MISSING WOMEN

COMMISSION OF

INQUIRY

POLICE PROTECTION OF VULNERABLE AND MARGINALIZED WOMEN

**A POLICY DISCUSSION REPORT PREPARED FOR THE
MISSING WOMEN COMMISSION OF INQUIRY
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Statement of Purpose

This paper is a policy discussion report prepared by the Missing Women Commission of Inquiry to facilitate public input and to assist in deliberations on potential recommendations for change.

The Commission invites public input on the issues, policy options and questions raised in this report and other issues within its terms of reference. Please provide us with your written submissions by April 15, 2012.

The report provisionally identifies a series of issues and questions that are likely to inform the Commission's analysis. Neither the Commissioner nor Commission staff has reached any conclusions on these issues. This is a summary of the major issues identified so far, but the list of issues and options is neither exhaustive nor fixed. We encourage interested parties to provide input and make recommendations on other issues and questions we have not identified.

1.   INTRODUCTION

Violence against women continues to be a serious and pervasive social problem despite years of concerted prevention efforts.[1] Aboriginal women experience higher levels of violence both in terms of incidence and severity and are disproportionately represented in the number of missing and murdered women across Canada.[2] Aboriginal woman as a group have a heightened vulnerability simply because they live in "a society that poses a risk to their safety."[3] In British Columbia and around the world vulnerable and marginalized women are exposed to a higher risk of violence including sexual assault, murder and serial predation. The phenomenon of missing and murdered women is one stark example of this exposure and is seen as part of a broader pattern of marginalization and inequality.   The increased vulnerability of certain groups of women, such as women involved in the sex trade,[4] plays an important role in providing the victims for serial killers.[5]

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[1]   Elizabeth Sheehy, "Legal Responses to Violence Against Women in Canada" reprinted in Katherine M.J. McKenna and June Larkin, eds., *Violence Against Women. New Canadian Perspectives* (Toronto: Iana Publications, 2002) at pp. 473-491. For an overview of statistics see Canadian Women's Foundation, *The facts about violence against women:* http://www.canadianwomen.org/facts-about-violence; Ending Violence Association, *Statistics on Violence Against Women in BC:* http://www.endingviolence.org/node/1125.

[2]   Native Women's Association of Canada (NWAC), *Voices of Our Sisters in Spirit: A Report to Families and Communities* (2nd Edition March 2009); NWAC, *What Their Stories Tell Us – Research Findings from the Sisters in Spirit Initiative* (2010); Shannon Brennan, *Violent Victimization of Aboriginal women in the Canadian Provinces, 2009* (Statistics Canada, 17 May 2011); Standing Committee on the Status of Women, *Interim Report: Call Into the Night – An Overview of Violence Against Aboriginal Women* (March 2011); Tracy Byrne*, Stopping Violence Against Aboriginal Women - A Summary of Root Causes, Vulnerabilities and Recommendations from Key Literature* (Prepared for the Government of BC, February 23, 2011) [Hereinafter: *Call Into the Night*]

[3]   Beverley Jacobs and Andrea J. Williams, "Legacy of Residential Schools: Missing and Murdered Aboriginal Women" in Marlene Brant Castellano, Linda Archibald, and Mike DeGagné, eds., *From truth to reconciliation: Transforming the legacy of residential schools* (Ottawa: Aboriginal Healing Foundation, 2008) 121-140 at p. 138.

[4]   The Commission recognizes that there is an ongoing philosophical debate reflected in the use of the terms "prostitution" and "sex work." Some stakeholders prefer to use the terms "prostitution" and "prostituted women" to indicate that they believe the provision of sexual services for money is form of oppression, and more specifically, a form of violence, usually against women. Others use the terms "sex (trade) worker" and "sex (trade) work" to describe an economic exchange of sexual services for money that may or may not be abusive or exploitative, depending on the degree of autonomy enjoyed by the person providing services. In this report, we do not attempt to take a position on this issue.   For the most part, the term "the sex trade" is used to refer to the exchange of sexual services for money, and "women in the sex trade" to refer to women providing those services. In some cases, the term prostitute or sex trade worker is used in order to be consistent with the usage in the report or study under discussion.

[5]   Maurice Godwin, "Victim Target Networks as Solvability Factors" (1998) 26(1) Serial Murder Social Behavior and Personality 75-84 at pp. 79-80; Chris Grover and Keith Soothill, "British Serial Killing: Towards A Structural Explanation" (The British Criminology Conferences: Selected

Many social factors contribute to a situation of an individual or group being marginalized or vulnerable including a history of being subjected to abuse and violence, health issues, housing issues, economic insecurity, drug and alcohol abuse, mental illness, sex discrimination and racism. These factors often cluster together and have a cumulative effect that further reinforces vulnerability and marginalization. This dynamic has been referred to as a "cycle of distress."

While each missing and murdered woman had a unique life and story, each shared the experience of one or more of these disadvantaging social and economic factors. The women who went missing from the Downtown Eastside were caught in this cycle of distress and were further marginalized by their involvement in the survival sex trade.[6] The majority of the girls and women who have gone missing along Highway 16, the "Highway of Tears", were vulnerable due to their youth, Aboriginal status, economic insecurity and lack of adequate transportation. In a notorious case of missing and murdered women in and near the Mexican city of Ciudad Juarez, the victims were marginalized due to their youth, economic insecurity and economic dislocation as internal migrant workers. While the combination of social and economic factors differs from one location and time to another, the commonality is that all of the female victims were situated in a vulnerable and marginalized place.

Police face challenges in providing protection to vulnerable and marginalized women. One of the sets of issues to be considered by the Commission is what steps can be taken to overcome these challenges to enable police to protect women more effectively and to prevent these crimes from occurring. This is not to suggest that enhanced policing is the solution to the vulnerability and marginalization that many women face. Many strategies are required to address the underlying causes of vulnerability and marginalization and most of these are beyond the Commission's terms of reference. Nevertheless, police do have a central and unique role to play within the overall network of strategies required to reduce the violence perpetrated

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Proceedings, Volume 2, 1999).

[6] The levels of violence reported by women engaged in street prostitution are extremely high. See: S. Currie, N. Laliberte, S. Bird, Rosa, Noelle, and S. Sprung, *Assessing the Violence Against Street Involved Women in the Downtown Eastside/Strathcona Community* (unpublished, 1995) [Hereinafter: *Assessing the Violence*] and L. Cler-Cunnigham and C. Christensen, *Violence Against Women in Vancouver's Street Level Sex Trade and the Police Response* (PACE Society, 2001). The murder rate of adult women engaged in street prostitution is estimated to be between 60 and 120 times the rate of other adult women. See: J. Lowman and L. Fraser, *Violence Against Persons Who Prostitute: The Experience in British Columbia* (Department of Justice Canada, 1996). Aboriginal women are over-represented in the sex industry. See: Annette Sikka, *Trafficking of Aboriginal Women and Girls in Canada* (Ottawa: Institute on Governance, 2009).

against vulnerable and marginalized women. It is essential to frame this discussion paper with an acknowledgement that these issues are a current and pressing concern: women continue to go missing in British Columbia and there remains a large number of unresolved, and potentially serial, female homicides in this province.

This policy discussion paper is divided into three sections. The first section provides a brief overview of the issues related to police protection of vulnerable and marginalized women. The second section identifies and discusses seven major policy options. The third section sets out a number of questions designed to facilitate further discussion and to generate recommendations for change.

The paper was developed on the basis of a review of Canadian and international reports on the phenomenon of missing and murdered women and the prevention of violence against women, and reviews of systemic misconduct and discrimination within police forces.   Throughout the report there is a strong emphasis on Aboriginal women in recognition of the fact that they are disproportionately represented in the number of missing and murdered women and due to the leading role of Aboriginal organizations such as the Native Women's Association of Canada[7] and the Highway of Tears Governing Body in studying this phenomenon and advocating for substantive change. The Commission welcomes input on all of aspects of this paper, including on additional issues, questions and options for reform to improve police protection of vulnerable and marginalized women and prevention of crimes against them that are not addressed here.

2.   OVERVIEW OF ISSUES

The first section provides a brief overview of the issues related to police protection of vulnerable and marginalized women. Three overarching issues are identified in the reports and studies reviewed by the Commission as having a significant impact on the ability of the police to provide effective protection to vulnerable and

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[7]   NWAC developed and carried out the Sisters in Spirit initiative from 2004 to March 31, 2010. Sisters In Spirit was primarily a "research, education, and policy initiative" and resulted in the publication of several reports, which are referred to in this discussion paper. NWAC's work has evolved to the Evidence to Action (ETA) project. The ETA project "is designed to move these issues from the research phase into the action phase with a focus on the development of tools and resources to enable communities, educators, stakeholders, police and victim services, and the justice system to better respond to experiences of violence faced by Aboriginal women and girls." See: http://www.nwac.ca/home.

marginalized women: discrimination and discriminatory policing; problematic police-community relations; and limited policing models.

(a)   Discrimination and discriminatory policing

The Canadian Constitution guarantees equality before and under the law and the equal benefit and protection of the law.[8] Human rights laws guarantee that public services are provided in a non-discriminatory manner and in a manner that recognizes and accommodates the needs of individuals and groups who have historically been the subject of disadvantage.[9] International human rights law provides an additional level of guarantees of the right to equality in all spheres of life, including women's right to equal protection from violence and equal access to the justice system.[10]

These equality guarantees, which are at the heart of the protection of all human rights, are aspirational and have yet to be fully put into practice. Many studies and reports have concluded that Canadian laws, legal system and justice institutions including the legal profession, lawmakers, the police, the prosecution, the courts and correctional institutions have systemically discriminated against women, [11] Aboriginal people,[12] and minority and marginalized groups.[13] Justice institutions are intrinsic to society and have reflected and incorporated broader societal patterns of inequality and discrimination. This history is common knowledge and beyond dispute. Over the past few decades, justice institutions have taken steps to

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[8]   *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, C. 11, section 15.

[9]   *Human Rights Code,* RSBC 1996, c-210, sections 3 and 8.

[10]   *International Covenant on Civil and Political Rights,* 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171; *International Covenant on Social, Economic and Cultural Rights,* 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3*; Convention on the Elimination of All Forms of Discrimination Against Women,* 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13*; Declaration of the Rights of Indigenous Peoples*, 2 October 2007, A/RES/61/295. For a discussion of the implications of international human rights law in ending violence against women see: *From Rights To Action: Using international rights and mechanisms on violence against women in the UK* (Rights of Women, 2011).

[11]   See, for example: Law Society of British Columbia, *Gender Equality in the Justice System: A Report to the Law Society of British Columbia's Gender Bias Committee*, Volumes One and Two (Vancouver, BC: Law Society of British Columbia, 1992); Canadian Bar Association, *Touchstones for Change: Equality, Diversity and Accountability – Report of the Task Force on Gender Equality in the Legal Profession* (Ottawa: Canadian Bar Association, 1993).

[12]   See, for example: *Bridging the Cultural Divide: A Report on Aboriginal People in the Justice System – A Report of the Royal Commission on Aboriginal Peoples* (Ottawa: 1996); Justice Anthony Sarich, *Report on the Cariboo-Chilcotin Justice Inquiry* (Victoria: Province of B.C., 1993).

[13]   See, for example: *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Queen's Printer for Ontario, 1995); A. Currie and G. Kiefl, *Ethnocultural Groups and the Justice System in Canada: A Review of the Issues* (Ottawa: Department of Justice Canada, 1994)**.**

promote equality and to actively work against discriminatory actions, policies, practices, institutional structures and systems. While some progress has been made in eradicating discrimination, this work is incomplete.

Discrimination is the detrimental treatment of an individual or group of individuals because of their membership in a defined, protected group, such as women and Aboriginal women. Canadian and international law recognize that discrimination can take several forms: direct, indirect and systemic.

Direct discrimination occurs when an individual is accorded harmful treatment because of her or his group affiliation. The act or omission can be deliberate and conscious or unintentional and unconscious. Discrimination can result where there is no malicious intent[14] and, in fact, often a discriminator is unaware that his or her actions are biased and have a consequent negative impact on the victim. The discriminator may even believe that he or she is acting in the best interests of the victim.

Indirect discrimination is the application of laws, policies and procedures, which, while they are applied to everyone, have a disproportionate and negative impact on a protected individual or group of individuals because the rule or procedure fails to take into account the claimant's already disadvantaged position within Canadian society resulting in substantively different treatment.

Systemic discrimination occurs when institutionalized policies or practices disadvantage individuals because they are members of certain groups. This concept recognizes the pervasive problems of discrimination embedded within institutional practices and policies. Systemic discrimination can encompass both direct and indirect discrimination. Direct discrimination can contribute to systemic discrimination if it represents a widespread practice within an institution, such as sometimes occurs with sexual harassment. To the extent that manifestations of direct discrimination are so much a part of an institutional culture as to be accepted as practice, they constitute systemic discrimination.

The word "discrimination" tends to be associated solely with overt bias, intentional prejudice and negative stereotyping; however, discrimination frequently operates in subtle and systemic ways reflecting broader patterns of social inequality. Direct, indirect and systemic discrimination all result in detrimental effects that further reinforce disadvantage and perpetuate the view that the individual or group is less

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[14]   *Human Rights Code*, section 2.

capable or worthy of recognition or value as a human being or as a member of Canadian society, or less deserving of concern, respect or consideration.

In order to assure equal protection of the law and the treatment of each individual in a manner that recognizes her or his intrinsic worth as a human being, the police must be responsive to the community as a whole and strive to deliver their services promptly, and in an equal and unbiased manner.[15]   What problems are brought to the police to be resolved – and by what segments of society – as well as how the police respond are clear indicators of the extent to which policing practices are consistent with the guarantee of equality.[16] Equality means both that all individuals should be treated fairly <u>and</u> that vulnerable groups or persons should enjoy particular protection that accords with their marginalized status and situation.

Law enforcement agencies are a mirror of the society they serve. Thus the historic and continuing racism and sexism within Canadian society is likely to be reproduced within law enforcement resulting in discriminatory policing policies and practices, unless and until steps are take to promote and actively work toward bias-free policing. Discriminatory policing is evidenced by patterns of enforcement, over-enforcement and under-enforcement of laws vis-à-vis members of particular groups within society.

The US Federal Department of Justice has developed a useful definition of discriminatory policing that it utilizes in its review of US police forces for the purposes of compliance with the US Constitution and federal civil rights law. This definition incorporates direct, indirect and systemic discrimination:

> *Discriminatory policing occurs when police officers and departments unfairly enforce the law—or fail to enforce the law—based on characteristics such as race, ethnicity, national origin, sex, religion, or LGBT status. Discriminatory policing may take the form of bias-based profiling, in which an officer impermissibly decides whom to stop, search, or arrest based upon one of the above-mentioned characteristics, rather than upon the appropriate consideration of reasonable suspicion or probable cause. Failing to provide police services to some persons or communities because of bias or stereotypes, or by not taking necessary steps to enable meaningful communication, also constitutes discriminatory policing. Discriminatory policing may also result when a police department selects particular enforcement and crime prevention tactics in*

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[15]   *International Police Standards: Guidebook on Democratic Policing – Senior Police Advisor to the OSCE Secretary General* (Geneva Centre for the Democratic Control of Armed Forces, 2009) at p. 16. [Hereinafter: *International Policing Standards*]
[16]   *Ibid.*

certain communities or against certain individuals for reasons motivated by bias or stereotype.[17]

The US Federal Department of Justice also recognizes that discriminatory policing is manifested in the under-investigation and under-enforcement of crimes of violence against women.[18] A systemic inability to adequately protect women from violence and to effectively investigate these crimes is a worldwide phenomenon.[19]

Discriminatory policing has two broad impacts on law enforcement: less effective policing, and erosion of individuals' and communities' inclinations to trust and cooperate with law enforcement, impeding effective and safe policing. Examples of these impacts include:

- Errors in investigation due to stereotypes and misapprehensions about characteristics or living conditions of victims belonging to certain groups;
- Failure to take reports or mis-classifying reported crimes;
- Failure to correctly appraise evidence from victims and/or witnesses;
- Under-investigation of crimes;
- Deficiencies in investigation due to poor interviewing skills, missing or inadequate documentation, and minimal efforts to contact witnesses or interrogate suspects; and
- Documentation within investigations that contains stereotypical assumptions and judgments about crimes and victims of crimes, including misguided commentary about a victim's or witness's perceived credibility (including issues related to sexual history or delay in contacting the police).[20]

It is difficult for a police service to perceive how gender bias and racism can have a serious and detrimental impact by hindering the initiation and conduct of investigations, as often the investigators and their supervisors are unaware of bias and doing their best. Part of the difficulty in understanding these forms of discrimination is that they center on omissions -- that is, the failure to act. For example, an appraisal of Justice Campbell's review of the investigation of the serial sexual assaults and murders of women committed by Paul Bernardo in Ontario in 1987-1990 concludes that both the investigators and the reviewers of the

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[17]   United States Department of Justice Civil Rights Division, *Investigation of the New Orleans Police Department* (Department of Justice, March 16, 2011) at pp. 31-2. [Hereinafter: USDOJ]
[18]   USDOJ, at pp. 43-50.
[19]   See, for example: Resolution of the United Nations Human Rights Council, *Accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention,* 16 June 2010, A/HRC/14/L/9/Rev.1.
[20]   USDOJ, at pp. 43-50.

investigation failed to listen to women and discounted the accounts given by some of Bernardo's early rape and stalking victims who clearly identified him.[21] This failure is attributed, at least in part, to "gendered and male-centered appraisal and treatment of the evidence."[22]

In Canada, the leading court case on discriminatory policing is *Jane Doe v. Board of Commissioners of Police for the Municipality of Metropolitan Toronto et al.[23]* In this case, the Ontario Court held that the police are liable to the victim of a sexual assault where the police ought to reasonably have notified the public of a suspect's pattern of behaviour. The Court found that the police had violated Jane Doe's constitutional rights to equality and her right to physical security and had failed in their duty to protect her and other women in her position.

The Court held that Jane Doe was not simply discriminated against as a woman by the individual officers involved in the case but that systemic bias existed within the police force, which impacted adversely on all women. In making this finding, the judge relied on evidence that revealed these discriminatory patterns of behaviour. Among those problems she noted were:

- Insensitive treatment of survivors of sexual assault;
- Lack of effective training for officers engaged in the investigation of sexual assault including a lack of understanding of rape trauma syndrome and the needs of survivors;
- Lack of co-ordination of sexual assault investigations;
- Some officers not suited by personality/attitude to investigation of sexual assault;
- Too many investigators coming into contact with victims;
- Lack of experienced investigators investigating sexual assault;
- Lack of supervision of those conducting sexual assault investigations; and
- Prevalence of rape myths and stereotypical reasoning about rape.

The police investigation of the cases of missing and murdered women in Ciudad Juarez has been found to violate women's right to equality in several legal proceedings. The Committee established under the *Convention on the Elimination of All Forms of Discrimination Against Women* to review these investigations concluded that the there had been grave and systemic violation of women's rights.[24] The Inter-

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[21]   Martin Dionne, "Voices of Women Not Heard: The *Bernardo Investigation Review: Report of Mr. Justice Archie Campbell*" (1997) 9 CJWL 394.

[22]   *Ibid.,* at p. 412

[23]   39 O.R. (3d) 487 (Ontario Court of Justice, General Division).

[24]   Convention on the Elimination of Discrimination Against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional*

American Court of Human Rights has also found that Mexico had failed to adequately guarantee the life and physical integrity of women in Ciudad Juarez in the context of systematic violence based on gender, social condition and age.[25] The Court found that the absolute lack of justice was itself sex discrimination. The decision was founded on the following findings of facts:

- Irregularities in the investigations and proceedings including delays in starting investigations;
- Slowness of the investigations or absence of activity in case files;
- Negligence and irregularities in gathering evidence, conducting examinations and identifying victims; and
- Great lack of sensitivity on the part of police and prosecutors especially at the beginning of the cases, including blaming the women-victims for "low moral standards."[26]

Aboriginal women in Canada are at particular risk of discriminatory policing as a result of the legacy of colonialism and racism exemplified in forced assimilationist policies, including the residential school system, and other discriminatory laws, policies and practices that intersect with and compound gender bias in the justice system.

A recent report summarizing research and findings about violence against Aboriginal women explained the dynamic and ongoing discrimination this way:

> *The racist assumptions that informed colonial governments' Aboriginal policy still thrive in contemporary mainstream Canadian society as well as within its systems and institutions. The literature identifies racism as a significant cause of acts of violence against Aboriginal men and women by non-Aboriginal Canadians. Systemic racism also creates barriers to Aboriginal people accessing the supports they need from the justice system, and health and social service systems. Furthermore, racism underpins and reinforces Aboriginal people's socio-economic disadvantage.*
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> *…*

Protocol to the Convention, and reply from the Government of Mexico, 27 January 2005, CEDAW/C/2005/OP.8/MEXICO.

[25]   *Gonzalez et al. ("Cotton Field") v. Mexico,* Judgment of November 16, 2009 *(Preliminary Objection, Merits, Reparations, and Costs).*

[26]   The Court noted that police officers made light of the problem and even blamed the victims for their fate based on the way they were dressed, the place they worked, their behaviour, the fact that they were out alone or their lack of parental care.

> *Societal and systemic racism and sexism intersect. The disproportionately high number of missing and murdered Aboriginal women, for example, may be blamed at least in part on the racist and sexist attitudes of both the perpetrators of violence and of the people working in the justice system.*[27]

The House of Commons Standing Committee on the Status of Women reported similar findings in *Call Into the Night*:

> *Most disturbing of all was the systemic nature of the racism, affecting Aboriginal women in their relations with the government agencies tasked with providing them security, health and social services. Racism is sometimes overt, other times systemic.*
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> *Secondly, the Committee heard that racism which turns a blind eye to the violence faced by Aboriginal women renders them even more vulnerable to violence. Justice for Girls in Vancouver told the Committee that Aboriginal girls are targeted by violent men partly because these men count on the non-response of the police and the courts to violence against Aboriginal women.*
>
> *Many witnesses told the Committee that Aboriginal women are afraid of social services, hospitals, government services and police—some choose to live with violence rather than reach out from help from these organizations.*[28]

Amnesty International also adopted a human rights framework in its report on violence against Aboriginal women across Canada, including the high number of Aboriginal women among murdered and missing women.[29] The report concluded that there is a broad trend of discriminatory policing resulting in the police failure to provide an adequate standard of protection to Aboriginal women across Canada. It highlighted the fact that gaps in how the police record and share information mean that there is no comprehensive picture of the actual scale of violence against Aboriginal women, nor an adequate understanding of the nature of the perpetrators. The Amnesty International Report attributed police failures, in part, to the lack of appropriate training to interact with Aboriginal people in a culturally sensitive and effective way and the inability for police forces to establish the trust and confidence of Aboriginal women.

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[27]   Byrne, *supra*, at p. 3.
[28]   *Call Into the Night,* at pp. 29-30.
[29]   Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada* (Amnesty International, 2004).

Modern policing is based on the principle that the police must strive to build and maintain a relationship with the public that lives up to the phrase coined by Sir Robert Peel in 1829: "The police are the public, and the public is the police." In some communities or within segments of communities there is an uneasy, challenging or problematic dynamic in the police-community relationship. A problematic police-community relationship is created by and cultivates an "us" versus "them" atmosphere of distrust. The distrust is usually double-sided: the community does not trust the police and the police do not trust the community. Within the context of a hostile relationship police officers tend to view members of the public as potential problems rather than as potential collaborative partners or sources of information and insight about their communities. This animosity is not generally monolithic: some individual police officers can and do establish and maintain community trust even in the context of an overall problematic police-community relationship.

A review of the Cleveland Police Department's policies and practices related to the initiation and conduct of missing person and sex crime investigations included focus group consultations to identify barriers experienced by members of the community in working with police.[30] Several barriers were identified:

- Negative police attitude towards community members;
- Lack of understanding by the public about the process of police investigations (including, for example, what happens with a missing person report);
- Feeling afraid of police; and
- Experience of police being unresponsive to their concerns.

Persons who had a history of drug use, those involved in prostitution and those with mental health issues experienced additional barriers in their dealings with police. Participants in the focus groups differentiated between individual police officers with whom they had had positive interactions and the police force as a whole with which they reported having overall negative interactions. Police were thought of as a last resort and not as a resource that people would seek out if they needed help.

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[30]   Teresa Metcalf Beasley, Mary Bounds and Megan O'Bryan, *Special Commission on Missing Persons and Sex Crimes Investigations – Final Report* (Cleveland: March 30, 2010).

In 2010, the BC Civil Liberties Association held a series of 16 workshops in 14 cities and rural communities across central and northern British Columbia in which more than 300 people participated. In the first half, the workshop format itself invited comments about RCMP incidents, individuals or policies, beginning with positive comments and finishing with negative comments. One of the clear problematic dimensions in the police-community relationship identified in these workshops was the major gap between the RCMP and Aboriginal communities.[31] Another overarching concern identified was the fact that many communities perceived that they were a "training community" for the RCMP and that short-term placements hindered the building of positive relationships with police officers.

High crime neighbourhoods pose particular challenges in the police-community relationship. The relationship between the police and the DTES community is affected by the high rates of poverty, drug use, street prostitution and mental illness in this neighbourhood. The Living in Community collaborative initiative has been working to make all community members in Vancouver healthier and safer in relation to the impacts of sex work since 2004.[32] In consultations under this initiative, some women engaged in the sex trade said that the police were a support, particularly female officers, but many also spoke of being harassed by officers, or of not being taken seriously when they tried to report assaults.[33]

(c) Limited policing model

Over the past two decades there has been a shift away from traditional methods of policing to a community-based policing model. The Commission of Inquiry into Policing in British Columbia recommended the shift to community-based policing in 1994:

> 35.   The province amend the Police Act to ensure that each community police
> board or community police committee initiates a consulting process that will develop a
> community-based policing plan. This process should include the following:
> (a) police-agency task analysis;

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[31]   David Eby, *Small Town Justice – A Report on the RCMP in Northern and Rural British Columbia* (British Columbia Civil Liberties Association, 2011). [Hereinafter: *Small Town Justice*]
[32]   Living in Community has developed an action plan with the following objectives: (a) to encourage ongoing dialogue and partnerships between community organizations, sex workers, residents, businesses, government, and police about sex work-related issues, (b) to increase the health and safety of all community members in relation to the effects of sex work, and (c) to prevent the sexual exploitation of children and youth, and adults.
[33]   Living in Community, *Balanced Perspectives on Vancouver's Sex Industry – Action Plan* (June 2007) at p. 41.

(b) community involvement in identifying community needs and policing goals;
(c) community ratification;
(d) periodic reviews; and
(e) implementation and outcome evaluations.

36.   The Community Police Board Coordination Unit provide community police boards, community police committees and community committees with the information and expertise necessary to organize and manage a community consultations process designed to identify community needs and policing goals.[34]

Steps have been taken to implement this recommendation on community-based policing within the province. The BC Police Board handbook states:

… within its broadest meaning, community policing looks to increase the co-operation between the police and community members to discover and address the root causes of crime, decrease the number of reoccurring crimes and to allocate policing resources to meet community policing needs.[35]

One of the central components of community policing is a shift away from a traditional model of policing focused on catching the "bad guy" perpetrator toward a model of "problem-oriented policing." This newer approach places the emphasis on proactive rather than reactive policing. The goal is to address basic problems that create repeated demands for policing service. Whereas under a traditional policing model, success is measured by the number of cases cleared or suspected criminals arrested, under a community-policing model success is measured by the reduction in crime.

A community oriented policing strategy rests on three key components:

1) Collaborative partnerships between police and the public to identify and solve public safety problems and increase community trust;
2) Organizational transformation, that is, the alignment of a law enforcement agency's management, structure, personnel, and technology systems to support these partnerships and problem solving efforts; and

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[34]   *Closing the Gap: Policing and the Community – Report of the Commission of Inquiry into Policing in British Columbia,* The Recommendations (Vancouver, BC: 1994) at p. 27.
[35]   *BC Police Board Handbook: Resource Document on Roles and Responsibilities Under the Police Act* (BC Ministry of Public Safety and Solicitor General, Policing and Community Safety Branch Police Services Division, March 2005) at p. 10-2.

3) Proactive and systematic examination of identified problems to develop and rigorously evaluate effective responses.[36]

The concept of community policing remains poorly understood and unevenly implemented in many jurisdictions. Implementation can be further hindered by inadequate resources and an organizational structure that continues to reward traditional police methods. One US study found in some jurisdictions that "officers consistently reported that pressure to conduct stops and arrests diverts attention and resources from quality arrests, community engagement, and more considered problem-solving."[37] Furthermore, and perhaps most importantly, community policing cannot work in a situation where there is deep distrust and a sense of alienation between the community and the police. A problematic police-community relationship serves as both a barrier to an effective community oriented policing program, and as a compelling reason to prioritize its implementation.[38]

3.   OVERVIEW OF POLICY OPTIONS

The second section identifies and discusses four major policy options for the improvement of the police protection of vulnerable and marginalized women. These policy options are derived from a review of Canadian and international reports on the phenomenon of missing and murdered women and the prevention of violence against women, and reviews of systemic misconduct and discrimination within police forces.

Seven broad policy options have been identified to date:
        (a) Systemic reviews and audits;
        (b) Explicit recognition of the duty of non-discrimination in policing
            standards;
        (c) Targeted protocols and strategies;
        (d) Stronger police-community relations;
        (e) Enhanced community policing model and methods;
        (f) Effective deployment of diverse police personnel; and
        (g) Training.

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[36]   US, Department of Justice's Office of Community Oriented Policing Services (COPS), *Community Policing Defined* (undated)
http://www.cops.usdoj.gov/RIC/ResourceDetail.aspx?RID=513.
[37]   USDOJ, at p. 29.
[38]   USDOJ, at p. 100.

This list of policy options is not exhaustive and the Commission welcomes the identification and discussion of additional options for reform.

(a)   Systemic reviews and audits

Several reports have recommended that jurisdictions should carry out reviews or audits of cultural and systemic barriers to reporting and investigation and to determine how police responses could be improved in order to better protect vulnerable and marginalized women. The Vancouver Police Department has carried out internal reviews of the Missing Persons Unit[39] and of the missing women investigations.[40] The experience in other jurisdictions suggests that a systemic review or audit may be more effective when carried out by an external agency and/or with community involvement. For example, in the US the Department of Justice is tasked with a systemic review of police departments for compliance with legal obligations arising from the Constitution and civil rights legislation.[41]

The City of Toronto Council passed a number of resolutions following the court decision in *Jane Doe v. Metropolitan Toronto Police* discussed above. First, the City decided not to appeal the court decision that had found the police to be negligent in the investigation of serial sexual assaults to the extent that it violated the constitutional rights of the woman who had brought the lawsuit, known as Jane Doe, and other female victims. The City also decided to act proactively by adopting a motion requiring that:

> *An audit be completed regarding the handling of sexual assault and family violence cases by the Police, and (a) this review be completed by the Auditor within six months and (b) a reference group be established for the audit, whose membership shall include representatives from the Committee on the Status of Women, the Safe City Committee, the Metro Action Committee on Violence Against Women, the Toronto Rape Crisis Centre, the Task Force on Community Safety, the Task Force on Community Access and Equity, as well as a citizen member of the Police Services Board, the Scarborough Women's Centre and any other interested women's organizations . . .[42]*

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[39]   Inspector Jeff Schouten, (Ret.), carried out this confidential review in 2004.

[40]   Doug LePard, Deputy Chief Constable, *Missing Women Investigation Review* (Vancouver Police Department, August 2010).

[41]   US Department of Justice, Civil Rights Division, Special Litigation Section: Conduct of Law Enforcement Agencies http://www.justice.gov/crt/about/spl/police.php.

[42]   Jeffrey Griffiths, C.A., City Auditor, *Review of the Investigation of Sexual Assaults Toronto Police Service* (Toronto Audit Services: October, 1999) at p. 20. [Hereinafter: Jane Doe Audit 1999]

The independent audit recognized that progress had been made in the decade since the investigation at issue in Jane Doe's case, including the implementation of some of the recommendations made in the Campbell report on the Paul Bernardo investigation.[43] Nevertheless, the auditor found that systemic barriers continued to exist in the investigation of sexual assaults and made 57 recommendations for change.   He summarized his recommendations as being a requirement that the Toronto Police Service focus on the following issues:

- *a regular, structured, reporting process regarding the evaluation and putting into effect of the full number of recommendations in this report;*
- *an independent follow-up evaluation of the actions taken in regard to the recommendations in this report;*
- *a widening of the mandate of the Sexual Assault Squad, and a review of its staffing to meet that new mandate;*
- *a re-evaluation of current training practices, including the provision of mandatory and regular refresher courses;*
- *improvements to the current case management information systems;*
- *improved communications with women who have been sexually assaulted;*
- *continuity of service to women who have been sexually assaulted;*
- *a requirement to create formal written procedures, prepared with assistance from the overall community, in regard to the reporting of activities of sexual predators; and*
- *improved communications and relations both within the police service itself and with outside community agencies.*[44]

The auditor noted the significant assistance provided by the Audit Reference Group made up of various organizations that work in the area of violence against women had on the success of the audit. The City of Toronto reviewed progress made with implementing the 1999 report as foreseen in that report, by carrying out a second audit in 2004. This follow-up audit concluded that:

> *While certain recommendations from the original 1999 report have been implemented, it is apparent that there are others which have not been addressed or implemented satisfactorily. Of significant concern is the fact that even though specific recommendations have been addressed in directives issued by the Chief of Police, police officers in certain cases are not complying with these directives.*[45]

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[43]   Jane Doe Audit 1999, at p. iii.
[44]   Jane Doe Audit 1999, at p. 2-3.
[45]   Jeffrey Griffiths, C.A., C.F.E, Auditor General City of Toronto, *The Auditor General's Follow-up Review on the October 1999 Report Entitled: "Review of the Investigation of Sexual Assaults Toronto Police Service"* (January 2005) at p. 97.

Toronto's experience with the audit process emphasizes the difficulty in achieving systemic change within an institution such as a police force, but also the importance of the external review function, community input and continuous implementation in the change process. In April 2005, the Board established a Sexual Assault Audit Steering Committee to assist in the implementation of the Auditor General's recommendation. This Steering Committee is made up of police representatives and Board members, as well as representatives from the women's anti-violence community.

(b)   Explicit recognition of the duty of non-discrimination in policing standards

Policing standards play two important functions. First, standards make police officers aware of the actions and attitudes expected of them thereby assisting them ensure their actions are consistent with departmental policy. Second, members of the public are provided with a general standard by which they can measure the performance of the police force. While policing standards typically refer to constitutional rights in a blanket manner, more detailed standards concerning the roles and responsibilities of police to provide equal protection of the law could play a role in overcoming systemic bias in policing.

The Alberta Policing Standards include this type of broad and expansive recognition of the duty to carry out policing duties in accordance with equality rights:

> ROLES AND RESPONSIBILITIES - PREAMBLE:
> ….
>
> *The police must seek and preserve public trust, confidence and support by exercising impartial service to the law and providing service to all people without regard to race, national or ethnic origin, colour, religion, gender, age, sexual orientation, belief or social standing.*
>
> ROLES AND RESPONSIBILITIES - STATEMENT
>
> *Police services in Alberta, as part of the criminal justice system, and in accordance with the Canadian Charter of Rights and Freedoms, are responsible for maintaining peace and order, protecting lives and property, preventing and investigating crime, and providing policing services that are responsive to community needs.*
>
> *Police services should be provided throughout Alberta in accordance with the following principles. Police services are to be:*

- *Delivered effectively, efficiently and impartially to all persons;*
- *Delivered on the basis of a partnership between the police and the community, and responsible to community needs;*
- *Sensitive to the needs of victims of crime and other users of policing services;*
- *Sensitive to and strive to represent the diverse character of the community being served; and*
- *Conducted in a manner that maintains the trust and respect of the public (through adherence to strict ethical standards).[46]*

A restatement of the policing standard on roles and responsibilities would serve an educative function and provide a direct basis for accountability for each police officer and the police service as a whole. Directives can then be further developed to operationalize these equality and non-discrimination norms.

(c)   Targeted protocols and strategies

The most direct way to overcome bias and to more effectively protect vulnerable and marginalized women is to develop and implement targeted protocols and strategies for this purpose. Best practice in the application of these proactive steps requires (i) cultural sensitivity; (ii) adaptation to suit age and gender of target population; and (iii) inter-agency collaboration.[47] Many of the initiatives proposed and/or undertaken to date have been developed by Aboriginal women's groups to meet this population's specific safety needs.

The Highway of Tears Symposium was organized by Lheidli T'enneh First Nation, Carrier Sekani Family Services, Carrier Sekani Tribal Council, Prince George Nechako Aboriginal Employment and Training Association and Prince George Native Friendship Center and held in Prince George in March 2006. Ninety organizations sent delegates and over 500 people participated. The Symposium Report is "first and foremost a community call for action."[48] The Highway of Tears Governing Body was established to oversee and facilitate implementation of the recommendations.

The Highway of Tears Symposium Report highlighted victim prevention as one the

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[46]   Government of Alberta, *Provincial Policing Standards Manual* (Solicitor General and Public Security, March 2006) at pp. 3-4. [Hereinafter: *Alberta Policing Standards*]

[47]   Australia, *Scoping a National Missing Persons Diversity Research Agenda* (Australia: National Missing Persons Coordination Centre, 2009).

[48]   *A Collective Voice For Those Who Have Been Silenced - Highway of Tears Symposium Report* (Lheidli T'enneh First Nation, Carrier Sekani Family Services, Carrier Sekani Tribal Council, Prince George Nechako Aboriginal Employment and Training Association and Prince George Native Friendship Center, July 2006). [Hereinafter: Highway of Tears Symposium Report]

four main themes of recommendation to deal with issues related to missing and murdered women.[49] The short-term goal of this plan is to measurably reduce the number of young women placing themselves at risk by hitchhiking on Highway 16. Three of the recommendations to be implemented in the short term are:

> *Recommendation #1*
> *That a shuttle bus transportation system be established between each town and city located along the entire length of Highway 16, defined as the "The Highway of Tears".*
>
> *Recommendation #2*
> *That while the RCMP does a commendable job in patrolling the highway; these patrols can no longer drive past a hitchhiker who fits the victim profile.*
>
> *Recommendation #3*
> *That the RCMP be provided the resources to increase their highway patrols during the hitchhiking season, more specifically increase these patrols along the sections of Highway 16 near First Nation communities, towns and cities.*

The Highway of Tears Symposium Report frames the long term goal of victim prevention as addressing "the underlying causes that place young women on the highway and at risk." Three strategies are identified: (a) reducing poverty as this is the common contributing factor that places groups vulnerable to predation; (b) increasing outreach services to reduce the need for hitchhiking; and (c) increasing Aboriginal youth recreational and social activities to prevent hitchhiking.

The CEDAW Committee Report on the missing and murdered women in Ciudad Juarez made two main recommendations concerning prevention and protection. The first was to step up violence programs and policies, including early warning mechanisms, the reinforcement of security in dangerous or isolated areas, monitoring programs, systematic information on security measures and so on. The Committee also recommended that emergency search mechanisms should be established bearing in mind (a) the close connection between disappearances and murders and hence the extreme danger that every disappearance represents; (b) the fact that the first 24 hours are crucial; and (c) that all cases of a similar pattern should be considered as high-risk disappearances and not simply cases of missing persons. One specific measure identified was a written protocol detailing the circumstances in which a general warning should be given to the public that a

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[49]   The other three themes are emergency planning and response team, victim family counselling and support, and community development and support.

suspected serial predator is active. It was emphasized that community consultation should take place in the preparation of this directive.

The Native Women's Association of Canada and other Aboriginal women's organizations have advocated for a more proactive and targeted approach to policing. For example, the Saskatchewan First Nations' Women's Commission Secretariat Federation of Saskatchewan Indian Nations has highlighted the importance of tailoring efforts to specific vulnerable groups:

> *By identifying that some First Nation women may go missing because of who they are, a stronger response can be put in place if a person is thought to be missing. Gearing public education and awareness strategies to higher risk persons may also minimize the numbers of missing First Nation women.[50]*

The federal and provincial government have established a Missing Women Working Group (MMWG) of senior officials to coordinate approaches on these issues.[51] The MWWG concluded that the community can play important roles in both preventing these crimes and assisting in their investigation. The MMWG proposed that resources be provided for the development of prevention strategies, such as safety planning, for "women who are marginalized by being poor, Aboriginal or living high-risk lifestyles." Collaboration and information sharing between police and key community agencies can help in identifying women who have gone missing and are at high risk of being murdered.

A number of jurisdictions that have had high profile cases of serial murders have established very clear procedures "that reverse a historical tendency for bias to negatively impact the processing of cases" involving marginalized women, particularly Aboriginal women.[52] For example, cases matching the profile of women who are particularly vulnerable to serial predators are to be flagged as priority cases when a missing persons report is received.[53]

Effective protection of vulnerable and marginalized women requires the implementation of early intervention, prevention and support strategies and protocols. For example, Project KARE, which is conducted in co-operation with the

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[50]   Saskatchewan First Nations' Women's Commission Secretariat Federation of Saskatchewan Indian Nations, "Missing First Nations Persons In Saskatchewan: A Preliminary Overview" (March 31, 2007, Submitted For Review to: Provincial Partnership Committee on Missing Persons).
[51]   Coordinating Committee of Senior Officials Missing Women Working Group, *Report: Issues Related to the High Number of Murdered and Missing Women in Canada* (September 2010). [Hereinafter: MWWG Report]
[52]   *Call Into the Night*, at p. 33.
[53]   MMWG Report, Rec. #30, at p. 15.

Edmonton Police Service, aims to both investigate cases of murdered or missing persons, especially sex-trade workers in the Edmonton area, and to work towards prevention by creating communication networks with sex-trade workers and social agencies.[54]

Some communities have established voluntary proactive databases to specifically assist in the investigation of missing and murdered women. People who are at a high risk of going missing may volunteer to be registered in the database, providing identifying information about themselves and their practices.   In Alberta, over 85% of the sex trade workers approached had voluntarily provided this information. This information is only used if they disappear or are killed. Once released, the information may be shared with consent or pursuant to a court order.

A variation on this voluntary program tracks and monitors vulnerable women, particularly those involved in street-level prostitution. In cases where a woman involved in the tracking program has not made contact with police within a predetermined interval of time, usually 30 days, a missing person investigation is automatically triggered making her location and well-being a priority.

The MWWG noted a number of benefits that could result from the establishment of a national database, including "building positive relationships between police and those living a high-risk lifestyle, and identification of people who are likely to go missing due to lifestyle or mental illnesses."[55] The MWWG supports a study of the feasibility of a national linked voluntary database, but notes that a number of challenges must be addressed, including whether and how to link with existing independent databases; information confidentiality; how to develop and manage such a database; cost implications; and any relevant *Charter* and/or privacy implications.

Sex trade worker organizations and other organizations that provide support services to these women have also advocated for, and are working toward, tailored police responses. In a survey conducted in 1993, women engaged in street prostitution in the DTES and Strathcona recommended a number of steps that could be taken to help minimize violence against street-involved women:

- Safe/affordable housing, food, money and day care (100% of respondents)
- Individualized detox and more specialized alcohol/drug services (85%)

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54   For more information see: http://www.kare.ca/.
55   MWWG Report, at p. 17.

- More training/transitional programs for street-involved women (66%)
- Increased community education regarding the sex trade (56%)
- Safe houses and drop-ins (33%)
- Improve police services by better education, better response time and increased sensitivity (31%)
- Legalize prostitution and allow brothels (13%)
- Stiffer weapons control/laws/penalties (4%).[56]

The Living in Community initiative in Vancouver has identified a number of actions aimed at protecting women engaged in street prostitution and reducing and preventing violence against them. This action plan calls on the City of Vancouver and other organizations to immediately develop and implement a strategy to ensure safety for street-based sex workers:

> *Measures could include increased enforcement focusing on the protection of sex workers, better lighting in remote areas, more support services that reach out to sex workers where and when they work, the establishment of safe places for sex workers, and more "eyes on the street," focused on safety for all. Strategies can be explored through a multi-stakeholder process and would be most effective if tailored to the varying needs of specific areas of the city.*

Women engaged in the sex trade have advocated specific safety measures such as the provision of screechers, panic buttons, cell phones with free 911 calls, and safe sex sites.[57] The importance of safety planning and safety awareness for women as a prevention tool has been noted in several reports. Preventative measures or safety planning may include encouraging positive behaviours within target groups, planning responses should they be stalked or chased, and developing support networks should they need help.

The Vancouver Police Department is implementing, in collaboration with a grassroots community organization, the Women's Memorial March Committee, a program called SisterWatch. This program encompasses a number of initiatives including the installation of ruggedized "911-only" phones in the DTES, Town Hall meetings, a speaker's bureau, a SisterWatch telephone tip line, a SisterWatch website, a reward for information about the death of Ashley Machiskinic,[58] and

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[56]   *Assessing the Violence,* at Table 90.
[57]   Living in Community, *supra*, at p. 41.
[58]   A young Aboriginal woman who fell from a window to her death in the DTES in September 2010 leading many in the community to believe that she had been murdered.

several major proactive investigations targeting predators in the DTES.[59] SisterWatch has made a number of additional recommendations for change including provincial and national 1-800 numbers and public/police websites to share information about missing persons in order to help remove barriers to reporting persons as missing.[60]

Some groups have called for the decriminalization of prostitution because of the impact that law enforcement strategies can have on increasing the vulnerability of women to violence by, for example, forcing sex workers into more isolated places.[61] Other groups have called for more effective enforcement of the prostitution laws vis-à-vis individuals who buy sex and/or profit from the prostitution of women.[62] Particular emphasis is placed on prosecution of individuals who buy sex from children and youth and those who recruit children and youth.[63] Additional resources and training are required for this purpose:

> *Section 212.4 of the Criminal Code deals with obtaining or attempting to obtain the sexual services of someone who is under 18 years of age in exchange for money, clothes, shelter, or anything else of value. The message that "our kids are not for sale" needs to be demonstrated by the arrest and conviction of those who abuse children and youth. When arrests are made, pre and post-trial sup- ports for the children and youth involved need to be comprehensive and address the trauma they experienced. Courts need to be held responsible for the delivery of adequate sentencing. As well, changes that would assist in the investigation and prosecution of these cases must be identified and implemented. Potential areas include legal reform, training, and supports for victims and witnesses.[64]*

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[59]   *The Tragedy of Missing and Murdered Aboriginal Women in Canada: We Can Do Better. A position paper by the SisterWatch Project of the Vancouver Police Department and the Women's Memorial March Committee* (June 2011) at pp. 24-27.

[60]   *Ibid.,* at pp. 29-30.

[61]   Kate Shannon, PhD, Steffanie A. Strathdee, PhD, Jean Shoveller, PhD, Melanie Rusch, PhD, Thomas Kerr, PhD, and Mark W. Tyndall, MD, ScD, "Structural and Environmental Barriers to Condom Use Negotiation With Clients Among Female Sex Workers: Implications for HIV-Prevention Strategies and Policy" (April 2009) 99(4) American Journal of Public Health 659; Pivot Legal Society Sex Work Subcommittee, *Voice for Dignity - A Call to End the Harms Caused by Canada's Sex Trade Laws* (Vancouver: Pivot Legal Society, 2004).

[62]   See for example: Janice G. Raymond, "Ten Reasons for Not Legalizing Prostitution And a Legal Response to the Demand for Prostitution" (Published simultaneously in hard copy) (2003) 2 Journal of Trauma Practice 315-332 and in Melissa Farley, ed., *Prostitution, Trafficking and Traumatic Stress* (Binghamton: Haworth Press, 2003). Available at: Coalition Against Trafficking in Women International (CATW, 2003) http://action.web.ca/home/catw/readingroom.shtml?x=32972&AA_EX_Session=7a3f44fc4b31b532 a70485c450c62c35; Aboriginal Women's Action Network, *Statement Opposing Legalized Prostitution & Total Decriminalization of Prostitution* (December 2007).

[63]   See, for example: Living in Community, *supra*, Action 23, at p. 66.

[64]   Living in Community, *supra*, Action 24, at p. 66.

While there is strong and heated division between those who advocate decriminalization as a means of increasing the safety of women and those that oppose this strategy, advocates on both sides of the debate agree that women's safety is best ensured by increasing women's social and economic security in order to prevent entry into the survival sex trade, as well as to provide effective support to women exiting from it.[65] Police have a role to play by working with prosecution services to support the diversionary process for sex workers to prevent criminal charges, which can present a significant barrier to exiting the sex industry.

(d)   Stronger police-community relations

Proactive steps can also be taken to build stronger and more positive policy-community relations and a true police-public partnership. A prerequisite for gaining public support is providing for transparency of police operations and cultivating communication and mutual understanding between the public and the police. Without consulting the public, the police would be imposing their services rather than be serving in a responsive manner. Measures to achieve transparency and communication include the public dissemination of reports on crime and police operations, the establishment of mechanisms for the public to request police service, the creation of forums for open discussion of crime and safety problems, and community-based policing.[66]

One important aspect of building a strong police-community relationship is to take steps to provide police officers to spend significant time in the community. Many policing reports emphasize the importance of "beat" officers and community involvement:

> *No matter the city, people preferred when officers got out of their cars to say "Hi."*
> *Whether on bicycle or foot, it didn't matter, people consistently listed officers who*
> *don't have a car window between them and the public as their preferred mode of*

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[65]   See, for example: John Lowman, "Violence and the Outlaw Status of (Street) Prostitution in Canada" (September 2000) 6(9) Violence Against Women 987-1011 and in David Canter, Maria Ioannou and Donna Youngs, eds. *Safer Sex in the City: The Experience and Management of Street Prostitution* (Surrey, England: Ashgate Publishing Limited, 2009) 169 at p187:
>   "Of course, much more importantly, resources must be devoted to helping women leave prostitution if they want to, and preventing youths from making "choices" they later regret. And most importantly of all, politicians and the rest of us must address the fundamental issues that lead to pernicious forms of prostitution in the first place, including the effects of several hundred years of colonialism on First Nations peoples, the feminization of poverty, addiction, sexual exploitation of children and youth, and certain kinds of male sexual expression."
[66]   *International Policing Standards,* at para. 95

policing and as a community builder that they loved. In communities where a beat officer or beat officers were assigned, they were lauded personally for their impact and human touch. [67]

International policing standards have also recognized the fundamental importance of continuity in police officers within a given community:

Dedicated community policing officers/community policing teams should be assigned to permanent neighbourhood patrol in specific geographical areas, serving as contact points as well as guarantors for law and order. They need to remain in the same area for several years to establish trust. Where practical, police officers should patrol on foot because this allows for much better interaction with citizens as opposed to driving around in cars. They need special communication and conflict resolution skills (including mediation skills), because neighbourhoods within the communities can often be split with respect to the legitimacy of particular lifestyles and their views on appropriate forms of policing. They should be empowered by their superiors to solve local issues in partnership with the community they serve. [68]

It has been recommended that that police forces should "review issues of workload, staffing levels and job rotation to ensure officers have the opportunity to become familiar with and can develop relations of trust with the specific communities they are intended to serve and protect."[69]

The Highway of Tears Symposium Report concluded that one priority was to break down "the barrier that traditionally existed between the RCMP and the Aboriginal community." The report identifies two specific strategies toward that end:

A)   *Increasing RCMP communication and sensitivity with the victims' families and with First Nation communities located in their detachment jurisdictions; and*

B)   *Using Aboriginal victim and community advocate (s) to assist the RCMP, Aboriginal victims, and communities in their efforts toward building a stronger relationship based on mutual trust and respect.* [70]

Police forces can create positions of community-liaison officers tasked with the role of bridging the gap between community members and the police. Identified police personnel can link to vulnerable communities to increase awareness about reporting crime, including missing persons, and reassure people who may be associated with a criminal lifestyle that they can access police services and report a

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[67]   *Small Town Justice*, at p. 19.
[68]   *International Policing Standards,* at p. 23.
[69]   Byrne, *Supra*, at p. 31
[70]   Highway of Tears Symposium Report, at p. 16.

disappearance without fear of arrest.   The Vancouver Police Department has established a full-time position of Sex Trade Liaison Officer to fulfill this function.

Several reports have recommended the creation of funded positions for individuals who are independent of the police force and who are more closely connected with the culture of the community to carry out this function.   As noted above, the Highway of Tears Symposium Report recommended the creation of positions of Aboriginal victim and community advocates to work with the RCMP. This approach is supported by the MWWG:

> *The MWWG recommends that jurisdictions encourage and support, as appropriate, police services to consider using an Aboriginal liaison officer to work with Aboriginal families, wherever possible, and police and Aboriginal organizations/agencies to develop and implement protocols for working together and with Aboriginal families and communities.[71]*

Recommendations for community-based advocates/liaison with the police were also made during the Commission's consultations in the DTES and in the Northern Community Forums.

In its consultations, the BC Civil Liberties Association found that the non-police status may be the key to success for these liaison functions:

> ### *Non-RCMP RCMP officers*
>
> *In an unusual trend, a number of communities identified "liaison" officers who were retired RCMP officers or seconded RCMP officers paid for by the municipality or through separate federal government funding as exceptionally helpful resources. These officers often attend community meetings with service providers, school boards or parent groups, and are known in these circles as people who can "get things done" within the RCMP, whether that means getting information about a particular case, encouraging police to dedicate resources to a problem area, or resolving a conflict between a client and an officer.*
>
> *These officers were often listed as something people really liked about the "RCMP," but in fact what appears to make these liaisons so appealing is that they are not RCMP. They have the ability to enjoy autonomy from RCMP structures through their retired or seconded status, and yet thanks to their affiliation with the RCMP are still able to*

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[71]   MWWG Report, Recommendation #44, at p. 22.

access and direct RCMP resources. These officers were identified as major assets to the RCMP, municipality and public in Fort St. John, Campbell River and Williams Lake.[72]

Effective policing must be based on good cooperation and trust between the police and the public. Otherwise the police will not receive the information (intelligence, criminal complaint files/ reports of crime, witness statements) they need to do their job. In addition to the one-way instruments of communication for conveying information mentioned above, interactive community outreach programs, such as the creation of formal or informal forums for open discussions between the police and representatives of all communities, are particularly valuable for eliciting the views of the public and for promoting the exchange of views and co-operation. This can lead to communities getting involved in crime prevention programs including by developing problem-solving coalitions, and to the development of a sense of mutual responsibility for enhancing public safety. In addition to the support of the residents in local communities, the police will need the support of local authorities to be successful in their work. In certain cases, other departments may be better suited than the police to solve social problems in a community.

Police forces also have an important role to play in encouraging and promoting meaningful partnership, interaction, and communication with diverse stakeholders, which is critical to learning about and collaboratively addressing problems in the community. For example, the police can take steps to strengthen their relationships with community agencies that play an important role in supporting marginalized women. These agencies provide much-needed services such as food banks, temporary shelters, referrals to other services including medical services and other necessary supports. In addition, community agencies may support victims of crime, assisting them in giving statements to police, or support those who report a missing person. They may also distribute safety information to women, such as "bad date" information sheets, which provide prostitutes with a way to share information with one another concerning violent and/or dangerous customers. The Vancouver Police Department's collaboration with the Women's Memorial March Committee on the SisterWatch project is one example of this type of meaningful partnership.[73]

Similarly, police forces can hold meetings or create ongoing collaborative forums with Aboriginal women leaders and other community members to build understanding of the specific risks to Aboriginal women and other vulnerable and

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[72]   *Small Town Justice*, at p. 19.
[73]   See Vancouver Police Department website:
http://vancouver.ca/police/organization/investigation/investigative-services/major-crime/sister-watch.html

marginalized women and establish and strengthen relationships of trust between police and communities.

The MWWG has also recommended that jurisdictions consider testing and evaluating community mobilization processes, such as adaptations of the Community Solutions to Gang Violence (CSGV) initiative in urban communities with a high population of vulnerable women as a crime prevention strategy aimed at protecting them from violence.[74] The CSGV grew out of a meaningful dialogue between the Edmonton Police Service and the Native Counselling Services of Alberta designed to create a community-based approach to gang activity and violence. The CSGV grew to include more than 40 organizations working together on a strategic, community-wide approach to address the issue of gangs and gang violence. The CSGV strives to

- Enhance a sense of community responsibility and commitment to address gang violence;
- Promote positive youth development and develop conditions to prevent young people from becoming involved in gangs; and
- Create a community-wide plan and network of support to find solutions to gang violence.[75]

The work of the Highway of Tears Governing Body and the Living in Community initiative are other examples of community mobilization processes.

(e)   Enhanced community policing model and methods

Community policing is based on the principles of partnership, ownership, problem solving and quality service and allows police services to respond to the unique policing needs of their community. Full implementation of community policing requires ongoing dialogue with the community, taking a collaborative and proactive approach, and identifying community needs.[76] Community policing strategies balance reactive responses to calls for service with thoughtful and proactive problem-solving methods. This problem-solving approach is achieved in large part by forging robust relationships in the community. Another option for reform is for jurisdictions to review community policing models and methods to determine

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[74]   MWWG Report, Recommendation #43, at p. 22.
[75]   Karen Erickson, Patti LaBoucane-Benson and Dr. Jana Grekul, *The Community Solution to Gang Violence: A Collaborative Community Process and Evaluation Framework* (Aboriginal Corrections Policy Unit Public Safety Canada, 2007).
[76]   *Alberta Policing Standards*, at p. 14.

whether additional and/or novel approaches would contribute to more effective protection of vulnerable and marginalized women.

Alberta Policing Standards recognize that strategies to implement community policing will vary according to community needs and available resources. The operational standards direct that, in addition to ongoing dialogue with the community, the police service shall:

> *OM.1.1 – Formally consult with the community every four years (at a minimum) to identify community needs, concerns and expectations regarding policing. The police shall address at a minimum:*
>
> *a.   The performance of the police service.*
> *b.   The conduct of police personnel.*
> *c.   The interaction of police officers with citizens.*
> *d.   Public perceptions regarding safety and security in the community.*
> *e.   Recommendations for improvement.*
> *f.   Citizen's level of satisfaction.*
>
> *OM 1.2 – The police service shall take appropriate steps to address identified community needs, concerns and expectations.*

This emphasis on public surveys as an important component of community policing is reinforced in international policing standards.[77]

A sustained change management process is required to move implementation of community policing models beyond the superficial and to result in a fundamental re-orientation. This change management process entails modifications at all levels of the police service, including leadership, policies, climate and culture, systems of accountability, training, and deployment of personnel, to ensure that they reflect and integrate community-oriented and problem-oriented strategies and practices.

(f)   Effective deployment of diverse police personnel

Several reports have recommended the deployment of additional female personnel in marginalized communities and in the investigation of cases of missing and murdered women. This recommendation is also made in the context of investigation of sexual assaults and domestic violence and the prevention of violence against women.[78] Internationally, some communities have established all

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77   *International Policing Standards*, at p. 23.
78   See, for example: Jane Doe Audit 1999.

female police stations as a mechanism to overcome barriers to women reporting crimes, to facilitate crime prevention efforts, and to better meet the needs of female victims.[79]

Many reports have recommended that police services take affirmative steps to recruit and retain Aboriginal police officers as one component of a strategy to overcome systemic racism, to make policing more effective in protecting Aboriginal women and to support a stronger police partnership with Aboriginal communities. While steps have been taken in this regard, more effective policies and practices for the recruitment and retention of Aboriginal police officers is required. This is a long-term process that requires sustained energy and support.

One possible model is the tri-partite agreement between the Skeetchestn Band, the Whispering Pines Band and the RCMP. One participant in the BC Civil Liberties Association workshop in Kamloops in 2012 spoke about the success of this program under which the Skeetchestn Band have their own rural RCMP detachment on the reserve in Kamloops. The participant reported that the relationship with the RCMP has been greatly improved, to the point where RCMP officers regularly participate in community events and are very welcome in the community. Six members of the Skeetchestn Band detachment are Aboriginal, and the participant felt that was a significant and important development.[80]

The speaker acknowledged that it took a few years for the relationship to develop, and that RCMP and community leadership initiatives included organizing events with youth, going to the schools, involving themselves in a traditional games, involving themselves in hunting camps, being on the land with the community, getting out of RCMP vehicles to interact with community members, and actually physically coming into band offices.

(g)   Training

Virtually all reports considered in the preparation of this discussion paper recommend additional training for police officers as one factor in a strategy to combat systemic racism and sexism and to enhance their ability to protect vulnerable and marginalized women from violence.   The recommendations encompass a number of approaches to the subject matter and methodology of

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[79]   See, for example: Nadine Jubb, et al.,   *Women's Police Stations in Latin America - An Entry Point for Stopping Violence and Gaining Access to Justice* (Ecuador: Centre for Planning and Social Studies, Ecuador, 2010).   Women's police stations also exist in India and Pakistan.
[80]   *Small Town Justice,* at p. 29.

training and are reproduced here to give a sense of the breadth of options for reform.

- Training should incorporate specific information respecting Aboriginal people, particularly Aboriginal women, in order to enhance cultural sensitivity and mitigate any potential distrust on behalf of community members caused by past relationships.
- Provide all police forces with the necessary training and resources to make prevention of violence against Aboriginal women a genuine priority.
- Provide all police officers adequate training to ensure an understanding of violence against women in a range of settings including family violence, child sexual exploitation and violence against women in the sex trade.
- The scenarios used in police training should incorporate issues of cultural sensitivity and violence against women.
- Provide cultural sensitivity and anti-oppression training to all police forces so that police officers may be equipped with the tools to react promptly and investigate completely and thoroughly when an Indigenous woman or girl goes missing or is murdered.
- Provide training on unique issues facing marginalized populations to police officers and dispatchers.
- Provide training and material resources necessary to act with due diligence.
- Provide training in partnership with community organizations.
- Provide experience-based training within the community.
- Implement mandatory comprehensive training for all new recruits and all existing personnel in all police forces on issues, concerns and the history of Aboriginal peoples. This training should focus on real issues and outcomes, address the gap in understanding that exists between officers and Aboriginal peoples because of cultural differences, and not be limited by political or operational considerations.
- Create and deliver training to all police department personnel in order to improve the interaction between the public and the police department and the public's perception of the police department.
- In training, include diversity awareness, victim assistance concepts and programs, partnership, and ownership of community issues.

4. QUESTIONS FOR DISCUSSION

The third section sets out a number of questions designed to facilitate further discussion and to generate recommendations for change. The Commission invites your responses to one or more of these questions in your written submissions, in addition to feedback on any element of this discussion paper.

Q1:   Are the existing, conventional or historic strategies to combat racism and sexism in policing sufficient? Or is more required to ensure that police can effectively protect vulnerable and marginalized women? If so, what strategies should be implemented?

Q2:   How can police restore and/or establish good relations with communities where missing women investigations are perceived as being or having been ineffective?

Q3:   Are independent reviews or audits of police services required in order to ascertain the systemic barriers to the investigation of cases of missing and murdered women and to the effective protection of vulnerable and marginalized women? If so, how should these be carried out?

Q4:   How can communities be involved in the design, implementation and evaluation of initiatives to improve police-community relations and improve police protection of vulnerable women?

Q5:   How can vulnerable and marginalized women, including Aboriginal women, be involved in the design, implementation and evaluation of initiatives to enhance their protection from violent crime?

Q6:   Which crime prevention and early intervention models, strategies and techniques should be adopted by police in BC in order to better protect vulnerable and marginalized women?

Q7:   Which procedures or protocols should be adopted by police in BC in order to facilitate investigation of violent crimes against vulnerable and marginalized women and missing vulnerable and marginalized women?

Q8:   Should police develop and negotiate protocols/strategies with communities to promote cooperation in missing women and serial homicide

investigations? Should police develop and negotiate protocols/strategies with communities for prevention of violence against particular groups of vulnerable and marginalized women? What should these protocols contain?

Q9: Should provincial policing standards on the roles and responsibilities of police officers be amended to more specifically recognize the right to equal protection? If so, what should the standards include?

Q10: Would enhanced community policing models and methods increase police effectiveness in protecting vulnerable and marginalized women? If so, what changes would be effective?

Q11: Should police forces change the way diverse police officers are deployed in order to more effectively protect vulnerable and marginalized women? If so, how?

Q12: Are the current approaches to recruiting and retaining Aboriginal police officers sufficient? What policies and practices would be more effective?

Q13: Is the current training available to police in BC sufficient or is more needed to provide police with the knowledge and skills necessary to effectively protect vulnerable and marginalized women? What changes would be most effective in supporting these efforts?