

Exhibit: National Inquiry into Missing and
Murdered Indigenous Women and Girls

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SUBMISSION TO THE GOVERNMENT OF CANADA

Police Abuse of Indigenous Women in Saskatchewan
and Failures to Protect Indigenous Women from Violence

**Submission to the Government of Canada on Police Abuse of
Indigenous Women in Saskatchewan and Failures to Protect
Indigenous Women from Violence**

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Methodology

This submission outlines Human Rights Watch's findings on police interactions with Indigenous women in Saskatchewan based on six weeks of fact-finding carried out from January to July 2016, in addition to interviews and correspondence with police authorities and complaint mechanisms from August 2016 to January 2017. The cases documented in this submission fall within Treaty Six Territory and the jurisdiction of the Saskatchewan RCMP "F" Division, as well as the municipal police services of Prince Albert, Regina, and Saskatoon.

The objective of the investigation is to provide an account of police treatment of Indigenous women in Saskatchewan that is grounded in their lived experiences. In August 2016, Human Rights Watch shared preliminary findings with all the police services implicated in this submission, as well as with the municipal police and RCMP complaint mechanisms – the Public Complaints Commission (PCC) and the Civilian Review and Complaints Commission (CRCC), respectively. These letters informed authorities of our investigation in Saskatchewan, provided an overview of preliminary findings, and listed detailed questions and requests for data on policing policies and practices, accountability, and training.¹ In October 2016, Human Rights Watch staff met with all municipal police chiefs implicated in this submission, the Commanding Officer of the RCMP "F" Division, members of the PCC, and provincial government officials. By January 2017, all police services and complaints mechanisms had submitted written responses to Human Rights Watch. In March 2017, Human Rights Watch met with a member of the CRCC.

Human Rights Watch researchers interviewed 64 Indigenous women and social service providers in Prince Albert, Regina, Saskatoon, and more rural communities in northern and central Saskatchewan to complete this investigation. All interviewees provided oral informed consent to participate. Interviews were conducted in private and individuals were assured that they could end the interview at any time or decline to answer any questions

¹ See Annex for a sample letter.

without consequence. The identity of these interviewees has been disguised with randomly-selected pseudonyms and in some cases certain other identifying information has been withheld to protect their privacy and safety.

A working group composed of both Indigenous and non-Indigenous community workers from frontline organizations, academics, and local leaders provided direction and guidance during the investigation.

I. The Landscape of Policing in Saskatchewan

It's scary being me. They [the police] could make me disappear if they wanted to.

-Sara F., Saskatoon, March 28, 2016

In Saskatchewan, as in Northern British Columbia, Human Rights Watch found evidence of a fractured relationship between law enforcement and Indigenous communities. The legacy of settler colonialism and racist assimilation policies—particularly the residential school system—still overshadow the present-day dynamics between police and Indigenous communities. Residential schools, which the Canadian government operated up until 1994, along with the Catholic Church, forcibly removed Indigenous children and youth from their communities, severing connections to their kinship networks and family, language, and culture. Many Indigenous children and youth in residential schools were also subjected to severe psychological and sexual abuse while in these facilities.² The RCMP was actively involved and complicit in ensuring that Indigenous children attended these schools. This historical context fuels the strong mistrust, suspicion, and resentment many Indigenous people continue to feel towards law enforcement.

In addition to this colonial backdrop, more recent policing failures, and violent policing practices in the present, have continued to fuel Indigenous communities' fear and resentment of the police in many locations in Canada. In 2013 Human Rights Watch documented grave violations of the rights of Indigenous women and girls perpetrated by the RCMP and police uncovered in British Columbia. In 2015 Radio-Canada exposed similar abuses in Val-d'Or, Quebec.³ The province of Saskatchewan has also come under scrutiny and criticism for abusive practices by law enforcement in Indigenous communities—both on and off reserve. These include the now infamous “starlight tours,” where police drove Indigenous people to the outskirts of the city to walk home in the dead of winter, risking death by hypothermia. These starlight tours are reported to have been happening as early

² Truth and Reconciliation Commission, *Canada's Residential Schools: The History, Part 2 1939-2000 The Final Report of the Truth and Reconciliation Commission of Canada*, Vol 1, Part 2 (2015), http://www.myrobust.com/websites/trcinstitution/File/Reports/Volume_1_History_Part_2_English_Web.pdf (accessed March 4, 2017) [TRC, Vol 1].

³ Human Rights Watch, *Those Who Take Us Away*, Benjamin Shingler, “37 cases of alleged police abuse in Val-d'Or handed over to Crown,” *CBC*, November 14, 2016, <http://www.cbc.ca/news/canada/montreal/val-dor-abuse-surete-du-quebec-montreal-police-1.3849786> (accessed March 15, 2017); “Enquête investigation into Val d'Or now available in English,” *CBC News*, December 12, 2015, <http://www.cbc.ca/news/indigenous/investigation-into-val-d-or-now-available-in-english-1.3362534> (accessed March 15, 2017). See also: Aboriginal Justice Implementation Commission, Report of the Aboriginal Justice Inquiry of Manitoba, November 1999, <http://www.ajic.mb.ca/volume.html> (accessed March 15, 2017); BC Civil Liberties Association, Police-Involved Deaths: The Failure of Self-Investigation, 2012, <https://bccla.org/wp-content/uploads/2012/05/20101123-McAllister-Report-Police-Involved-Deaths-The-Failure-of-Self-Investigation.pdf> (accessed March 15, 2017) [BCCLA, “The Failure of Self-Investigation”]; BC Civil Liberties Association, Police Involved Deaths: The Need for Reform, 2012, <https://bccla.org/wp-content/uploads/2012/03/2012-BCCLA-Report-Police-Involved-Deaths3.pdf> (accessed March 15, 2017).

as 1976.⁴ In 2000, Darrel Night was arrested, taken to the outskirts of Saskatoon and left to walk back from there. Night survived, and his case led to convictions of both officers involved.⁵ That same year, the frozen bodies of two Indigenous men had been found within a week of each other in Saskatoon, shortly after Night had come forward. While their inquests were ultimately inconclusive, following their deaths Indigenous leaders reported receiving over 250 phone calls reporting incidents of “starlight tours” across Saskatchewan.⁶ The Federation of Sovereign Indigenous Nations (FSIN) Special Investigations Unit reported receiving over 800 calls in the first few weeks regarding historic and current complaints about police across Saskatchewan.⁷ In 2003, a Commission of Inquiry was established to examine the death of 17-year old Neil Stonechild in 1990. It found that the police investigation was “superficial at best” and “concluded prematurely,”⁸ with “glaring deficiencies” that went “beyond incompetence or neglect.”⁹ Mr. Justice David H. Wright presiding over the commission noted the “overly defensive attitude” of police officers regarding complaints against its own,¹⁰ and also the “chasm that separates Aboriginal and non-Aboriginal people” such that “our two communities do not know each other and do not seem to want to.”¹¹ No charges were ever subsequently laid against any police officers in connection with the death of Neil Stonechild.

These past and more recent policing failures contribute to a climate of suspicion and a widely-held belief that the police targets and discriminates against Indigenous men and women with little accountability for violent and racist conduct. Indigenous women told Human Rights Watch that they would not call the police to report a crime committed against them or crimes that they had witnessed involving an Indigenous woman out of fear that the police may harass them, engage in physical violence towards the suspect, or take them on a “starlight tour.” Lauren T. said, “I have

⁴ “Saskatoon Police Chief Admits Starlight Cruises are not New,” *Windspeaker*, June 1, 2003.

<http://www.ammsa.com/publications/windspeaker/saskatoon-police-chief-admits-starlight-cruises-are-not-new> (accessed May 9, 2017); McCrea, Graydon, Bonnie Thompson, and Tasha Hubbard, *Two Worlds Colliding*. National Film Board of Canada, 2004, https://www.nfb.ca/film/two_worlds_colliding/ (accessed June 7, 2017). See also: “Saskatoon Police Chief Says Drop-Offs Happened ‘More Than Once’,” *CBC*, June 9, 2003, <http://www.cbc.ca/news/canada/saskatoon-police-chief-says-drop-offs-happened-more-than-once-1.380299> (accessed May 9, 2017); Mervin Brass, “Starlight Tours,” *CBC*, July 2, 2004, <http://www.cbc.ca/news2/background/aboriginals/starlighttours.html> (accessed May 9, 2017).

⁵ After leaving Night in the outskirts of Saskatoon at temperatures of -22 to -25 degrees Celsius and without adequate clothing, no record was made of the arrest and release, and no report was filed with the Police Service. See: *R v Munson*, 2003 SKCA 28, <http://canlii.ca/t/5cj9> (accessed March 14, 2017).

⁶ Mervin Brass, “Starlight Tours,” *CBC*, July 2, 2004, <http://www.cbc.ca/news2/background/aboriginals/starlighttours.html> (accessed May 9, 2017).

⁷ McCrea, Graydon, Bonnie Thompson, and Tasha Hubbard, *Two Worlds Colliding*. National Film Board of Canada, 2004, https://www.nfb.ca/film/two_worlds_colliding/ (accessed June 7, 2017).

⁸ Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild, “Report of the Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild,” October 2004, http://www.publications.gov.sk.ca/freelaw/Publications_Centre/Justice/Stonechild/Stonechild-FinalReport.pdf (accessed February 28, 2017), p. 198 [Stonechild Commission of Inquiry]; see also CRCC, “Police Investigating Police – Final Public Report,” December 2014, <https://www.crcc-ccetp.gc.ca/en/police-investigating-police-final-public-report> (accessed February 28, 2017) [CRCC, “Police Investigating Police”].

⁹ Stonechild Commission of Inquiry, *ibid*, p. 199-200; CRCC, “Police Investigating Police”, *ibid*.

¹⁰ Stonechild Commission of Inquiry, *ibid*, p. 207; CRCC, “Police Investigating Police”, *ibid*.

¹¹ Stonechild Commission of Inquiry, *ibid*, p. 208. CRCC, “Police Investigating Police”, *ibid*.

concerns about calling the cops. Even where I was working at [store name withheld] we had some incidents, but I was iffy on calling the cops.”¹²

An Indigenous woman community leader in Saskatchewan echoed these views, telling Human Rights Watch: “I have had problems with stalking, but [I] don’t trust the police. Professionally, I admit this [working with the police] is what we must do, but personally I have zero faith in the police. It doesn’t matter what position or how many degrees we have. By the police services we’re seen as just another Indian.”¹³ Concerns about police harassment led this community leader to limit her time in public places where she might encounter police officers. “We become as invisible as possible,” she told Human Rights Watch.¹⁴

¹² Human Rights Watch interview with Lauren T., First Nation Reserve, March 22, 2016.

¹³ An Indigenous community leader (name withheld), Regina, January 27, 2016.

¹⁴ An Indigenous community leader (name withheld), Regina, January 27, 2016.

II. Systemic Discrimination against Indigenous Women and Vulnerability to Violence

There is a historical and colonial background to present-day patterns of violence against Indigenous women and girls, and police failures to respond to such violence.¹⁵ State law and policy, such as the Indian Residential School system,¹⁶ the Sixties Scoop,¹⁷ and sex-discrimination in the Indian Act,¹⁸ subjected Indigenous families and communities to violence, cultural dislocation, and land dispossession. In 2015, the Truth and Reconciliation Commission of Canada described the cumulative effects of Canada's Aboriginal assimilationist policies as a form of cultural genocide.¹⁹ The inter-generational impacts of this colonial violence upon Indigenous women and girls are acute. Indigenous women and girls today are disproportionately more vulnerable to socio-economic marginalization than non-Indigenous women and girls.²⁰ They are more likely to live in poverty, on the streets or in insecure housing, be unemployed, or engage in dangerous economic survival strategies. They do not benefit from the same access to education, and other basic needs, such as clean water on reserve and healthcare.²¹

Indigenous women are particularly vulnerable to all forms of violence, including violence

¹⁵ See TRC Summary; CEDAW, Article 8 Optional Protocol Inquiry Report; Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women in British Columbia*, OEA/Ser.L/V/II, December 21, 2014, <http://www.oas.org/en/iachr/reports/pdfs/indigenous-women-bc-canada-en.pdf> (accessed March 4, 2017) [IACHR, Missing and Murdered Indigenous Women].

¹⁶ See TRC, Summary.

¹⁷ *Brown v Canada (Attorney General)*, 2017 ONSC 251, <http://canlii.ca/t/gxgqw> (accessed May 9, 2017) (the federal government has indicated that it will not appeal the decision: see Tu Thanh Ha and Gloria Galloway, "Ontario judge sides with Sixties Scoop survivors," *Globe and Mail*, February 14, 2017, <http://www.theglobeandmail.com/news/national/ontario-judge-sides-with-60s-scoop-survivors-damages-to-be-decided/article34015380/> (accessed March 20, 2017).

¹⁸ See e.g. The Poverty and Human Rights Centre, "McIvor v. Canada 2017," <http://povertyandhumanrights.org/2017/03/mcivor-v-canada-2017/> (accessed March 20, 2017) (see e.g. paras. 6-12 of "McIvor Objection"); Canadian Feminist Alliance for International Action, Canadian Association of Elizabeth Fry Societies, Chair, Centre for Indigenous Governance, Reply to Issues 2, 3, 16 & 18: Indigenous Women and Women in Detention (October 2016), <http://fafia-afai.org/wp-content/uploads/2016/10/Canadian-Association-of-Elizabeth-Fry-Societies-Chair-in-Indigenous-Governance-FAFIA.pdf> (accessed March 2017), p. 1-3 [FAFIA, CAEFS & Centre for Indigenous Governance, Indigenous Women and Women in Detention].

¹⁹ TRC, Summary.

²⁰ See e.g. Legal Strategies Coalition, "Review of Reports and Recommendations on Violence Against Indigenous Women in Canada, Master List of Report Recommendations Organized by Theme," prepared by Pippa Feinstein and Megan Pearce, February 2015, <http://www.leaf.ca/wp-content/uploads/2015/02/Analysis-of-Implementation.pdf> (accessed March 20, 2017), p. 8 (see here for a spreadsheet summarizing previous reports on missing and murdered Indigenous women and girls: <http://www.leaf.ca/wp-content/uploads/2015/02/Spreadsheet-summary-of-reports1.pdf> (accessed March 20, 2017)).

²¹ FAFIA, CAEFS & Centre for Indigenous Governance, Indigenous Women and Women in Detention, p. 4-8; FAFIA & Native Women's Association of Canada (NWAC), Murders and Disappearances of Aboriginal Women and Girls in Canada, Briefing Paper for Thematic Hearing before the Inter-American Commission on Human Rights, 147th Period of Sessions, March 12, 2013, <http://www.fafia-afai.org/wp-content/uploads/2014/09/6-2013IACHRBriefingPaperMarch-5.pdf> (accessed March 20, 2017).

perpetrated by casual acquaintances²² and police abuse.²³ In their inquiries into the murders and disappearances of Indigenous women and girls, The United Nations and Inter-American Commission on Human Rights have affirmed that racist discrimination and socio-economic marginalization were root causes of the violence.²⁴ In the 2015 United Nations inquiry report into Missing and Murdered Indigenous Women and Girls in Canada, the Committee on the Elimination of Discrimination against Women highlighted Canada's colonial roots, encompassing cultural dislocation, dispossession, intergenerational trauma, and the socio-economic marginalization of Indigenous peoples, as root causes of the violence experienced by Indigenous women.²⁵

Indigenous women and girls are disproportionately more vulnerable to violence than their non-Indigenous counterparts in every province and territory, including Saskatchewan. In Saskatchewan, 55 percent of female homicide victims are Indigenous; the highest proportion of Indigenous female homicide victims of any province.²⁶ Indigenous women are also likely to be murdered at a rate almost seven times higher than non-Indigenous women.²⁷ While Indigenous women only make up 4.3 percent of the female population in Canada, they account for 16 percent of the total female homicides and 11.3 percent of missing women in the country.²⁸

Systemic discrimination against Indigenous women makes them more vulnerable to police violence and harassment. As one Indigenous woman, Clara S., explained, "sometimes they [the police] do and say racist things. They think that Natives are going to keep quiet." Many of the women and service providers interviewed by Human Rights Watch felt strongly that police officers brought a

²² Royal Canadian Mounted Police, Missing and Murdered Aboriginal Women: A National Operational Overview (2014), <http://www.rcmp-grc.gc.ca/wam/media/460/original/ocbd8968a049a0b44d343e76b4a9478.pdf> (accessed March 4, 2017), p. 12 [2014 RCMP National Overview].

²³ Numerous civil society reports focus on the root causes of the violence that include socio-economic marginalization and trauma and discrimination stemming from colonial and post-colonial law and practices (see e.g. Amnesty International Canada, *Stolen Sisters* (2004), <https://www.amnesty.ca/sites/amnesty/files/amr200032004enstolensisters.pdf> (accessed March 2, 2017); Human Rights Watch, *Those Who Take Us Away*; Native Women's Association of Canada, *What Their Stories Tell Us* (2010), <https://www.nwac.ca/wp-content/uploads/2015/07/2010-What-Their-Stories-Tell-Us-Research-Findings-SIS-Initiative.pdf> (accessed March 2, 2017) (see also Assembly of First Nations and the Native Women's Association of Canada, "National Forum on Community Safety and Ending Violence Workbook" (April 2013), <https://www.nwac.ca/wp-content/uploads/2015/05/2013-NWAC-AFN-Ending-Violence-Workbook.pdf> (accessed March 2, 2017), Tab 3; Legal Strategies Coalition documents (2015), <http://www.leaf.ca/legal-strategy-coalition-on-mmiw/> (especially the Executive Summary, <http://www.leaf.ca/wp-content/uploads/2015/02/Executive-Summary.pdf> (accessed March 2, 2017)).

²⁴ TRC, Vol 5, p. 258-269; CEDAW, Article 8 Optional Protocol Inquiry Report, paras. 128-131; IACHR, Missing and Murdered Indigenous Women.

²⁵ CEDAW, Article 8 Optional Protocol Inquiry Report, paras. 23-4, 36-8.

²⁶ 2014 RCMP National Overview, p. 7-9.

²⁷ Vivian O'Donnell and Susan Wallace, "First Nations, Métis and Inuit Women," Women in Canada: A Gender-based Statistical Report, Statistics Canada Catalogue no. 89-503-X, July 2011, <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.pdf> (accessed March 2, 2017) [O'Donnell and Wallace].

²⁸ 2014 RCMP National Overview, p. 8 (these percentages are likely an underestimation given that not all police services collect ethnicity data on missing people and homicide victims: see Legal Strategies Coalition on Violence Against Women, "Analyzing the 2014 Royal Canadian Mounted Police (RCMP) Report, Missing and Murdered Aboriginal Women: A National Operational Review" (2014), <http://www.leaf.ca/wp-content/uploads/2015/06/2015-06-16-MMIW-LSC-2014-Fact-Sheet-final-version.pdf> (accessed March 4, 2017).

presumption of criminality to their interactions with Indigenous women. As Ashley D. said, “they look down on a lot of us Natives like we’re nothing; like we don’t deserve assistance. Like they’re out to get us... A lot of times they [the police] will stop you and ask ‘Where are you going? What are you doing?’ [The police] treat you like you got to be doing something [wrong].”²⁹

International human rights experts have also raised concerns of entrenched and institutionalized stereotyping of Indigenous women by the police. The United Nations inquiry into missing and murdered Indigenous women in Canada reported that structural bias was, “reflected in the use of demeaning or derogatory language towards Aboriginal women and in stereotypical portrayals of Aboriginal women as prostitutes, transient or runaways and of having high-risk lifestyles.”³⁰

The overrepresentation of Indigenous woman who pass through the criminal justice system in Canada and in the province of Saskatchewan underscores these systemic problems. Indigenous women made up more than 85 percent of all adult women admitted into provincial sentenced custody in Saskatchewan, according to the most recent race and gender disaggregated data available, while only accounting for under one-fifth of the adult female population.³¹ According to the Saskatchewan branch of the Elizabeth Fry Society, in August 2013, only five of the approximately 140 women prisoners in the provincial Pine Grove Correctional Centre for women in Prince Albert identify as non-Indigenous; in other words, 96 percent of the female prisoner population in Saskatchewan under provincial custody at Pine Grove at the time were Indigenous.³²

III. Police Abuses against Indigenous Women in Saskatchewan

In Saskatchewan, Human Rights Watch documented 64 alleged cases of violent abuse against Indigenous women at the hands of the police. The abuse documented included excessive use of force, invasive body and strip searches by male officers, and sexual harassment during these searches. These cases mirror a wider pattern of allegations of physical and sexual abuse by police services in Quebec, British Columbia, and elsewhere in Canada documented by local civil society groups and the media.³³ Indigenous community leaders, academics, and activists also described

²⁹ Human Rights Watch interview with Ashley D., Saskatoon, July 14, 2016.

³⁰ CEDAW, Article 8 Optional Protocol Inquiry Report, para. 138.

³¹ Statistics Canada, Sixth Edition of Women in Canada: A Gender based Statistical Report, Women and the Criminal Justice System by Tina Hottom Mahoney (April 2011) <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11416-eng.pdf> (accessed March 2, 2017), p. 36; 2014 RCMP National Overview, p. 7; O'Donnell & Wallace, p. 7.

³² Canadian Centre for Policy Alternatives, *Warehousing Prisoners in Saskatchewan: A Public Health Approach*, by Jason Demers (2014), https://www.policyalternatives.ca/sites/default/files/uploads/publications/Saskatchewan%20Office/2014/10/warehousing_prisoners_in_saskatchewan.pdf (accessed March 2, 2017), p. 23.

³³ See Human Rights Watch, *Those Who Take Us Away*; Brennan Neill, “No charges against Quebec provincial police abuse scandal,” *CBC*, November 15, 2016, <http://www.cbc.ca/news/canada/montreal/police-abuse-charges-val-d-or-1.3852390>

distinctive risks of police abuse for particularly vulnerable groups, including Indigenous girls and Two-Spirit people.³⁴

Excessive Use of Force and Intimidation

Several Indigenous women interviewed by Human Rights Watch reported episodes of physical assault by police officers during stops and arrests. One Indigenous woman, Lauren T. described the violence she experienced when stopped by the Prince Albert Police Service in 2014:

[He] asks ‘do you have your driver’s license and registration?’ I was reaching into the cubby hole and asked him why he was stopping me. I knew that I had a right to know why I was being stopped. He asked, ‘Can we deal with this in my car?’ I didn’t know what was going on. Deal with what? I said I didn’t want to leave my baby in the car. He said, ‘the cruiser is just a few steps away.’ I said I’m not going to leave my baby in the car. He started grabbing at my ear through the window. I started screaming. He started hitting my shoulder—I guess so I would let go of the steering wheel.³⁵

Some accounts of police abuses reflect aggressive policing of public intoxication and reliance on detention to address alcohol dependence problems in the Indigenous community.³⁶ Indigenous women can struggle with drug and alcohol dependence associated with histories of trauma.³⁷ One woman, Elaine N., described the abuse and mistreatment she witnessed of another Indigenous

(accessed March 15, 2017); Benjamin Shingler, “No charges in Val-d’Or abuse scandal will breed further mistrust, Indigenous leaders say,” *CBC*, November 16, 2016, <http://www.cbc.ca/news/canada/montreal/indigenous-reaction-police-abuse-charges-val-d-or-1.3853031> (accessed March 15, 2017); “Enquête investigation into Val d’Or now available in English,” *CBC News*, December 12, 2015, <http://www.cbc.ca/news/indigenous/investigation-into-val-d-or-now-available-in-english-1.3362534> (accessed March 15, 2017). See also: Aboriginal Justice Implementation Commission, Report of the Aboriginal Justice Inquiry of Manitoba, November 1999, <http://www.ajic.mb.ca/volume.html>

³⁴ Indigenous, LGBTQ-identifying people are Two-Spirit people (see Egale, Canada Human Rights Trust, Two Spirits, One Voice, <https://egale.ca/portfolio/two-spirits-one-voice/> (accessed May 9, 2017)). Human Rights Watch was provided with second hand accounts of abusive interactions between police and Two-Spirit women and how Two-Spirited women’s fear of retaliation was a principal factor in them not coming forward to speak with Human Rights Watch. Human Rights Watch was not able to secure interviews with Two-Spirited women.

³⁵ Human Rights Watch interview with Lauren T., Prince Albert, March 22, 2016.

³⁶ Community service workers in British Columbia have also decried the use of jailing as a means of addressing public intoxication in communities plagued by high alcoholism linked to historical trauma. See Human Rights Watch, *Those Who Take Us Away* at p.49

³⁷ See e.g. Aboriginal Healing Foundation Research Series, Addictive Behaviours Among Aboriginal People in Canada (2007), <http://www.ahf.ca/downloads/addictive-behaviours.pdf> (accessed May 9, 2017), p. 22-25; see also The Report of the Missing Women Commission of Inquiry, Vol III (November 15, 2012), p. 13, 16, 41, <http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-Vol-3-web-RGB.pdf> (accessed May 9, 2017); The Report of the Missing Women Commission of Inquiry, Vol I (November 19, 2012), <http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-Vol-1-web-RGB.pdf>, p. 32, 36-7, 58, 78, 97 (accessed May 9, 2017).

woman arrested for public intoxication in a neighboring cell in Saskatoon in the summer of 2015:

Around 1:00 or 2:00 in the morning they brought in a woman in her late 40s. She was drunk. She didn't know what was going on. She was in a cell by me and I could see a reflection of her cell. The police officers stripped her. They took her pants, her shirt, her bra. It was cold. She was screaming because they pepper sprayed her. When they threw her in the cell you could hear the thud. You only get a 3-inch pad to sleep on. She was crying for a while—she was hysterical. The cops refused to give her water—said 'we're shutting your water off.' Left her like that all night. When they brought her in, her clothes were torn and bloody. It bothered me to see the way they treated her as an older lady. She reminded me of my aunts. The lady [police officer] said she was trying to hurt herself, was going to use her bra to hang herself, so they had to take her clothes.³⁸

Human Rights Watch only collected testimony of Indigenous women's experiences in detention in the context of "drunk tanks," or cells used to temporarily detain intoxicated individuals. These interviews point to a need for publicly managed and operated short- and long-term detox facilities outside the policing and criminal justice systems.

Several police chiefs Human Rights Watch interviewed in Saskatchewan complained that there were not enough addiction treatment centers available nearby, and not enough beds at those centers. They also spoke of the challenges faced by people with chronic alcoholism who have overstayed their welcome at available treatment centers and have nowhere to go. Police themselves recognize the problem and acknowledge that more centers are required and more support needed for those suffering from alcohol dependency. The Prince Albert Police Chief told Human Rights Watch that the most common crimes they see are alcohol-related and noted that his force "arrests 3,000 people a year for no other crime than public intoxication."³⁹

While police officers have a duty to restrain violent individuals to protect others and themselves, any use of force should be justified by the circumstances and limited to the minimum extent necessary. Human Rights Watch documented at least six incidents in which the relevant municipal police service or the RCMP reportedly used excessive force against Indigenous women in Saskatchewan. These cases include the ones noted above, as well as the following:

- Sharon told Human Rights Watch that in 2013 police officers in Regina slammed her head on the sidewalk during an arrest, resulting in a broken nose and two black eyes.
- Alice described an assault by a police dog in Saskatoon in 2013 resulting in stitches, nerve damage, and severe anxiety.

³⁸ Human Rights Watch interview with Elaine N., Saskatoon, April 6, 2016.

³⁹ Human Rights Watch telephone interview, Chief Troy Cooper, Prince Albert, October 6, 2016.

- Linda reported that a police officer in Regina in 2014 twisted her arm so aggressively during her arrest that she can no longer bend it, comb her hair, or put on a bra.

Degrading and Abusive Body and Strip Searches by Male Officers

They [the RCMP officers] would not wait for a female to search me. I did not have a weapon or anything. I ended up in the drunk tank with just my bra and shorts. Left all night. It was cold. A female officer on the next shift asked ‘why are you in your bra?’

-Anne C., 23, location withheld, July 15, 2016

Human Rights Watch documented reports of degrading and abusive body and strip searches by male officers of Indigenous women in every jurisdiction researched for this submission. The removal of undergarments in custody—a practice which the Supreme Court of Canada has deemed to be a form of strip search—was mentioned frequently. According to the Supreme Court, a strip search involves “the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person’s private areas, namely genitals, buttocks, breasts (in the case of a female), or *undergarments* [emphasis added].”⁴⁰ This has been interpreted by lower courts to include any removal and inspection of undergarments, and not limited to situations where police are searching an accused for weapons or evidence of the commission of a crime.⁴¹

Donna H. described being strip searched by a male officer at an RCMP detachment in Regina and what happened when she tried to report it:

A year and a half ago I had an experience here in Regina. I was brought into cells. Usually a woman searches. But they told me to take off my clothes. It was a man who did it. I said this is not right. I was crying. He said take it all off. He shut the door behind him. I had to take off my bra and underwear. I was brought in on a warrant. I said a woman is supposed to be doing it. I was literally starting to cry and he just said, ‘put your clothes back on’ and said I was being released. He just walked out. It had been 10 -15 minutes. I was held for another hour and then they released me. On the way out, I said something to the front desk about what happened. But they didn’t say anything.⁴²

⁴⁰ *R v Golden*, 2001 SCC 83 at para 47, <http://canlii.ca/t/51xm> (accessed February 28, 2017) [*Golden*].

⁴¹ *R v Deschambault*, 2013 SKPC 112, para. 52, <http://canlii.ca/t/fznh5> (accessed March 5, 2017); *R v G(PF)*, 2005 BCPC 187, para. 32-33, <http://canlii.ca/t/1kvk5> (accessed March 5, 2017).

⁴² Human Rights Watch interview with Donna H., Regina, April 8, 2016.

Regan S. recounted her experience of sexually inappropriate behavior by officers from one of the municipal police services in Saskatchewan [name withheld]:

I was picked up by two male police officers—not sure exactly what for, maybe a breach. I was wearing yoga pants and a tight tank top. At the police station there is a high desk where they book you. There were four cops back there. I went through intake. There was no matron on duty. The officer behind the desk said to take my bra off. I said I don't have a bra on. [They] repeated 'Take your bra off.' 'I do not have a bra on.' We kept arguing. I pulled my tank top straps down [to show no bra straps]. 'I am not wearing a bra.' He said, 'I want to check for myself.' He came down and said, 'put your arms out.' He felt me up and down my body—my complete body. Groped [my] breasts. It was completely absolutely inappropriate. Soon after I got released, I complained to an officer I know. All he did was laugh. He thought it was funny.⁴³

In total, Human Rights Watch documented eight incidents in which Indigenous women said that male officers ordered and conducted body and strip searches. It is unclear whether and to what extent this is due to female staffing shortages.

The Prince Albert police chief admitted that while his detachment has been able to recruit a more diverse pool of male officers, they have been far less successful with respect to gender diversity.⁴⁴ He said that “for the most part we do have a female on each patrol shift. If not, we always have a female matron on staff and that matron is doing the search if there's no female officer available.” The Saskatoon Police Chief similarly said that “male officers should not be searching female's bodies. That should not be happening. I can't say it never happens but I'm just saying that as a regular course, that should not be happening at all. We have a luxury here. We do have a lot of females [officers] here.”⁴⁵

Nevertheless, despite these assurances Human Rights Watch heard several disturbing allegations of sexual harassment and groping by male RCMP and municipal police officers during these searches. These include the incidents noted above as well as the following:

- Hannah reported that a male police officer touched her inappropriately and sexually harassed her at a Saskatoon police station in 2013 as she was filing a domestic violence report against her partner.
- Elizabeth reported that two male police officers groped her in Saskatoon in 2014 during a

⁴³ Human Rights Watch interview with Regan S., Saskatoon, April 6, 2016.

⁴⁴ Human Rights Watch telephone interview, Chief Troy Cooper, Prince Albert, October 6, 2016.

⁴⁵ Human Rights Watch interview with Chief Clive Weighill, Saskatoon, October 6, 2016.

body search and repeatedly touched her genital area.

Various international human rights standards and practices for law enforcement affirm that strip searches by government authorities should only be conducted by persons of the same sex and in limited circumstances, as they are a significant invasion of privacy.⁴⁶ The Supreme Court of Canada echoed this view in *R v Golden*, explicitly asking in its framework for conducting a strip search in compliance with the *Charter of Rights and Freedoms*, whether the police officer(s) carrying out the search is of the same gender as the individual being searched.⁴⁷ It also stated that strip searches are “one of the most extreme exercises of police power” and “cannot be carried out as a matter of routine police department policy.”⁴⁸

The Supreme Court, however, noted a “disturbing trend towards strip searching detained persons as a matter of routine police policy.”⁴⁹ Indeed, in 2013, the Fort Qu’Appelle Detachment of the RCMP was found by the Saskatchewan Provincial Court to have had in place a standard operating procedure requiring every woman placed in cells to remove her bra, “notwithstanding the decision in *Golden* and many cases subsequent thereto, including cases relating to the surrender of bras and hand-search beneath bras.”⁵⁰

As the Supreme Court also observed in *Golden*, “[w]omen and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault. The psychological effects of strip searches may also be particularly traumatic for individuals who have previously been subject to abuse.”⁵¹ The British Columbia Provincial Court explicitly noted the First Nations identity of a defendant when describing the reasons why a strip search was unreasonable:

A request of a female youth, from a First Nations background, to remove her brassiere, made by a male police officer, in the proximity of another male officer, is a situation which a reasonable and objective observer would perceive to be frightening, humiliating, and threatening to the young person, likely to make that young person feel as if her bodily integrity is being

⁴⁶ United Nations High Commissioner for Human Rights Centre for Human Rights, “International Human Rights Standards for Law Enforcement,” <http://www.ohchr.org/Documents/Publications/trainings5Add1en.pdf> (accessed May 9, 2017), p. 13 [UNCHR, “International Human Rights Standards”]; United Nations High Commissioner for Human Rights, “Human Rights Standards and Practice for the Police,” 2004, <http://www.ohchr.org/Documents/Publications/trainings5Add3en.pdf> (accessed May 9, 2017), p. 21, 44, 45, 46 [UNCHR, “Human Rights Standards”]; International Committee of the Red Cross, “International Rules and Standards for Policing,” June 2015, <https://www.icrc.org/eng/assets/files/other/icrc-002-0809.pdf> (accessed May 9, 2017), p. 45 [IRC, “International Rules”] (see also Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, November 18, 2016, para. 49(e)).

⁴⁷ *Golden*, para. 101.

⁴⁸ *Golden*, paras. 89-90.

⁴⁹ *Ibid*, para. 72.

⁵⁰ *R v Deschambault*, 2013 SKPC 112, paras. 58-60, <http://canlii.ca/t/fznh5> (accessed March 5, 2017).

⁵¹ *Golden*, para. 90.

violated.⁵²

Affirming *Golden*, the Provincial Court went on to say that such policies (requiring an accused to remove her bra pursuant to general policy) can “lead to vulnerable persons experiencing legitimate feelings of violation at the hands of a powerful system that can seem to them to be unjust and bullying” and can also “contribute into an atmosphere in which classes of prisoners such as members of First Nations are belittled and degraded.”⁵³

In 2017, the RCMP’s Civilian Review and Complaints Commission released a final report on the public interest investigation in Northern British Columbia that was conducted in response to the Human Rights Watch’s 2013 report on police failings and abuses in British Columbia.⁵⁴ The final report addressed the shortcomings of RCMP policy and practice relating to strip searches. It found that the RCMP’s national policy requirement that “members obtain the approval of a supervisor for a strip search *when one is available* [emphasis added] is insufficiently stringent to ensure that such approval will be sought in all but exigent circumstances.”⁵⁵ The oversight body also found that the British Columbia RCMP’s policy mandating the removal of bras was “contrary to common law principles” and that “absent reasonable grounds to conduct a strip search, the removal of a prisoner’s bra is unreasonable.”⁵⁶

It should be noted that while the Supreme Court distinguishes “frisk” or “pat-down” searches as less intrusive manners of searching,⁵⁷ and thus bearing a lower threshold,⁵⁸ the same concerns regarding cross-gender searches arise. They are simply more acute in the context of strip searches. International human rights standards for law enforcement affirm that personal or body searches should be conducted by persons of the same sex.⁵⁹

Failure to Protect Indigenous Women from Violence

⁵² *R v G(PF)*, 2005 BCPC 187, para. 41, <http://canlii.ca/t/1kvk5> (accessed March 5, 2017).

⁵³ *Ibid*, para. 43.

⁵⁴ Civilian Review and Complaints Commission for the RCMP, “Chair-Initiated Complaint and Public Interest Investigation Regarding Policing in Northern British Columbia,” May 15, 2013, <https://www.crcc-ccetp.gc.ca/en/chair-initiated-complaint-and-public-interest-investigation-regarding-policing-northern-british> (accessed March 4, 2017).

⁵⁵ Civilian Review and Complaints Commission for the RCMP, “Chairperson’s Final Report After Commissioner’s Notice on Chairperson-Initiated Complaint and Public Interest Investigation regarding Policing in Northern British Columbia,” February 16, 2017, <https://www.crcc-ccetp.gc.ca/en/chairs-final-report-after-commissioners-chair-initiated-complaint-and-public-interest-investigation> (accessed February 28, 2017).

⁵⁶ *Ibid*, p.8.

⁵⁷ *Golden*, paras. 88-89.

⁵⁸ *Cloutier v Langlois*, [1990] 1 S.C.R. 158, paras. 60-61, <http://canlii.ca/t/1ftoh> (accessed May 9, 2017), affirmed in *R v Fearon*, 2014 SCC 77, para. 19, <http://canlii.ca/t/gflcd> (accessed May 9, 2017).

⁵⁹ UNHCR, “International Human Rights Standards,” p. 13; UNHCR, “Human Rights Standards,” p. 21, 43, 45, 46; IRC, “International Rules,” p. 45 (see also Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, UN Doc CEDAW/C/CAN/CO/8-9, November 18, 2016, at para 49(e)).

A lot of the Indigenous women who go missing—it starts with this. Until we address the everyday violence how can we address the issue in its entirety?
-Jennifer P., 30, Regina, January 27, 2016

Among the provinces, Saskatchewan and Manitoba have consistently recorded the highest rate of police reported crime, including rates of violence against women that are nearly double the national average.⁶⁰ Indigenous women are also more likely than non-Indigenous women to be murdered and disappeared by casual acquaintances, or strangers.⁶¹ Cases of police abuse like those noted above undermine trust between Indigenous communities and law enforcement and result in Indigenous women being reluctant to call the police for help when they or someone they know has experienced violence. When women choose not to report crimes because of their mistrust of the police, this perpetuates impunity for perpetrators of violence against Indigenous women.

A community counselor in Saskatoon told Human Rights Watch, “a few weeks back a pregnant woman where I live was being beaten up and no one was calling because they want to avoid all contact with the police.”⁶² This sentiment mirrors findings by the Royal Commission on Aboriginal Peoples and the Manitoba Justice Inquiry, from over a decade ago.⁶³

Domestic violence survivors and community organizations in Saskatchewan reported to Human Rights Watch that calls to the police by Indigenous women and girls seeking help with violence are frequently met with skepticism and victim-blaming, and that police often arrest victims of abuse for actions taken in self-defense. One Indigenous woman, Lisa K., told Human Rights Watch, “If they [the police] know that they are going to a domestic violence situation, and there’s alcohol, and they’ve been there before, they take their time.”⁶⁴

Another Indigenous woman, Jennifer P., spoke to Human Rights Watch about a municipal police service’s response to the violence experienced by her mother, perpetrated by her non-Indigenous partner:

My mother was assaulted by her partner... I was very concerned. I found out he had been repeatedly abusive. [Later that same day] I went to check on

⁶⁰ Statistics Canada, “Measuring violence against women: Statistical trends”, ed. By Marie Sinha, *Juristat*, Vol 33, No 1 (2013), p. 13, 21, <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766-eng.pdf> (accessed March 4, 2017).

⁶¹ 2014 RCMP National Overview, p. 12.

⁶² Human Rights Watch interview with an Indigenous community counselor, Saskatoon, January 16, 2016.

⁶³ Royal Commission on Aboriginal Peoples, *Gathering Strength*, Vol 3 (1996), p. 83-84, https://qspace.library.queensu.ca/bitstream/handle/1974/6874/RRCAP3_combined.pdf?sequence=3&isAllowed=y (accessed May 9, 2017); and Manitoba, Report of the Aboriginal Justice Inquiry of Manitoba, *The Justice System and Aboriginal People*, Vol 1, by A.C. Hamilton and C.M. Sinclair (1991), Chp.13 Aboriginal Women, <http://www.ajic.mb.ca/volumel/chapter13.html> (accessed March 2, 2017).

⁶⁴ Human Rights Watch interview with Lisa K., Saskatoon, July 14, 2016.

her. Then I noticed a bunch of cop cars on the opposite side of the street. I asked two of the cops if they would be able to check on her... I explained that she'd been beaten up already that day. They didn't seem too concerned. They went in. I explained that I had a recording [of partner admitting to assault]. I waited in the car 10 minutes... All of a sudden my mom was being put in cuffs... They said something about her cat being at large and that she was supposed to appear for it. The officer said, 'your mom's drunk and she's not cooperating with us.' At that point, they told me to leave... And I'm just astonished that this is even happening. I stepped away because they were yanking her out. The cop yelled, 'Move! Get the fuck out of the way!' He's a big man and I'm five foot nothing. 'Get out of the fucking way! Get into your vehicle or be arrested. You're not cooperating...' I went into my vehicle and I just burst out crying.⁶⁵

She went on to describe how a municipal police officer threatened her to force her to cooperate:

He [the police officer] said, 'We're taking your mom in. She was not cooperating.' Then he asked me, 'Where are your kids?' If you want to threaten a woman, especially an Indigenous woman, you ask about her kids. I never said I had kids. At that point, I felt unsafe. Is he thinking about throwing me in? Is he thinking about the repercussions of throwing me in?⁶⁶

The case above highlights serious shortcomings in relation to dual charges in domestic violence cases. The Canadian Observatory on the Justice System's Response to Intimate Partner Violence has recommended that "police service policy and procedures include a statement regarding the importance of determining which party is the principal or dominant aggressor and lay charges against that individual."⁶⁷ However, when the municipal police services and RCMP in Saskatchewan were asked in writing by Human Rights Watch whether they had a specific policy on dual arrests in domestic violence cases, none of the police services could identify such a policy.⁶⁸

IV. Inadequate Police Abuse Accountability Mechanisms

Police accountability is required to ensure the safety of Indigenous women and girls. Human Rights Watch argues that Canada needs independent civilian investigations of all allegations of serious police misconduct, including allegations of sexual assault. Our research has indicated that Canada

⁶⁵ Human Rights Watch interview with Jennifer P., Regina, January 27, 2016.

⁶⁶ Ibid.

⁶⁷ See Canadian Observatory on the Justice System's Response to Intimate Partner Violence, *National Framework for Collaborative Police Action on Intimate Partner Violence (IPV)*, 2016, https://cacp.ca/index.html?asst_id=1200 (accessed May 11, 2017), p. 16.

⁶⁸ Response letters from police services on file with Human Rights Watch.

has made only limited progress to ensure that police are accountable for their policing failures affecting Indigenous women and girls, as well as for the violence police officers have committed against Indigenous women and girls.

Lack of accountability also exacerbates long-standing tensions between police and Indigenous communities. Despite law and policy reform, in some jurisdictions allegations of serious police misconduct may still result only in police investigating police.⁶⁹ The allegations of abuse toward Indigenous women in Val-d'Or, Quebec, were ultimately investigated by the Montreal police.⁷⁰

In Saskatchewan, two bodies handle complaints of police misconduct, but neither carry the authority to impose sanctions. They act as recommendation bodies only, serving an advisory function, with limited power to compel concrete changes in policy. The Public Complaints Commission (PCC) can make recommendations to chiefs of police, but disciplinary measures are ultimately to be determined by the chief.⁷¹ Additionally, while the PCC has an investigative arm, the Regina Police Service and Saskatoon Police Service each have their own dedicated professional standards sections, which undertake the investigations. The PCC takes part in some of these investigations, but “there is no set criterion for whether a complaint is assigned to a PCC investigator or to the police service for investigation.”⁷² While the PCC is the only police oversight mechanism with mandated Indigenous representation,⁷³ the present oversight structures are no guarantee of independent investigations and accountability. Both investigations and disciplinary action may ultimately be determined internally by the implicated police service.

Similarly, the Civilian Review and Complaints Commission for the RCMP can make recommendations to the RCMP commissioner, but the commissioner may ultimately take no action on the recommendations.⁷⁴ Additionally, for all complaints, the RCMP investigates first, with the

⁶⁹ BCCLA, “The Failure of Self-Investigation.”

⁷⁰ Brennan Neill, “No charges against Quebec provincial police abuse scandal,” *CBC*, November 15, 2016, <http://www.cbc.ca/news/canada/montreal/police-abuse-charges-val-d-or-1.3852390> (accessed March 15, 2017); Benjamin Shingler, “No charges in Val-d'Or abuse scandal will breed further mistrust, Indigenous leaders say,” *CBC*, November 16, 2016, <http://www.cbc.ca/news/canada/montreal/indigenous-reaction-police-abuse-charges-val-d-or-1.3853031> (accessed March 15, 2017).

⁷¹ *The Police Act*, 1990 S.S. 1990-91, c. P-15.01, s. 35(2)(c), s. 39(1.1). <http://canlii.ca/t/52w3c> (accessed March 16, 2017) [SK *Police Act*]; Public Complaints Commission, Annual Report for 2015-2016, <http://publications.gov.sk.ca/documents/9/93482-2015-16%20Public%20Complaints%20Commission%20Annual%20Report%20FINAL.pdf> (accessed March 16, 2017), p. 3.

⁷² Human Rights Watch, Freedom of Information Request No. 20160817, Letter from Government of Saskatchewan re ATIP PCC 002-i6G ITEM 6.

⁷³ Justice Wright's recommendations and findings in the Stonechild inquiry led to several amendments to Saskatchewan's *Police Act*. The PCC was created as a result of consultations between local police services and First Nations Groups in 2006. See Civilian Review and Complaints Commission for the RCMP, “Police Investigating Police – Final Public Report,” December 31, 2014, <https://www.crcc-ccetp.gc.ca/en/police-investigating-police-final-public-report> (accessed March 16, 2017).

⁷⁴ *The Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, s. 45.72(1)-(2), <http://canlii.ca/t/52cjin> (accessed March 5, 2017) [RCMP *Act*]; Civilian Review and Complaints Commission for the RCMP, “Complaint and Review Process Flowchart,” August 11, 2016, <https://www.crcc-ccetp.gc.ca/en/complaint-and-review-process-flowchart> (accessed March 4, 2017).

Civilian Review and Complaints Commission reviewing the RCMP's report, only thereafter determining whether it will investigate or institute a hearing.⁷⁵

Saskatchewan is also one of the five Canadian provinces that does not have an independent civilian special investigations unit. Instead, the Saskatchewan *Police Act* provides for the appointment of an investigation observer by both municipal police and RCMP in situations where a person has suffered serious injury or died while in custody of that police service or RCMP detachment, or as a result of the actions of a member or officer of that police service or RCMP detachment.⁷⁶ The statute also authorizes appointment of an investigation observer where the matter is publicly sensitive and it is in the public interest to do so.⁷⁷ However, except in these latter discretionary appointments, an investigation observer must otherwise be a serving or retired member from another police service or detachment of the RCMP.⁷⁸

Obstacles to Reporting Police Misconduct and Abuse

Police representatives told Human Rights Watch that they are committed to protecting and serving Indigenous communities, and that anyone experiencing police abuse should lodge a complaint. However, Human Rights Watch has documented in both British Columbia and Saskatchewan that Indigenous women and girls do not trust police forces, and report alarming levels of fear of police retaliation.⁷⁹ These are inhibiting factors to Indigenous women's use of available police complaints mechanisms, inadequate as they may be.

Throughout Saskatchewan, Indigenous women reported that they mistrusted law enforcement and feared that they would face retaliation if they filed a complaint against an officer even for the most egregious abuses of power. Lydia A. reported suffering diplopia (or "double vision") following head trauma she alleged was inflicted by a police officer. She told Human Rights Watch: "Why won't I file a complaint? I think it would make it to the shredder. And I've heard of people doing that and then getting picked on. All of a sudden, you've got all of them coming after you."⁸⁰

Karen D. described the fear that she felt after she filed a complaint against the police, "I was scared shitless when I made the complaint. [I] feared for my life. After what happened to Neil Stonechild, how do I know they're not going to take me out?"⁸¹

⁷⁵ *RCMP Act*, s.45.6(1), s.45.71(3); Civilian Review and Complaints Commission for the RCMP, "Complaint and Review Process Flowchart," August 11, 2016, <https://www.cccc-ccetp.gc.ca/en/complaint-and-review-process-flowchart> (accessed March 4, 2017).

⁷⁶ *SK Police Act*, s. 91.1(1).

⁷⁷ *Ibid*, s. 91.1(6).

⁷⁸ *Ibid*, s. 91.1(1), (2), (6), (7).

⁷⁹ See Human Rights Watch, *Those Who Take Us Away*, p. 66-72.

⁸⁰ Human Rights Watch interview with Lydia A., Saskatoon, January 19, 2016.

⁸¹ Human Rights Watch interview with Karen D., Saskatoon, March 21, 2016.

The few Indigenous women Human Rights Watch spoke with who did report police abuse to the authorities allege that, as result, they experienced retaliatory harassment. As Sarah P. said, “they pick on you when you complain. Police like to hassle you if you put up a complaint about them. They try to intimidate you. They’ve treated me worse since I complained about the police.”⁸²

Jennifer P., a University student, described what she went through to file a police complaint:

I got in touch with [someone at community organization]. The next day I went to go and report [complaint] with my sister [at the police station]. On shift there is supposed to be a shift supervisor. They said I couldn’t make a complaint without a certain form. I called in the afternoon and couldn’t get a hold of anyone. I discussed it with [same person at community organization]. We made a second trip—went down at 10 am. They said call back. I called back and no one was available. It got to the point that it was so frustrating for me to get in and be heard. I was traumatized by the way I was treated. I wanted to fight. I wanted to stand up for myself. [But] they make you feel like a pain and a bother. I was exhausted and in the middle of my semester. I was extremely drained. I just kind of dropped it.⁸³

Police and police complaints commission staff who discourage women from reporting incidents of violence or otherwise obstruct the process of filing a complaint are failing in their duty to protect women from violence and hold perpetrators accountable. Government failure to stop such policing behavior contributes to Canada’s failure to meet its due diligence obligations under CEDAW.⁸⁴

Another possible deterrent to filing a police complaint is the prominent warning on the Saskatchewan Public Complaints Commission’s complaint form. The warning states “An intentionally false complaint under The Police Act, 1990 may result in criminal charges for public mischief or obstructing a Peace Officer.”⁸⁵ It is worth noting that only one other province has a warning against false complaints.⁸⁶ Given the highly fraught relationship between Indigenous

⁸² Human Rights Watch interview with Sarah P., First Nation Reserve, April 5, 2016

⁸³ Human Rights Watch interview with Jennifer P., Regina, January 27, 2016.

⁸⁴ The CEDAW Committee found that Canada was in violation of CEDAW and failing to meet the due diligence obligation (CEDAW, Article 8 Optional Protocol Inquiry Report, paras. 208-210).

⁸⁵ Government of Saskatchewan, “Complaint Form,” <http://www.saskatchewan.ca/residents/justice-crime-and-the-law/your-rights-and-the-law/make-a-complaint-about-the-police-service/pcc-complaint> (accessed May 9, 2017).

⁸⁶ The OIPRD, Manitoba LERA, Nova Scotia OPCC, and Newfoundland RNCPC forms only ask complainants to certify that the contents in the form are true. The British Columbia OPCC, PEI OPC, and Quebec Commissaire Déontologique Policier/Police Ethics Commissioner are completely silent in their forms. The Alberta LERB does not have an official complaints form, but their complaints resolution instructions are also silent on criminality. Only the NBPC has any reference to possible offences: “Please note that it is an offence to knowingly make false or misleading statements or file a complaint in bad faith or to prevent or

peoples and law enforcement, coupled with the vastly unequal power relations, this seems especially troubling and creates an impression that what matters first and foremost is the protection of the police.

V. The Absence of Disaggregated Data

There are no formally documented estimates that indicate how prevalent police mistreatment or abuse against Indigenous women is in Saskatchewan or throughout Canada. There is no standardized mandate of ethnicity-data collection across police forces in Canada.⁸⁷ Police forces have generally not been under a mandate to collect race data due to internal bias-free policing rules.⁸⁸ the Saskatoon Police Service Chief indicated in an interview with Human Rights Watch that concerns about discrimination were central to the decision not to collect such data.

The collection of comprehensive, sex- and race-disaggregated data on violence against women is a part of Canada's due diligence obligation under international law.⁸⁹ No disaggregated data was made available to Human Rights Watch upon request from the RCMP on use of force, police stops, or searches of Indigenous men or women because the RCMP does not collect such sex- and race-

obstruct a person filing a complaint (*Police Act*, SNB 1977, c P-9.2, s. 26). See: Office of the Independent Police Review Director (Ontario), "Complaint About the Police," https://complaint.oiprd.on.ca/OIPRD.Efile/Complaint_en.aspx (accessed May 9, 2017); Law Enforcement Review Agency (Manitoba), "The Law Enforcement Review Act," http://www.gov.mb.ca/justice/lera/complaint/pubs/lera_complaintform2.pdf (accessed May 9, 2017); Office of the Police Complaints Commissioner (Nova Scotia), "Form 5 – Public Complaint – [Section 31(1)] *Police Act Regulations*," http://www.novascotia.ca/opcc/publications/Form_5_and_Form_5A.pdf (accessed May 9, 2017); Royal Newfoundland Constabulary Public Complaints Commission, "Complaint," <http://www.justice.gov.nl.ca/mcpcc/Forms/COMPLAINT%20FORM.pdf> (accessed May 9, 2017); Office of the Police Complaint Commissioner (British Columbia), "Submit Online Complaint," <https://www.opcc.bc.ca/form/index.asp> (accessed May 9, 2017); Office of the Police Commissioner (Prince Edward Island), "Complaint Form," http://www.gov.pe.ca/photos/original/oag_complaintMU.pdf (accessed May 9, 2017); Commissaire Déontologique Policiier/Police Ethics Commissioner (Quebec), "Complaint," <https://deontologie-policiere.gouv.qc.ca/fileadmin/commissaire/formulairePapier/formulaire-plainte-en.pdf> (accessed May 9, 2017); Alberta Justice and Solicitor General, "How to Resolve a Complaint about the Conduct of a Municipal Police Officer," https://www.solgps.alberta.ca/programs_and_services/public_security/law_enforcement_oversight/policing_oversight_complaints/Publications/Complaint%20Municipal.pdf (accessed May 9, 2017); New Brunswick Police Commission, "Making a Complaint," <http://www.nbpoliccommission.ca/site/en/complaints> (accessed May 9, 2017).

⁸⁷ NWAC, "Small Steps on a Long Journey", December 2011, p. 5, http://www.un.org/esa/socdev/unpfii/documents/EGM12_NWAC.pdf (see also Interim Report of Canada on the International Covenant on Civil and Political Rights, as received September 16, 2016, p. 5-6, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCO%2fCAN%2f25188&lang=en (accessed May 9, 2017); the federal government reports, "The RCMP has also updated its reporting policies and practices to ensure better data collection on the Indigenous origin of victims of violence crimes" without providing any guidance as to what those policies are, or whether they are aligned with similar reforms across all police jurisdictions).

⁸⁸ Information from RCMP, 2012 (e.g. RCMP, Operational Manual, Bias Free Policing).

⁸⁹ Violence against Women The Due Diligence Standard as a Tool for the Elimination of Violence against Women, UN Doc. E/CN.4/2006/61 (January 20, 2006), para. 32 [The Due Diligence Standard]; UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Indicators on violence against women and State response, UN Doc A/HRC/7/6, January 29, 2008, para. 30 <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx> (accessed March 16, 2017).

disaggregated data.⁹⁰ Similarly, the municipal police and RCMP complaints mechanisms told Human Rights Watch that they have no mandate to collect race- and gender-disaggregated data, and thus could not confirm how many complaints against the police are made by Indigenous women.⁹¹

According to the Government of Canada however, the RCMP has now changed its policy and reporting practices and is providing Statistics Canada with data on the ethnic identity of homicide victims and those accused of homicide.⁹² Additionally, the federal government reports that Statistics Canada is working with police services to improve the quality of data recorded and reported to Statistics Canada.⁹³

While this is a welcome development, the RCMP should also change its data collection rules on other matters, including use of force, police stops, and searches. Further, such change in policy and practice should be similarly mandated across all police forces in Canada, not just the RCMP. The variations in race- and gender-data collection mandates across police forces in Canada means that even with the RCMP's improved policy and reporting practices, Statistics Canada's data will be incomplete and inaccurate.

Human Rights Watch believes that police forces across Canada should collect and report ethnicity- and gender-disaggregated data collection on victims of crime and on complainants of police misconduct, with their voluntary participation, as a means of tackling systemic racism in policing institutions. The absence of race-disaggregated data obscures the racial dimensions of the violence, and inhibits efforts to identify discrimination in responding to incidents of violence involving police officers.

VI. Canada's Obligations under International Law

Canada is party to international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR),⁹⁴ the Convention on the Elimination of All Forms of Racial

⁹⁰ Letter from RCMP, Supt. David Vautour, Access to Information and Privacy Branch, December 5, 2016.

⁹¹ Letter from Public Complaints Commission, Brent Cotter, Chairperson, August 17, 2016; Email communication from Rochelle Boudreau, Access to Information and Privacy Coordinator, Civilian Review and Complaints Commission for the RCMP/Government of Canada, to Human Rights Watch, August 4, 2016.

⁹² Committee on the Elimination of Discrimination against Women, Combined eighth and ninth periodic reports of States parties due in 2014, Canada, UN Doc CEDAW/C/CAN/8-9, April 13, 2015, para. 132; Committee on the Elimination of Racial Discrimination, Twenty-first to twenty-third periodic reports of States parties due in 2015, Canada, UN Doc CERD/C/CAN/21-23, June 8, 2016, para. 67.

⁹³ *Ibid.*

⁹⁴ ICCPR, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976 (acceded to by Canada in 1976).

Discrimination (ICERD),⁹⁵ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Canada has an obligation to protect people's right to personal security under the ICCPR from attacks by private persons.⁹⁶ Canada is also obliged to ensure the rights of Indigenous women are respected, protected, and fulfilled.⁹⁷ Pursuant to the UN Declaration on the Rights of Indigenous Persons in 2016, Canada should ensure that "indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."⁹⁸ Canada's treaty obligations extend to the protection of Indigenous women's rights, central among which is their right to live free from discrimination; this fundamental right encompasses Indigenous women's right to live free from violence, a form of gender- and race-based discrimination.⁹⁹

All levels of government in Canada should exercise due diligence to prevent, investigate and punish violence against Indigenous women and girls.¹⁰⁰ The Canadian government should also ensure that police treat all people with respect and dignity in a non-discriminatory manner. Failure to act with due diligence in response to the violence against Indigenous women and girls, including police failures to investigate, amounts to a violation of the rights of Indigenous women victims of violence.¹⁰¹

Since Human Rights Watch's 2013 report on police failings in British Columbia, both the United Nations and Inter-American Commission on Human Rights have completed inquiries into missing and murdered Indigenous women and girls in Canada. In 2015, these expert bodies released reports finding that Canada was violating the rights of Indigenous women and girls. The UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) concluded that Canada is committing grave violations¹⁰² of the rights of Indigenous women and girls by not meeting its obligations under articles 1, 2, 3, 5, 14 and 15 of the *Convention on the Elimination of All Forms of Discrimination Against Women*.¹⁰³ This conclusion encompasses the Committee's finding that Canada is failing to fulfill its due diligence obligation to prevent violence, to investigate and punish acts of violence, and to provide reparations to Indigenous women victims of gender-based violence and Indigenous women victims who have gone missing or been murdered by State or non-

⁹⁵ ICERD, adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969 (acceded to by Canada in 1970).

⁹⁶ See UN Human Rights Committee, Decision: *Delgado Paez v. Colombia*, (195/1985), July 12, 1990, <http://www.ohchr.org/Documents/Publications/SDecisionsVol3en.pdf> (accessed May 8, 2017), p. 135; UN Human Rights Committee, Decision: *Jayawardene v. Sri Lanka*, (916/00), U.N. Doc. A/57/40 at p. 234 (2002), <http://hrlibrary.umn.edu/undocs/916-2000.html> (accessed May 8, 2017).

⁹⁷ CEDAW, Article 8 Optional Protocol Inquiry Report, paras. 201-205; 208-209.

⁹⁸ United Nations Declaration on the Rights of Indigenous Peoples, adopted October 2, 2007, U.N. GAOR Supp. 49 at 1-11, U.N. Doc. A/RES/61/295 (2007), art. 22.

⁹⁹ CEDAW, General Recommendation 19, Violence against Women, (Eleventh session, 1992), Compilation of General Comments and Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc HRI/GEN/1/Rev.1 (1994), p. 84, see paras. 1, 6.

¹⁰⁰ See Human Rights Watch, *Those Who Take Us Away*, p. 78, footnote 213; and IACHR, Missing and Murdered Indigenous Women, p. 69-81.

¹⁰¹ CEDAW, Article 8 Optional Protocol Inquiry Report, para 210; see also The Due Diligence Standard, paras. 29-32.

¹⁰² IACHR, Missing and Murdered Indigenous Women, paras. 213-215.

¹⁰³ Article 8 Optional Protocol Inquiry Report, paras. 211, 215.

State actors.¹⁰⁴ The Committee resoundingly concluded that Canada's formal legislative and institutional framework for responding to incidents of violence is ineffective in practice.¹⁰⁵

The UN CEDAW Committee made thirty-eight recommendations to Canada. Thirteen of these recommendations directly implicate the police, including recommendations on: violence against women, data collection, police investigations and law enforcement, police complaints mechanisms, stereotyping, overcoming the legacy of the colonial period and the elimination of discrimination, and a national public inquiry and plan of action.¹⁰⁶ In the most recent November 2016 review of Canada's women's rights record, the CEDAW Committee found that Canada had only implemented the recommendation setting up a national inquiry, and had not acted on the report's remaining thirty-seven recommendations.¹⁰⁷ The Committee called on Canada to implement the remaining recommendations without delay in order to meet its due diligence obligation.¹⁰⁸ Canada should immediately act on these recommendations.

¹⁰⁴ Ibid, paras. 202, 207-9.

¹⁰⁵ Ibid, para. 207 (see also IACHR, *Missing and Murdered Indigenous Women*, p. 137).

¹⁰⁶ Ibid, para. 216, p. 47-51.

¹⁰⁷ CEDAW, *Concluding observations on the combined eighth and ninth periodic reports of Canada*, CEDAW/C/CAN/CO/8-9, November 18, 2016, para. 26.

¹⁰⁸ Ibid, para. 27.

Recommendations

To the Federal Government of Canada

- Implement without delay all the recommendations of the 2015 UN CEDAW Inquiry Report and cooperate with the UN Committee on the Elimination of Discrimination against Women on all follow-up procedures.
- Ensure that the Commissioners of the National Inquiry into Missing and Murdered Indigenous Women investigate police agencies and, when the Commissioners remit information back to civilian oversight bodies on matters they believe to be police misconduct, they should do so in a way that does not violate the trust of witness complainants, or prevent the Inquiry from reporting on how to reform police complaints commissions. This recommendation should be acted on in accordance with Call to Action 41 of the Truth and Reconciliation Commission.¹⁰⁹
- With leadership from Indigenous women, Two-Spirit people, and communities, ensure that the findings of the National Inquiry into Missing and Murdered Indigenous women and girls lead to the development and implementation of a national action plan to address violence against Indigenous women and girls that responds to and eliminates the structural roots of the violence, and improves the accountability and coordination of government bodies charged with preventing and responding to the violence.
- Ratify the American Convention on Human Rights and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará).
- Ensure that the Chief Commissioner of the Civilian Review and Complaints Commission for the RCMP is mandated with the power to require Chiefs of Police to comply with the recommendations of civilian oversight bodies.

To the Provincial Government of Saskatchewan

- Establish an independent special investigation unit in the province for reported incidents of serious police misconduct, including rape and other forms of sexual assault. This mechanism should be independent and civilian in nature with the authority to conduct systemic investigations. Within the unit, there should be a specialized division, with staff

¹⁰⁹ Truth and Reconciliation Commission of Canada: Calls to Action (2015), http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf (accessed March 8, 2017); see Call to Action 41: "The inquiry's mandate would include: i. Investigation into missing and murdered Aboriginal women and girls.; ii. Links to the intergenerational legacy of residential schools."

who have expertise and specialized training in responding to violence against women, to investigate allegations of physical and sexual assault by police.

- Ensure that Chief Commissioners of civilian oversight bodies are mandated with the power to require Chiefs of Police to comply with the recommendations of civilian oversight bodies.

To Federal Government of Canada and Provincial Government of Saskatchewan

- Expand non-incarceration options for individuals arrested for being intoxicated in public, including short- and long-term detox facilities and alcohol management programs, where medical and social services personnel can provide appropriate care in a culturally sensitive way. This recommendation should be acted on in accordance with Call to Action 21 of the Truth and Reconciliation Commission.¹¹⁰
- Ensure that complainants are informed upon submitting a complaint to a civilian oversight body about how they should report any police retaliation related to the lodging of the complaint; and ensure that all police complaints commissions have protocols on how they respond to a complainant who reports police retaliation related to a lodged complaint.

To the Saskatchewan Police Services and the Royal Canadian Mounted Police

- Expand training for police officers to ensure that police forces have knowledge about Indigenous history, the legacy of colonial abuses, including policing abuses, and human rights policing standards. This recommendation should be acted on in accordance with Call to Action 57 of the Truth and Reconciliation Commission.¹¹¹
- Improve trauma-informed training on de-escalation and implement trauma-informed protocols on de-escalation that are specific to police interactions with Indigenous peoples and that better equip officers to resolve disputes without resorting to the use of force.
- Ensure prompt, thorough, and respectful police response to allegations of violence against Indigenous women and girls so that police officers can properly assist victims of violence and decrease the potential for re-victimization and further harm.

¹¹⁰ Ibid, Call to Action 21: "We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools..."

¹¹¹ Ibid, Call to Action 57: "We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration of the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism."

- In accordance with international policing standards, Canadian constitutional requirements, and the recommendations of the Civilian Review and Complaints Commission:
 - end body (“frisk”) searches of women and girls by male police officers in all but extraordinary circumstances; require that any such searches are fully documented and reviewed by supervisors and commanders; prohibit all strip searches of women and girls by male police officers.
 - ensure that women in custody are ordered to remove their bras only in exceptional circumstances in which there is credible evidence that it is necessary to prevent them from doing harm to themselves or others or to obtain evidence related to the reason for the arrest.
- Ensure that there is a sufficient number of female officers to conduct searches, participate and supervise the interrogation of female detainees, and ensure the safety and security of female detainees.
- Ensure that policing protocols relating to intimate partner violence within same sex and inter-sex partnerships require officers to make clear who the principal or dominant aggressor is and lay charges against that individual; this protocol should distinguish assault from defensive self-protection and avoid dual charges against both the victim and perpetrator of violence.
- Collect and make publicly available (as ethically appropriate) accurate and comprehensive race- and gender-disaggregated data that includes an ethnicity variable on violence against Indigenous women, as well as on use of force, police stops, and searches, with the guidance of Indigenous women leaders and in cooperation with Indigenous community organizations and the National Centre for Missing Persons and Unidentified Remains (NCMPUR). This recommendation should be acted on in accordance with Call to Action 39 of the Truth and Reconciliation Commission.¹¹²

¹¹² Ibid, Call to Action 39: “We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.”

Acknowledgments

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Human Rights Watch undertook the investigation on which this submission is based after being approached by Jaskiran Dhillon, a long-time collaborator with Justice for Girls and current Assistant Professor at The New School. Shortly thereafter, a working group, comprised of Indigenous and non-Indigenous community workers from frontline organizations, academics, and local leaders, was assembled to assist with the development of the project and to provide ongoing direction and guidance.

Human Rights Watch gratefully acknowledges the leadership and contributions of the working group members: Sue Delanoy, Gladys Ledoux, and Patti Tait at the Elizabeth Fry Society of Saskatchewan; Vice Chief Heather Bear, Kay Lerat, and Omeasoo Wāhpāsiw at the Federation of Sovereign Indigenous Nations; Darlene Okemaysim-Sicotte at Iskwewuk E-wichiwitochik (Women Walking Together); Tasha Hubbard and Alexandria Wilson; Jaskiran Dhillon at The New School; Sheelah Mclean, founder of Idle No More, and John Noon, Headman of Thunderchild First Nation.

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We wish to express our gratitude to all of those who spoke with us during this investigation, and particularly to the Indigenous women who shared their stories and the community members, service providers, and activists dedicated to supporting them.

Annex: Sample letter to Police Service

This is a sample letter that Human Rights Watch sent to all the police services referenced in this submission in August 2016.

Dear Chief,

I write to inform that you that Human Rights Watch is in the process of investigating police treatment of indigenous women and girls in Saskatchewan, and has already conducted some field research across the province in January, March, and July 2016. This investigation is a follow-up to Human Rights Watch's 2013 report on police treatment of indigenous women and girls in northern British Columbia.¹¹³ The cases documented within the current investigation in Saskatchewan fall within locations policed by the RCMP as well as the municipal police services of Prince Albert, Regina, and Saskatoon.

Human Rights Watch is an independent non-governmental organization that monitors and reports on human rights issues in more than 90 countries around the world. We report on a range of human rights issues, including those related to the rights of indigenous peoples.

Human Rights Watch conducted six weeks of field research into police treatment of indigenous women and girls in Saskatchewan, speaking with women and girls (many of whom were crime victims), witnesses, and community service providers in Prince Albert, Regina, Saskatoon, and several smaller communities in northern and central Saskatchewan. While the investigation focuses primarily on documenting policing-related abuses within the last three years, earlier incidents were reported by interviewees.

Indigenous women and girls reported to us that, throughout the province and across multiple police jurisdictions, they had experienced police using excessive use of force; inappropriate body and strip searches by male officers both during routine stops and in detention; as well sexual harassment, and in some incidents, sexual assault of women by officers. Indigenous women victims of violence (including domestic violence) and those at risk reported police insensitivity to their well-being, vulnerability, and cultural background. Some women said that police had threatened to arrest them (e.g., for drug possession, public intoxication, or breach of parole conditions) when the women reported domestic violence. Overall, indigenous women reported a deep mistrust of the RCMP and municipal police, and fear that they would face retaliation if they filed any form of complaint against an officer.

¹¹³ Human Rights Watch, *Those Who Take Us Away*.

Based on recent federal government commitments to address violence against indigenous women and girls, it is clear that these are issues of serious concern to police services across the country. We look forward to a dialogue with the Saskatoon Police Service about our shared interest in ensuring that the police play an effective role in responding to violence against indigenous women and girls.

We are eager to include the perspective of law enforcement in any materials we publish on this issue. We would appreciate your response to the questions and data request below by **September 23, 2016**.

We would also welcome an opportunity to meet with you or a member of your staff to discuss the range of issues raised during our investigation, as well as specific policing concerns that fall within the jurisdiction of your police service.

Questions

Policing Policies and Practices

- i. What kinds of information do you collect when detaining individuals? Are race, age, and sex/gender information collected? If not, why not?
- ii. What rules exist regarding cross-gender body and strip searches of women and girls by police officers? Please detail the protocols that regulate these searches at every stage of interaction with the police from routine stops to arrest and detention.
- iii. Are there specific protocols on cross-gender body and strip searches involving minors?
- iv. Please detail the circumstances in which a male officer can request that a woman remove her bra or other undergarments during stops, arrests, and detention. What policies are in place for regulating this practice?
- v. What protections are in place to prevent sexually inappropriate behaviour by police officers? What measures are in place to respond to these allegations?
- vi. Please elaborate on the policies and standard operating procedures surrounding the use of force by an officer during stops, arrest and detention. What level of force would be deemed “excessive” for a cooperating individual as well as someone resisting arrest?
- vii. Please elaborate on the policies and standard operating procedures that apply to custodial arrangements for and body and strip searches of transgender individuals?
- viii. What protocols exist regarding the use of pepper spray, tasers, and police dogs, in general and with respect to children?
- ix. What protocols exist for responding to domestic violence calls?

- x. What measures are being taken to ensure the well-being and safety of female victims of domestic violence and those at risk?
- xi. Is there a specific policy on dual arrests in domestic violence cases?
- xii. What, if any, specific measures has your police service taken to address the issue of missing and murdered indigenous women?
- xiii. Please detail any partnerships your police service maintains with First Nations police services and community workers, mental health professionals, addiction specialists, and domestic violence experts.
- xiv. Please elaborate on any policies in place within your police service to provide safe alternatives to detention for intoxicated individuals.
- xv. What measures are currently in place within your police service and through partnerships with social service providers to rehabilitate repeat offenders and to do so through restorative justice initiatives?
- xvi. What measures are being taken to build trust in the police among the indigenous communities in your jurisdiction?
- xvii. Kindly detail whether your police service employs any indigenous liaison workers or volunteers (or has employed over the last 5 years) that are made available to members of this community upon arrival at a police station.
- xviii. Kindly elaborate on your indigenous candidate recruitment strategy and provide details on the number of indigenous men and women currently employed by your police service as well as the number employed over the last 5 years.

Accountability

- i. Please outline the disciplinary steps taken if there is a substantiated claim that an officer has used racially discriminatory or sexually inappropriate language when speaking to other officers or civilians.
- ii. What recruitment screening strategies are in place to prevent police force candidates with biased views against any group on the basis of race, ethnicity, religion, sex, sexual orientation, gender identity, or any other grounds from being offered employment?
- iii. Please outline the disciplinary action taken if an officer is found to have conducted an unjustified body (frisk) or strip search.
- iv. Please advise whether police officers on your force are subject to drug testing and under what circumstances.
- v. What percentage of police officers on your force wear body cameras? What protocols exist regarding the use of these cameras and to what extent do officers have discretion on when to turn off the cameras?
- vi. What percentage of police vehicles within your jurisdiction have GPS tracking devices? What protocols exist regarding the use of these devices? Is the GPS tracking information logged and, if so, for how long?

- vii. What percentage of your police station is equipped with video cameras? Do those cameras record audio? Please indicate which areas of your police station are not covered by video cameras.
- viii. Please outline the disciplinary steps taken if there is a substantiated claim that an officer is found to have physically assaulted, verbally abused, sexually coerced, and/or intimidated a woman, girl, or a member of a sexual or gender minority group during arrest or in detention.
- ix. When an individual files a complaint against a police officer, how is this information stored and is it visible on their electronic police file/record? Please describe what measures are in place to prevent retaliation against complainants.
- x. Please provide or describe what instructions are given to officers on how they should respond to complaints against police by members of the public.
- xi. What measures are being taken to ensure that members of the public, particularly indigenous people, are knowledgeable of the complaints process?
- xii. What measures are being taken to minimize the occurrence of violence or disrespectful police interactions with civilians, particularly indigenous people?
- xiii. Have members of the indigenous community been invited to evaluate the effectiveness of existing cultural awareness programs and have any changes been implemented as a result of their feedback?

Training

- i. What training do police officers receive on handling domestic violence cases and engaging with survivors and people at risk? Kindly detail both the nature and duration of the training as well as how frequently officers are required to take a refresher course.
- ii. Do officers receive dispute resolution and anger management training and support? Are officers trained in de-escalation techniques? Kindly detail both the nature and duration of the training as well as how frequently officers are required to take a refresher course.
- iii. What training on race-relations, particularly with respect to indigenous communities, is presently being implemented within your police service? Kindly detail both the nature and duration of the training as well as how frequently officers are required to take a refresher course.

Data Request

(Covering the period 2012 -2016)

- i. Number of police interactions with documented use of force, percentage by gender

- ii. Number of police interactions with documented use of force, percentage of those that are with indigenous people, and of those the percentage with indigenous women¹¹⁴
- iii. Percentage of indigenous women arrested who were charged with resisting arrest or obstruction of justice (under sections 129 or 270 of the Criminal Code of Canada); percentage of non-indigenous women arrested who were charged with resisting arrest or obstruction of justice
- iv. Number of police interactions with documented strip searches, percentage by gender
- v. Number of police interactions with documented strip searches, percentage of those that are with indigenous people, and of those the percentage with indigenous women
- vi. Number of police interactions with documented body searches, percentage by gender
- vii. Number of police officers suspended with pay in your police service
- viii. Number of complaints of sexual harassment or assault filed by a female officer within your police service
- ix. Number of individuals who have suffered serious injury or died, either in custody or during an interaction with an officer in your police service.
- x. Number of complaints received by your police force from members of the public; number of those complaints investigated by your police force; number of those complaints investigated by an external police force; number of those complaints investigated by an investigator from the Public Complaints Commission; number of public complaints against your police force that have been deemed substantiated (in total, and disaggregated by gender and ethnicity, if available).

¹¹⁴ Human Rights Watch uses the term "Indigenous," however, we recognize that the term "Aboriginal" is more common in some contexts. We would appreciate information corresponding to either term.

