



**By email**

September 2, 2022

Mass Casualty Commission  
1791 Barrington Street, Suite 310  
Halifax, Nova Scotia B3J 3K9

Dear Commissioners:

**Re: Phase 2 submissions of the BC Civil Liberties Association and East Coast Prison Justice Society**

## **1. Introduction**

The BC Civil Liberties Association (BCCLA) is the oldest and most active civil liberties and human rights group in Canada. BCCLA focuses on the relationship between people and the state, and the ways in which the state can limit or advance human rights and liberties.

East Coast Prison Justice Society (ECPJS) is a collaboration of individuals and organizations working to advance social justice through advocacy focused on the rights and interests of criminalized and imprisoned people. ECPJS raises awareness of the socio-economic, political and institutional inequalities impacting marginalized people and communities in Nova Scotia and the Atlantic Region.

The BCCLA/ECPJS coalition formed to assist the Mass Casualty Commission (Commission) in exploring the causes, context and circumstances giving rise to the mass casualty, and to ensure that in making recommendations to help prevent similar incidents in the future, the Commission does not inadvertently cause further harm to marginalized people and communities.

The record before the Commission reveals a catastrophic policing failure, on April 18-19, 2020 and long before, that contributed to the mass casualty. This failure did not result from any one officer's action or inaction, but rather, from a series of individual and systemic errors and oversights, some taking place long before the night in question.

In our submission, these errors resulted from (1) inadequate police oversight and (2) a lack of non-police alternatives to promote community safety.

## 2. Inadequate Oversight of Police

The RCMP is subject to civilian oversight.<sup>1</sup> Nonetheless, the record reveals that inadequate oversight of police was a significant cause, context, or circumstances giving rise to the mass casualty. We address three aspects of this oversight: (a) inadequate democratic accountability processes and toxic culture within the RCMP, (b) poor evidence-based training, and (c) policing of marginalized communities.

### a. Democratic Accountability Processes and Culture Within the RCMP

The RCMP is not subject to rigorous civilian oversight notwithstanding Part VI of the *Royal Canadian Mounted Police Act*, which governs the Civilian Review and Complaints Commission<sup>2</sup>. This is compounded by an RCMP culture characterized by ungovernability and hostility to civilian oversight.

One demonstration of poor accountability is the limited likelihood that digressions from policy will result in a complaint or penalty. The record reveals that RCMP policies were not followed before, during, and after the mass casualty. This contributed to the mass casualty and the harm it caused.

Before the mass casualty, two RCMP members were tasked with responding to serious complaints against the perpetrator concerning his threats of violence. One complaint was characterized as a driving complaint even though the complainant was adamant that it concerned the perpetrator's violent behaviour. The officer's contemporaneous notes reflect witness names consistent with the complainant's account and not a driving-related matter.<sup>3</sup> However, the complaint was ultimately discounted as "assist to general public" and closed.<sup>4</sup> Another member developed a friendship with the perpetrator and visited him on 10 to 20 occasions.<sup>5</sup> He was contacted by the Halifax Regional Police concerning a complaint against the perpetrator but did not investigate.<sup>6</sup> He professes no memory of this contact and states that he would not have taken it seriously because he had assessed the perpetrator to be a good person: ". . . I would have put it that . . . I've got a fairly good handle on him from the contact I've had with him and he doesn't come across as a violent guy to me."<sup>7</sup> Both of these investigations were not completed in a manner consistent with RCMP policy.<sup>8</sup>

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<sup>1</sup> Foundational Document, Commission Counsel, *Legislative Brief Policing in Nova Scotia* (22 October 2021) [Exhibit P-000002 / COMM0043125]

<sup>2</sup> *Royal Canadian Mounted Police Act*, RSC 1985 c R-10, Part VI

<sup>3</sup> Hearing transcript (Maxwell), Volume 50, 19 July 2022, pp. 27-31 [COMM0059927]

<sup>4</sup> Hearing transcript (Maxwell), Volume 50, 19 July 2022, p. 53, lines 15-19 [COMM0059927]

<sup>5</sup> Interview transcript of Cst. Wiley (13 July 2021), p. 55 [Exhibit P-001202 / COMM0015533]

<sup>6</sup> Interview transcript of Cst. Wiley (13 July 2021), p. 49 [Exhibit P-001202 / COMM0015533]

<sup>7</sup> Interview transcript of Cst. Wiley (13 July 2021), p. 52 [Exhibit P-001202 / COMM0015533]

<sup>8</sup> Hearing transcript (Campbell), Volume 55, 26 July 2022, p. 46, lines 1-28, p. 47, lines 1-3 [COMM0061291]; Hearing transcript (Leather), Volume 56, 27 July 2022, p. 124, lines 20-25 [COMM0061294]

During the mass casualty, a sergeant responsible for operations, with the tacit approval of the district commander, knowingly violated the prohibition against working after consuming alcohol.<sup>9</sup> His amount of drinking was such that his spouse had to drive him to the detachment to collect his radio. He was then involved in operational decisions, including whether to send multiple response teams into Portapique.<sup>10</sup> He also reviewed and misconstrued multiple witness reports that the perpetrator was driving a replica RCMP vehicle.<sup>11</sup> Such willingness to ignore established policies could not be reconciled by RCMP Chief Superintendent Leather, since “members consuming alcohol and reactivating themselves or going in for duty is not just not ideal, it’s not allowed by policy.”<sup>12</sup>

After the mass casualty, several commissioned and civilian members of the RCMP provided or contributed to statements to the public that they knew were false or misleading. One commissioned member admitted that he had “missed the mark on more than a couple of occasions because I was relying on my memory.”<sup>13</sup> This admission does not explain why the RCMP consistently used language that downplayed and misinterpreted the events as well as the RCMP’s knowledge of material facts. It is also inconsistent with this member’s behaviour; when being interviewed by the Commission, the member was acutely aware of the incompleteness of his statement, such that he immediately sought independent legal advice.<sup>14</sup> Regardless of the RCMP’s intentions in sharing strategic communications that were false or misleading, the governing communications policy requires accuracy when communicating with the public.<sup>15</sup> RCMP Chief Superintendent Leather agreed that the false or misleading statements provided by RCMP members after the mass casualty were inconsistent with this policy.<sup>16</sup>

This Commission has not been immune to the RCMP’s misconduct. The RCMP appointed individuals to its commission team who are married to senior RCMP officers whose conduct is under investigation by the Commission. These individuals then prepared business cards that falsely stated they were commission staff and shared these cards with members of the public. Both the appointment and conduct of these persons was inconsistent with the RCMP’s policy on conflicts of interest.<sup>17</sup>

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<sup>9</sup> Hearing transcript (O’Brien), Volume 29, 31 May 2022, p 17, lines 17-19; Foundational Document: RCMP Command Post, Operational Communications Centre, and Command Decisions, para 73 [**Exhibit P-001461 / COMM0057771**]

<sup>10</sup> Foundational Document: RCMP Command Post, Operational Communications Centre, and Command Decisions, para 143 (13 May 2022) [**Exhibit P-001461 / COMM0057771**]

<sup>11</sup> Hearing transcript (O’Brien), Volume 29, 31 May 2022, p. 21, lines 1-24 [**Exhibit P-004371 / COMM0058858**]

<sup>12</sup> Hearing transcript (Leather) 28 July 2022, p. 120 lines 13-14 [**COMM0061295**]

<sup>13</sup> Hearing transcript (Leather), Volume 56, 27 July 2022, p. 31, lines 23-24 [**COMM0061294**]

<sup>14</sup> Hearing transcript (Leather), Volume 57, 28 July 2022, p. 6, lines 1-13 [**COMM0061295**]

<sup>15</sup> RCMP Operational Manual, *Ch. 27.1: Media Relations* [**Exhibit P-003937 / COMM0039871**]; RCMP Operational Manual, *Ch. 27.2: Media Releases* [**P-002580 / COMM0039872**]

<sup>16</sup> Hearing transcript (Leather), Volume 56, 27 July 2022, pp. 25-27 [**COMM0061294**]

<sup>17</sup> RCMP Administration Manual, *Ch 17.1: Conflict of Interest* [**Exhibit P-004147 / COMM0039711**]

Within days of the mass casualty, the RCMP became aware of several pieces of information that would help contextualize their engagement with the perpetrator before the mass casualty. The record reveals that the RCMP took steps to minimize this information and to encourage other police forces to downplay its significance.<sup>18</sup> Efforts to instigate an independent review of H-Division were met with unfavourable responses and ultimately “died on the vine.”<sup>19</sup> The RCMP also did not fulfil its disclosure obligations until the Commission had almost finished the fact-finding stages of the inquiry, including by withholding a consulting report containing material insights from those most senior RCMP members who were involved in the response to the mass casualty.<sup>20</sup>

We highlight this evidence, not to show the misconduct or failings of individual RCMP members, but to show the gap between what RCMP policies provide for on paper and how they work in practice. This gap is a function of inadequate democratic oversight of police that must be addressed.

The RCMP’s non-compliance with its own rules—before, during, and after the mass casualty—is consistent with two findings from the report on *Exercising Judgment* by Dr. Benjamin Goold. First, discretionary decisions not to act, for example by deciding not to investigate a complaint, are beyond the reach of existing oversight because they occur in low visibility environments.<sup>21</sup> Second, there is little evidence internal police “rules have any meaningful impact on police decision-making or accountability.”<sup>22</sup> Goold attributes this non-compliance to police culture, and finds that if effective oversight is to be realized, oversight bodies will have to “control the behaviour and change the working practices of frontline officers.”<sup>23</sup> Such findings are not new.

In the process leading up to his 2020 report, *Broken Dreams, Broken Lives*, the Honourable Michel Bastarache heard evidence over three years in relation to sexual harassment in the RCMP. Based on 644 interviews and an assessment of 3086 harassment claims, the Honourable Mr. Bastarache concluded that the problems with the RCMP are systemic and part of an entrenched culture:

[T]he culture of the RCMP is toxic and tolerates misogyny and homophobia at all ranks and in all provinces and territories. This culture does not reflect the stated values of the RCMP, and it is found throughout the organization. RCMP members and officers are forced to accept that they must function in the context of this culture to succeed. RCMP

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<sup>18</sup> Email correspondence between RCMP C/Supt. Chris Leather and HRP Chief of Police Dan Kinsella HRP email from Kinsella (26 May 2020 to 3 June 2020) [Exhibit P-004003 / COMM0051938]

<sup>19</sup> Hearing transcript (Leather), Volume 56, 27 July 2022, p 84, lines 7-27 [COMM0061294]

<sup>20</sup> Quintet Consulting Corporation, *Summary Report Wellness Assessment* (30 September 2021) [Exhibit P-004151 / COMM0062465]

<sup>21</sup> Expert Report: Dr. Benjamin J. Goold, *Exercising Judgment: Understanding Police Discretion in Canada*, p. 7 (May 2022) [Exhibit P-001873 / COMM0058373]

<sup>22</sup> Goold, *Exercising Judgment*, p. 21 [Exhibit P-001873 / COMM0058373]

<sup>23</sup> Goold, *Exercising Judgment*, p. 36 [Exhibit P-001873 / COMM0058373]

employees appear to blame the ‘bad apples’ without recognizing the systemic and internal origins of this conduct.<sup>24</sup>

These findings underscore why the RCMP as an institution is so intransigent to reform, both internally and externally.

Many frontline officers have demonstrated derision for formal policies and directives.<sup>25</sup> This core characteristic of culture also presents a fundamental barrier to reforming policing institutions such as the RCMP because day-to-day policing will continue to follow informal rules that are inculcated socially rather than adhering to formal policies.<sup>26</sup> As the Honourable Mr. Bastarache observed, the culture of the RCMP itself makes it impervious to change:

There have been investigations and reviews both internal and external, and there have been good Recommendations made because of these reviews. Policies have been adopted and legislative changes have been enacted as a result, but based on what we have been told, they are often not properly implemented or followed; at times, the discretion set out in the policies is used to override the intent of the changes and not uphold them. As is well known and often quoted: Culture eats Policy every time.<sup>27</sup>

Two other interrelated core characteristics of police culture contributed to the failings regarding the mass casualty incident and continue to prevent the RCMP from making internal reforms. The first is the social isolation from ordinary (civilian) members of the public,<sup>28</sup> which results in police placing “themselves in an oppositional relationship with the public, leading to an emphasis on mutual support and unity with other officers and social isolation from the public at large.”<sup>29</sup> This defensive sense of solidarity with colleagues is the other core characteristic of police culture that inhibits the RCMP from learning from its mistakes and changing to better serve the public.<sup>30</sup>

This “us-vs-them” attitude makes police suspicious of and resistant to external forms of civilian oversight.<sup>31</sup> This suspicion means that police do not trust that civilians can understand the scenarios, decisions, and risks that officers face in the course of their duty.<sup>32</sup> For example, in the Summary Report Wellness Assessment—a document that the RCMP withheld from the Commission and then unsuccessfully claimed was privileged—several officers remarked:

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<sup>24</sup> The Hon. Michel Bastarache, *Broken Dreams, Broken Lives, the Devastating Effects of Sexual Harassment on Women in the RCMP*, p. 2 [Exhibit P-003648 / COMM0058301]

<sup>25</sup> Expert Report, Dr. Bethan Loftus, *Police Culture: Origins, Features, and Reform* (March 2022), p. 65 [Exhibit P-001043 / COMM0053825]

<sup>26</sup> Expert Report, Dr. Holly Campeau, *Culture in Police Organizations: Definitions, Research, and Challenges* (July 2022), p. 34 [COMM0061158]

<sup>27</sup> Bastarache, *Broken Dreams*, p. 54 [Exhibit P-003648 / COMM0058301]

<sup>28</sup> Loftus, *Police Culture*, p. 5 [Exhibit P-001043 / COMM0053825]

<sup>29</sup> Loftus, *Police Culture*, p. 20 [Exhibit P-001043 / COMM0053825]

<sup>30</sup> Loftus, *Police Culture*, p. 5 [Exhibit P-001043 / COMM0053825]

<sup>31</sup> Loftus, *Police Culture*, p. 60 [Exhibit P-001043 / COMM0053825]

<sup>32</sup> Loftus, *Police Culture*, p. 61 [Exhibit P-001043 / COMM0053825]

... that the HRM Chief Administrative Officer (CAO) and counsellors had a poor understanding of policing in general and in particular the integrated model, and as with provincial authorities, expected service 'on the cheap'.<sup>33</sup>

The corollary to this culture of suspicion towards civilians is the impulse to stand in solidarity with fellow police, even if it means protecting and covering up “colleague deviance and infringements of procedure.”<sup>34</sup> This phenomenon was identified by Sunny Marriner with respect to the investigation into the murder of Ms. Susan Butlin, where “there were multiple opportunities where multiple officers reviewed and re-reviewed and re-reviewed, and I think that one thing that’s important for Commissioners to know and for people to think about and unpack is the culture or reluctance to second-guess another officer or another officer’s decision.”<sup>35</sup> This impulse to be loyal to fellow officers is also referred to as the “code of silence,” an unwritten rule of police behaviour that is well-ingrained within RCMP culture.<sup>36</sup> Such behaviour was on full display before this Commission, when the RCMP inexplicably redacted officer names as “irrelevant” from evidence concerning the Butlin case as “irrelevant” even though these officers were the same people who failed to properly investigate the perpetrator of this mass homicide.<sup>37</sup>

The RCMP’s tendency to ignore established oversight processes is further illustrated by litigation that BCCLA was forced to bring to compel Commissioner Lucki to respond to a complaint report prepared by the Civilian Review and Complaints Commission (CRCC). In 2014 the BCCLA filed a complaint that the RCMP spied on Indigenous land defenders without legal authority and unlawfully shared the collected information with other state actors and private corporations. The CRCC completed its report in June 2017 and sent it to Commissioner Lucki to respond in writing, as is required under the *RCMP Act*. After three years of correspondence to the Commissioner by the BCCLA and the CRCC, unsuccessfully urging her to respond to the Interim Report, the BCCLA launched an application for judicial review.<sup>38</sup> In late 2021, the Federal Court of Canada ruled in favour of the BCCLA, finding that Commissioner Lucki had violated her duty to respond “as soon as feasible” as required by the Act.<sup>39</sup>

#### *b. Evidence-Based Training*

RCMP officers were unable to contain the perpetrator on the night in question because they did not identify all available escape routes from Portapique.<sup>40</sup> According to the Commission’s own analysis, the RCMP had access to high quality mapping services that would have given them a “better understanding of the road networks in Portapique, thereby enhancing containment efforts

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<sup>33</sup> Quintet Consulting Corporation, *Summary Report Wellness Assessment*, un-redacted version (30 September 2021) [**COMM0063605**]

<sup>34</sup> Loftus, *Police Culture*, p. 29 [**Exhibit P-001043 / COMM0053825**]

<sup>35</sup> Hearing transcript (MacLean), Volume 51, 20 July 2022, pp. 123-124, lines 28-4 [**COMM0061282**]

<sup>36</sup> Campeau, *Culture in Police Organizations*, p. 7 [**COMM0061158**]

<sup>37</sup> Submissions of Jennifer Cox, QC, Commission Counsel on Exhibit P-003649 / COMM0048906 (29 August 2022) at approximately 18m30s of the webcast, transcript not yet available

<sup>38</sup> *British Columbia Civil Liberties Association v. Canada (Royal Mounted Police)*, [2021 FC 1475](#) at para 5.

<sup>39</sup> *Ibid.* at para 52.

<sup>40</sup> Foundational Document: RCMP Command Post, Operational Communications Centre, and Command Decisions, paras 205-209 [**Exhibit P-001461 / COMM0057771**]

during the Mass Casualty events of 18-19 April 2020.”<sup>41</sup> The detachment commander (now retired) opted not to be trained in this technology because he was in the pre-retirement phase of his employment. He was also unaware of who was trained in the technology so could not assign the task of accessing maps to others.<sup>42</sup> This evidence demonstrates that the issue was not a lack of resources or even access to training, but a failure to ensure that training had taken place and that it was effective. In other words, the training exists on paper but there are no oversight mechanisms in place to ensure that public resources spent on technology and training are effective.

The RCMP has exceptionally low entrance standards for its members. Unlike Finland and other comparable jurisdictions, RCMP members are not required to have university degrees and do not receive multi-year training before they become police officers.<sup>43</sup> This means that RCMP training is primarily done internally, both at the RCMP Depot and on the job. Like oversight generally, there is limited oversight of RCMP training programs.

Commissioner Lucki testified that no change can occur within the RCMP without measurement.<sup>44</sup> The record before the Commission reveals that the RCMP is not transparent about its training programs and systematically avoids external analysis of training efficacy.<sup>45</sup> One expert described RCMP training as a “checkbox approach” with limited focus on evidence-based outcomes.<sup>46</sup> When resources are directed to enhanced training in response to police failure, there are limited procedures in place to ensure that training is effective and that it translates into positive outcomes for the public:

So despite all the resources that we often want to put towards training and say the number one thing we need is more training, we have no data on it, we don't evaluate the training, we don't actually have any process for externally reviewing that training, so tracking that it's being taken. And there's really no evidence that any of the training that we recommend actually has an impact.

And what it does do, of course, is further put resources into policing, and we end up with more and more resources going unaccountably into the police.<sup>47</sup>

The efficacy and efficiency of RCMP training programs would be improved, not with additional resources, but through greater transparency, measurement of training outcomes, incorporation of evidence-based insights from other fields of study, and external auditing. This type of

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<sup>41</sup> Brian Corbett, MCC Investigations: Supplementary Report regarding Analysis of Pictometry, p 13 **[Exhibit P-001546 / COMM0056422]**

<sup>42</sup> Hearing transcript (Carroll), Volume 27, 26 May 2022, p. 48, lines 1-6, 11-18 **[COMM0058601]**

<sup>43</sup> Hearing transcript (Himberg), Volume 30, 1 June 2022, p. 5, lines 6-9 **[COMM0058945]**

<sup>44</sup> Hearing transcript (Lucki), Volume 59, 23 August 2022, p. 43, lines 3-11 **[COMM0063059]**

<sup>45</sup> Hearing transcript (Alan), Volume 31, 2 June 2022, pp. 69-70, lines 26-3; Hearing transcript (Jones), Volume 31, 2 June 2022, pp. 95-96, lines 26-4; Hearing transcript (Anderson), Volume 31, 2 June 2022, p. 100 lines 1-6; Hearing transcript (Di Nota), Volume 31, 2 June 2022, p 109, lines 10-18 **[COMM0058946]**

<sup>46</sup> Hearing transcript (Anderson), Volume 31, 2 June 2022, p. 107 **[COMM0058946]**

<sup>47</sup> Hearing transcript (Jones), Volume 31, 2 June 2022, p. 96 **[COMM0058946]**

oversight is currently lacking, and as a result, there are limited assurances that resources spent on RCMP training will achieve the intended public safety outcomes.

### *c. Policing of Marginalized Communities*

Discussions around the policing of marginalized communities cannot ignore the complex ways in which colonialism and systemic racism have been rooted within the Canadian police system. Colonialism and systemic racism can manifest in many different ways. Jessica Bundy, for example, detailed several instances where Black men were subject to racial slurs, harassed, and assaulted by Nova Scotian police officers or RCMP members.<sup>48</sup> Systemic racism also manifests in police decisions to stop, search, and arrest, and in operational decision-making, the development of police strategies, and resource deployment.<sup>49</sup>

It can also manifest in less overt ways. In her expert report, Dr. Anna Souhami writes: “discrimination in policing can also be indirect and less quantifiable. It may derive from a lack of understanding of the particular needs of BIPOC communities and other marginalized groups such as LGBTQ+ people, including an insensitivity to the differential impact of police actions in the context of experiences and expectations of discrimination.”<sup>50</sup> According to Dr. Souhami, these norms can lead officers to reinforce the exclusion or neglect of the needs of marginalized groups.

We ask the Commission to not only interpret the evidence through an Indigenous and gendered lens, but to also pay attention to the way systemic discrimination in policing is perpetuated through other forms of marginalization, including race, sexual orientation, age, mental health status, socioeconomic status, education, and occupation. Systemic racism has only recently been recognized as a problem by the RCMP, and cursory efforts at diversity training<sup>51</sup> or a mandatory cultural awareness course<sup>52</sup> do not go far enough to address the deeply ingrained practices and attitudes within the police system.

One of the ways in which systemic racism manifests is in police exercise of discretion in daily encounters with marginalized communities. In his expert report, Dr. Benjamin Goold highlighted studies suggesting that police use the law as an exercise of coercive power against minority populations.<sup>53</sup> These ‘low-visibility’ encounters not only place police beyond the reach of oversight, as discussed above, they also subject marginalized individuals and communities to disproportionate rates of police coercion and enforcement. For example, Dr. Goold pointed to emerging scholarship in Canada that found that Black people are more likely to experience

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<sup>48</sup> Jessica Bundy, “‘We’ll Deal with it Later’: African Nova Scotian Women’s Perceptions and Experiences of the Police” (2019) 44:4 *Canadian Journal of Sociology* 319 at 323 [Exhibit P-002636 / COMM0059276]

<sup>49</sup> Goold, *Exercising Judgment*, p. 43 [Exhibit P-001873 / COMM0058373]

<sup>50</sup> Expert Report, Dr. Anna Souhami, *A Systematic Review of the Research on Rural Policing* (May 2022), p. 35 [Exhibit P-002634 / COMM0058282]

<sup>51</sup> Interview transcript of Thomas Whidden (13 May 2022), p. 11 [Exhibit P-001968 / COMM0058272]

<sup>52</sup> Interview transcript of Commissioner Lucki (4 August 2022), p. 95 [Exhibit P-004221 / COMM0062475]

<sup>53</sup> Goold, *Exercising Judgment*, p. 39 [Exhibit P-001873 / COMM0058373]



multiple stops and searches compared to other racialized groups.<sup>54</sup> In her roundtable testimony, Dr. El Jones underscored this point, explaining that it is “marginalized communities, Black and Indigenous communities, unhoused people, people who use drugs, sex workers, queer and trans people, people experiencing mental health difficulties [who] experience the brunt of policing, the brunt of arrest, the brunt of violent policing, surveillance in all forms of policing.”<sup>55</sup>

The Commission has repeatedly heard that one of the most profound and damaging impacts of disproportionate and discriminatory policing has been an erosion of confidence and trust.<sup>56</sup> Dr. Souhami, in her report, points to research demonstrating that Indigenous persons, African Nova Scotian communities and African Nova Scotian women have a “a longstanding lack of confidence in and mistrust of the police, perceptions and expectations of discrimination, over-policing, and over-representation in the criminal justice system”.<sup>57</sup> In another study, Dr. Kanika Samuels-Wortley describes how Black youth reported encounters with the police where they believed they were treated differently than their non-Black peers, leading them to develop a lack of trust and respect for law enforcement.<sup>58</sup> Further, Bundy explains how even African Nova Scotian women, despite rarely interacting with the police, nevertheless vicariously bear the emotional burden of the possibility that the men and boys in their lives would be targeted by police.<sup>59</sup> This burden instills and compounds feelings of frustration, fear, and distrust.<sup>60</sup>

These observations are also borne out in the evidence. The Commission heard that the perpetrator had a history of violence toward his common-law spouse and others prior to the mass casualty. He targeted vulnerable women and other marginalized communities, often through his denturist practice.<sup>61</sup> Witness Donna Grace, for example, described an instance where the perpetrator had seen “a black guy, and he figured he’d get away with this because the guy was black, and he beat him to a pulp”.<sup>62</sup> Witness EE described situations where the perpetrator targeted homeless or low-income people for sex, using charm to manipulate them

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<sup>54</sup> Goold, *Exercising Judgment*, p. 43 [Exhibit P-001873 / COMM0058373]

<sup>55</sup> Hearing transcript (Jones), Volume 31, 2 June 2022, p. 94, lines 11-15 [COMM0058946]

<sup>56</sup> Hearing transcript (Ruddell), Volume 42, 30 June 2022, p. 85, lines 13-14 [COMM0059605]; Hearing transcript (Jones), Volume 31, 2 June 2022, p. 121, lines 2-3 [COMM0058946]

<sup>57</sup> Expert Report, Dr. Anna Souhami, *A Systematic Review of the Research on Rural Policing* (May 2022), p. 35 [Exhibit P-002634 / COMM0058282]

<sup>58</sup> Kanika Samuels-Wortley, “To Serve and Protect Whom? Using Composite Counter-Storytelling to Explore Black and Indigenous Youth Experiences and Perceptions of the Police in Canada” (2021) 67:8 *Crime & Delinquency* 1137 at 1156 [Exhibit P-003177 / COMM0059289]

<sup>59</sup> Jessica Bundy, “‘We’ll Deal with it Later’: African Nova Scotian Women’s Perceptions and Experiences of the Police” (2019) 44:4 *Canadian Journal of Sociology* 319 at 329 [Exhibit P-002636 / COMM0059276]

<sup>60</sup> Jessica Bundy, “‘We’ll Deal with it Later’: African Nova Scotian Women’s Perceptions and Experiences of the Police” (2019) 44:4 *Canadian Journal of Sociology* 319 at 329 [Exhibit P-002636 / COMM0059276]

<sup>61</sup> Foundational Document, *Perpetrator’s Violence Towards His Common-Law Spouse* [Exhibit P-003437 / COMM0059740]; Foundational Document, *Perpetrator’s Violent Behaviour Towards Others* others at paras 151-153 [Exhibit P-003368 / COMM0059623]

<sup>62</sup> Interview transcript of Donna Grace (20 April 2020), p. 2, lines 45-46 [Exhibit P-003390 / COMM0003433]

into having sex with him.<sup>63</sup> One of the women who encountered RCMP officers responding to a disturbance wanted them to address the perpetrator's sexual assault against her, but the officers discounted her as having "likely consumed alcohol" and characterized the occurrence as a domestic incident.<sup>64</sup> Others were too scared to report the perpetrator to the police because they viewed him as associated with the police and beyond the reach of the law:

DD said she was scared to mention the perpetrator to the RCMP members when they arrived because earlier, when she was at his warehouse, she had asked the perpetrator if he was involved with the police, and he responded, "I have a whole battalion of police officers and a whole platoon." DD also reported that after seeing that the perpetrator had "two unmarked police cars" as well as the replica RCMP cruiser, she was "freaked out" about the possibility that the perpetrator was associated with the police and sex-trafficking girls.<sup>65</sup>

We also note with concern witness Melinda Daye's statement that one African Nova Scotian targeted by the perpetrator's scheme may have been reluctant to report these activities because they might not be believed, it is embarrassing, and they might not feel "competent" to make a formal complaint.<sup>66</sup> We are similarly concerned with witness JJ's belief that she had to "put aside" her discomfort with an appointment because the "perpetrator was saving some money for her parents, who were on income assistance".<sup>67</sup> These examples illustrate that the perpetrator had a history of specifically targeting vulnerable individuals, and that some of those individuals did not feel that they could report the incidents to the police. Ultimately, we are also concerned that these incidents do not appear to have been properly investigated.

The culture of the RCMP helps explain why it is unable or unwilling to implement bias-free policing. The record before the Commission reveals that police often stereotype certain people, places, and events.<sup>68</sup> This bias in police culture has been referred to as a 'cult of masculinity' whereby officers "display physical and emotional toughness and engage in traditionally masculine activities, such as heavy drinking and predatory heterosexuality."<sup>69</sup>

Many groups, particularly women, are harmed by this ethos of toxic masculinity, either from over-policing or from inadequate protection. The record before the Commission establishes that the national police force "cannot be relied on ... to act with due diligence to prevent violence

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<sup>63</sup> Interview transcript of EE (21 April 2020), pp. 1, 23, lines 12-20, 791-813 [**Exhibit P-000828 / COMM0003616**]

<sup>64</sup> Foundational Document, *Perpetrator's Violent Behaviour Towards Others* others at paras 193-194 [**Exhibit P-003368 / COMM0059623**]

<sup>65</sup> Foundational Document, *Perpetrator's Violent Behaviour Towards Others* others at para 192 [**Exhibit P-003368 / COMM0059623**]

<sup>66</sup> Interview transcript of Melinda Daye (16 November 2021), pp. 7-10, 13 [**Exhibit P-003419 / COMM0043058**]

<sup>67</sup> Interview transcript of JJ (2 May 2020), p. 1, lines 11-36 [**Exhibit P-003404 / COMM0009481**]

<sup>68</sup> Loftus, *Police Culture*, p. 5 [**Exhibit P-001043 / COMM0053825**]

<sup>69</sup> Loftus, *Police Culture*, p. 24 [**Exhibit P-001043 / COMM0053825**]

against women by non-state actors.<sup>70</sup> This is not a question of resources, but rather an issue of misogyny within the RCMP.

The RCMP do not take gender-based violence seriously and often treat domestic violence incidents as “inconclusive, low-status work that distracts officers from their ‘real’ police work.”<sup>71</sup> Investigating violence against women is inconsistent with many police officer’s belief in the “crime is war” metaphor, which leads officers to “seek out work that is considered exciting and action-packed.”<sup>72</sup> This preoccupation with ‘real’ police work can adversely impact how police approach aspects of policing that they consider less important, such as domestic violence; “[i]t has been noted that police officers regard being called to domestic violence incidents as rubbish work.”<sup>73</sup>

There is evidence that this cultural prejudice – which results in marginalized groups such as women being underprotected by police – goes beyond unconscious bias. The record establishes that police themselves threaten public safety, both as abusers and as state actors who cover up for abusers.<sup>74</sup> This fact not only undermines their credibility and ability to make an unbiased assessment of consent, of a complainant’s credibility, or any related decisions, but allows them to perpetuate violence against women.<sup>75</sup>

We are worried about the lack of race-based and disaggregated policing data, and are especially concerned with the historic lack of cooperation by police forces and governments in Canada to collect and publish this data in order to improve our understanding of the complex interactions between police and marginalized communities. Dr. Goold emphasizes that there are “major and disturbing gaps in the research literature when it comes to how police discretion functions, particularly in relation to Indigenous communities and the police response to serious crimes of violence against women.”<sup>76</sup> These gaps have not only frustrated our understanding about policing, it has also perpetuated the invisibilisation of these problematic behaviours. Indeed, Dr. Souhami observes that low levels of reported racist incidents within official police statistics compounds the effect in which “rural racism is not a priority for police services because it does not appear as a significant problem.”<sup>77</sup> We submit that the collection of race-based disaggregated policing data should be authorized and shared.

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<sup>70</sup> Misra Shivangi et al. *The Toxic Culture of the RCMP: Misogyny, Racism, and Violence Against Women in Canada’s National Police Force* (2022), p. 48. **[Exhibit P-003654 / COMM0059795]**

<sup>71</sup> Loftus, *Police Culture*, p. 24 **[Exhibit P-001043 / COMM0053825]**; Souhami, *Rural Policing*, p. 16 **[Exhibit P-002634 / COMM0058282]**

<sup>72</sup> Loftus, *Police Culture*, p. 22 **[Exhibit P-001043 / COMM0053825]**

<sup>73</sup> Loftus, *Police Culture*, p. 23 **[Exhibit P-001043 / COMM0053825]**

<sup>74</sup> Hearing transcript (Palmater), Volume 51, 20 July 2022, pp. 93-94 **[COMM0061282]**

<sup>75</sup> Hearing transcript (Palmater), Volume 51, 20 July 2022, p. 103, lines 8-18 **[COMM0061282]**

<sup>76</sup> Goold, *Exercising Judgment*, p. 53 **[Exhibit P-001873 / COMM0058373]**

<sup>77</sup> Expert Report, Dr. Anna Souhami, *A Systematic Review of the Research on Rural Policing* (May 2022), p. 38 **[Exhibit P-002634 / COMM0058282]**

### 3. Alternatives to Police

The Commission has understandably been focused on policing in its examination of the causes, context and circumstances giving rise to the mass casualty. This focus risks unduly centring policing at the recommendation phase of this inquiry. We must be willing to imagine beyond the status quo that so severely failed Nova Scotians. While the RCMP's failures require attention, it is critical that the Commission consider alternatives to policing that are evidence-based, cost effective, and more likely to result in return on investment in terms of public safety.

As has been explored in the roundtables, not only are the RCMP and other policing organizations extensively funded in comparison to community organizations and frontline support, they are also embedded in necessary institutional aspects of daily life, including healthcare, education, housing, and social work.<sup>78</sup> As Dr. Jones stated, this integration has been done at the expense of violence prevention that can be otherwise addressed by each of those institutions in ways that minimize harm.<sup>79</sup>

This becomes especially relevant when dealing with gender-based violence, intimate partner violence, and family violence, as survivors have very few places to turn where police are not present. Dr. Palmater discussed the critical importance of extracting the RCMP from these institutions and routing that funding to support people on the ground and in the community who can help those experiencing or escaping violence utilize these systems to seek protection and rebuild.<sup>80</sup>

It was reiterated before the Commission (particularly in the *Defund* and *Toxic Culture* reports) that safety is not solely or even primarily the responsibility of the police, but is a community effort. At minimum, officers lack training, skills of de-escalation, and the care that responding to and preventing this violence demands. According to Dr. Rachel Zellars, this poses a problem because the stakes could not be higher: "policing is the institution where intractable biases and stereotypes mundanely mean the life or death of human beings in our world" and such biases cannot be trained away.<sup>81</sup> This requires a reimagining of the role of police in our society and the development of alternatives to policing for public safety.

In moments of crisis, police should not be the first to respond. The criminal justice system, including police, must be de-centered. Legislative, regulatory, and policy alternatives must be accompanied by meaningful resourcing and delivered by people with the "knowledge, experience, and sensibilities to be able to deliver them in the manner that is intended".<sup>82</sup> The status quo is lacking in this respect. The response and solution does not lie in pouring more public resources into the status quo, but rather in developing "models of care in transformative and restorative justice structures".<sup>83</sup>

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<sup>78</sup> Souhami, *Rural Policing*, p. 19 [Exhibit P-002634 / COMM0058282]

<sup>79</sup> Hearing transcript (Jones), Volume 31, 2 June 2022, p. 103, lines 8-18 [COMM0058946]

<sup>80</sup> Hearing transcript (Palmater), Volume 51, 20 July 2022, p. 127 [COMM0061282]

<sup>81</sup> Hearing transcript (Zellars), Volume 52, 21 July 2022, p. 61, lines 1-6 [COMM0061283]

<sup>82</sup> Hearing transcript (Mosher), Volume 52, 21 July 2022, p. 68, lines 27-28 [COMM0061283]

<sup>83</sup> Hearing transcript (Zellars), Volume 52, 21 July 2022, p. 81, lines 5-7 [COMM0061283]

To that end, more specific alternatives have already been identified for the Commission, including funding communities and community service organizations, establishing and funding social supports, funding frontline support organizations, and requiring evidence-based police funding models. Further evidence about such alternatives will be heard in Phase 3, and our coalition looks forward to incorporating this evidence into our Phase 3 recommendations for the Commission.

Sincerely,



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