

**FINAL WRITTEN SUBMISSION  
TO  
THE NATIONAL INQUIRY INTO MISSING AND MURDERED  
INDIGENOUS WOMEN AND GIRLS**

**Filed on Behalf of:  
New Brunswick Aboriginal Peoples Council  
&  
Native Council of Nova Scotia**

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# Written Closing Submission to the National Inquiry into Missing and Murdered Indigenous Women and Girls

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## 1. Background: Who We Are

[1] Since 1971, Native Councils have represented the interests of non-status Indians and Métis across Canada.<sup>1</sup> While we are all Indigenous, historically, some of us have not always been recognized under the law as Indian people. To achieve this, the Canadian government has employed various methods, including the Indian Register under the *Indian Act*.<sup>2</sup> When the government sought to register all Indian people, a large number did not register. Some did not know they were supposed to register, others were afraid to acknowledge their heritage, and some were deliberately left off the registry. They and their children were therefore not entitled. Some people were voluntarily and involuntarily enfranchised.<sup>3</sup> One of the more familiar ways that a person became a non-Indian pertains to status women marrying non-status men and the children who were born from these marriages.<sup>4</sup> The policy result was to deny needed assistance through the creation of a new class of non-status Indian or the “forgotten Indian.”<sup>5</sup>

[2] Many non-status women lobbied governments to repeal the resulting discriminatory practices and policies of the Department of Indian and Northern Affairs. In 1985, after many years of pressure, the Canadian government attempted to fix the damage the *Indian Act* had caused. Bill C-31<sup>6</sup> enabled those who were negatively impacted by section 12(1)(b) of the *Indian Act* and their first generation of children to register as status Indians.<sup>7</sup> However, the change did not address other discriminatory practices of the *Indian Act* and how it applied to the Indigenous people who live off-reserve.<sup>8</sup> While many who were non-status in the early 1970s are today registered Indians, most continue to live off-reserve and are still represented by Native Councils.<sup>9</sup> Today, over 70%

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<sup>1</sup> See “Our Mandate”, online: *Congress of Aboriginal Peoples* <abo-peoples.org/our-mission/>.

<sup>2</sup> RSC 1985, c I-5, ss 2, 5.

<sup>3</sup> See e.g. Canada, *Report of the Royal Commission on Aboriginal Peoples*, vol 1 (Ottawa: RCAP, October 1996) at 263–65, online (pdf): <data2.archives.ca/e/e448/e011188230-01.pdf> [RCAP, vol 1].

<sup>4</sup> *Ibid* at 276–79; Canada, *Report of the Royal Commission on Aboriginal Peoples*, vol 4 (Ottawa: RCAP, October 1996) at 22–23, online (pdf): <data2.archives.ca/e/e448/e011188230-04.pdf> [RCAP, vol 4].

<sup>5</sup> G. P. Gould & A. J. Semple, *Our Land: The Maritimes* (Fredericton: Saint Annes Point Press, 1980).

<sup>6</sup> *An Act to Amend the Indian Act*, SC 1985, c 27, amending RSC 1985, c I-5.

<sup>7</sup> See *Indian Act*, *supra* note X, ss 6(1)–6(2); see also RCAP, vol 1, *supra* note 3 at 280; RCAP, vol 4, *supra* note 3 at 32–34.

<sup>8</sup> See e.g. RCAP, vol 1, *supra* note 3 at 280–83; RCAP, vol 4, *supra* note 3 at 32–34.

<sup>9</sup> See e.g. RCAP, vol 4, *supra* note 3 at 34.

of Indigenous peoples live off-reserve<sup>10</sup> and nearly 24% of First Nations people do not have status.<sup>11</sup> Despite non-status people making up nearly one quarter of the First Nations population and the majority of Indigenous people in Canada living off-reserve, these groups are often ignored or forgotten by the Canadian government and people in Canada. They are disadvantaged and denied the necessary material benefits to manage their affairs. They also face consistent erasure due to a disproportionate focus by Canadian settlers on Indigenous reserve communities. This makes non-status and off-reserve people extremely vulnerable to violent victimization. In its decision in *Daniels*,<sup>12</sup> the Supreme Court of Canada recognized that non-status Indians and Métis people are “Indians” under section 91(24) of the *Constitution Act, 1867*,<sup>13</sup> and therefore the federal government is responsible for legislation about them.<sup>14</sup> The Court also recognized that the law is settled “that the Crown owes a fiduciary duty to Métis and non-status Indians”<sup>15</sup> and has a duty to consult with all Aboriginal peoples when their rights are impacted.<sup>16</sup> The continued under-service and ignoring of off-reserve and non-status Indigenous people is unacceptable.

[3] Founded in 1972, the New Brunswick Aboriginal Peoples Council (NBAPC) constitutes a community of Aboriginal people, both status and non-status, who live off-reserve in New Brunswick. NBAPC is duly mandated to protect the right of off-reserve Indigenous people to have direct representation to government, exemplifying self-government practices. Furthermore, NBAPC defines and enforces its own membership base. Membership is required before an Indigenous person in New Brunswick can be active politically in the Council and receive certain benefits, programs and services. Membership is based on ancestral connection, genetic or not, to

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<sup>10</sup> Of the 1,673,785 people reporting Aboriginal identity in the 2016 Census, 1,334,190 (79.7%) live off-reserve. See Statistics Canada, *Census of the Population, 2016*, Catalogue No 98-400-X2016154 (Ottawa: Statistics Canada, last modified 16 January 2018); see also Appendix I: Indigenous Population by Residence and Region, Census 2016.

<sup>11</sup> See Canada, Statistics Canada, *Aboriginal Peoples in Canada: Key results from the 2016 Census*, (Ottawa: Statistics Canada, last modified 25 October 2017), at “First Nations population growing both on and off reserve”, online: <[www150.statcan.gc.ca/n1/daily-quotidien/171025/dq171025a-eng.htm](http://www150.statcan.gc.ca/n1/daily-quotidien/171025/dq171025a-eng.htm)>.

<sup>12</sup> *Daniels v Canada (Indian Affairs and Northern Development)*, 2016 SCC 12 [*Daniels*].

<sup>13</sup> (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, Appendix II, No 5.

<sup>14</sup> See *Daniels*, *supra* note X at paras 19, 46, 50.

<sup>15</sup> *Ibid* at para 53.

<sup>16</sup> *Ibid* at paras 54, 56.

a verified and known Indigenous person since July 1, 1867.<sup>17</sup> In addition, applicants must be recognized by a local community prior to membership review.<sup>18</sup> Since its inception, NBAPC has offered long-term programs such as housing, food and commercial fishing assistance, economic development, education, and employment training.

[4] The Native Council of Nova Scotia (NCNS) advocates for a united voice between all First Nations, Métis, and Inuit people in Nova Scotia.<sup>19</sup> As an elected body, the NCNS respects traditional Mi'kmaq governance, maintaining the relationship with the Community's ancestral homelands.<sup>20</sup> Through province-wide programming, political advocacy and collaboration with regional, national and international organizations, the NCNS's objective is to improve the social, economic and political conditions of Mi'kmaq and Aboriginal Peoples in Nova Scotia.<sup>21</sup> All services are developed and implemented by and for the community.

**Recommendation 1:** We call on federal and provincial governments to correct their practices of erasure of non-status and off-reserve Indigenous people and to consult with all Indigenous people including through the five national organizations<sup>22</sup> and their provincial affiliates.

## 2. Research Contributions of the NBAPC

[5] The NBAPC initiated a research and community action project titled "*Looking out for Each Other*" (LOFEO). This project is designed to enhance collective understanding of cases involving missing and murdered Indigenous women, girls, and sexual and gender minorities in Eastern Canada, with a particular focus on off-reserve. The objective is to provide concrete and effective assistance to families and friends when an Indigenous person goes missing by supporting Indigenous communities and organizations through collaboration as well as access to services and resources. Activities include the provision of culturally safe opportunities for families, friends, and

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<sup>17</sup> See Julia Hughes & Roy Stewart, "Urban Aboriginal People and the Honour of the Crown – A Discussion Paper" (2015) 66 UNBLJ 263 at 287.

<sup>18</sup> *Ibid.*

<sup>19</sup> See "Our Resolve", online: *Native Council of Nova Scotia* <[ncns.ca/about/our-resolve/](http://ncns.ca/about/our-resolve/)>.

<sup>20</sup> *Ibid.*

<sup>21</sup> See "Our Destiny", online: *Native Council of Nova Scotia* <[ncns.ca/about/our-destiny/](http://ncns.ca/about/our-destiny/)>.

<sup>22</sup> The five National Aboriginal Organizations are the Assembly of First Nations (AFN), the Congress of Aboriginal Peoples (CAP), the Inuit Tapiriit Kanatami (ITK), the Métis National Council (MNC), and the Native Women's Association of Canada (NWAC). See "Resources", online: *Indigenous Works* <[indigenousworks.ca/en/resources/indigenous-organizations](http://indigenousworks.ca/en/resources/indigenous-organizations/)>.

communities to share their stories and experiences in dealing with the law, media and justice systems when a loved one has experienced abuse, gone missing or was murdered.<sup>23</sup> Information gathered is being used to support the development of culturally appropriate resources and supports at the community level. The stories provide valuable information in our work with legal clinics and law firms to provide services to people seeking legal supports, with policing services to ensure that risk assessment protocols and tools are responsive to the needs of Indigenous missing persons and their loved ones, and with media toward more helpful and non-discriminatory reporting practices. We are also working with a team of researchers at the University of New Brunswick, Université du Québec à Montreal, St. Thomas University, Memorial University of Newfoundland, Mount Saint Vincent University, Kings College, and Dalhousie University to respond to community-identified gaps in practices, policies, media, and policing and develop tools and resources in collaboration with communities and organizations to assist them to address victimization and loss.

[6] Throughout the National Inquiry, many have identified systemic discrimination at the heart of the MMIWG tragedies; NBAPC has drawn particular attention to the Indigenous people who live off-reserve. As we heard throughout the Inquiry, many experts are still unaware of how many people live off-reserve and who represents them. NBAPC continues to hope for an Inquiry that is inclusive of the lived realities and perspectives of Indigenous peoples who live off-reserve. We hope the recommendations that the Inquiry puts forward will not reflect this misunderstanding. Therefore, to assist the Inquiry, at this late stage, to adequately understand and address the realities for the many MMIWG and their families and communities, the NBAPC respectfully makes this submission on our behalf as well as on behalf of the NCNS, with whom we have collaborated in preparing the submission. We humbly thank those who participated in this Inquiry for their dedication and for sharing their stories, expertise, and time. We have compiled the following submission and organized it thematically. The topics addressed recognize the crucial role that police services, the criminal justice system, and child and family services play in preventing, responding to, and supporting the loved ones of missing and murdered Indigenous women and girls. We highlight the fact that urban and rural Indigenous people who live off-reserve often have

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<sup>23</sup> See “Looking Out For Each Other: Sharing Circles for Families, Friends, and Communities of Missing and Murdered Indigenous Women”, online (pdf): *New Brunswick Aboriginal Peoples Council* <[nbapc.org/wp-content/uploads/2018/05/LOFEO\\_sharing-circle-brochure.pdf](http://nbapc.org/wp-content/uploads/2018/05/LOFEO_sharing-circle-brochure.pdf)>.

different experiences and needs from Indigenous people who live on-reserve, and that one-size-fits-all responses are inadequate for addressing the realities of the various Indigenous peoples in Canada. The obligation to engage does not only rest with governments, their organizations, and their various initiatives. The exclusion and omission of off-reserve Indigenous people by researchers and educators is similarly unacceptable. This is, in part, because when populations are not included in research, their existence and needs become or remain easy to ignore.

**Recommendation 2:** We call on researchers, educators and policy makers in Canada to collaborate with Native Councils and Friendship Centres to focus on off-reserve populations in research, training, service provision, and government programming and to cease perpetuating the false idea that Indigenous people only live on reserves.

### **3. The Relationship Between Indigenous Populations and Police, the Criminal Justice System, and Other Service Providers**

#### 3.1. Lack of trust in non-Indigenous institutions and services

[7] Our research with Indigenous communities in eastern Canada through the LOFEO project has shown that mistrust permeates the interactions that Indigenous people have with non-Indigenous institutions and services such as police and child welfare services.<sup>24</sup> We have heard from many that they neither trust these institutions, nor do they see a path going forward that would allow a trusting relationship to be built.

[8] Moreover, we have heard that some people view the measures that have been taken by institutions, such as hiring more Indigenous employees and requiring cultural competency training, as superficial changes rather than genuine interest and progress in improving how the institutions interact with Indigenous peoples. This perception is important to recognize because even genuine efforts will not lead to improved, trusting relationships if Indigenous people do not believe that the institutions are interested in changing. It will therefore be difficult and will take considerable time and effort to regain the goodwill that has been lost through mistreatment and systemic discrimination. Institutions should expect resistance, frustration, and continued distrust from Indigenous individuals and communities, but should nonetheless be committed to the sustained

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<sup>24</sup> See e.g. Marilyn Dupré et al, “Let’s Get it Right: Creating a Culturally Appropriate Training Module and Identifying Local Urban Aboriginal Resources for Non-Aboriginal Caregivers of Aboriginal Children in New Brunswick” (August 2018) at 18, online (pdf): *Urban Aboriginal Knowledge Network* <uakn.org/wp-content/uploads/2016/02/Lets-Get-It-Right-FINAL-Report-Oct-2-1.pdf>.



efforts required to improve institutional attitudes and interactions with Indigenous people. This challenging work must be done to truly work towards reconciliation and to address the crisis of missing and murdered Indigenous people in general, and Indigenous women, girls, and sexual and gender minorities in particular.

**Recommendation 3:** We call on all Canadian settler institutions to demonstrate through sustained and vigorous efforts that they are dedicated to acknowledging and correcting systemic wrongs committed against Indigenous people.

### 3.2. Unfair onus on Indigenous people to explain culture, social and historical context

[9] Our research has shown that due to a lack of knowledge held by settler Canadians about Indigenous populations in Canada, Indigenous people are perpetually placed in a position of having to educate settler service providers about Indigenous culture, social context, and historical relations when seeking services or navigating the justice system. This can result in repetitive re-traumatization. It forces Indigenous people to explain and relive painful systemic experiences in order to teach non-Indigenous people about the current realities of systemic discrimination. They may even have to educate service providers about how to provide culturally appropriate and effective services in moments of high vulnerability as they seek to access services. It also results in service providers spending less time providing actual services and resources to Indigenous clients due to the time these clients spend educating the providers about their needs.

**Recommendation 4:** We call on service providers to improve their knowledge base to enable informed service provision without requiring additional work by Indigenous people seeking services. Efforts to improve awareness of the history and current circumstances and contexts of Indigenous people must include a significant focus on off-reserve and non-status Indigenous people. They should also include education about the history of Indigenous-settler relations and should emphasize that understanding the history is important and relevant to interactions between Indigenous people and settler individuals and institutions today.

[10] It is further apparent that settler organizations and federal and provincial governments are putting much of the work of righting historical and systemic wrongs on the shoulders of on-the-ground service providers without providing the resource capacity to address the various forms of systemic discrimination that are entrenched in policies and service provision. Well supported professional development of frontline workers is critical to creating sustainable relationships rooted in respect for Indigenous values and to ensuring that programs and policies address actual,

rather than perceived, issues and needs.

**Recommendation 5:** We call on settler organizations and governments at all levels to support frontline workers, to make them aware of existing resources and Indigenous organizations and to encourage them to consult with Elders and grassroots organizations, such as Native Councils and Friendship Centres.

[11] Finally, progress on identified issues feels, to many, slow and half-hearted. For instance, it has been over 3 years since the Truth and Reconciliation Commission (TRC) released its 94 Calls to Action<sup>25</sup> and responses to only 10 Calls have been completed.<sup>26</sup>

**Recommendation 6:** We call on all persons, governments and organizations in Canada to persist in and accelerate their efforts to meaningfully respond to the Calls to Action of the TRC and the recommendations of this National Inquiry.

#### **4. Improving Relationships and Internal Practices in Policing**

##### 4.1. Police Consultation with Indigenous Advisory Groups

###### *4.1.1. Ensuring representation through diverse consultation*

[12] We heard through this Inquiry that the RCMP National Aboriginal Advisory Committee exists to provide advice and perspective related to policing Indigenous communities.<sup>27</sup> However, there is no permanent advisory group, which represents all Indigenous persons and guides policing services in competencies and appropriate interactions with Indigenous peoples in their jurisdiction. Due to the diversity of Indigenous populations, including diverse contexts of status and non-status, urban and rural, and on reserve and off-reserve people, Indigenous consultation is inadequate when

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<sup>25</sup> *Truth and Reconciliation Commission of Canada: Calls to Action*, (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), online (pdf): <[www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)> [*TRC Calls to Action*].

<sup>26</sup> See Beyond 94, “Beyond 94: Truth and Reconciliation in Canada” (last modified 30 November 2018), online: *CBC News* <[newsinteractives.cbc.ca/longform-single/beyond-94?&cta=1](http://newsinteractives.cbc.ca/longform-single/beyond-94?&cta=1)>.

<sup>27</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Part II Institutional Hearings: “Police Policies and Practices”*, vol 6 (Regina: NIMMIWG, 25 June 2018) at 51, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180625\\_MMIWG\\_Regina\\_Policing\\_Part\\_II\\_Volume\\_VI.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180625_MMIWG_Regina_Policing_Part_II_Volume_VI.pdf)> [*Institutional Hearings*, vol 6].

it relies on a single group or organization to represent all populations within a jurisdiction.<sup>28</sup>

**Recommendation 7:** We call on all police forces in Canada including the RCMP, provincial, and municipal police forces to commit to comprehensive outreach to local Indigenous leadership for input when developing training and policies. As the national police service, the RCMP should consult with all five National Aboriginal Organizations. Provincial and municipal police forces should consult with respective provincial affiliates. In all such consultation, it must be ensured that organizations that represent off-reserve Aboriginal people and Indigenous women are included in outreach for input.

*4.1.2. Improving community participation in policing*

[13] Our research has shown and testimony during this Inquiry has confirmed that mistrust and fear of police institutions interferes with effective policing as it prevents Indigenous people from reporting observed crimes and providing comprehensive information to investigators, which delays reporting, impairs communications in reporting and follow-up, and is traumatizing. We have also heard that police officers are fearful of Indigenous communities, resulting in aggressive policing practices and under/over policing. A lack of transparency and community interaction can increase mutual feelings of mistrust and fear between community members and police officers. For example, Inquiry testimony explained that Indigenous communities do not have real governance over the RCMP officers who are policing in their communities,<sup>29</sup> so the communities are paradoxically not consulted about or involved in the community-based policing provided by the RCMP. Greater community involvement in policing decisions will likely improve trust and confidence in police services, as well as improve the outcomes of policing.

**Recommendation 8:** We call on all police forces to consult with reserve and off-reserve communities about who is assigned to police their communities as an exercise in increased transparency and community involvement. We call on police forces to recognize that attitudinal

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<sup>28</sup> For example, in Prince Edward Island there are at least three representative organizations: the Native Council of Prince Edward Island, the Mi'kmaq Confederacy of PEI, and the Aboriginal Women's Association of PEI. See "Welcome", online: *Native Council of Prince Edward Island* <[www.ncpei.com/](http://www.ncpei.com/)>; "Home", online: *Mi'kmaq Confederacy of PEI* <[mcpei.ca/](http://mcpei.ca/)>; "Vision & Goals", online: *Aboriginal Women's Association of PEI* <[www.awapei.org/home/](http://www.awapei.org/home/)>.

<sup>29</sup> See *Institutional Hearings*, vol 6, *supra* note X at 123–24.

changes are an important aspect of increasing cultural competency and to utilize existing organizations for setting standards and developing best practices. For instance, as an organization that represents the majority of the police community in Canada, the Canadian Association of Chiefs of Police has the ability to set a tone of care and accountability for the issue of missing Indigenous persons, even without the authority to change force-specific policies.

#### 4.2. Improving Police Relationships with Family Members

[14] Our research indicates that family members whose loved one is in care, has gone missing, or has been murdered often feel unsupported by police and other services due to a lack of communication.<sup>30</sup> Testimony from this Inquiry suggests some police services are working to address this issue, for example through Missing Persons Liaison positions and by providing scheduled updates to family members about a case.<sup>31</sup>

**Recommendation 9:** We call on police forces, victim services providers, legal aid services and child protection agencies to ensure improved communication with survivors of violence, family

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<sup>30</sup> See e.g. Annie Bergeron & Alana Boileau, “*Nānīawig Māmawe Nīnawind: Stand With Us: Missing and Murdered Indigenous Women in Quebec*” (2015) at 52–55, online (pdf): *Quebec Native Women Inc.* <[www.faq-qnw.org/wp-content/uploads/2016/11/Naniawig-Mamawe-Ninawind-Stand-with-us-Oct-2016-engl-FINAL.pdf](http://www.faq-qnw.org/wp-content/uploads/2016/11/Naniawig-Mamawe-Ninawind-Stand-with-us-Oct-2016-engl-FINAL.pdf)> (lack of relationship with and communication from investigators, families feeling like a bother for asking for information); Bobbi-Jean MacKinnon & Elizabeth Fraser, “‘Another kind of pain’: Survivors, family members share grief at MMIWG hearings in N.B.” (13 February 2018), online: *CBC News* <[www.cbc.ca/news/canada/new-brunswick/mmiwg-moncton-community-hearings-1.4532664](http://www.cbc.ca/news/canada/new-brunswick/mmiwg-moncton-community-hearings-1.4532664)> (Hilary Bonnell’s family was unaware that her murderer was appealing his conviction until a reporter asked if they would be attending the hearing).

<sup>31</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Part II Institutional Hearings: “Police Policies and Practices”*, vol 8 (Regina: NIMMIWG, 27 June 2018) at 42, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180627\\_MMIWG\\_Regina\\_Policing\\_Part\\_II\\_Volume\\_VIII.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180627_MMIWG_Regina_Policing_Part_II_Volume_VIII.pdf)> [*Institutional Hearings*, vol 8]; Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Part II Institutional Hearings “Police Policies and Practices”*, vol 9 (Regina: NIMMIWG 28 June 2018) at 105–07, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180628\\_MMIWG\\_Regina\\_Policing\\_Part\\_II\\_Volume\\_IX.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180628_MMIWG_Regina_Policing_Part_II_Volume_IX.pdf)> [*Institutional Hearings*, vol 9].

members of children in care, and family members of victims, including providing updates about a loved one's wellbeing, searches for missing persons, and legal aspects of their case such as trials or parole hearings. We call on all police forces to implement a system for regularly updating family members about the status of a loved one's case, such as twice yearly, to demonstrate that the case is being taken seriously and to determine how to best assist the family, for instance with referrals to other services; and in consultation with victim services support groups to institute Indigenous Missing Persons Liaisons within police departments to provide crucial services and updates to families.

[15] Our research has shown that a further key source of mistrust, trauma and loss of confidence for families of missing and murdered Indigenous people is police misrepresentations. The inherent high stress of a missing loved one may also cause people to not hear or not remember cautions given by officers about limits in communications. We have learned that police officers are extensively trained to lie to suspects but receive no training on how to speak the truth to victims. As a result, police officers may end up interacting with families, friends and victims in a similar manner in which they have been trained to interact with suspects. Decisions about what information can be shared in an ongoing investigation are frequently made ad hoc and information about limits in communications is provided inconsistently.

**Recommendation 10:** We call on police forces to provide training on victim communications to all officers. We call on investigators in missing persons cases to proactively determine what information can safely be shared with families and friends without compromising an investigation. We call on investigators to be transparent with families and friends that not all information will be shared in order to protect the investigation, and to repeat this information when providing updates. We call on investigators to never lie to families and friends.

*4.2.1. All cases of missing Indigenous persons should be investigated*

[16] There are continuing concerns that police services are not treating reports of missing Indigenous women and girls seriously enough. For example, Pamela Fillier has stated that police did not perform a search for her daughter, Hilary Bonnell, until she used both traditional and social media to gain attention for her daughter's case and mount pressure on the RCMP to conduct a

search.<sup>32</sup>

**Recommendation 11:** We call on all police forces to ensure that all cases of missing Indigenous persons are investigated promptly.

#### 4.3. Police and Cultural Competency

##### 4.3.1. *Cultural competency and off-reserve Indigenous populations*

[17] Our research and Inquiry testimony suggests that police forces are doing work in the area of cultural competency training<sup>33</sup> but that more can be done, especially to address the needs and concerns of the over 70% of Indigenous people who live off-reserve.<sup>34</sup> Our research also shows that off-reserve urban and rural Indigenous populations are underrepresented or unevenly represented in cultural competency training, which means that police service members are not adequately trained to interact with and address the needs of the majority of Indigenous peoples in Canada. This is problematic because the transition from rural or on-reserve to urban and off-reserve living is a key period of vulnerability,<sup>35</sup> whether the move is for work, school, marriage, housing, access to services for seniors, institutionalized care for persons with disabilities, or various other reasons.<sup>36</sup>

##### 4.3.2. *Difficulties accessing services*

[18] Research has found that Indigenous peoples living off-reserve experience difficulty in accessing services.<sup>37</sup> This is due in part to mainstream service providers mistakenly believing that

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<sup>32</sup> See Tom Bateman, “The last thing we said to each other was ‘I love you’” (13 February 2018), online: *Telegraph-Journal* <[www.telegraphjournal.com/telegraph-journal/story/100511436/mmiwg-hearing-bonnell](http://www.telegraphjournal.com/telegraph-journal/story/100511436/mmiwg-hearing-bonnell)>; MacKinnon & Fraser, *supra* note X.

<sup>33</sup> See e.g. *Institutional Hearings*, vol 6, *supra* note X at 54, 70-72.

<sup>34</sup> See Statistics Canada, *Census of the Population, 2016*, *supra* note X.

<sup>35</sup> See British Columbia, *Forsaken: The Report of the Missing Women Commission of Inquiry: Executive Summary*, by The Honourable Wally T. Oppal, Commissioner (Victoria: Missing Women Commission of Inquiry, 19 November 2012), at 139–40, online (pdf): <[www.missingwomeninquiry.ca/wp-content/uploads/2010/10/forsaken-es-web-rgb.pdf](http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/forsaken-es-web-rgb.pdf)>.

<sup>36</sup> See e.g. “*Nitap Wiguaq: Personal Stories and Recommendations from Homeless Aboriginal Youth in New Brunswick*” (final report) at 25–26, 28–29, online (pdf): *New Brunswick Aboriginal Peoples Council* <[nbapc.org/wp-content/uploads/2018/11/Combined-Youth-Homelessness.pdf](http://nbapc.org/wp-content/uploads/2018/11/Combined-Youth-Homelessness.pdf)> [“*Nitap Wiguaq*”]; Mary C. Milliken, “*Kticihtwinoticik: The Wise Ones: Urban Aboriginal Seniors Integrated Framework for Programs & Services*” (April 2017) at 10–11, 13, online (pdf): *New Brunswick Aboriginal Peoples Council* <[nbapc.org/wp-content/uploads/2018/11/The-Wise-Ones-Urban-Aboriginal-Seniors.pdf](http://nbapc.org/wp-content/uploads/2018/11/The-Wise-Ones-Urban-Aboriginal-Seniors.pdf)>.

<sup>37</sup> See e.g. Lisa Jodoin, “Navigating Government Services: The ‘lived experience’ of urban Aboriginal families in Fredericton, New Brunswick” at 9–17, online (pdf): *Urban Aboriginal*

all Indigenous people should and can access services through their band, without recognizing that many Indigenous people cannot access services through a band for a variety of reasons including place of residence, band resources, mobility and often complex eligibility criteria. In particular, people who transition back and forth between living on and off-reserve often fall outside of eligibility for services in either location.<sup>38</sup> Outside of urban areas, even fewer supports and services are available, which creates additional strains for off-reserve rural Indigenous people.<sup>39</sup> Indigenous people who are not fluent in English or French experience additional difficulties in accessing services due to services generally not being offered in their language.

**Recommendation 12:** For urban Indigenous populations, we call on police services to adopt cultural competency training models based on the work of the Mi'kmaw Native Friendship Centre<sup>40</sup> in Halifax, Nova Scotia and the St. John's Native Friendship Centre<sup>41</sup> in St. John's, Newfoundland and Labrador.<sup>42</sup> Work by Quebec Native Women Inc.<sup>43</sup> and Prof. Doris Farget and her team at Université du Québec à Montréal for the LOFEO project<sup>44</sup> should also inform cultural competency efforts in this context. For off-reserve generally and rural Indigenous populations specifically, we recommend that police forces consult with Native Councils to develop cultural competency training that addresses the needs and experiences of Indigenous populations who live off-reserve and in rural areas. We recommend that governments ensure mainstream services, such as victims' services, counselling, legal aid, community policing, and major crimes, are trained to provide culturally competent and appropriate services and that this training includes off-reserve

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*Knowledge Network* <[uakn.org/wp-content/uploads/2014/08/UAKN-Atlantic\\_Final-Report\\_Navigating-Government-Services1-1.pdf](http://uakn.org/wp-content/uploads/2014/08/UAKN-Atlantic_Final-Report_Navigating-Government-Services1-1.pdf)>; Dupré et al, *supra* note 7 at 19.

<sup>38</sup> See Jodoin, *supra* note 25 at 11; Dupré et al, *supra* note 7 at 19.

<sup>39</sup> See e.g. “*Nitap Wiguaq*”, *supra* note X at 15–17, 30–31.

<sup>40</sup> “Home”, online: *Mi'kmaw Native Friendship Centre* <[www.mymnfc.com/](http://www.mymnfc.com/)>.

<sup>41</sup> “Home”, online: *St. John's Native Friendship Centre* <[www.sjnfc.com/](http://www.sjnfc.com/)>.

<sup>42</sup> See Jula Hughes et al., ““Yes, We Can Look Out For Each Other’: A Capacity Study of Atlantic Community-Based Organizations to Deliver Supports to the Friends and Families of Missing Indigenous Individuals” at 20–22, online (pdf): *New Brunswick Aboriginal Peoples Council* <[nbapc.org/wp-content/uploads/2018/11/Capacity-Study-Final-10-18.pdf](http://nbapc.org/wp-content/uploads/2018/11/Capacity-Study-Final-10-18.pdf)>.

<sup>43</sup> See e.g. Bergeron & Boileau, *supra* note X.

<sup>44</sup> See e.g. Université du Québec À Montréal Research Team, “UQAM Fall Activities Report 2017” (2017), online (pdf): *New Brunswick Aboriginal Peoples Council* <[nbapc.org/wp-content/uploads/2018/11/UQAM-Fall-Activities-Report-2017-English-Version.pdf](http://nbapc.org/wp-content/uploads/2018/11/UQAM-Fall-Activities-Report-2017-English-Version.pdf)>.

and non-status Indigenous peoples.<sup>45</sup> Across the justice services spectrum, we recommend that cultural competency include offering police and criminal justice services in languages in addition to English and French and that police forces and governments recruit officers and other service providers who speak the Indigenous language of the people in the area.

#### 4.4. Institutionalizing Cultural Competency Training

##### 4.4.1. *Police hesitancy to discuss missing and murdered Indigenous women and girls*

[19] Our researchers have had reports of and have themselves encountered nervousness and non-responsiveness surrounding the issue of missing and murdered Indigenous women and girls. Attempts by our project researchers at the Memorial University of Newfoundland to speak with members of police services in Newfoundland and Labrador about cultural competency training regarding missing and murdered Indigenous women and girls have thus far been unsuccessful due to many procedural and administrative barriers.<sup>46</sup> The difficulty in obtaining interviews with police speaks to hesitancy on the part of law enforcement to discuss this topic,<sup>47</sup> which can negatively impact the relationship between police and Indigenous people. Silence about issues does not send a signal to communities or to officers that the issue is important and will be taken seriously. This can result in families feeling unsupported and unsure of where they can turn for help.

**Recommendation 13:** We call on the Chief Commissioner of the RCMP and police services leaders across the country to encourage open engagement between police forces and community members at every level on missing and murdered Indigenous women and girls.

##### 4.4.2. *Officer shortages and increased civilian employees*

[20] The RCMP is experiencing shortages of officers.<sup>48</sup> Additionally, in 2017 Statistics Canada

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<sup>45</sup> See e.g. Hughes et al., *supra* note X at 23–24; Janelle Renée Marchand, “‘Lifting Spirits’: Supporting the Psychological Resiliency of Urban Aboriginal Service Providers in Atlantic Canada” (April 2018) at 9–12, 20–26, online (pdf): *New Brunswick Aboriginal Peoples Council* <nbapc.org/wp-content/uploads/2018/11/Final-Lifting-Spirits-Final-10-18\_.pdf>.

<sup>46</sup> See Elizabeth Zarpa & Jennifer Shea, “Environmental Scan – Indigenous Cultural Competency Training within Newfoundland and Labrador the traditional territory of the Inuit, Beothuck, Innu & Mi’kmaq” (Winter 2018 Summary Report), (8 May 2018) at 8, online: *New Brunswick Aboriginal Peoples Council* <nbapc.org/wp-content/uploads/2018/11/LOFEO-MUN-Environmental-Scan-May-2018.pdf>.

<sup>47</sup> *Ibid.*

<sup>48</sup> See Laura Payton, “RCMP shortages leave Mounties in ‘crisis,’ officers say” (14 August 2017), online: *CTV News* <www.ctvnews.ca/politics/rcmp-shortages-leave-mounties-in-crisis-officers-say-1.3542190>.



found that the overall rate of police strength<sup>49</sup> has been declining in recent years while the proportion of civilian members in police services has been increasing.<sup>50</sup> As a result, civilian employees have been conducting some work that was traditionally done by sworn officers.<sup>51</sup>

#### 4.4.3. *Cultural competency training considered specialized knowledge*

[21] Our research suggests that cultural competency training is prioritized for officers who are on a career track and that this training is considered specialized. Our LOFEO research team at Memorial University found that cultural competency training for professions in law and media is not widely available and is not (yet) mandatory for members of those professions.<sup>52</sup> Instead, individuals who are already interested in receiving it seek training out.<sup>53</sup> Furthermore, a lack of advertising for available cultural competency training can prevent interested employees from accessing it.<sup>54</sup> This creates predictable competency gaps. When cultural competency training is treated as optional and specialized knowledge, there won't be people with adequate knowledge and training to bridge gaps in cultural awareness and provide effective support or service to Indigenous people when trained people are promoted or relocated.

#### 4.4.4. *Resistance to cultural competency training initiatives*

[22] There can be significant resistance to cultural competency training on the part of police services and officers, which means that implementing cultural competency training will not necessarily translate into cultural competency.<sup>55</sup> Cultural competency training is crucial to

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<sup>49</sup> Measured as the number of police officers per 100,000 population. See Statistics Canada, *Police resources in Canada, 2017*, by Patricia Conroy (Ottawa: Statistics Canada, 28 March 2018), online: <[www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54912-eng.htm](http://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54912-eng.htm)>.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> See Zarpa & Shea, *supra* note X at 5–8.

<sup>53</sup> See Jodoin, *supra* note X at 15.

<sup>54</sup> *Ibid.*

<sup>55</sup> See e.g. Jody Porter, “Police training on Indigenous issues takes days, not hours, retired OPP officer says” (15 September 2016), online: *CBC News* <[www.cbc.ca/news/canada/thunder-bay/police-training-indigenous-issues-1.3762000](http://www.cbc.ca/news/canada/thunder-bay/police-training-indigenous-issues-1.3762000)> (takes time to work past initial resistance, defensiveness); Jody Porter, “Police accused of verbal assault during training session on missing, murdered Indigenous women” (last modified 14 September 2016), online: *CBC News* <[www.cbc.ca/news/canada/thunder-bay/thunder-bay-police-mmiw-training-1.3758791](http://www.cbc.ca/news/canada/thunder-bay/thunder-bay-police-mmiw-training-1.3758791)>

changing discriminatory practices, as is ensuring that the training is paired with changes in policies that result in notable improvements to interactions with Indigenous people.<sup>56</sup> Hesitance and resistance about cultural competency training detract from efforts to address systemic discrimination. Measuring training success, iterative community engagement, and creating accountability for a failure to gain cultural competency are therefore essential elements of training implementation.

**Recommendation 14:** We call on all police forces and criminal justice institutions to institutionalize mandatory cultural competency training that is broad, pervasive, and ongoing. Cultural competency training should be extended to all members of the criminal justice system and police services, including civilian staff. All policies should be adapted in accordance with competency training to improve how members interact with Indigenous people. We recommend that all police forces and criminal justice institutions continually assess their competency training, policies, and interactions internally and with Indigenous organizations to ensure actual changes occur and to determine where further improvements should be made.<sup>57</sup>

#### 4.5. Recruitment of Indigenous Officers

##### 4.5.1. *Indigenizing Police Services*

[23] We heard from witnesses from this Inquiry that some police services recognize a need for more Indigenous officers, and some have Aboriginal or Indigenous Recruitment Officers to address this.<sup>58</sup> While it is a crucial step, increasing the number of Indigenous people involved in a program or institution is insufficient on its own to combat deep-seated discrimination against Indigenous peoples within institutions.<sup>59</sup> Institutionalized cultural competency training is another

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(officers being disruptive and dismissive during training session, police response to allegation suggests officers were not paying attention or taking training seriously).

<sup>56</sup> See Guy Ben-Porat, “Policing Multicultural States: Lessons from the Canadian Model” (2008) 18:4 *Policing & Society* 411 at 416, DOI: <10.1080/10439460802094686>.

<sup>57</sup> *Ibid.*

<sup>58</sup> See *Institutional Hearings*, vol 8, *supra* note X at 54–55.

<sup>59</sup> See e.g. Ben-Porat, *supra* note X at 416, 418–423; Dupré et al, *supra* note X at 19; Ronald Weitzer, “Diversity among police officers is key, but it won’t solve the problems with policing” (20 January 2015), online: *The Guardian* <[www.theguardian.com/commentisfree/2015/jan/20/diversity-among-police-officers-is-key-but-it-wont-solve-the-problems-with-policing](http://www.theguardian.com/commentisfree/2015/jan/20/diversity-among-police-officers-is-key-but-it-wont-solve-the-problems-with-policing)>; Jen Fifield, “Can diverse police departments ease community tension?” (22 August 2016), online: *PBS News* <[www.pbs.org/newshour/nation/can-diverse-police-departments-ease-community-tension](http://www.pbs.org/newshour/nation/can-diverse-police-departments-ease-community-tension)>.

crucial step but is also not enough on its own. As all police services serve Indigenous people, knowingly or unknowingly, all police services need to incorporate principles of Indigenous community policing. Indigenous officers serving in communities within their own linguistic region report that they are not afforded equal opportunities for training and promotion.<sup>60</sup> The RCMP model of frequent officer relocations interferes with establishing connections and relationships with the communities in which they work. It also acts as a barrier to recruitment.<sup>61</sup>

**Recommendation 15:** We call on all police services to incorporate principles of Indigenous community policing. The RCMP should reconsider its policies regarding placements and relocations. Officers, including members of the RCMP, who remain in their home communities or in their linguistic region must still receive the professional opportunities they would have if they were part of a non-Indigenous municipal policing service or had moved away from their community or region.

#### 4.5.2. *Discrimination and workplace violence*

[24] Research has shown that police officers who are Indigenous and those who are women face

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<sup>60</sup> For example, membership in and promotion within the RCMP is linked to an officer's ability to relocate. Indigenous officers who want to remain in their community or in a region where their knowledge of the language will benefit the people in the area should not be penalized for this, since community and linguistic ties assist the police service and the people it serves. See *Institutional Hearings*, vol 6 at 68–69 (mobility requirements are a fact of joining the RCMP, which may deter otherwise qualified people from applying); “Audit of Staffing of Regular Members under the RCMP Act – Phase One (Non-commissioned officers)” (last modified 20 June 2017), online: *Royal Canadian Mounted Police* <[www.rcmp-grc.gc.ca/en/audit-staffing-regular-members-the-rcmp-act-phase-non-commissioned-officers](http://www.rcmp-grc.gc.ca/en/audit-staffing-regular-members-the-rcmp-act-phase-non-commissioned-officers)> (the RCMP Career Management Manual “states that ‘mobility is a condition of service and an integral element of individual development for [regular members]’”; Fifield, *supra* note X (having officers with an understanding of and good relationships with the communities they serve helps reduce tensions between a community and police)).

<sup>61</sup> See Ryan McKenna, “RCMP head says she doesn't think force will reach full gender equity” (26 June 2018), online: *The Canadian Press* <[www.theglobeandmail.com/canada/article-rcmp-head-says-she-doesnt-think-force-will-reach-full-gender-equity/](http://www.theglobeandmail.com/canada/article-rcmp-head-says-she-doesnt-think-force-will-reach-full-gender-equity/)>.

continued discrimination in many police services.<sup>62</sup> It is important to recognize that the RCMP is taking steps to address discrimination and harassment based on gender,<sup>63</sup> but concerns remain about what all police services and other criminal justice system institutions are doing to combat discrimination within their organizations and institutions. In our research we heard from an Indigenous female police officer who was violently sexually assaulted at work by her commanding officer. The commanding officer was pushed into retirement as a result and receives his full pension, and despite being found guilty of the assault in a court of law he was given an absolute discharge because the judge believed that going through the criminal trial meant that he had suffered enough for attacking his employee. In contrast, the officer we spoke with says she has missed valuable promotion opportunities as a result of her complaint about the assault and does not believe she will ever be promoted from her current position for the same reason. This appalling example illustrates how police officers who are members of marginalized groups can be left vulnerable to abuse by other officers without direct protections from sexual and racialized abuse and discrimination. It also sends a message that police services are unable or unwilling to properly support civilian Indigenous women, if they cannot or will not protect those within their ranks.

**Recommendation 16:** We call on police forces to create and enforce a workplace culture that values difference and cultural safety and displaces entrenched gender and racial inequalities within organizations by enforcing non-discriminatory policies.

#### 4.5.3. *Importance of data collection*

[25] Hiring more Indigenous officers is important not only as an equal opportunity measure, but also as a way to build community trust in the police.<sup>64</sup> Diversity in police leadership positions is also important to reducing racial biases among police and improving community trust.<sup>65</sup> Data from Statistics Canada shows that the number of police officers, and commissioned officers, who

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<sup>62</sup> See e.g. Manjula Dufresne, “RCMP suit alleges racist, sexist work environment” (8 August 2017), online: *CBC News* <[www.cbc.ca/news/canada/british-columbia/rcmp-suit-alleges-racist-sexist-work-environment-1.4234530](http://www.cbc.ca/news/canada/british-columbia/rcmp-suit-alleges-racist-sexist-work-environment-1.4234530)>.

<sup>63</sup> See *Institutional Hearings*, vol 6, *supra* note X at 67–68; “RCMP Change Initiatives: Status update” (last modified 20 June 2018), online: *Royal Canadian Mounted Police* <[www.rcmp-grc.gc.ca/en/rcmp-change-initiatives-status-update?fe](http://www.rcmp-grc.gc.ca/en/rcmp-change-initiatives-status-update?fe)>; Daniel Leblanc & Ian Bailey, “Brenda Lucki vows ‘no stone unturned’ on bullying, sexism as she takes helm of RCMP” (9 March 2018), online: *The Globe and Mail* <[www.theglobeandmail.com/news/national/brenda-lucki-taking-helm-of-rcmp-as-force-struggles-with-bullying-sexism/article38259775/](http://www.theglobeandmail.com/news/national/brenda-lucki-taking-helm-of-rcmp-as-force-struggles-with-bullying-sexism/article38259775/)>.

<sup>64</sup> See Weitzer, *supra* note X.

<sup>65</sup> See Fifield, *supra* note X.

identify as Aboriginal have increased overall in Canada. However, there are still no commissioned Indigenous officers in the Atlantic provinces, Yukon, or Nunavut..<sup>66</sup> Collecting and maintaining data about the demographic makeup of institutions helps determine whether diversity initiatives have been successful or need to be reassessed and will enable police forces to effectively communicate positive results to affected communities.

**Recommendation 17:** We call on all police forces to collect and maintain data of Indigenous representation in the applicant pool, hiring, retention and promotion.

*4.5.4. Avoiding inequitable workloads for Indigenous police officers*

[26] Our research and this Inquiry have heard that additional work may be expected of Indigenous officers due to their knowledge about and connections with some Indigenous communities, cultures, and languages.<sup>67</sup>

**Recommendation 18:** We call on police forces to avoid inequitable workloads between Indigenous and non-Indigenous officers. Police services must not unfairly saddle Indigenous officers with additional duties due to connections to a community or language. This requires addressing gaps in settler officers' knowledge and requiring cultural competency and community engagement from all officers. When Indigenous officers do perform additional work due to their knowledge and connections, they must be properly supported, recognized, and compensated for these crucial services.

*4.5.5. Lack of supports and unequal opportunities for Indigenous police officers*

[27] In the course of our research, we have heard from a number of Indigenous police officers who indicated a lack of support in their workplaces. Adverse working conditions act as a barrier to recruitment and interfere with retention. Therefore, hiring more Indigenous officers will require careful and culturally appropriate consideration regarding how to properly support those officers. Police services will need to establish and enforce policies that protect all officers from biases of and abuses by other officers and staff, and must ensure a safe and supportive workplace. It is important that police employers recognize that Indigenous recruits and employees may come with historical traumas and require supports as a result. As employers consider promoting the wellness of new recruits, they will require the assistance of Indigenous trauma experts so that the supports offered meet the needs of Indigenous officers and do not perpetuate a stigmatizing discourse about

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<sup>66</sup> *Ibid.*

<sup>67</sup> See e.g. *Institutional Hearings*, vol 8, *supra* note X at 20–22.

Indigenous people or trauma. Supporting Indigenous officers will require ensuring equity is built into compensation, promotion opportunities, and other supports.

**Recommendation 19:** We call on all criminal justice sector employers to develop robust, culturally appropriate and trauma-informed supports for their members and employees through consultation with Indigenous trauma experts. Supports for Indigenous officers and employees should include pro-active inquiry into workplace morale and work satisfaction, vigorous investigations into complaints of discrimination and appropriate sanctions when employees are found to have abused or discriminated against other employees. Policies should include protections from retaliation for complaints, such as the withholding of promotions, to avoid doubly victimizing the complainants. Employers must ensure that the accountability measures work in practice, and that such measures are continually reassessed and modifications are made to ensure effectiveness.

#### 4.5.6. *Supporting Indigenous police services*

[28] Indigenous police services, such as the Nishnawbe-Aski Police Service (NAPS) play a crucial role in supporting Indigenous communities. They must receive adequate funding and support. Officer and community safety are threatened by under-resourcing<sup>68</sup> that results in officers working excessive hours and performing duties without partners or proper equipment.<sup>69</sup>

**Recommendation 20:** We call on governments to support Indigenous police services by ensuring they are properly funded and their officers are appropriately compensated and protected.

#### 4.6. Procedures for Investigating Complaints

[29] We have heard in our research that the process for investigating civilian complaints has been improved in some police forces.<sup>70</sup> However, it is unclear whether all forces are improving

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<sup>68</sup> The lack of funding and resources are demonstrated by the fact that in 2016, NAPS's budget was roughly only \$25.7 million but the OPP estimated it would cost them nearly \$80 million to take over policing in NAPS's territory. See Kyle Edwards, "Inside the impossible work of Canada's biggest Indigenous police force" (24 July 2018), online: *Maclean's* <[www.macleans.ca/news/canada/im-here-to-protect-my-people/](http://www.macleans.ca/news/canada/im-here-to-protect-my-people/)>.

<sup>69</sup> See e.g. *Institutional Hearings*, vol 8, *supra* note X at 254–55; *Institutional & Expert/Knowledge-Keeper Hearings*, vol 5, *supra* note X at 55–66.

<sup>70</sup> For example, the complaints against police in Val-d'Or resulted in the "creation of a special investigation unit ... to investigate any criminal allegations made by an Indigenous person

civilian complaint investigations and whether similar changes have been made to the process of investigating internal complaints. An example of the need for better processes for investigating civilian complaints against police services comes from the response to the sexual and other abuse complaints by several Indigenous women against Surûté du Québec (SQ) officers in Val-d’Or, Quebec.<sup>71</sup> The women were let down by Crown prosecutors declining to prosecute any of the 6 SQ officers who were named in the 35 complaints.<sup>72</sup> Adding insult to injury, some local police in Val-d’Or began wearing wristbands to symbolize support for the SQ in light of the complaints.<sup>73</sup> This action was felt as an act of aggression against the complainants despite statements that the bands were to show support for the SQ as a whole, not for the suspended officers.<sup>74</sup> The response to the complaints in Val-d’Or shed light on the need for impartial and robust investigations into complaints by civilians against police officers. It also demonstrated the importance of understanding the systemic violence and discrimination that impacts both how police services interact with Indigenous people and how police services investigate complaints against officers.

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against a police officer in Québec”. See Ministère de la Sécurité publique, “Criminal Allegations Against Police: New Process for Handling Complaints by Members of the First Nations and Inuits” (9 August 2018), online: <[www.newswire.ca/news-releases/criminal-allegations-against-police-new-process-for-handling-complaints-by-members-of-the-first-nations-and-inuits-690497061.html](http://www.newswire.ca/news-releases/criminal-allegations-against-police-new-process-for-handling-complaints-by-members-of-the-first-nations-and-inuits-690497061.html)>.

<sup>71</sup> See Lyle Stewart, “Val-d’Or crisis flames anew as prosecutors decline to bring charges against SQ” (26 November 2016), online: *Nation News* <[www.nationnews.ca/val-dor-crisis-flames-anew-no-charges-local-sq-officers/](http://www.nationnews.ca/val-dor-crisis-flames-anew-no-charges-local-sq-officers/)>.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: “Criminal Justice Oversight and Accountability”*, vol 6 (Quebec City: NIMMIWG, 18 September 2018) at 136, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180918\\_MMIWG\\_Quebec\\_Corrections\\_Oversight\\_Parts\\_2\\_\\_3\\_Vol\\_6.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180918_MMIWG_Quebec_Corrections_Oversight_Parts_2__3_Vol_6.pdf)>; Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Part II Institutional Hearings: “Police Policies and Practices”*, vol 10 (Regina: NIMMIWG, 29 June 2018) at 117–18, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180629\\_MMIWG\\_Regina\\_Policing\\_Part\\_II\\_Volume\\_X.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180629_MMIWG_Regina_Policing_Part_II_Volume_X.pdf)> [*Institutional Hearings*, vol 10].

The situation in Val-d'Or raises further questions about how complaints by officers against other officers are investigated and what pressures could be placed upon the complaining officer as a result.

**Recommendation 21:** We call on police services to increase transparency and civilian oversight regarding how complaints, both by civilians and by officers, are investigated and responded to. Independent civilian oversight bodies should be formed to achieve this goal. We recommend Indigenous-led authoritative, and well-resourced oversight bodies. At the very least, oversight bodies must include seats for Indigenous representative organizations with authority and resources to initiate independent investigations. Disproportionate representation from marginalized communities is appropriate in these oversight bodies, as the populations who are most subject to discrimination and abuse by police, such as Indigenous people, have more experience and expertise with both systemic discrimination and discrimination by police. There should be a separate oversight body whose jurisdiction includes monitoring for discriminatory application of disciplinary procedures to Indigenous officers.

#### 4.7. Identification of Cases Involving Off-Reserve Indigenous People

##### *4.7.1. No uniform protocols for case identification*

[30] Our research indicates that policing services do not typically identify off-reserve cases as being about Indigenous people.<sup>75</sup> Members of federal, provincial, and municipal police forces have consistently told us that there is no uniform protocol for identifying cases that involve Indigenous peoples. The lack of identification prevents meaningful data collection about the victimization of Indigenous people. Accurate identification of cases would allow for reliable monitoring of cases of missing Indigenous people, including police responses, outcomes, and changes over time. In short, it is currently impossible to know whether the violent victimization of Indigenous people is improving or deteriorating, or whether police responses are getting better or worse.

##### *4.7.2. Assumptions and stereotypes prevent adequate case identification*

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<sup>75</sup> See e.g. Hughes et al., *supra* note X at 23; Margo McDiarmid, “Still no way to tell how many Indigenous women and girls go missing in Canada each year” (last modified 21 December 2017), online: *CBC News* <[www.cbc.ca/news/politics/indigenous-missing-women-police-data-1.4449073](http://www.cbc.ca/news/politics/indigenous-missing-women-police-data-1.4449073)>.



[31] Loretta Saunders was not initially identified as Inuk because she had light skin.<sup>76</sup> Our research suggests that this type of misidentification is common. Police may not be asking comprehensive questions about identity and instead rely on voluntary identification by the individual making the missing persons report. Police may also assume that reports of missing Indigenous people only come from reserve communities. Furthermore, investigators may not feel they need to ask because they believe they are capable of determining whether the case is about Indigenous persons based on stereotypical understandings of who is Indigenous. The practice of not asking about Indigeneity because of misguided assumptions can lead to incorrect categorization of cases, especially in urban settings, as there is no single way to ‘look’ or ‘be’ Indigenous. Failing to concretely and consistently identify cases as involving Indigenous individuals prevents the investigation from being as thorough and precise as it should be.

4.7.3. *Broadening conceptions of who is impacted by cases of missing Indigenous people*

[32] Assumptions that law enforcement can determine without asking whether the missing person being reported is Indigenous may also be affected by having too narrow of an understanding of a missing person’s networks. For reasons such as marriage, the foster care system, and the exclusion of many Indigenous people from having status under the *Indian Act*, it is common for non-Indigenous people to report an Indigenous loved one’s disappearance and vice versa. If law enforcement assumes a missing person’s Indigeneity or non-Indigeneity based on whether the person reporting the disappearance appears Indigenous, they could easily come to incorrect conclusions. Law enforcement officers require a broad understanding of Indigenous community ties and family structures and should not rely on assumptions when making reports. Kinship structures and family relationships are valued customs for Indigenous people. For example, Aboriginal grandparents often host other family members and there may be multiple generations living in the same home.<sup>77</sup> Due to both imposed and voluntary mobility of many Indigenous people, people often go missing in a different jurisdiction than where they are from or where their

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<sup>76</sup> See Jorge Barrera, “In Loretta Saunders murder, family says police at first thought she was white, MMIWG inquiry hears” (30 October 2017), online: *CBC News* <[www.cbc.ca/news/indigenous/inquiry-ns-saunders-1.4378891](http://www.cbc.ca/news/indigenous/inquiry-ns-saunders-1.4378891)>.

<sup>77</sup> See Milliken, *supra* note X at 5, 31; Statistics Canada, *Insights on Canadian Society: Living Arrangements of Aboriginal children aged 14 and under*, by Annie Turner (Ottawa: Statistics Canada, 13 April 2016), online: <[www150.statcan.gc.ca/n1/pub/75-006-x/2016001/article/14547-eng.htm](http://www150.statcan.gc.ca/n1/pub/75-006-x/2016001/article/14547-eng.htm)> [Statistics Canada, *Living Arrangements of Aboriginal children*].

family is. Furthermore, some people accessing services by Indigenous organizations may not have close friends or family to notice that they have gone missing, and the organization may initiate an investigation.<sup>78</sup> Having a broad conception of who will report cases of missing Indigenous women and girls and ensuring that Indigeneity is identified as soon as possible in the reporting process will improve police ability to investigate cases effectively and provide families and communities with appropriate support.<sup>79</sup>

**Recommendation 22:** We call on police services to develop protocols that will reliably identify the missing person as Indigenous at the earliest opportunity. We recommend that officers receive cultural competency training to help them communicate effectively and appropriately with family and other contact persons. We recommend that training include a broad conception of the people impacted when a person goes missing.

#### 4.8. Encouraging and Facilitating Self-Identification

##### 4.8.1. *Barriers preventing Indigenous peoples from identifying as Indigenous*

[33] Our research demonstrates that even when questions about Indigeneity are asked, self-identification may not be forthcoming. The reasons for this include a lack of trust in the police and other service providers and concerns about not receiving adequate services as a result of self-identifying.<sup>80</sup> Hesitancy to self-identify as Indigenous, when dealing with law enforcement, signifies that discriminatory practices impede Indigenous peoples' access to police assistance. This is especially problematic because Indigenous women experience violent victimization at a rate that is 2.7 times higher than non-Indigenous women<sup>81</sup> but experience barriers to accessing police assistance that non-racialized women in Canada do not. Increased transparency and improved

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<sup>78</sup> See Hughes et al., *supra* note X at 17–18.

<sup>79</sup> Fred Fillier, the husband of Hilary Bonnell's mother, Pamela Fillier, says "his children from a previous relationship were denied victim services because they weren't considered family even though they had loved Hilary for seven years." This example shows how a broader conception is needed of who is impacted when a person goes missing or is murdered. See MacKinnon & Fraser, *supra* note X.

<sup>80</sup> See "*Nitap Wiguaq*", *supra* note X at 49; Hughes et al., *supra* note X at 20–21.

<sup>81</sup> See Statistics Canada, *Women in Canada: A Gender-based Statistical Report: Women and the Criminal Justice System*, by Tina Hotton Mahony, Joanna Jacob & Heather Hobson (Ottawa: Statistics Canada, last modified 21 June 2017), online: <[www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14785-eng.htm](http://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14785-eng.htm)>.

communication will enable and demonstrate trust building with communities.

**Recommendation 23:** We call on police officers to pro-actively offer reassurance that identifying as Indigenous will be helpful to the investigation and not result in lesser services, neglect or worse. We call on police services to work with Indigenous organizations to improve policies and practices and to demonstrate to the Indigenous population that police attitudes and practices have improved. Increased transparency and improved communication will enable and demonstrate trust building with communities.<sup>82</sup>

#### 4.9. Best Practices and Risk Assessment

##### 4.9.1. *Differing responses and priorities among different police services*

[34] Our research indicates that while a risk assessment model is emerging, there is still a lack of sharing and integration of best practices among and between police services. Moreover, responses concerning factors that increase an individual's vulnerability can be vastly different across different police services. For instance, some forces treat homelessness as a priority because persons experiencing homelessness are considered a vulnerable population, while others treat homelessness as a low priority because the attitude is that people experiencing homelessness are expected to go missing or come to harm.<sup>83</sup>

##### 4.9.2. *Additional vulnerability for youth*

[35] For youth who have gone missing due to unacceptable living situations,<sup>84</sup> such as an abusive home, there are few alternatives to returning them to that situation. Habitual running away from home should be treated as a high risk factor requiring urgent investigation and careful assessment of home safety before returning the youth to previous living situation. When youth are

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<sup>82</sup> See Hughes et al., *supra* note X at 20–21.

<sup>83</sup> See e.g. Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: "Child & Family Welfare"*, vol 13 (Winnipeg: NIMMIWG, 4 October 2018) at 84–85, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181004\\_MMIWG\\_Winnipeg\\_Child\\_Family\\_Welfare\\_Parts\\_2\\_\\_3\\_Vol\\_13.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181004_MMIWG_Winnipeg_Child_Family_Welfare_Parts_2__3_Vol_13.pdf)> [*Institutional & Expert/Knowledge-Keeper Hearings*, vol 13] (professional indifference and the idea that victimization is “just what happens” to Indigenous girls in the Downtown East Side in Vancouver).

<sup>84</sup> See e.g. Hughes et al., *supra* note X at 16–17.

members of the LGBTQIA2S+ community, they may face ousting from their living situation, which is an additional risk factor.<sup>85</sup> Ending services for youth in care when youth reach 16 years of age and the lack of consistent programming and services for on and off-reserve youth can also be a considerable hardship, especially since ages 12 through 17 are such critical years.<sup>86</sup>

**Recommendation 24:** We call for collaboration across police services to establish uniform best practices for responding to vulnerability factors such as homelessness, young age, and Indigeneity. Establish protocols for exploring a safe return when missing youth are located. These efforts should include working with youth shelters and organizations and addressing the root causes of why youth, and especially youth in care, are particularly vulnerable to going missing.<sup>87</sup> When developing policies and procedures, recognize that various vulnerability factors may intersect and impact outcomes for youth.

#### 4.10. Lack of Collaboration Among Police Services

##### 4.10.1. Use of electronic file management

[36] During this Inquiry, we heard that police services in Ontario use the Major Case Management (MCM) approach<sup>88</sup> “to investigate certain types of serious crimes[, including] homicides, sexual assaults and abductions.”<sup>89</sup> Electronic file management allows for better access

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<sup>85</sup> Ontario, Ministry of Children and Youth Services, “Achieving Cultural Competence: A Diversity Tool Kit for Residential Care Settings”, by Ruby Lam & Bernice Cipparrone (Toronto: MCYS, February 2008) at 45, online (pdf): <[www.children.gov.on.ca/htdocs/English/documents/specialneeds/residential/achieving\\_cultural\\_competence.pdf](http://www.children.gov.on.ca/htdocs/English/documents/specialneeds/residential/achieving_cultural_competence.pdf)>.

<sup>86</sup> See e.g. “*Nitap Wiguaq*”, *supra* note X at 57–58.

<sup>87</sup> See e.g. Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: “Child & Family Welfare”*, vol 10 (Winnipeg: NIMMIWG, 21 September 2018) at 63, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181001\\_MMIWG\\_Winnipeg\\_Child\\_Family\\_Welfare\\_Parts\\_2\\_\\_3\\_Vol\\_10.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181001_MMIWG_Winnipeg_Child_Family_Welfare_Parts_2__3_Vol_10.pdf)> [*Institutional & Expert/Knowledge-Keeper Hearings*, vol 10] (in 2016, 87% of the over 9,700 missing persons in Manitoba were children in care).

<sup>88</sup> See *Institutional Hearings*, vol 9, *supra* note X at 245–51.

<sup>89</sup> Ontario, Ministry of Community Safety and Correctional Services, “Major Case Management”, (Toronto: MCSCS, 1 November 2017), online: <[www.mcscs.jus.gov.on.ca/english/police\\_serv/MajorCaseManagement/mcm.html](http://www.mcscs.jus.gov.on.ca/english/police_serv/MajorCaseManagement/mcm.html)>.

to information and increased opportunities for solving cases.<sup>90</sup> MCM is triggered once a file shifts to being a criminal case, which assigns additional resources and accountability to a file.<sup>91</sup> We also heard about the British Columbia Major Case Management Policy and Office of Investigative Standards and Practices and the latter's influence on the National Investigative Standards and Practices Unit.<sup>92</sup> These use a consistent intake form and electronic file management and provide greater oversight and accountability to major cases such as missing persons.<sup>93</sup>

**Recommendation 25:** We call on governments and police forces to collaborate in order to implement a system like Ontario's MCM and British Columbia's Major Case Management Policy and Office of Investigative Standards and Practices on the national scale to best address systemic issues such as abductions and murders of Indigenous women and girls.

#### *4.10.2. Discretionary decisions can attract bias*

[37] Inquiry testimony stated that the determination of when a case shifts from a missing person to suspected foul play is discretionary on the part of the police service or officer.<sup>94</sup> Formalized decision-making tools and cultural competency training are crucial to ensuring that discretionary decisions are not made, consciously or inadvertently, based on biases and stereotypes.

**Recommendation 26:** We call on all police forces to adopt formal decision-making tools such as checklists and ensure that cultural competency training and police policies emphasize the importance of being aware of how bias factors into discretionary decisions such as when a case is re-categorized to trigger MCM.

**Recommendation 27:** We call on all police forces to develop standardized case review protocols for missing person cases that have not been designated as criminal to ensure accountability and to assess whether discretionary decisions are influenced by biases. We recommend exploring the establishment of an electronic missing persons file management system available to all officers and maintained separately from criminal case databases.

#### *4.10.3. Support for and collaboration with Indigenous police forces*

[38] It is crucial that collaboration between police forces includes developing and maintaining working relationships with Indigenous police services such as NAPS. We heard in Inquiry

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<sup>90</sup> *Ibid.*

<sup>91</sup> See *Institutional Hearings*, vol 9, *supra* note X at 244–45.

<sup>92</sup> *Ibid* at 83–89.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid* at 240–44.

testimony that there is a good working relationship with the OPP but that many police forces are not aware of NAPS.<sup>95</sup> This indicates that there are gaps in police knowledge and collaboration between police services. Questions remain about how Indigenous people who live off-reserve can benefit from Indigenous police services aimed at reserve communities, and how non-Indigenous police services can address the reality of a large majority of Indigenous people living in urban areas. These gaps could be preventing cases of missing or murdered Indigenous women and girls from receiving appropriate police responses.

**Recommendation 28:** We call on governments and police forces to promote collaboration between police services, including Indigenous police services, so that jurisdictional boundaries do not prevent cases from receiving effective investigation.

#### 4.11. The Use of Other Emergency Services

[39] Our research with rural communities in Atlantic Canada shows that there are very limited service levels in many areas, and consequently slow response times, for emergencies in rural areas.<sup>96</sup> This stunningly includes no services at all in some locations. We have had multiple reports in Newfoundland, Labrador, New Brunswick and PEI about emergency situations with extremely poor outcomes as a result of complete unavailability of emergency responders. These situations often cluster around high volume call times like Christmas and New Year’s Eve. Testimony during this Inquiry also revealed that officer shortages and other factors result in slow response times and limited responder availability in some jurisdictions.<sup>97</sup> Slow response times are an issue when a person has gone missing because the chances of successfully locating the person are highest when police respond quickly.<sup>98</sup> We have heard that other organizations, such as volunteer firefighters, are filling the gap to provide emergency services. However, information about alternatives to first responder police services for rural areas is not widely available.

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<sup>95</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: “Criminal Justice Oversight and Accountability”*, vol 5 (Quebec City: NIMMIWG, 17 September 2018) at 240–41, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180917\\_MMIWG\\_Quebec\\_Corrections\\_Oversight\\_Parts\\_2\\_\\_3\\_Vol\\_5.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20180917_MMIWG_Quebec_Corrections_Oversight_Parts_2__3_Vol_5.pdf)> [*Institutional & Expert/Knowledge-Keeper Hearings*, vol 5].

<sup>96</sup> See Hughes et al., *supra* note 9 at 18–19.

<sup>97</sup> See e.g. *Institutional Hearings*, vol 8, *supra* note X at 336–37; *Institutional Hearings*, vol 9, *supra* note X at 273–74; *Institutional Hearings*, vol 10, *supra* note X at 245–49.

<sup>98</sup> Hughes et al., *supra* note X at 18.

**Recommendation 29:** We call on governments and police forces to ensure that rural areas do not suffer from under-service by increasing the resource capacity of services and recruiting efforts. Make information about alternatives to first responder emergency services widely available. Extend cultural competency training to members of any organizations providing alternative first response services.

## 5. Media

### 5.1. Media supports for families and loved ones

[40] Our research shows that the RCMP has developed protocols for using media and social media to help locate missing persons,<sup>99</sup> but more can be done to assist families and Aboriginal organizations with media contact.<sup>100</sup> For example, families and service organizations have expressed uncertainty about how to interact with the media, including feeling unprepared for media inquiries and unsure about what information to share and how to effectively communicate that information.<sup>101</sup>

**Recommendation 30:** We call on police forces and victim services to develop media support protocols to assist families in interacting with the media about their missing loved one.

**Recommendation 31:** We call on police forces to track the success of existing media protocols and identify further improvements that can be made. Media protocols should include the provision of updates about the case, and media reports should be easily shareable so that the information can be disseminated through kinship and other networks.

### 5.2. Dispelling myths about missing persons reporting

[41] Police services have the opportunity to work with media outlets to widely disseminate accurate information about missing persons investigations so that popular myths do not impact how loved ones respond when someone goes missing. Importantly, it is a nearly universally held belief that a missing persons report cannot be filed until a person has been missing for 24 hours.<sup>102</sup> This is not the case,<sup>103</sup> but if people believe it is true then they are likely to wait before contacting

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<sup>99</sup> See e.g. Cpl. Jullie Rogers-Marsh, “Lost and found – how the RCMP in New Brunswick handle reports of missing people” (29 August 2017), online: *Royal Canadian Mounted Police* <[www.rcmp-grc.gc.ca/en/news/2017/lost-and-found-how-the-rcmp-new-brunswick-handle-reports-missing-people](http://www.rcmp-grc.gc.ca/en/news/2017/lost-and-found-how-the-rcmp-new-brunswick-handle-reports-missing-people)>.

<sup>100</sup> Hughes et al., *supra* note 9 at 24.

<sup>101</sup> *Ibid.*

<sup>102</sup> See Rogers-Marsh, *supra* note X.

<sup>103</sup> *Ibid.*

police, which reduces the chances of successfully finding the person safe.

**Recommendation 32:** We call on police forces to establish a uniform media protocol to ensure all police services are effectively using the media to locate missing persons and are appropriately supporting families in their contact with the media. Work with media outlets to ensure that accurate information, rather than prevalent myths, is widely available about missing persons' cases. Every police press release should include the information that there is no wait period for reporting a person missing.

### 5.3. Discriminatory and biased media coverage of Indigenous women

[42] Many activists have also expressed concerns about how the media covers Indigenous people, and in particular, Indigenous victims of violence. Historically, if missing Indigenous women received any coverage at all, that media coverage was discriminatory.<sup>104</sup> While there have been improvements in the amount of coverage and the narratives advanced about missing and murdered Indigenous women and girls, there is still significant work needed to end discriminatory and sensationalized media treatment.<sup>105</sup>

**Recommendation 33:** We call on media organizations to institutionalize cultural competency training within media outlets to ensure that missing Indigenous women receive timely and respectful media coverage.<sup>106</sup>

## 6. Changes to the Criminal Justice System

### 6.1. Improving support for and representation of Indigenous people in the jury system

[43] Bill C-75<sup>107</sup> has been proposed to, among other things, abolish the use of peremptory challenges when selecting jurors for criminal trials.<sup>108</sup> The legislation was introduced after the

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<sup>104</sup> See Hughes et al., *supra* note 9 at 24.

<sup>105</sup> *Ibid*; MacKinnon & Fraser, *supra* note X; Delilah Saunders, "The Way We Talk About Tina Fontaine's Death Reminds Me of My Sister" (26 February 2018), online: *Flare* <[www.flare.com/news/the-way-we-talk-about-tina-fontaine-reminds-me-of-my-sister/](http://www.flare.com/news/the-way-we-talk-about-tina-fontaine-reminds-me-of-my-sister/)>.

<sup>106</sup> See Hughes et al., *supra* note 9 at 24; Zarpa & Shea, *supra* note 17 at 5–7; *TRC Calls to Action*, *supra* note X at Call 86.

<sup>107</sup> *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, 1st Sess, 42nd Parl, 2018.

<sup>108</sup> *Ibid* at cl 217; see also Canadian Bar Association Criminal Justice Section, "Bill C-75 Criminal Code and Youth Criminal Justice Act amendments" (September 2018) at 21, online (pdf): <[www.cba.org/CMSPages/GetFile.aspx?guid=2058601f-9ae0-4dbb-9e8b-7e829462213b](http://www.cba.org/CMSPages/GetFile.aspx?guid=2058601f-9ae0-4dbb-9e8b-7e829462213b)>.



acquittal of Gerald Stanley for the second-degree murder of Colten Boushie.<sup>109</sup> Abolishing peremptory challenges of jurors is a good start toward reducing inequalities in the criminal justice system, but additional steps must be taken to dismantle the systemic discrimination that permeates the criminal justice system. The results of Justice Rocco's report on representative juries suggests that there are additional biases in the jury system that require more than abolishing peremptory challenges. Since the Crown must consent to having a judge-alone murder trial,<sup>110</sup> and it is more likely that jurors will not have experienced racialization, poverty, and other kinds of marginalization, then simply not allowing for the unquestioned exclusion of some jurors is not enough to address the lack of representation in juries. Increasing the representation of marginalized populations on juries is impacted by many considerations, such as many low-income people being unable to afford the cost of transportation, child care, or missing work in order to serve on a jury. In addition, statistics about the Indigeneity of those called for or serving on juries only tells part of the picture due to the exclusion of off-reserve and non-status Indigenous people from the *Indian Act*.<sup>111</sup> The juror roll only tracks Indigenous people living on reserve,<sup>112</sup> so it is impossible to tell whether the current efforts to increase Indigenous representation on juries are effective. Furthermore, even Indigenous people with status may be excluded from the jury roll due to discrimination at the band level,<sup>113</sup> so there are a number of issues to be addressed when seeking to increase Indigenous representation on juries. The lack of data collection about the Indigeneity of jurors prevents measuring the progress, or lack of progress, in Indigenous representation on juries.

**Recommendation 34:** We call on provincial officials charged with establishing jury rolls to ensure inclusive and representative jury rolls are created.

**Recommendation 35:** We call on provincial ministers of justice to review jury acts to ensure that data on Indigenous representation can and will be gathered and that this includes recording the Indigeneity of people who live off-reserve, do not have status, or both.

**Recommendation 36:** We call on provincial governments to amend jury acts and regulations to address the systemic reasons why people who are marginalized are less likely to serve on juries,

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<sup>109</sup> See Canadian Bar Association Criminal Justice Section, *supra* note X at 21.

such as reimbursing transportation and child care costs, and providing a meaningful stipend for jury service.

**Recommendation 37:** We call on public prosecution services to direct prosecutors not to use challenges for cause for discriminatory reasons.

*6.1.1. Choice of language in the criminal justice system*

[44] While people in Canada have a right to a trial conducted in either English or French, there is no constitutional right to a trial conducted in any Indigenous language. This fact puts some Indigenous people at a serious disadvantage if they are not fluent in either of the two official languages. Additionally, while accused persons may select which official language will be used for their trial, a victim’s family and community members can be excluded from this aspect of the justice system due to language barriers. For example, the man charged with the hit-and-run death of Brady Francis, from Elsipogtog First Nation in New Brunswick, elected to be tried in French, but Francis’s family and friends could not understand the proceedings because they do not speak French.<sup>114</sup> Former chief of Elsipogtog Susan Levi-Peters stated that there should have been “simultaneous translation into Mi’kmaq, the first language of many people in Elsipogtog”, to increase transparency and address the mistrust that Indigenous people feel toward the justice system.<sup>115</sup>

**Recommendation 38:** We call on court services to ensure that translation services are provided so that members of affected communities, including victims’ families, may understand and feel respected by court proceedings.

6.2. Implementing Gladue Principles and the TRC’s Calls to Action

[45] Many programs have been developed to aid in the diversion from incarceration, address the over-incarceration of Indigenous peoples in Canada, and increase the safety of Indigenous women.<sup>116</sup> The TRC has noted that without adequately funded community-based programs and

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<sup>114</sup> See Elizabeth Fraser, “Brady Francis’s community demands Mi’kmaq interpreter at hit-and-run trial” (22 August 2018), online: *CBC News* <[www.cbc.ca/news/canada/new-brunswick/elsipogtog-brady-francis-mi-kmaq-1.4794292](http://www.cbc.ca/news/canada/new-brunswick/elsipogtog-brady-francis-mi-kmaq-1.4794292)>.

<sup>115</sup> *Ibid.*

<sup>116</sup> For example, the Elsipogtog Restorative Justice Program offers healing and sentencing circles and the Elsipogtog Healing to Wellness Court addresses issues such as addictions, fetal alcohol spectrum disorder, and mental health concerns. See “Compendium of Promising Practices to

services, *Gladue*<sup>117</sup> principles can neither increase the safety of Indigenous women nor address the over-incarceration of Indigenous offenders. Diversion, alternative measures and reduced reliance on incarceration only work if there are accompanying culturally appropriate treatment and supports.

[46] Our research shows that Indigenous communities are sometimes both over-policed and under-policed at the same time. Rather than responding proportionately, police sometimes either do not respond or respond hyper-aggressively. Similar concerns arise with respect to other aspects of the justice system. Care must be taken respond proportionately throughout the criminal justice system, because both too much and not enough justice attention can cause significant problems for individuals and communities.<sup>118</sup> Under enforcement can contribute to a culture of impunity. Additionally, difficulties arise in tracking whether and how Gladue principles and culturally appropriate treatment and support options apply to all Indigenous people in Canada due to the exclusion of many Indigenous people under the *Indian Act* and the resulting inconsistent data collection and case identification regarding Indigeneity.

**Recommendation 39:** We call on governments, police forces and courts to ensure that all initiatives begin from the position of women’s safety. We recommend the development of a tracking system to gather data and assess the effectiveness of *Gladue* reports and other initiatives to address the over-incarceration and under-service of Indigenous people. We recommend that programs and services be provided to all Indigenous persons, regardless of where they live. We call on governments to collaborate with Native Councils and Friendship Centres on service delivery for offenders who live in urban and off-reserve settings and to provide adequate resource capacity for such programs.

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Reduce Violence and Increase Safety of Aboriginal Women In Canada – Compendium Annex: Detailed Practice Descriptions” (last modified 7 January 2015), online: *Department of Justice* <[www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/annex-annexe/p133.html](http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/annex-annexe/p133.html)>; “Healing to Wellness Court” (last modified 21 April 2018), online: *Public Safety Canada* <[www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntr/dtls-en.aspx?i=10169](http://www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntr/dtls-en.aspx?i=10169)>.

<sup>117</sup> *R v Gladue*, [1999] 1 SCR 688, 171 DLR (4th) 385 [*Gladue*].

<sup>118</sup> See e.g. Aboriginal Justice Implementation Commission, *Report of the Aboriginal Justice Inquiry of Manitoba Volume I: The Justice System and Aboriginal People*, chapter 16 (Winnipeg: Aboriginal Justice Implementation Commission, November 1999) at “Under-Policing”, online: <[www.ajic.mb.ca/volumel/chapter16.html](http://www.ajic.mb.ca/volumel/chapter16.html)>.

## 7. Child and Family Welfare Services

### 7.1. Foster Care and Child Welfare

#### 7.1.1. *Close connection between child apprehension and MMIW*

[47] The spectre of child apprehension looms large in Indigenous families and communities including in families residing off reserve. Our research has shown that families with prior involvement with child welfare agencies are less likely to report when a youth goes missing for fear of having other children of the household apprehended. This puts young people at extreme risk of violent victimization. More generally, the omnipresence of the threat of child apprehension makes Indigenous people wary of all state agencies, including agencies that might otherwise be able to deliver important services. Because of police involvement in child apprehension, it also enlarges and reinforces the trust gap between Indigenous people and law enforcement.

#### 7.1.2. *Indigenous children overrepresented in the foster care system*

[48] Indigenous children are vastly overrepresented in the Canadian foster care system.<sup>119</sup> Research in New Brunswick found that the Department of Social Development does not consistently collect data on children's Indigeneity, which prevents an accurate determination of the number of Indigenous children in care in the province and likely means that Indigenous children are more overrepresented than the statistics suggest.<sup>120</sup>

**Recommendation 40:** We call on governments and child welfare agencies to take active measures to reduce the overrepresentation of Indigenous children in care and increase the supports available to Indigenous families.<sup>121</sup> This must include consistently recording the Indigeneity of children in care, with a focus on ensuring that non-status and off-reserve urban and rural Indigenous children and families are recorded as Indigenous.

#### 7.1.3. *Risk assessment tools are culturally inappropriate*

[49] Testimony during this Inquiry explained that the risk assessment tools used in Canadian

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<sup>119</sup> In 2011, "Aboriginal children accounted for 7% of all children in Canada but for almost one-half (48%) of all foster children." See Statistics Canada, *Living Arrangements of Aboriginal children*, *supra* note X; see also Dupré et al, *supra* note X at 17.

<sup>120</sup> Dupré et al, *supra* note 7 at 11.

<sup>121</sup> *TRC Calls to Action*, *supra* note X at Calls 1, 2, 4, 5.

child welfare practices are inadequate for responding to the Indigenous context in Canada.<sup>122</sup> The intersecting issues that affect Indigenous people as a result of colonialism and the legacy of residential schools and the Sixties Scoop, such as poverty, addiction, and violence in families, result in many Indigenous families categorized as high risk therefore subject to child apprehension if assessed, regardless of their individual successes and strengths.<sup>123</sup> We heard that risk assessment tools do not account for factors outside of parent or caretaker control. Neither do they treat Indigenous kinship relations or cultural connections as factors that benefit Indigenous children in their families.<sup>124</sup>

**Recommendation 41:** We call on child welfare services to collaborate with all Indigenous organizations to ensure policies and risk assessment methods accurately evaluate risk, are appropriate in Indigenous contexts, and do not apprehend children based on racial biases.

*7.1.4. Lack of focus on prevention, strong reliance on apprehension*

[50] Our research and the TRC's Final Report have noted how a lack of focus on supporting families and preventing child apprehension greatly contribute to the overrepresentation of Indigenous children in care.<sup>125</sup> Research with Indigenous families has demonstrated how quickly apprehension is resorted to, including when parents come to child welfare services to receive support in parenting and demonstrate a desire to provide the best for their children.<sup>126</sup> Inquiry testimony also discussed how the funding for child and family services organizations is based on the number of children in care, so there are incentives to apprehend children rather than provide families with supports that would allow them to keep custody.<sup>127</sup>

**Recommendation 42:** We call on child welfare agencies to establish practices that prioritize

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<sup>122</sup> See *Institutional & Expert/Knowledge-Keeper Hearings*, vol 13, *supra* note X at 128–30, 309–11.

<sup>123</sup> *Ibid* at 128–30.

<sup>124</sup> *Ibid* at 128–30, 309–11.

<sup>125</sup> Dupré et al, *supra* note 7 at 18; *TRC Calls to Action*, *supra* note X at Call 2.

<sup>126</sup> See Assembly of Manitoba Chiefs, “Bringing Our Children Home: Report and Recommendations” (June 2014) at 5, online (pdf): <[manitobachiefs.com/wp-content/uploads/2017/11/Bringing-Our-Children-Home-Final-Report-June-2014.pdf](http://manitobachiefs.com/wp-content/uploads/2017/11/Bringing-Our-Children-Home-Final-Report-June-2014.pdf)>.

<sup>127</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: “Child & Family Welfare”*, vol 11 (Winnipeg: NIMMIWG, 2 October 2018) at 27–28, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181002\\_MMIWG\\_Winnipeg\\_Child\\_Family\\_Welfare\\_Parts\\_2\\_\\_3\\_Vol\\_11.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181002_MMIWG_Winnipeg_Child_Family_Welfare_Parts_2__3_Vol_11.pdf)> [*Institutional & Expert/Knowledge-Keeper Hearings*, vol 11].

prevention, rather than apprehension, by working with families to provide the supports that would enable them to care for their own children and using apprehension as a last resort. Prevention efforts must include increasing the resource capacity of Indigenous organizations that serve off-reserve urban and rural communities, such as Friendship Centres and Head Start programs, to develop and provide programming to support off-reserve families who are at risk of child apprehension.

## 7.2. Service Provision and Risk Assessment

### 7.2.1. *Collaboration among service providers*

[51] Research tells us that collaboration between child welfare efforts by the federal and provincial governments and Indigenous organizations is necessary for responding to the needs of Indigenous families and children and sustaining culturally appropriate supports and resources.<sup>128</sup> A troubling lack of cultural competence and knowledge about culturally safe practices exists for social workers.<sup>129</sup> This lack poses a serious risk to Indigenous children and their families and continues the long-established colonial practice of removing Indigenous children from their homes and cultures.<sup>130</sup> Institutionalized cultural competency training for those working in child welfare is crucial to reducing the apprehension of Indigenous children,<sup>131</sup> and the imposition of colonial norms in policies that contribute to the disproportionate and harmful assessment of Indigenous parents.

**Recommendation 43:** We call on child welfare agencies to institutionalize cultural competency training. We recommend that cultural competency training address the false assumption that Indigenous families solely live on reserves which results in off-reserve Indigenous families not having their unique needs met by parenting programs and resources.<sup>132</sup>

### 7.2.2. *Supporting and protecting children while in care*

[52] We heard during this Inquiry about professional indifference on the part of social workers dealing with children in care.<sup>133</sup> This includes the labelling of Indigenous children as ‘service resistant’ for not responding to colonial services and programs while not offering culturally safe

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<sup>128</sup> Dupré et al, *supra* note 7 at 14.

<sup>129</sup> *Ibid* at 16.

<sup>130</sup> See Assembly of Manitoba Chiefs, *supra* note X at 7–8.

<sup>131</sup> Dupré et al, *supra* note 7 at 16; *TRC Calls to Action*, *supra* note X at Call 1.

<sup>132</sup> Dupré et al, *supra* note 7 at 15.

<sup>133</sup> See *Institutional & Expert/Knowledge-Keeper Hearings*, vol 13, *supra* note X at 85, 99–100.

programs rooted in Indigenous cultures and practices that could benefit them.<sup>134</sup> Despite the overrepresentation of Indigenous children in foster care, foster parents in New Brunswick have stated that they are not properly trained and do not receive the required supports to provide children with culturally appropriate care.<sup>135</sup> Encouragingly, Indigenous-specific care approaches have been established in several jurisdictions where children are placed in their home communities, such as with family members.<sup>136</sup> These placements allow for frequent and sustained contact between children and their parents and family and for continued participation in community and cultural activities, so that children in care are not removed from their cultural identities.<sup>137</sup>

**Recommendation 44:** We call on child welfare agencies to emphasize placing children in care in their own communities, such as with other family members, and in Indigenous foster care placements. We recommend that non-Indigenous foster care providers receive significant training in culturally safe care for Indigenous children, including the importance of connections to the land, Indigenous languages, and Indigenous spiritual practices. We recommend adequate resourcing of off-reserve Indigenous organizations to allow for such programming.

### 7.2.3. *Supporting Indigenous parents*

[53] While in-community placements are crucial to develop and support, significant attention must also be paid to supporting Indigenous parents before and after their children are placed in care, so that they can avoid losing their children or are able to regain them.<sup>138</sup> When children have been apprehended, parents often face impossibly high standards and requirements for having their child returned to them, which frequently makes apprehension permanent.<sup>139</sup> In many ways, parents face barriers to improving their ability to parent due to past mistakes, such as how a parent whose child has been apprehended can be barred from volunteering in areas such as early childhood education and learning parenting skills and strategies from those positions.<sup>140</sup> Indigenous parents are therefore not only under higher scrutiny by child welfare organizations, but the higher scrutiny can prevent them from taking advantage of opportunities to improve their skills, which in turn

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<sup>134</sup> *Ibid* at 102–03.

<sup>135</sup> Dupré et al, *supra* note 7 at 12.

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

<sup>138</sup> See e.g. Jodoin, *supra* note X at 16.

<sup>139</sup> See e.g. Assembly of Manitoba Chiefs, *supra* note X at 6.

<sup>140</sup> See Jodoin, *supra* note X at 17.

makes apprehension of subsequent children likely. Programming, such as Head Start programs, provide supports to Indigenous parents, including advocating for parents seeking to regain custody of children who have been apprehended.<sup>141</sup> Currently, in New Brunswick, the majority of Aboriginal Head Start programs are found in on-reserve communities, and there is only one Head Start program in one urban center to service the entirety of off-reserve communities.<sup>142</sup>

**Recommendation 45:** We call on child welfare agencies to ensure that children in care have continued connection with families and communities and cultures by offering Indigenous-focused programs and services, rather than colonial ‘one-size-fits-all’ programs. We recommend that off-reserve Indigenous families are identified as Indigenous and receive culturally appropriate programming. We call on child welfare agencies to consult with and provide the resource capacity to Indigenous organizations such as Head Start programs, Native Councils, and Friendship Centres to provide culturally appropriate and safe programming for Indigenous families, Indigenous children in care, and non-Indigenous care providers.

## **8. Cultural competency training**

### 8.1. The limits of specific cultural competency training initiatives

[54] Throughout these submissions, we have argued for specific initiatives regarding cultural competency training. The TRC’s Calls to Action similarly make recommendations for education and cultural competency training about Indigenous peoples, Indigenous-settler relations, and the legacy of colonial policies for emerging and continuing professionals in the areas of child welfare, health care, law, public service, religion, journalism and media, and business.<sup>143</sup> Education can help to reduce the burden on Indigenous people to perform educational and emotional labour in an attempt to ensure they receive appropriate treatment and services. It is clear, however, that many of these initiatives will be hampered by prior entrenchment of stereotypes and remain band-aid solutions at best.

### 8.2. All students require cultural competency education

[55] Cultural competency training must begin earlier and be much more ubiquitous. In addition to the enumerated fields, all kindergarten through grade 12<sup>144</sup> and postsecondary students will

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<sup>141</sup> See *Institutional & Expert/Knowledge-Keeper Hearings*, vol 11, *supra* note X at 58-59.

<sup>142</sup> See “Under One Sky Friendship Centre”, online: *Connect Fredericton* <[www.connectfredericton.ca/agency/detail/?agency\\_id=82804](http://www.connectfredericton.ca/agency/detail/?agency_id=82804)>.

<sup>143</sup> See *TRC Calls to Action*, *supra* note X, at Calls 1, 23, 24, 27, 28, 57, 60, 86, 92.

<sup>144</sup> *Ibid* at Calls 62–63.



benefit from receiving accurate and culturally rich education regarding Indigenous people.

### 8.3. Educate the educator

[56] More substantial training is needed for all educators. For example, we have heard from teachers who, after they receive initial education about Indigenous culture and Indigenous-settler relations, continue to feel woefully unequipped to educate their students on these topics. The involvement of Indigenous educators and organizations in these initiatives is key to their success.

[57] **Recommendation 46:** We call on all educational institutions to ensure that students and staff receive comprehensive cultural competency training that is developed through consultation with Indigenous Elders and organizations, since Indigenous people access services and professions in all areas of Canadian life.<sup>145</sup>

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<sup>145</sup> See Canada, *National Inquiry into Missing & Murdered Indigenous Women & Girls Truth-Gathering Process: Parts II & III Institutional & Expert/Knowledge-Keeper Hearings: “Child & Family Welfare”*, vol 14 (Winnipeg: NIMMIWG, 5 October 2018) at 154–56, online (pdf): <[www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181005\\_MMIWG\\_Winnipeg\\_Child\\_Family\\_Welfare\\_Parts\\_2\\_\\_3\\_Vol\\_14.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/10/20181005_MMIWG_Winnipeg_Child_Family_Welfare_Parts_2__3_Vol_14.pdf)>.

## **Appendix I: Summary of Recommendations**

**Recommendation 1:** We call on federal and provincial governments to correct their practices of erasure of non-status and off-reserve Indigenous people and to consult with all Indigenous people including through the five national organizations and their provincial affiliates.

**Recommendation 2:** We call on researchers, educators and policy makers in Canada to collaborate with Native Councils and Friendship Centres to focus on off-reserve populations in research, training, service provision, and government programming and to cease perpetuating the false idea that Indigenous people only live on reserves.

**Recommendation 3:** We call on all Canadian settler institutions to demonstrate through sustained and vigorous efforts that they are dedicated to acknowledging and correcting systemic wrongs committed against Indigenous people.

**Recommendation 4:** We call on service providers to improve their knowledge base to enable informed service provision without requiring additional work by Indigenous people seeking services. Efforts to improve awareness of the history and current circumstances and contexts of Indigenous people must include a significant focus on off-reserve and non-status Indigenous people. They should also include education about the history of Indigenous-settler relations and should emphasize that understanding the history is important and relevant to interactions between Indigenous people and settler individuals and institutions today.

**Recommendation 5:** We call on settler organizations and governments at all levels to support frontline workers, to make them aware of existing resources and Indigenous organizations and to encourage them to consult with Elders and grassroots organizations, such as Native Councils and Friendship Centres.

**Recommendation 6:** We call on all persons, governments and organizations in Canada to persist in and accelerate their efforts to meaningfully respond to the Calls to Action of the TRC and the recommendations of this National Inquiry.

**Recommendation 7:** We call on all police forces in Canada to commit to comprehensive outreach to local Indigenous leadership for input when developing training and policies. As the national police service, the RCMP should consult with all five National Aboriginal Organizations. Provincial and municipal police forces should consult with respective provincial affiliates. In all such consultation, it must be ensured that organizations that represent off-reserve Aboriginal people and Indigenous women are included in outreach for input.

**Recommendation 7:** We call on all police forces in Canada including the RCMP, provincial, and municipal police forces to commit to comprehensive outreach to local Indigenous leadership for input when developing training and policies. As the national police service, the RCMP should consult with all five National Aboriginal Organizations. Provincial and municipal police forces should consult with respective provincial affiliates. In all such consultation, it must be ensured that organizations that represent off-reserve Aboriginal people and Indigenous women are included in outreach for input.

**Recommendation 8:** We call on all police forces to consult with reserve and off-reserve communities about who is assigned to police their communities as an exercise in increased transparency and community involvement. We call on police forces to recognize that attitudinal changes are an important aspect of increasing cultural competency and to utilize existing organizations for setting standards and developing best practices. For instance, as an organization that represents the majority of the police community in Canada, the Canadian Association of Chiefs of Police has the ability to set a tone of care and accountability for the issue of missing Indigenous persons, even without the authority to change force-specific policies.

**Recommendation 9:** We call on police forces, victim services providers, legal aid services and child protection agencies to ensure improved communication with survivors of violence, family members of children in care, and family members of victims, including providing updates about a loved one's wellbeing, searches for missing persons, and legal aspects of their case such as trials or parole hearings. We call on all police forces to implement a system for regularly updating family members about the status of a loved one's case, such as twice yearly, to demonstrate that the case is being taken seriously and to determine how to best assist the family, for instance with referrals to other services; and in consultation with victim services support groups to institute Indigenous Missing Persons Liaisons within police departments to provide crucial services and updates to families.

**Recommendation 10:** We call on police forces to provide training on victim communications to all officers. We call on investigators in missing persons cases to proactively determine what information can safely be shared with families and friends without compromising an investigation. We call on investigators to be transparent with families and friends that not all information will be shared in order to protect the investigation, and to repeat this information when providing updates. We call on investigators to never lie to families and friends.

**Recommendation 11:** We call on all police forces to ensure that all cases of missing Indigenous persons are investigated promptly.

**Recommendation 12:** For urban Indigenous populations, we call on police services to adopt cultural competency training models based on the work of the Mi'kmaw Native Friendship Centre in Halifax, Nova Scotia and the St. John's Native Friendship Centre in St. John's, Newfoundland and Labrador. Work by Quebec Native Women Inc. and Prof. Doris Farget and her team at Université du Québec à Montreal for the LOFEO project should also inform cultural competency efforts in this context. For off-reserve generally and rural Indigenous populations specifically, we recommend that police forces consult with Native Councils to develop cultural competency training that addresses the needs and experiences of Indigenous populations who live off-reserve and in rural areas. We recommend that governments ensure that mainstream services, such as victims' services, counselling, legal aid, community policing, and major crimes, are trained to provide culturally competent and appropriate services and that this training includes off-reserve and non-status Indigenous peoples. Across the justice services spectrum, we recommend that cultural competency include offering police and criminal justice services in languages in addition to English and French and that police forces and governments recruit officers and other service providers who speak the Indigenous language of the people in the area.

**Recommendation 13:** We call on the Chief Commissioner of the RCMP and police services leaders across the country to encourage open engagement between police forces and community members at every level on missing and murdered Indigenous women and girls.

**Recommendation 14:** We call on all police forces and criminal justice institutions to institutionalize mandatory cultural competency training that is broad, pervasive, and ongoing. Cultural competency training should be extended to all members of the criminal justice system and police services, including civilian staff. All policies should be adapted in accordance with competency training to improve how members interact with Indigenous people. We recommend that all police forces and criminal justice institutions continually assess their competency training, policies, and interactions internally and with Indigenous organizations to ensure actual changes occur and to determine where further improvements should be made.

**Recommendation 15:** We call on all police services to incorporate principles of Indigenous community policing. The RCMP should reconsider its policies regarding placements and relocations. Officers, including members of the RCMP, who remain in their home communities or

in their linguistic region must still receive the professional opportunities they would have if they were part of a non-Indigenous municipal policing service or had moved away from their community or region.

**Recommendation 16:** We call on police forces to create and enforce a workplace culture that values difference and cultural safety and displaces entrenched gender and racial inequalities within organizations by enforcing non-discriminatory policies.

**Recommendation 17:** We call on all police forces to collect and maintain data of Indigenous representation in the applicant pool, hiring, retention and promotion.

**Recommendation 18:** We call on police forces to avoid inequitable workloads between Indigenous and non-Indigenous officers. Police services must not unfairly saddle Indigenous officers with additional duties due to connections to a community or language. This requires addressing gaps in settler officers' knowledge and requiring cultural competency and community engagement from all officers. When Indigenous officers do perform additional work due to their knowledge and connections, they must be properly supported, recognized, and compensated for these crucial services.

**Recommendation 19:** We call on all criminal justice sector employers to develop robust, culturally appropriate and trauma-informed supports for their members and employees through consultation with Indigenous trauma experts. Supports for Indigenous officers and employees should include pro-active inquiry into workplace morale and work satisfaction, vigorous investigations into complaints of discrimination and appropriate sanctions when employees are found to have abused or discriminated against other employees. Policies should include protections from retaliation for complaints, such as the withholding of promotions, to avoid doubly victimizing the complainants. Employers must ensure that the accountability measures work in practice, and that such measures are continually reassessed and modifications are made to ensure effectiveness.

**Recommendation 20:** We call on governments to support Indigenous police services by ensuring they are properly funded and their officers are appropriately compensated and protected.

**Recommendation 21:** We call on police services to increase transparency and civilian oversight regarding how complaints, both by civilians and by officers, are investigated and responded to. Independent civilian oversight bodies should be formed to achieve this goal. We recommend Indigenous-led authoritative, and well-resourced oversight bodies. At the very least, oversight bodies must include seats for Indigenous representative organizations with authority and resources

to initiate independent investigations. Disproportionate representation from marginalized communities is appropriate in these oversight bodies, as the populations who are most subject to discrimination and abuse by police, such as Indigenous people, have more experience and expertise with both systemic discrimination and discrimination by police. There should be a separate oversight body whose jurisdiction includes monitoring for discriminatory application of disciplinary procedures to Indigenous officers.

**Recommendation 22:** We call on police services to develop protocols that will reliably identify the missing person as Indigenous at the earliest opportunity. We recommend that officers receive cultural competency training to help them communicate effectively and appropriately with family and other contact persons. We recommend that training include a broad conception of the people impacted when a person goes missing.

**Recommendation 23:** We call on police officers to pro-actively offer reassurance that identifying as Indigenous will be helpful to the investigation and not result in lesser services, neglect or worse. We call on police services to work with Indigenous organizations to improve policies and practices and to demonstrate to the Indigenous population that police attitudes and practices have improved. Increased transparency and improved communication will enable and demonstrate trust building with communities.

**Recommendation 24:** We call for collaboration across police services to establish uniform best practices for responding to vulnerability factors such as homelessness, young age, and Indigeneity. Establish protocols for exploring a safe return when missing youth are located. These efforts should include working with youth shelters and organizations and addressing the root causes of why youth, and especially youth in care, are particularly vulnerable to going missing. When developing policies and procedures, recognize that various vulnerability factors may intersect and impact outcomes for youth.

**Recommendation 25:** We call on governments and police forces to collaborate in order to implement a system like Ontario's MCM and British Columbia's Major Case Management Policy and Office of Investigative Standards and Practices on the national scale to best address systemic issues such as abductions and murders of Indigenous women and girls.

**Recommendation 26:** We call on all police forces to adopt formal decision-making tools such as checklists and ensure that cultural competency training and police policies emphasize the importance of being aware of how bias factors into discretionary decisions such as when a case is

re-categorized to trigger MCM.

**Recommendation 27:** We call on all police forces to develop standardized case review protocols for missing person cases that have not been designated as criminal to ensure accountability and to assess whether discretionary decisions are influenced by biases. We recommend exploring the establishment of an electronic missing persons file management system available to all officers and maintained separately from criminal case databases.

**Recommendation 28:** We call on governments and police forces to promote collaboration between police services, including Indigenous police services, so that jurisdictional boundaries do not prevent cases from receiving effective investigation.

**Recommendation 29:** We call on governments and police forces to ensure that rural areas do not suffer from under-service by increasing the resource capacity of services and recruiting efforts. Make information about alternatives to first responder emergency services widely available. Extend cultural competency training to members of any organizations providing alternative first response services.

**Recommendation 30:** We call on police forces and victim services to develop media support protocols to assist families in interacting with the media about their missing loved one.

**Recommendation 31:** We call on police forces to track the success of existing media protocols and identify further improvements that can be made. Media protocols should include the provision of updates about the case, and media reports should be easily shareable so that the information can be disseminated through kinship and other networks.

**Recommendation 32:** We call on police forces to establish a uniform media protocol to ensure all police services are effectively using the media to locate missing persons and are appropriately supporting families in their contact with the media. Work with media outlets to ensure that accurate information, rather than prevalent myths, is widely available about missing persons' cases. Every police press release should include the information that there is no wait period for reporting a person missing.

**Recommendation 33:** We call on media organizations to institutionalize cultural competency training within media outlets to ensure that missing Indigenous women receive timely and respectful media coverage.

**Recommendation 34:** We call on provincial officials charged with establishing jury rolls to ensure inclusive and representative jury rolls are created.

**Recommendation 35:** We call on provincial ministers of justice to review jury acts to ensure that data on Indigenous representation can and will be gathered and that this includes recording the Indigeneity of people who live off-reserve, do not have status, or both.

**Recommendation 36:** We call on provincial governments to amend jury acts and regulations to address the systemic reasons for people who are marginalized being less likely to serve on juries, such as reimbursing transportation and child care costs, and providing a meaningful stipend for jury service.

**Recommendation 37:** We call on public prosecution services to direct prosecutors not to use challenges or cause for discriminatory reasons.

**Recommendation 38:** We call on court services to ensure that translation services are provided so that members of affected communities, including victims' families, may understand and feel respected by court proceedings.

**Recommendation 39:** We call on governments, police forces and courts to ensure that all initiatives begin from the position of women's safety. We recommend the development of a tracking system to gather data and assess the effectiveness of *Gladue* reports and other initiatives to address the over-incarceration and under-service of Indigenous people. We recommend that programs and services be provided to all Indigenous persons, regardless of where they live. We call on governments to collaborate with Native Councils and Friendship Centres on service delivery for offenders who live in urban and off-reserve settings and to provide adequate resource capacity for such programs.

**Recommendation 40:** We call on governments and child welfare agencies to take active measures to reduce the overrepresentation of Indigenous children in care and increase the supports available to Indigenous families. This must include consistently recording the Indigeneity of children in care, with a focus on ensuring that non-status and off-reserve urban and rural Indigenous children and families are recorded as Indigenous.

**Recommendation 41:** We call on child welfare services to collaborate with all Indigenous organizations to ensure policies and risk assessment methods accurately evaluate risk, are appropriate in Indigenous contexts, and do not apprehend children based on racial biases.

**Recommendation 42:** We call on child welfare agencies to establish practices that prioritize prevention, rather than apprehension, by working with families to provide the supports that would enable them to care for their own children and using apprehension as a last resort. Prevention



efforts must include increasing the resource capacity of Indigenous organizations that serve off-reserve urban and rural communities, such as Friendship Centres and Head Start programs, to develop and provide programming to support off-reserve families who are at risk of child apprehension.

**Recommendation 43:** We call on child welfare agencies to institutionalize cultural competency training. We recommend that cultural competency training address the false assumption that Indigenous families solely live on reserves which results in off-reserve Indigenous families not having their unique needs met by parenting programs and resources.

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**Recommendation 46:** We call on all educational institutions to ensure that students and staff receive comprehensive cultural competency training that is developed through consultation with Indigenous Elders and organizations, since Indigenous people access services and professions in all areas of Canadian life.

## Appendix II: Indigenous Population by Residence and Region, Census 2016

Indigenous Population by Residence and Region, Census 2016

	Canada		Atlantic Canada		New Brunswick		Nova Scotia		Prince Edward Island		Newfoundland and Labrador	
<b>Total - Area of residence</b>	<b>1,673,780</b>		<b>129,340</b>		<b>29,385</b>		<b>51,495</b>		<b>2,740</b>		<b>45,725</b>	
<b>On reserve</b>	339,595	20.3%	20,070	15.5%	7,465	25.4%	9,350	18.2%	530	19.3%	2,725	6.0%
<b>Off reserve</b>	1,334,185	79.7%	109,265	84.5%	21,915	74.6%	42,140	81.8%	2,205	80.5%	43,005	94.1%
<b>Rural</b>	364,980	21.8%	56,590	43.8%	12,330	42.0%	21,575	41.9%	1,230	44.9%	21,460	46.9%
<b>Population centre</b>	969,205	57.9%	52,670	40.7%	9,585	32.6%	20,570	39.9%	975	35.6%	21,545	47.1%
<b>Population centre non-CMA</b>	372,545	22.3%	30,505	23.6%	5,165	17.6%	8,720	16.9%	970	35.4%	15,645	34.2%
<b>Population centre CMA</b>	596,660	35.6%	22,165	17.1%	4,420	15.0%	11,850	23.0%	0	0.0%	5,900	12.9%

Source: Statistics Canada, Census of the Population, 2016