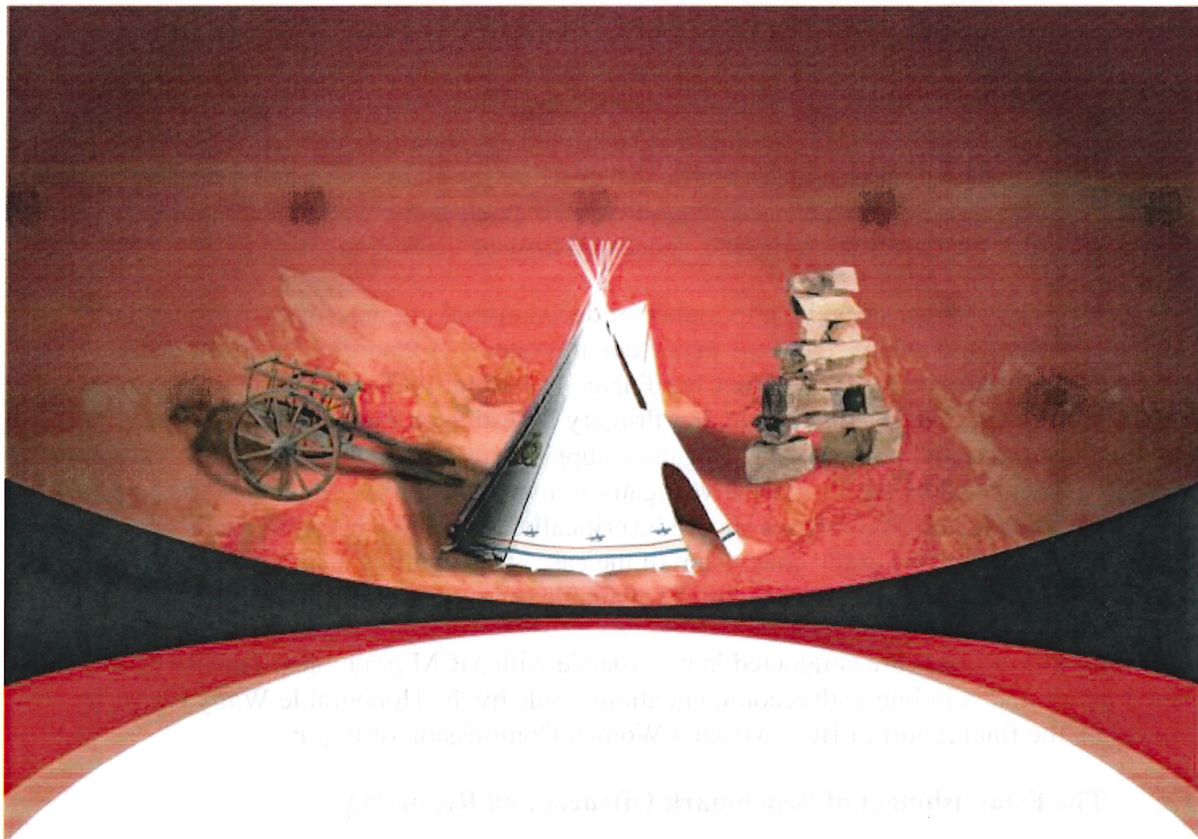




The National Inquiry into Missing and Murdered Indigenous Women and Girls



Institutional Hearing – Policing Practices
Investigative Policies & Practices Panel

June 28-29, 2018

Overview of Testimony of Deputy Commissioner Brenda Butterworth-Carr

1. Overview of Major Crimes Investigations

Major crimes investigations are complex and extremely time intensive. All major crimes investigations conducted by the RCMP are governed by Major Case Management principles. Regardless of the division or detachment, all homicides and suspicious sudden death investigations are transferred to a Major (or Serious) Crime Unit in the division. There is at least one Major Crime Unit in every division.

1.1 Major Case Management

The *Major Case Management* (MCM) policy was developed in 2004. The policy defines major cases as cases or investigations that are serious in nature and, due to their complexity and risk, require the application of MCM principles. Homicides, suspicious sudden death investigations and missing persons cases where foul play is suspected are some examples of major case investigations. The model provides a command structure for major cases and a methodology for organizing them. MCM provides accountability, clear goals and objectives, planning, resource allocation and control over the direction, speed and flow of the investigation.

The MCM policy emphasizes the importance of decision-making, intelligence processing, regular reporting and using a database management system. A Coordinated Investigative Team is formed to investigate the case. The Coordinated Investigative Team includes the command triangle consisting of a Team Commander, Primary Investigator and a File Coordinator. The remainder of the team consists of investigators, support staff and other employees. A Regular Member is identified by the Primary Investigator to manage exhibits. Media releases are approved by the team. Major cases should be critically debriefed while the case is ongoing, through file reviews, and at the conclusion of the case. The resulting analysis of best practices and lessons learned are preserved and made available to investigators in other cases.

All major RCMP cases are conducted in accordance with MCM principles. The use of MCM is a best practice and is in line with recommendations made by the Honourable Wally Oppal in *Forsaken*, the final report of BC's Missing Women Commission of Inquiry.

1.2 The Establishment of Benchmark Offences and Reporting

In "E" Division (British Columbia) a number of serious crimes, including homicide and missing persons cases where foul play is suspected, are now designated as *benchmark offences*. Once deemed a benchmark offence, each active investigation requires an initial Benchmark Offence Report and subsequent weekly Update Report to be completed and forwarded to the Divisional Major Crimes Unit's Officer in Charge. This reporting continues until the case is resolved.

These Benchmark Reports include such items as an investigational synopsis, proposed investigational activities, victim and suspect information, challenges facing the case, a family contact schedule, and evidentiary information.

1.3 Examples of Oversight in Major Crimes Investigations

National Investigative Standards and Practices Unit

In “E” Division, the **Office of Investigative Standards and Practices (OISP)** provides assistance and guidance to members and operational units embarking on major case investigations using MCM. The OISP ensures that the core principles of MCM are adhered to on all major case investigations in the division; provides assistance with the implementation, structure and direction of major cases; and monitors ongoing project oriented investigations as directed by senior management.

The success of the “E” Division OISP has led to the creation of a new unit at RCMP National Headquarters. The **National Investigative Standards and Practices Unit (NISPU)** is located in Ottawa as part of Contract and Aboriginal Policing. NISPU is still in its infancy. When fully staffed, it will be an internal RCMP centre of expertise and oversight for high profile and major case investigations, with the goal of increasing the prospect of successful investigations and criminal prosecutions. It will provide national governance, oversight and coordination of major and high risk investigations and ensure MCM principles are applied to these investigations.

While cases are still under investigation, NISPU will provide recommendations and guidance to investigative teams in the divisions. NISPU will help provide consistency across the country, notwithstanding geographic location or internal capacity of the investigating detachment or unit.

It is expected that a significant portion of the investigative support work done by NISPU, approximately 40%, will focus on cases involving Indigenous and vulnerable victims of crime in RCMP jurisdictions.

Service Standards Investigative Guides

The Service Standards Investigative Guides are similar to a checklist. They were developed to ensure compliance with approved investigative standards and provide practical advice at all stages of an investigation. Each criminal investigation is unique and many variables must be taken into consideration when developing investigational strategies. The guides are intended to ensure consistency in police response, service delivery and the application of investigative standards. They provide police officers with a succinct guide regarding investigative expectations and best avenues of approach to a variety of investigations.

BC Integrated Homicide Investigation Team

In “E” Division, the Integrated Homicide Investigation Team (IHIT) investigates all homicides, sudden deaths and missing person files where foul play is suspected, in addition to select high profile attempted homicide files within the Lower Mainland District of BC. IHIT also provides operational assistance to RCMP detachments and municipal police departments and investigates suspicious deaths, deaths while in custody, and shootings where police are involved. Since its inception in 2003, IHIT has provided resources for nearly 800 investigations.

The RCMP and its municipal police partners appreciate that no one police organization has the resources or expertise to effectively respond to the increasing complexity of homicide-related offences in the Lower Mainland. There is a mutual interest in working together.

IHIT uses a collaborative team approach to homicide investigations. IHIT has developed a response model based on MCM principles. Consistent structures, protocols, reporting and ideology help to improve efficiency and the effective deployment of resources.

IHIT includes the involvement of investigators from the New Westminster, Port Moody, Abbotsford and West Vancouver Police Departments. In addition to the administrative support staff, analytical unit and seven investigative teams, IHIT also has individual support teams. These teams include: Cold Case Team; Interview Support Unit; Family/Victim Support Liaison; Major Case Management File Coordination Unit; Legal Application Support Unit; Special Projects; and, Public/Media Relations.

IHIT covers the Lower Mainland District from Pemberton to Boston Bar, including the Sunshine Coast, serving 29 RCMP communities and four municipal police communities.

The IHIT Senior Management Team meets on a continuous basis with its municipal partners, including the Detachment Commanders and Chiefs of Police and provides weekly updates on its investigations. This is designed to keep partners apprised of current investigations, resources and budget status, and to ensure compliance with the overall operational philosophy and objectives of the unit. It also allows for discussions on any concerns that arise as well as feedback on best practices.

2. Special Considerations in Missing Persons Investigations

Missing person cases are not necessarily criminal cases. It is not illegal for an adult to disappear. There are limitations on what police can do in the absence of evidence that a crime has occurred.

Police can collect a variety of information that might help locate an individual but, unless a criminal act has taken place, no *Criminal Code* search warrant can be issued to compel a third party to provide such information.

The protection of individuals' privacy must be balanced with the authority to seek information to help locate persons who may be at risk at the time of their disappearance or thereafter. As a result, six provinces and one territory have enacted *Missing Person Acts* which provide legislative powers to the police.¹

Each investigation into a missing person is distinct, and each is assessed and prioritized based on the information gathered. All missing person reports are accepted at the time they are made and investigated, regardless of jurisdiction, biographical considerations, the reportee's relationship to the missing person, and the length of time the person has been missing. An initial risk assessment is completed by the responding police officer and in consultation with a supervisor, the appropriate resources are then assigned to the case.

¹ A provincial/territorial *Missing Persons Act* exists in British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, Newfoundland and Labrador, and the Yukon.

All reports of a missing person are investigated regardless of the individual's gender, age, race, national or ethnic origin, colour, religion, sexual orientation, beliefs, social standing, or lifestyle. This aligns with the *Bias-Free Policing* policy.

2.1 Changes to the *Missing Person* Policy

The examination of the policies on missing person cases stemming from the Robert Pickton case and B.C.'s Missing Women Commission of Inquiry has led to many changes. That Inquiry was limited to investigations between January 23, 1997, and February 5, 2002, the date of Pickton's arrest. The timeframe set out in the Inquiry's terms of reference meant that the advances in police investigative approaches that took place after February 5, 2002, could not be discussed. Several of the Inquiry's final report's police-focused recommendations dealt with improvements that had already been implemented.

For example, since 2003, the RCMP's *Missing Persons* policy has instructed members to complete a specific form, which included 13 specific questions about the missing person, for cases of missing adults.² The policy provided that DNA should be obtained early on in the investigation.³ The policy also required members to complete a **Violent Crime Linkage Analysis System** (ViCLAS) form where foul play was suspected.⁴ ViCLAS is a computer system that assists investigators to identify serial crimes and criminals by detecting linkages that exist among crimes by the same offender. All police services in Canada contribute to ViCLAS by submitting information about the violent crime investigations conducted within their jurisdiction.

In 2004, the policy was amended to require that if the person reported missing is an Indigenous person, the member should contact an Indigenous Liaison Officer for specific local advice.⁵ A second amendment directed members to continually update the family of a missing person of any developments in the investigation.⁶

Following the 2012 release *Forsaken*, further revisions were made change. In 2014, the RCMP developed a **Missing Persons Strategy** to increase the quality of the RCMP's investigations into missing person cases. The strategy was also informed by the B.C. provincial guidelines for missing person investigations.

As part of implementing the strategy, an updated *Missing Persons* policy was published on December 12, 2016. The changes included the introduction of a *Missing Person Intake and Risk Assessment Form*.⁷ The risk assessment form is mandatory and is to be completed in the first

² The policy was amended in 2016 and now section 3.1.4 requires members to complete a *Missing Person Intake and Risk Assessment Form*.

³ This was included in the Missing Persons policy, section K.10 (2003). There is now a new DNA policy to address DNA. Page 58 of the NCMPUR Best Practices has a timeline for collection of DNA.

⁴ Missing Persons policy, section 3.1.17

⁵ Missing Persons policy, section 3.4.3

⁶ Missing Persons policy, section 3.1.9

⁷ Missing Persons policy, section 3.1.4

instance, unless the Member is required for operational response. It includes a section for Members to indicate whether DNA and dental records were seized.

In addition, Members are required to develop a communication schedule, in consultation with the family or reporting party, to provide updates on the status of the investigation and to document each update on the file.⁸ Divisions are instructed to consult provincial directives for referral and access to available Victim Services, and to take cultural needs of the family of the missing person into consideration.⁹

Members are also required to consult with their supervisors to ensure they make appropriate responses and determine appropriate investigative paths, based on the circumstances of the situation.¹⁰ This change helps ensure that Members identify investigative steps at the earliest opportunity. The policy reinforces the need for supervisors to document all direction and guidance provided to the regular member on the file.¹¹ As information is received throughout the investigation and documented on the file, the risk level is continually reassessed.

The latest changes to the policy were made on June 14, 2018. The policy now provides that when issuing a media release with a photograph of the missing person, Members are to use an image that clearly depicts the missing person and, if possible, represents the most recent likeness of the missing person. Only if the complainant or family does not have a recent image or only ones that do not represent the current likeness of the person will the RCMP use an image from police databases.¹²

2.2 Time for Making a Missing Person Report

There is no minimum time for a person to be missing before calling the RCMP.¹³

2.3 Issuing a Missing Person News Release

The RCMP initiates an investigation when a person is reported missing. A release to the media and public may be issued immediately, particularly in high risk cases. In some cases, other investigative steps are taken prior to a public release. For example, checking to see if the person was admitted to a hospital or was arrested and is in custody, interviewing friends and associates, obtaining bank records, phone records, reviewing social media accounts, or identifying location of cell phones (pinging).

⁸ Missing Persons policy, section 3.1.9

⁹ Missing Persons policy, section 3.1.10

¹⁰ Missing Persons policy, section 3.1.5.1

¹¹ Missing Persons policy, section 3.3.1

¹² Missing Persons policy, section 2.6

¹³ Missing Persons policy, section 2.3

2.4 Locating a Missing Person Safely

The goal is always to locate someone unharmed, or that they return of their own accord. Fortunately, this is the usual outcome. Upon the return of a person reported missing, the RCMP generally removes the news release and social media notifications concerning the investigation. Alternatively, the notices are amended to remove all identifying information and to thank the public for their assistance.

Where applicable, the RCMP will seek to interview the returned individual to identify the reasons for their disappearance and to develop strategies to prevent future disappearances. This could prevent future victimization of vulnerable individuals.

In its investigation, Project EVENHANDED investigators located over 125 women who had been reported missing to police agencies in Canada. Many of these women did not want their locations to be revealed to their families as they had voluntarily left. Once investigators had established that the women were, in fact, alive and well, their wishes were respected and no further details were given to families or other reporting parties.

2.5 Promising Investigative Practices and Developments

The National Centre for Missing Persons and Unidentified Remains

The National Centre for Missing Persons and Unidentified Remains (NCMPUR) provides law enforcement agents, Medical Examiners and Chief Coroners with specialized investigative services to support investigations into missing persons and unidentified remains. As part of its operations, NCMPUR manages the National Missing Children/Persons and Unidentified Remains Database.

The mandate of the NCMPUR is to: enhance specialized services available to missing persons and unidentified remains investigations; increase operational effectiveness and intelligence building; develop training for police; and, assist in investigative comparisons involving missing persons and unidentified remains.

NCMPUR gathers and disseminates best practices for investigating occurrences of missing persons and unidentified remains in Canada. NCMPUR has developed a compendium of Best Practices compiled from practices, policies and procedures from around the country and internationally, and reviewed by subject matter experts.

NCMPUR is also responsible for the *Canada's Missing* website.¹⁴ The purpose of this website is to solicit tips. The investigator in the originating police agency decides which eligible fields are actually published, and provides approval for the content. On the website, the public is directed to provide information to the primary investigating agency. Tips can also be submitted to

¹⁴ National Centre for Missing Persons and Unidentified Remains - Canada's Missing www.canadasmissing.ca

NCMPUR by clicking on a link to create an email. Each tip received is added to the occurrence field in the database and relayed right away, verbatim, to the investigator or agency.

The National Missing Persons DNA Program

Launched in March 2018, the National Missing Persons DNA Program is a national program to support missing persons and unidentified remains investigations. It leverages the analytical support already provided by NCMPUR, and it extends into the field of the scientific support that the National DNA Data Bank (NDDB)¹⁵ already provides to criminal investigations.¹⁶

The program allows investigators to submit a DNA sample of a family member or from a missing person's personal effects for analysis. The resulting DNA profile may then be compared to other DNA profiles that have been entered in the NDDB and potentially develop new leads. Participation in the program is completely voluntary. The submission of a family member's sample can only be done with the family member's voluntary consent in writing. The family must also have an informed understanding of what it means to submit DNA from the missing person's personal effects. NCMPUR has developed an investigator's guide and a family guide to the program.

To submit a DNA profile to the Missing Persons Index or the Relatives of Missing Persons Index, the investigator must be able to meet legislative thresholds for inclusion. The investigator must show that: there are reasonable grounds to suspect that the comparison of the profile will help the investigation; that other investigative procedures have been tried and failed, or are unlikely to succeed; or that the urgency of the situation requires the comparison of the profile to others. If these legislative thresholds have been met, the investigator will consult with NCMPUR and receive authorization to submit DNA profiles of the missing person or unidentified remains.

There are now three humanitarian indexes and four criminal indexes. The humanitarian indexes are:

- The **Missing Persons Index**, comprised of DNA profiles derived from the personal effects of a missing person;
- The **Relatives of Missing Persons Index**, comprised of DNA profiles derived from samples submitted with informed consent, to be used to confirm the missing person's DNA profile for the Missing Persons Index and to compare with the DNA profiles in the Human Remains Index; and,
- The **Human Remains Index**, comprised of DNA profiles derived from human remains.

The four criminal indexes are:

- The **Convicted Offenders Index**, comprised of DNA profiles of offenders convicted of specific designated offences;

¹⁵ National DNA Databank <http://www.rcmp-grc.gc.ca/nddb-bndg/index-accueil-eng.htm>

¹⁶ National Missing Persons DNA Program <http://www.rcmp-grc.gc.ca/en/national-missing-persons-dna-program>

- The **Crime Scene Index**, comprised of DNA profiles collected from crime scenes;
- The **Victims Index**, comprised of DNA profiles of victims of criminal cases under investigation; and,
- The **Voluntary Donors Index**, comprised of DNA profiles voluntarily submitted with informed consent from any person, other than the victim of a crime, to advance criminal, missing persons, or unidentified human remains investigations.

The *DNA Identification Act*¹⁷ allows for comparisons between all seven indexes with one exception: the DNA profiles in the Relatives of Missing Persons can only be compared to the DNA profiles in the Missing Person Index and the Human Remains Index.

“E” Division – Special Projects to Identify Human Remains

In “E” Division (British Columbia), the Unidentified Human Remains Unit works collaboratively with joint projects involving the Special Investigations Unit of the B.C. Coroners Service and the B.C. Police Missing Persons Centre. Several projects since 2012 have related to the identification of human remains throughout the province.

“E” Division – Real Time Intelligence Centre BC

The Real-Time Intelligence Centre BC was launched in June 2014 and expanded to 24/7 service at the end of 2015. Police throughout Metro Vancouver are benefitting from an unprecedented level of information sharing with the integrated Centre, which closes gaps in intelligence sharing and inter-agency communications. It is staffed by RCMP and municipal policing partners. The Centre releases daily intelligence reports to all police agencies and partners regarding ongoing cases, including high risk missing person investigations. These reports include colour photos and contact information to advance investigations.

Missing Persons Units

In 2016, “D” Division (Manitoba) created the Missing and Exploited Persons Unit. This unit was established to support and improve missing persons investigations, provide an increased level of operational oversight, and facilitate accurate and up-to-date statistics on missing persons. This is achieved through the proactive identification of target files in daily searches of “D” Division RCMP data bases.

While still in its early stages, the Missing and Exploited Persons Unit was developed with a mandate that includes the following, among others:

- Review and oversight of investigations into missing persons and unidentified human remains, and reporting therein;
- Exploited Persons Proactive Strategy – a non-enforcement initiative focused on safety, education and harm reduction for exploited persons;
- Project DISAPPEAR – the Manitoba Association of Chiefs of Police public missing persons website;
- Dental transcription/identification initiative; and,

¹⁷ S.C. 1998, c. 37

- Familial DNA initiative.

In “F” Division (Saskatchewan), all newly-reported missing persons investigations are reviewed by a Missing Persons Unit, located in Regina and Saskatoon. It reviews cases identified through the CPIC and the PROS databases, to ensure investigations proceed in accordance with policy. Advice and direction is given to detachment members regarding policy requirements. The Missing Persons Unit compiles a variety of statistical reports on missing person cases and investigational files and helps investigators prepare media releases for newly reported and long term missing persons investigations. The Missing Persons Unit identifies investigations requiring support from the Major Crimes Units and ensures engagement of other support units, when necessary. The Coordinator plans and/or organizes searches, and actively participates as a member of the search team.

“F” Division has three Historical Case Units for missing person cases. These units investigate: cases where there is a high probability of foul play, but where the body has not been located; non-suspicious missing person cases where the body has not been located, such as drownings, lost hunters, and those where the reasons for the disappearance are unknown; and cases involving found human remains that cannot be positively identified to a specific individual.

The RCMP in “F” Division is also a member of Saskatchewan’s Provincial Partnership Committee on Missing Persons. Its meetings share best practices and discuss obstacles in order to improve all agencies’ responses to missing person cases. Investigations are discussed and improvements sought in conjunction with education and prevention initiatives.¹⁸

3. Special Considerations in Sudden Death Investigations

In 2007, the *Human Deaths* policy was changed to require that all reportable deaths occurring within RCMP jurisdiction must be treated as suspicious and investigated thoroughly.¹⁹ This does not imply that the death is considered a homicide, but it does mean that police cannot initially rule out anything.

3.1 Roles of Police and Coroners/Medical Examiners

The determination of the cause of death is the responsibility of the provincial/territorial Coroner’s Service, Medical Examiner and/or the Forensic Pathologist. It is also the responsibility of the Coroner/Medical Examiner to identify the deceased. Where there are no obvious signs of foul play, the RCMP acts on behalf of, and in support of the Coroner’s Service, which has the authority to retain and examine the scene of the death. In these situations, information is gathered by the RCMP for the Coroner’s Service.

¹⁸ See also K Division (Alberta) Missing Persons Unit <http://www.rcmp-grc.gc.ca/ab/community-communaute/mis-dis/index-eng.htm>

¹⁹ Human Deaths policy, section 1.1

In some instances, there are obvious signs that the death is a homicide. In less clear cases, confirmation that a death is a homicide often occurs through a post-mortem examination, or autopsy. This information is usually shared with the family. The only situation in which the police would withhold information from the family is for a very specific investigational strategy. For example, where someone reported a suicide or accidental death to police, but their involvement is being investigated.

Under the *Privacy Act*,²⁰ deceased persons retain the right to privacy; however, the name of the deceased may be released, for example, to the news media, in the following circumstances:

- It will further the investigation;
- If there is a police or public safety concern; or,
- The identity of the deceased has been made publicly available through other means, such as, but not exclusive to, social media sites.

An exception under the *Privacy Act* allows the release of the person's identity when, in the opinion of the investigator, public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure.

3.2. Next of Kin Notification

As soon as possible, the RCMP advises the next of kin of the death of their loved one and provides information on resources and services. Members attempt to make the notification in person.

It is important that police provide accurate information, and can respond to the emotions of the family. Prior to going to meet the next of kin, the attending member is expected to familiarise himself or herself with the circumstances of the death in order to be prepared to answer the family's questions. This includes: where, when and how the death occurred; where the deceased's body is being held; who to contact about the body; and, contacts for Victim Services. If possible, two people will do the notifications. One person might be a Victim Services worker, an Elder, clergy or Family Liaison officer.

Many divisions set out their own policies or directives. A common direction is that no family member will be asked to identify a deceased victim who has suffered extensive facial injuries, or where decomposition of the face has occurred. Positive identification can occur either after facial reconstruction has occurred, or by other means; for example, through dental records or fingerprints.

In several divisions, policy indicates that prior to making notifications, Members may seek advice from Elders as to any specific procedures to be followed. The *Human Deaths* policy

²⁰ R.S.C. 1985, c. P-21

instructs Members to consider seeking guidance from Elders on cultural protocols if the deceased is Indigenous.²¹ Members are also instructed to review the Next of Kin Notification form.²²

In all divisions, Victim Services can be called upon to assist with notifications. In some divisions, divisional policy dictates that, if the family member is elderly and alone, Members should remain until Victim Services or other family members have arrived. In practice, generally RCMP Members remain with the family until Victim Services, other family or friends have arrived.

3.3 Facilitation of Site Access Requests

In a recent change to the *Human Deaths* policy, members are instructed to consider requests from family to view the body or attend the scene. Members need to consider the status of the investigation (e.g. criminal investigation) and must comply with provincial legislation when gaining access to the scene.²³ The policy provides that where access to the scene is possible, and the scene has been released by the coroner/medical examiner and the lead investigator, members may facilitate granting family access to the scene.

Where the family requests to view the scene later, members are instructed to facilitate and assist their attendance to the location. The policy notes that depending on the beliefs of the family, they may wish to perform a ceremony at the scene, (e.g. tobacco ceremony).²⁴

4. Special Considerations in Homicide Investigations

Homicide investigations are governed by Major Case Management principles. Regardless of the division or detachment, all homicides and suspicious death investigations are transferred to a Major or Serious Crime Unit in the division. The first 48 to 72 hours of these investigation are crucial.

4.1 Laying of Charges

The law requires sufficient evidence to support the laying of a charge by police. In addition, pre-charge approval is required by Crown Counsel in B.C., Quebec and New Brunswick. In other jurisdictions, the police lay charges, but may consult with the Crown Counsel before doing so. The Crown Counsel's role is to assess the reasonable likelihood of conviction and deem whether it is in the public interest to prosecute. With regard to the charges, it is also Crown Counsel's role to determine what charges will be laid, amend the charges if appropriate, lay additional charges if necessary, and stay or withdraw the charges.

²¹ Human Deaths policy, section 3.1.3

²² Human Deaths policy, section 3.1.1

²³ Human Deaths policy, section 3.1.4

²⁴ Human Deaths policy, section 3.1.4.4

4.2 Historical Homicides

There are no set timelines in RCMP policy about when a homicide becomes “historical.” Divisions may have their own policy, but each case is unique and is assessed on its own merits. It is not the length of time from the start of the investigation that makes a case “historical,” but the amount of time since all investigative avenues have been exhausted without anything new emerging.

Whether or not an investigation is considered historical, an unsolved case remains open. Investigators continue to pursue leads and avenues of investigation. If resources are available and the case is “solvable” (in the sense that there is a suspect, evidence exists and charge approval is likely), specialized avenues of investigation can be considered.

“E”, “K”, “F”, “D”, and “J” Divisions each have both a Major or Serious Crimes Unit and an Historical Homicide (or Case) Unit. Major Crimes Units are expected to exhaust all possible investigative avenues and tasks prior to the case being transitioned to the Historical Case Units. In “H” Division the Historical Unit is integrated with Halifax Regional Police.

In divisions with no Historical Homicide or Case Units, the cases remain with the Major Crimes Units. They are assigned to an investigator. The investigator must maintain family contact and update them as to the status of the investigation.

Historical Does Not Mean Unsolvable

Advances in DNA techniques offer opportunities for opening new avenues of investigation. Older files require a full file review and analysis, and many need to be converted into electronic file formats to be consistent with current Major Case Management approaches. Criminal analysts specializing in forensics ensure that evidence is analyzed and sent for advanced testing, and preserved for the future.

With each passing year, the ability to advance and solve these cases can be compromised by the deterioration of physical evidence, including exhibits and DNA samples. Multimedia information and evidence, such as audio and video recordings and photographs, can also be lost over time. The relocation or deaths of key witnesses and suspects adds to the difficulty in solving old cases.

Advances in Technology

With new investigational techniques and advancements in forensic science, historical cases are reviewed and updated. If an exhibit can be reanalyzed or a link analysis is made from another investigation, the case is pursued further.

DNA testing began in the RCMP in 1988. In the early days of DNA technology, the main limitations were that a large sample was required, such as a bloodstain the size of a loonie, and analysis took a minimum of 30 days and often much longer.

The current technology requires a tiny sample, such as a bloodstain the size of a pinhead or less than one millionth of a gram. The time for analysis has been shortened to approximately two days. The increased sensitivity of the current DNA technologies has introduced new

requirements to avoid cross contamination of exhibits. New guidelines in the sampling, packaging and handling of exhibit material that did not exist in the early days of DNA are now standard procedure.

Some historical cases occurred years or even decades before it was possible to use DNA in criminal investigations. Exhibits were stored and preserved based on the standards of that day. Older evidence may not have been properly dried before being bagged and stored in evidence lockers or the storage conditions of the lockers may have been hot and/or humid: the biological material and DNA degraded as a result. Over time, DNA becomes too degraded to be useable. Oftentimes, multiple exhibits were grouped together in the same packaging, cross-contaminating the evidence. These factors were minor concerns pre-DNA, but major concerns today.

4.3 Promising Investigative Practices

Historical Homicide or Case Units

In “K” Division (Alberta), the Historical Homicide Unit is an extension of Project KARE. In 2009, a dedicated unit was established to investigate all unsolved missing person and homicide cases in Alberta. Between 2010 and 2016, investigators gathered, reviewed, analyzed and/or investigated 95 unsolved homicide and/or missing persons cases of which 11 (12%) involve Indigenous women or girls.

Since 2010, the Historical Homicide Unit has successfully investigated and/or prosecuted 9 historical homicides and/or missing persons cases, three of which involve Indigenous female victims. This includes the arrest and conviction of Gordon Rogers for his involvement in the murder of two Indigenous females, one in Saskatchewan in 2007 and one in Alberta in 2009.

In “D” Division (Manitoba), the Historical Case Unit is responsible for homicides or missing person investigations where foul play is suspected and where investigations remain unresolved after five years. This includes any cases related to missing and murdered Indigenous women and girls, except those involving exploited persons. Those investigations are the responsibility of Project DEVOTE. While written policy dictates that investigations that are unsolved after five years are to be transferred, this is done with the Major Crime Unit, the Historical Case Unit and/or Project DEVOTE consulting on each file.

In “F” Division (Saskatchewan), Historical Case Units were created in 2004 to investigate five categories of cases, including homicides and suspicious deaths.²⁵ For homicides, cases that are unsolved for a period of six months are transferred from the Major Crimes Units. The Historical Case Unit investigates other homicide cases, including those where suspects were identified but there was insufficient evidence to proceed with charges and cases where charges were laid but court proceedings were stayed, withdrawn or dismissed at the preliminary hearing stage. The Historical Case Units’ suspicious death cases involve any death investigation deemed to be suspicious either by the nature of the death itself, or the inability of the medical examiner to

²⁵ The three other Historical Case Units investigate: missing persons where foul play is suspected, missing persons, and found unidentified human remains.

determine the cause of death. There is a review and update of all Historical Case Unit investigations every two years.

Investigator Meetings and Working Groups

The RCMP participates in meeting and conferences of police services to share best practices and discuss new developments in investigations of historical cases. Examples of such conferences include:

- **Saskatchewan Association of Cold Case Investigators** - All police services in the Saskatchewan attend these biannual meetings, with each police agency taking a turn at hosting this event. Presenters share experiences with historical investigations. These meetings allow members of the RCMP in “F” Division and municipal police service investigators to discuss cases, share best practices, develop strategies and discuss new developments in the world of historical cases.
- **Western Canada Criminal Operations Officers MMIWG and Missing Persons Working Group** - RCMP Criminal Operations Officers from the western provinces (“D”, “E”, “F”, and “K” Divisions) meet to discuss cases of missing and murdered Indigenous women and girls and other missing persons investigations in order to identify challenges and gaps and share best practices.

5. Projects and Task Forces

The RCMP is working with policing partners directly to address the issue of missing and murdered persons, including Indigenous women and girls. Joint task forces collaborate and cooperate in the investigations of missing and murdered persons.

5.1 Project EVENHANDED

Project EVENHANDED, the first of these joint taskforce, began in the spring of 2001. The primary focus was to investigate the disappearances of vulnerable women from the Downtown Eastside of Vancouver, the majority of whom were suffering from drug addictions and were exploited in the sex trade. The RCMP and the Vancouver Police Department worked jointly on the project. Ultimately, 68 cases of missing and unaccounted for women matched the criteria and 36 (58%) were identified as Indigenous women.²⁶

A multi-phased strategy was developed, including a structured file review of solved and unsolved murders, and violent sexual assaults of exploited women and hitchhikers. Based on the reviews, hundreds of persons of interest were identified and crime scene DNA samples were obtained. The investigators also collected familial DNA samples for the missing women and DNA from unidentified human remains found in the province.

²⁶ This number does not include cases of women who were found alive, those found deceased and no foul play was suspected or those being investigated as homicides.

In February 2002, Robert “Willie” Pickton came into focus when a search was conducted on his property. This developed into the largest serial killer investigation in Canadian history. At the peak of the file, there were approximately 270 resources attached to the investigation.

The investigation identified 33 victims whose remains (DNA) were located on Pickton’s property. Death certificates were issued for the 32 women who were identified. The 33rd victim is a “Jane Doe,” whose unidentified human remains were located in 1995 in the Fraser Valley in B.C. and were linked forensically to the Pickton investigation. Unfortunately, Jane Doe remains unidentified. She is listed with the NCMPUR and posted on the *Canada’s Missing* website.

The EVENHANDED investigation saw several important advances. For example, there were developments in crime scene investigation in relation to DNA evidence recovery, and forensic DNA analysis with the introduction of robotics in the laboratory. There were developments in the use of electronic MCM, which successfully managed and disclosed over two million documents.

Key accomplishments of EVENHANDED include the conviction of Pickton on six counts of second degree murder in December 2007. Twenty counts of first-degree murder were stayed by the Crown and one case was quashed by the Court. The Crown declined to lay further charges.

The investigation led to the identification and arrests of several suspects unrelated to the Pickton case, but involving missing women or violence against exploited women. It also led to the identification of the killer in a series of six murders of exploited women in Vancouver in the late 1980s. The offender died during the investigation before charges were laid. DNA also determined that a single individual was responsible for the deaths of three more exploited women, but to date their killer remains unidentified.

EVENHANDED has concluded and the files have been returned to their respective police agencies in 2013. The unresolved missing women investigations remain active with their respective police agencies, mainly the Vancouver Police Department. Of the original 68 cases, five cases remain with their respective RCMP jurisdictions within “E” Division.

5.2 Project E-PANA

In January, 2006, the Unsolved Homicide Unit formed a project team to review and investigate cases of murdered and missing women associated with highways in northern British Columbia. The mandate of the project, which came to be known as Project E-PANA, was to determine if a serial killer was responsible for murdering young women moving along major highways in northern British Columbia. The secondary goal, regardless of whether or not a serial killer was detected, was to develop investigational plans for the cases that fit E-PANA’s criteria, namely:

- the victim was female;
- the victim was engaged in one or more “high risk” behaviours, i.e. behaviours which would tend to place them in the control of strangers in isolated environments without witnesses, easy avenues of escape or sources of assistance – the primary examples of this would be hitchhiking alone or sexual exploitation through prostitution;

- the victim went missing from, or her body was found near, Highway 16 from Prince Rupert to Hinton, Highway 97 from Merritt to Fort Nelson, or Highways 5 and 24 connecting Valemont and 100 Mile House; and
- The evidence indicated a stranger attack, i.e. no suspect was seen or identifiable and there were no grounds to believe that death was the result of suicide, misadventure or domestic violence.

After extensive research, E-PANA identified 18 cases for review and investigation. These involved 13 unsolved murders and five cases of females who were missing and presumed murdered. About half of the cases involve Indigenous women and girls.

The E-PANA investigation began with a two-year review of over 700 banker boxes of material emerging from the 18 investigations. All documents were reviewed and entered into a database. To date, over 1,500 persons of interest have been identified, and over 99% of those have been eliminated. This was accomplished through over 18,711 investigator inquiries, 177 polygraph tests, 2,500 interviews, polygraphs and DNA analysis. More than 1,022 DNA samples were collected for comparison. Over 102,000 subjects have been entered in to the E-PANA data set.

E-PANA is in its thirteenth year of investigation. Seven (39%) of the 18 cases have been cleared, either by charge or because the suspect is deceased. Of the remaining investigations, there are two cases where strong suspects have been identified and remain under investigation. E-PANA investigative resources continue to meet with family members of victims, appropriate agencies, and support groups.

E-PANA remains an active historical investigation project. New homicides or missing persons cases are not anticipated to be added to the project, but if there is an established link between an existing E-PANA file and another investigation, this may change. Investigators continue to review other homicide cases for possible linkages to open E-PANA cases. Cases in northern B.C. that are not part of E-PANA remain either with the detachments or in Major Crimes Units. Investigators from the Major Crimes Units in “E” and “K” Divisions bring any persons of interests to the attention of E-PANA investigators as they work on new files.

5.3 Project KARE

In the spring of 2003, a vulnerable persons project team was formed in response to numerous human remains found in the Edmonton area. The KARE/Pro-Active Team, a sub-unit of “K” Division’s Missing Persons Unit, was originally created to investigate the deaths of several vulnerable missing persons in the Edmonton area. Known then as Project KARE, since its inception in 2003, KARE’s mandate expanded considerably until its conclusion as a standalone project in 2014.

KARE was initially given a three-year mandate related to harm reduction, developing specific offender profiles for unsolved missing person and homicide files involving vulnerable or exploited females; creating a dedicated unit to investigate all unsolved missing person and homicide cases throughout Alberta; and developing best practices for investigators.

KARE was different from criteria-based projects in that it conducted many of its investigations based upon or around a specific offender profile established by analysis of multiple cases and input from the Behavioural Sciences Branch.

During its first three years, KARE expanded and became a Joint Forces Operation comprised of a dedicated staff of full-time and seconded RCMP and Edmonton Police Service investigators and support staff members.

In March 2014, due to the re-allocation of RCMP and Edmonton Police Service resources, KARE was closed as a standalone project. However, the need to have full time resources and units dedicated to important areas such as missing person and historical homicide investigations, as well as victim family support services, had been identified. KARE's original resources and infrastructure were normalized into four permanent units:

- KARE Pro-Active Unit;
- Missing Persons and Unidentified Human Remains Unit;
- Historical Homicide Unit; and,
- KARE Victim Services Unit.

These four units all fall under the Serious Crime Branch. The Missing Persons Unit is strategically linked to these units, as well as to "K" Division's General Investigations Section and Major Crime Units.

The KARE Pro-Active Unit

The KARE Pro-Active Unit was created in 2003 in response to KARE's first mandate and is thought to be the first unit of its kind in Canada. The Pro-Active Unit began in Edmonton but subsequently expanded to other communities, including Fort McMurray, Grande Prairie, Calgary, Red Deer, Medicine Hat and Camrose. Originally known as "Insurgence Teams," their purpose was to identify and implement strategies to minimize the risks facing vulnerable persons. The initiative consisted of three main components: the collection of personal information; harm reduction and education; and criminal intelligence. KARE teams canvass, identify, register and educate individuals engaged in vulnerable lifestyles. This *High Risk Registry Program* is completely voluntary and the information collected is retained explicitly for the purpose of identification if and/or when unidentified human remains are found.

The Pro-Active Unit has ongoing engagement with front line partner agencies in providing exit strategies for youth involved in or at risk of sexual exploitation. The team works with Indigenous communities on harm reduction strategies aimed at assisting Indigenous youth and community members. The goal of this collaborative work is to prevent engagement in activities that increase vulnerability.

The Pro-Active Unit supports public awareness and educational campaigns through increased community engagement. Finally, the personal engagement between the Pro-Active Unit members and vulnerable individuals has expanded to include regular meetings with those in

remand centres, correctional and social care facilities, and homes administered under the *Protection of Sexually Exploited Children Act*.²⁷

5.4 Project DEVOTE

In 2011, the RCMP, Winnipeg Police Service, and Province of Manitoba created Project DEVOTE following a review of unsolved homicides and missing person cases in Manitoba by the Manitoba Integrated Task Force for Missing and Murdered Women. DEVOTE's stated objectives were:

- Solve homicides of exploited persons and missing person investigations where foul play is suspected;
- Strengthen public confidence by creating partnerships with community groups, and stakeholders; and,
- Support victims' families.

Located in RCMP "D" Division Headquarters in Winnipeg, DEVOTE consists of RCMP Members and civilian analysts and Winnipeg Police Service police officers. It brings together a team with the necessary knowledge, skills and abilities for these types of investigations. A Family Liaison position is funded by Manitoba's Department of Justice.

DEVOTE's updated and expanded mandate now includes all people at risk of exploitation, regardless of gender, gender identity or sex, and now reads:

To investigate missing person cases where foul play is suspected, and the homicides of exploited persons through a collaborative effort between the RCMP and Winnipeg Police Service.

Currently, DEVOTE concentrates on investigating 30 unsolved homicide and missing person cases where foul play is suspected involving exploited and at-risk persons. The cases range in date from 1961 to 2011. All but one of the cases involve female victims, and twenty-two (73%) involve Indigenous women and girls.

DEVOTE also attempts to mitigate the problems with previous investigations of exploited and vulnerable women that were identified in *Forsaken*.²⁸ First, DEVOTE focuses on both investigation and prevention. A proactive team has been established to enhance the on-going efforts to protect exploited and at risk persons. The RCMP's Exploited Persons Proactive Strategy member and Human Trafficking coordinator travel to communities throughout

²⁷ R.S.A. 2000, c. P-30.3

²⁸ The problems with previous investigations identified in *Forsaken* were: (1) an inability to coordinate between police forces, including sharing of information; (2) an adversarial relationship with the media, which can hamper investigations; (3) inadequate proactive strategies to prevent further harm to women; and (4) restricted involvement of family members, community and media.

Manitoba to assist women and girls who are being exploited or are at increased risk of becoming victims of violent crime.

Second, DEVOTE's personnel have made families an important part of their work. A Family Liaison Officer (known as "Family Liaison") works with the families of the missing and murdered persons. The Family Liaison is a main contact for families and acts as a navigator through the legal system, provides support in the courts, and makes referrals to support agencies such as counselling. Another important support provided by the Family Liaison is to engage in discussion with families before anything is released to the media.

Families also have regular contact with the investigators. Each investigator is assigned specific files so there is one point of contact for families. In consultation with the Family Liaison, investigators meet personally with families to address their specific needs and particular concerns. Families are also invited into DEVOTE's offices. Investigators strongly believe that investigations are strengthened through a personal bond between the investigator and family.

Third, DEVOTE builds media partnerships. A media strategist is assigned to DEVOTE, and where practical to support investigations, investigators make themselves available to the media. Media strategies have been established to increase awareness with the public and to elicit tips. For example, DEVOTE has used billboards, posters, and entire city buses, and have partnered with media agencies on media strategies. Media have also been engaged to help raise awareness of victimization to people living in high-risk communities, often in rural locations.

Fourth, DEVOTE investigators involve themselves in community events throughout Manitoba. They accept invitations from family members to take part in memorials, commemorative events, Powows, Sun Dances, and other cultural events. DEVOTE team members travel to northern communities to meet with Indigenous leaders, to understand the needs of the families of missing and murdered Indigenous women and girls, and to assist with proactive work undertaken by DEVOTE.

Finally, DEVOTE engages broad networks to break down barriers with other police agencies within and outside the province. Specific agency delegates are identified, which improves communication and information sharing. This facilitates communication and identifies possible linkages to suspects or victims across jurisdictions. For example, many of the DEVOTE cases originate from the City of Winnipeg, under the jurisdiction of the Winnipeg Police Service.

When there are new homicide or suspicious missing cases in Winnipeg, where the victim has a similar profile to those in DEVOTE cases, communication is maintained between DEVOTE and the Winnipeg Police Service. This is one of the significant benefits of having a joint force operation with Winnipeg Police Service members.

6. Communication with Families

Effective communication with families in the context of major case investigations is extremely important. RCMP policies specifically address communications with families.

The *Missing Persons* policy requires members to develop a consultation schedule with the family or reporting party. The policy also requires members to provide updates on the status of the investigation and document each update on the file.²⁹ The *Victim Assistance* policy instructs members to develop a communication schedule in cases of homicides, sudden deaths, suicides, sexual assaults and other serious crimes.³⁰ This schedule is developed in consultation with the family/reporting party to provide updates on the status of investigation.

The RCMP requests that families designate one person to act as the point of contact. The family contact could be a spouse, parent, sibling, or even a close friend of the missing person or deceased. The person identified will be in contact with the designated investigator or Family Liaison and in turn provide updates to other family members. Having one designated family contact between the primary investigator and the family simplifies communication.

Increasingly, there are requests from third parties, such as clergy, Elders, community members, friends, advocates, etc. who also seek updates on a regular basis. The family can have anyone they choose attend status meetings, and can appoint a third party as the main contact. Police can provide detailed information to these parties with the consent of the family.

1.1 The Extent of the Information Shared with Families

In some cases, the majority of communication between the family and the RCMP is not with an investigator but an assigned Family Liaison, who works as part of the Major Case Management or project investigative team. Where a Family Liaison is appointed as the main contact, they are briefed only on what they need to know to avoid inadvertent disclosure of sensitive information to the family.³¹

The disclosure of information is difficult because there are times when information is withheld to protect the integrity of the investigation. The RCMP tries to provide the family contact with information they need, while ensuring that if the information is inadvertently leaked, it will not compromise the investigation. There are instances where, if it does not compromise the investigation, sensitive information is shared with the family contact, with the caveat that it not be disclosed.

²⁹ Missing Persons policy, section 3.1.9

³⁰ Victims Assistance policy, section 4.2.3

³¹ The Family Liaisons are embedded positions within police or Victim Services. These are separate and distinct from the newly created Family Information and Liaison Units created in parallel to the National Inquiry through funding from the federal Department of Justice.

In the case of homicides, the family contacts are informed of important events that may not be shared with the media. For instance, when an autopsy will take place or when the scene will be released. As soon as charges have been laid or approved by the Crown, the family is informed - before that information is released to the media.

Sometimes the family learns information in a manner out of the RCMP's control. For example, they may have found the victim or view the body at the funeral home and observe injuries, or be told information by health care professionals. If this information is something crucial to the case, investigators stress with the family how crucial it is that this information not be shared.

Typically, when a charge is laid and a court proceeding is going to take place where the release of information is likely, RCMP members will meet with the family contact to explain the information they are likely to hear during the court proceeding. There are times when this is not possible. There are details referred to as hold back evidence that would not be shared with the family or any investigator outside the Major Case Management command triangle to protect the integrity of the investigation. This information can be used to confirm or dispute a confession, to prevent wrongful arrests and convictions. It can also be used as evidence in a courtroom; investigators can confidently assert that this information is known only to two or three people, including the medical examiner and primary investigator.

Prematurely released information can result in a lack of confessions, lack of credibility in witness information, and overall lack of strength in the prosecution, which could lead to judicial stays or acquittals.

1.2 When a Family Member is a Suspect

In most homicides, the killer is known to the victim. In 2014, for example, 34% of all homicide victims were killed by family members. When the suspect is a family member, communication between the police and family will be more difficult. There are two main elements to be considered: the integrity of the investigation; and the jeopardy to that suspect.

A family member who is not considered or known to be involved in the crime is still sought out to maintain the open lines of communication, if at all possible. In some instances, a non-involved person cannot be identified, and family communication may be limited to protect the integrity of investigations.

There can be other complications when there is a homicide or if foul play is suspected in a sudden death or missing person investigation. If a family member is a suspect, they are often also suspected by the family itself. This raises inherent familial loyalties and investigational risks that must be considered, including efforts to protect the suspect. However, there is also the concern that family members may try to find or extract evidence or take other actions rather than allow the investigation to unfold.

Once charges are laid and on the public record, the RCMP tries to ensure that the immediate family of the deceased is advised that a family member is a suspect and has been charged.



1.3 Other Considerations

Other challenges to effective communications include the fact that many families are separated geographically and in some instances, the police do not know the scope or extent of an entire family unit or the internal dynamics that may exist. Better communication between police and families is a key concern to the RCMP and recommendations are welcome as to how best to facilitate this.

Exhibit: National Inquiry into Missing and Murdered Indigenous Women and Girls		
Location/Phase: <u>Part 2 Regina</u>		
Witness: <u>Brenda Butterworth-Carr</u>		
Submitted by: <u>Anne McConville</u>		
Add'l info: <u>P02 P02 P0401</u>		
Date: <u>JUN 28 2018</u>		
Initials	I/D	Entered
<div>h3</div>		<div>100</div>