioeconomic discrimination, which is a cause

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[246] International Covenant on Economic, Social and Cultural Rights, 19 December 1966, 993 *U.N.T.S.* 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976) [ICESCR], http://www.unhchr.ch/html/menu3/b/a_cescr.htm (accessed December 19, 2012).

[247] Government of Canada, House of Commons Standing Committee on the Status of Women, "Interim Report Call into the Night: An Overview of Violence Against Aboriginal Women," March 2011, 40th Parl., 3rd sess., http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5056509&Language=E&Mode=1&Parl=40&Ses=3 (accessed September 26, 2012), p. 10.

[248] UN Committee on the Elimination of Violence against Women, "Concluding observation of the Committee on the Elimination of Discrimination against Women Canada," CEDAW/C/CAN/CO/7, http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CAN-CO-7.pdf (accessed January 30, 2013), paras. 43-46.

[249] Committee on Economic, Social, and Cultural Rights, "Consideration of Reports Submitted by States Parties under articles 16 and 17 of the Covenant Concluding Observations, Canada," E/C.12/CAN/CO/4, E/C.12/CAN/CO/5, May 22, 2006, (accessed December 19, 2012), http://www2.ohchr.org/english/bodies/cescr/cescrs36.htm, para. 11(d), 15, 26; Committee on the Elimination of Racial Discrimination, "Consideration of Reports Submitted under article 9 of the Covenant, Concluding Observations, Canada," CERD/C/CAN/CO/18, May 25, 2007, http://www2.ohchr.org/english/bodies/cerd/cerds70.htm (accessed December 19, 2012), para. 21.

of continuous violence against Aboriginal women…"[250] Improvements to the criminal justice system's response to missing and murdered indigenous women and girls in Canada should be coupled with improvements in access for indigenous women and girls to adequate incomes, housing, food, water, education, and job opportunities.

[250] "Database of Recommendations: Canada," *UPR.info*, undated, http://www.upr-info.org/database/index.php?limit=0&f_SUR=31&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=25&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly (accessed December 18, 2012).

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# THOSE WHO TAKE US AWAY

## Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada

More than 582 indigenous women and girls have gone missing or been murdered across Canada over the last five decades. Indigenous women are almost seven times more likely to be murdered than non-indigenous Canadian women. *Those Who Take Us Away* documents the double failure of policing by the Royal Canadian Mounted Police (RCMP) in the western province of British Columbia: the failure to protect indigenous women and girls from violence and the responsibility of the police for abusive practices and behavior, including excessive use of force, and physical and sexual assault.

The report also documents the weakness of police oversight mechanisms. Complaints lodged with the Commission for Public Complaints against the RCMP are likely to be investigated by the RCMP itself or an external police force. A recently established provincial mechanism for civilian investigation of police misconduct offers some promise, but the office's mandate excludes investigations of rape and sexual abuse. Fear of retaliation from police runs high, and the apparent lack of genuine accountability for police abuse adds to long-standing tensions between the police and indigenous communities.

To address the high levels of violence against indigenous women and girls, Canada should establish an inclusive national public commission of inquiry into the murders and disappearances of indigenous women and girls. British Columbia should expand the mandate of the civilian Independent Investigations Office to include authority to investigate allegations of sexual assault by police. Among other steps, the RCMP, in cooperation with indigenous communities, should expand training for police officers to counter racism and sexism in the treatment of indigenous women and girls.

*Highway 16, sometimes referred to as "the Highway of Tears" in recognition of the women and girls who have gone missing or been murdered in its vicinity, in northern British Columbia. July 2012.*

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