Part of the Solution, or Part of the Problem? The RCMP Update 2015

A comment by the Legal Strategy Coalition on Violence Against Indigenous Women

on the RCMP Update to the National Operational Review, 2015

June 29, 2015

In late 2013, the Commissioner of the RCMP initiated an RCMP-led study of reported incidents of missing and murdered Aboriginal women across all police jurisdictions in Canada, pulling together information from 300 police forces. In 2014, the RCMP published the results of this study as *Missing and Murdered Aboriginal Women: A National Operational Overview*, saying “...as it stands, this is the most comprehensive data that has ever been assembled by the Canadian policing community on missing and murdered Aboriginal women.” This was the first initiative of its kind to draw on data from all police jurisdictions across Canada. A few months before beginning this study, the RCMP told CBC that it was aware of only 118 of the approximately 600 Aboriginal women identified by the Native Women’s Association of Canada in its Sisters in Spirit database to have been murdered and the 2014 Overview acknowledges that the figures in it exceed previous police estimates.

The 2014 Operational Overview was a milestone of sorts, representing the first sign the RCMP acknowledges the alarming dimensions of the problem of missing and murdered Indigenous women. The Overview did have its flaws. These are canvassed below. When it released its 2015 Update, the RCMP had the opportunity to address those flaws, which had been pointed out in the lively commentary on the 2014 Overview. The RCMP did not do that. Instead, it produced an even more flawed Update, which abandoned the promising idea of gathering together statistics from police forces across the country, in favour of a return to partial RCMP-only data because the RCMP data better supported a certain policy agenda. In choosing its policy priorities over real engagement with its critics and with the broader civil society, the RCMP has demonstrated that it is still part of the problem of Canada’s missing and murdered Indigenous women, rather than a partner in forging a solution.

What is Considered, and not Considered, in the 2014 Overview

The RCMP designated as “missing” in its 2014 Overview all women listed as missing for more than 30 days across all police jurisdictions on the Canadian Police Information Centre (CPIC) as of November 4, 2013. In its 2015 Update, the RCMP clarified that the 2014 Overview included data about reported missing Aboriginal women cases dating back to 1951. For its 2014 Overview, the RCMP compiled...
information about murdered Aboriginal women based on the Canadian Centre for Justice Statistics (CCJS) Homicide Survey data from 1980 to 2012, and follow-up review with police forces across Canada. Data in the Homicide Survey are derived only from incidents that have been substantiated by investigators as an offence of culpable homicide and are a part of the official record; suspected homicides or deaths deemed suspicious are not a part of the analysis in the Homicide Survey.

By recording in the 2014 Overview only the missing cases entered into CPIC and the cases of homicide found in the CCJS Homicide Survey, the authors of the Overview ensured that the Overview dealt only with cases which police authorities had already accepted as worthy of their attention. The Overview thus excludes those cases where human remains are found, often in remote locations, and it cannot be readily established that homicide has occurred; it may only be suspected, or the death considered suspicious.

The 2014 Overview also sidesteps the issue of whether police behaviour in dealing with reports of missing Aboriginal women meets acceptable standards. Family and friends of missing Aboriginal women frequently recount incidents where their reports of missing women are not accepted, or not accepted for an unconscionable length of time; this pattern was criticized by the report of the Missing Women Commission of Inquiry in British Columbia, by the Inter-American Commission on Human Rights and by the CEDAW committee.

This method of selecting cases for the data base also skips over procedural barriers in making missing reports, like insistence that the reports be made in the jurisdiction where the missing person habitually resided, or notional waiting periods before a report can be made. It overlooks that getting the police to enter a missing persons report into CPIC after taking it has also proven problematic.

Quite apart from these shortcomings in procedure, there is an underlying problem of great gravity. The long record of racist and violent behaviour by police toward Indigenous people deters many from even

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9 Overview, p. 20
10 Overview, p. 21
14 CEDAW Report, para. 150, p.31, Inter-American Commission, loc.cit. supra note 11, and see Maryanne Pearce, An Awkward Silence: Missing and Murdered Vulnerable Women and the Canadian Justice System, Thesis Submitted in partial fulfilment of requirements for Doctor of Laws Degree, Common Law Section, Faculty of Law, University of Ottawa, 2013 (“Pearce”) at pp. 528-529
15 See, for example, Canadian Centre for Information on Missing Adults, Missing Persons and the Canadian Police Information Centre (CPIC), © 2012-2015 Canadian Centre for InfoRmaiton on Missing Adults, which states, at p.2, in giving advice to the families of missing adults, “Once your missing loved one has been reported to police, be sure to find out if and when her/his information will be added to CPIC. Since CPIC is only accessible to police, follow up with the officer assigned to your loved one’s case to ensure that the case has been entered.” Overview, at pp. 19-20
approaching the police with their concerns about a missing friend or relative. These disappeared persons, called by one researcher “the missing missing” do not figure at all in the 2014 Overview.

Another shortcoming of the data chosen for the 2014 Overview is that it is not based on any reliable method for identifying who is Aboriginal. The RCMP acknowledges this shortcoming in the 2014 Review, and it has frequently been targeted by commentators.

Significantly, CEDAW notes that “The absence of reliable statistics on the exact number of missing and murdered Aboriginal women and girls and the lack of accuracy in the identification of victims as Aboriginal is acknowledged by the State party.” The 2014 Overview itself states that discrepancies between RCMP statistics and other accounts may be attributable to “a missing female not being identified as Aboriginal during the investigation and/or a disappearance not being reported to police.

**The Statistical Picture in the 2014 Overview**

Even with these shortcomings, the 2014 Overview identified 1,107 Aboriginal female homicide victims between 1980 and 2012, and 164 Aboriginal women currently considered missing. It states that the number of Aboriginal women homicide victims “is far greater than their representation in Canada’s female population.”

One key set of findings in the 2014 Overview is about the perpetrators of these homicides. It states that Aboriginal female victims were most often murdered by an acquaintance (30% compared to 19%). Acquaintance includes close friends, neighbours, authority figures, business relationships, criminal relationships and casual acquaintances. In the 2014 Overview, this category is distinct from “stranger” on the one hand and “spousal, other family, other intimate relationship” on the other.

There is nothing in the 2014 Overview about the ethnicity, including Aboriginal status, of the perpetrator.

The 2014 Overview noted that “solve rates” for homicides involving Aboriginal and non-Aboriginal victims are similar. However, solve rates for women who were reported to be employed as prostitutes were significantly lower than for homicides overall. For Aboriginal women in the sex trade, the solve

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16 InterAmerican Commission, paras 93-101 CEDAW paras 138-158
18 Overview, pp. 21-22
19 One of the most trenchant of these criticisms is Pamela Palmeter, “RCMP report on missing and murdered Aboriginal women is statistically skewed,” rabble.ca blogs, April 13, 2015, http://rabble.ca/blogs/bloggers/pamela-palmeter/2015/04/rcmp-report-on-murdered-and-
20 CEDAW Report, para 164, p. 34
21 Overview, p.8
22 Overview, p. 7
23 Overview, p.9
24 Overview, p.12
25 Overview, p. 12, fn 22
26 Overview, p. 12, fn 21
rate was 60%, and for non-Aboriginals it was 65%. The Overview notes that it would be inappropriate to suggest that Aboriginal women victims were more involved in the sex trade than non-Aboriginal victims.

Significantly, the 2014 Overview did not contain any information on the specific solve rates of any of the specialized task forces established to tackle unsolved disappearances in the western provinces, like E-Pana (BC), Project KARE (Alberta), and Project DEVOTE (Winnipeg). These task forces, in particular, have been associated with the idea that Indigenous women are prey to violence because they lead a “risky lifestyle”, code for engaging in the sex trade, being homeless, or having substance abuse problems. Pearce suggests that “these projects are compromised because they are largely composed of older cases with fewer leads and evidence as starting points because of lack of action at the outset.”

The Valcourt Episode

Aboriginal Affairs Minister Bernard Valcourt said during a March 2015 private meeting with Indigenous Chiefs in Calgary that unreleased RCMP data shows that Indigenous men were responsible for 70% of murdered Indigenous women cases. He made this comment when responding to the Chiefs’ concerns about his observations the previous December that “there’s a lack of respect for women and girls on reserves” and “if the guys grow up believing that women have no rights, that’s how they are treated.”

RCMP Commissioner Paulson wrote in April to one of the Chiefs present at the meeting with Valcourt, Grand Chief Bernice Martial, that: “The consolidated data from the nearly 300 contributing police agencies has confirmed that 70 per cent of the offenders were of aboriginal origin, 25 per cent were non-aboriginal, and five per cent were of unknown origin.” The 2014 Overview had not included this information, and Commissioner Paulson wrote in his letter to Grand Chief Martial that it is not the race of the offender that is relevant to the RCMP in tackling the issue, but the relationship between the offender and the victim. He said that the RCMP had not previously disclosed this data “in the spirit of bias-free policing” and because such disclosure had the potential to “stigmatize and marginalize vulnerable populations.”

The RCMP released no data or analysis to support the figures in Commissioner Paulson’s April letter.

One of the questionnaires which must be completed for the Homicide Survey is about the “Charged/Suspect-Chargeable”. This questionnaire does ask about the Aboriginal origin of the

27 Overview, pp. 15-16
28 Overview, p. 17
29 Pearce, p. 570
chargeable subject, offering the following options: not collected/released by police force; non-aboriginal origin; North American Indian; Metis; Inuit; not provided by the chargeable subject; unknown.\(^{34}\)

Raw data from three categories on the Chargeable subject questionnaire (North American Indian, Metis and Inuit) would have to be aggregated to come up with Commissioner Paulson’s category of “Aboriginal”; similarly, the categories of “not provided by the chargeable subject” and “unknown” would have to be aggregated to come up with Paulson’s category “unknown”. These data would then have to be matched with information on the Victim Questionnaire to come to the conclusion that in 70% of murders of Aboriginal women, the perpetrator was Aboriginal.

Non-disclosure of the data which backs up Commissioner Paulson’s assertions means that there is no way of identifying the methodology used to come up with them, or whether they are accurate. Even if they are accurate, these figures present only a partial picture: the RCMP has acknowledged the problems in determining whether victims on the Homicide Survey are indeed Aboriginal.

Minister Valcourt’s position recalls the editorial position of The Police Insider, an “independent news source” managed by former member of the Winnipeg Police Services, James G. Jewell. Jewell states, “The fact Aboriginal men kill the majority of Aboriginal women has been largely ignored by main stream media, politicians, Aboriginal leaders and lobbyists for an inquiry into Missing and Murdered Aboriginal Women. The perpetrators continue to enjoy a blanket of anonymity provided by those who are determined to secret [sic] the truth.”\(^{35}\)

The fuss made by Minister Valcourt (and Mr. Jewell) about Aboriginal perpetrators ignores the fact that family violence is present in both non-Indigenous and Indigenous communities. Indigenous women are not unique in this unhappy fate. It should also be remembered that the RCMP records in the Overview only those murders which have already been solved. Doug Cuthand calls domestic homicides the “low-hanging fruit”\(^{36}\) of criminal investigation; they are the most readily solved. It is not surprising that they would figure prominently in a study that deals only with solved homicides.

Quite apart from the frailty of the data relied upon by the RCMP and the Minister to make these assertions, the fact remains that the identity of the perpetrator makes no difference whatsoever to the state’s underlying obligation to protect the safety of Aboriginal women, and investigate crimes committed against them. The Committee notes that during a long period, Canada prejudiced the rights of families and missing and murdered Aboriginal women by failing to conduct effective investigations into their cases.\(^{37}\) The State’s obligation, in fact, goes beyond matters of criminal procedure. The CEDAW report finds that “the marginalized status of Aboriginal women and girls, which is set out in the factual findings and acknowledged by the State party, has a direct impact on their vulnerability to violence in the home and on the streets, whether on- or off-reserve”\(^{38}\) and concludes that Canada’s failure to realize the economic, social, political and cultural rights of Aboriginal women places them at


\(^{37}\) CEDAW Report, para.208

\(^{38}\) CEDAW Report, para. 203
an increased vulnerability for violence. It concludes that Canada is failing in its obligation of due diligence toward Aboriginal women because it has failed to act on its own long-standing knowledge of Aboriginal women’s inequality and of the high levels of violence against them.

**The 2015 Update on Data**

One might have thought that the 2015 Update would have been the ideal opportunity for the RCMP to make public the data, and the reasoning, behind its claim that 70% of Aboriginal women were murdered by Aboriginal men.

However, the 2015 Update does not do this.

The Update confirms that Aboriginal women continue to be over-represented among Canada’s murdered and missing women.

The Update also provides follow-up to the overall statistics reported in 2014, noting that the unsolved homicides had decreased from 120 to 106 between the two reports and the outstanding missing persons cases numbered 98 in 2015, as opposed to 105 in 2014.

All of these data include RCMP statistics as well as data gathered from the 300 non-RCMP police jurisdictions which had been the subject of the 2014 Overview.

However, the 2015 Update introduces a new analysis based only on 2013 and 2014 homicides in RCMP jurisdictions in Canada. It claims that “RCMP homicide data from 2013 and 2014 shows a strong nexus to spousal violence, which points to the need to target prevention efforts towards violence in family relationships as a critical element in reducing homicides of women.”

The 2015 Update states that offenders were known to their victims in 100% of solved homicide cases of Aboriginal women, and 93% of solved homicide cases of non-Aboriginal women in RCMP jurisdictions in 2013 and 2014. Current and former spouses and family members made up the majority of relationships between victims and offenders in 73% of homicides of Aboriginal women and 77% of non-Aboriginal women in RCMP jurisdictions in 2013 and 2014. By contrast, the 2014 Overview had stated that Aboriginal victims were less often killed by a current or former spouse than non-Aboriginal women (29% compared to 41%).

The 2015 Update does not say whether these spouses and family members implicated in the homicides of Aboriginal women in 2013 and 2014 are Aboriginal.

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39 CEDAW Report, para. 203
40 CEDAW Report, para. 208
41 Update p. 2
42 Update p. 3. However, at p. 9 of the Update, the RCMP state that as of April 2015, 174 Aboriginal women across all police jurisdictions remain missing, 111 of them under suspicious circumstances.
43 Update p. 8
44 Update p. 5 and p. 9
45 Update pp. 8-9
46 Overview, p. 13
Thus, the new statistics introduced in the 2015 Update do nothing to enlighten the reader about the basis for Minister Valcourt’s earlier comments, or the RCMP support of those comments.

While the statistics in both the 2014 Overview and the 2015 Update indicate that family violence is a problem for both Aboriginal and non-Aboriginal women, the rhetoric in the 2015 Update suggests that the RCMP has chosen to focus exclusively on domestic violence as a cause of Aboriginal women’s homicides. Strategic reasons may have influenced this choice. Focussing on domestic violence in the Aboriginal context may create the inference that Aboriginal men are to blame for women’s deaths, without having to go through the process of disclosing the numbers allegedly supporting Minister Valcourt’s declaration. However, as Professor Palmeter points out, Aboriginal women are just as likely to be domestic partners with a non-Aboriginal person as with an Aboriginal person.47

Emphasizing family violence as the main cause of Indigenous women’s deaths, and the only cause worth devoting public resources to, also comes at a time when government funding is being withdrawn from joint task forces investigating the deaths of women in urban settings, or along remote highways, where stranger and acquaintance crime is likely to affect them. High ranking officials in the RCMP, for example, warned that budget cuts to the E-Pana task force in northern BC would curtail investigations related to the Highway of Tears. However, over $1 million in budget cuts in 2014-2015 led to the removal of six officers from the task force, which had been working on the cases of women who disappeared or were found dead along Highway 16.48

The RCMP’s new emphasis on family violence is also consistent with Canadian government policy. In its Response to the 2014 Overview, the government of Canada said the experience recorded in the Overview is “why we committed new funding in 2013 for the Family Violence Prevention Program, which supports shelters for women, children and families living on reserve.”49

What is Not Reported On

The 2015 Update comments that the RCMP has reviewed all of the outstanding cases of missing and murdered Aboriginal women within its jurisdictions reported in the 2014 Overview, finding that investigations were being diligently investigated with appropriate investigative resourcing.50

The Update offers no evidence to back up this statement, and does not indicate what standards are being used to judge the investigations. We do not know, for example, whether this statement includes reviews of the joint task forces in BC, Alberta and Winnipeg, which include some RCMP members and utilize some RCMP resources.

The 2015 Update offers us no concrete information about whether the RCMP has implemented, in whole or in part, instructions given at the time the 2014 Overview was made public. At that time,

47 Palmeter, op. cit. supra, note 18, at p.3 of 4
50 Update, p. 5.
Commanding officers in each RCMP division were directed to review outstanding case files to ensure that all investigative avenues have been followed, including DNA testing, and to make sure that investigations have reached out to family members, especially in older cases. 51

Nor does the 2015 Update provide any insight into implementation of the new missing persons policy and strategy introduced by the RCMP in the fall of 2014. 52 Under this policy, for example, an investigator is required to establish a communications schedule with the family of a missing person; if the investigator does not abide by the timetable, “it could become a conduct issue”. 53 The missing persons policy directs that a missing persons complaint is to be accepted and acted upon by any detachment, regardless of jurisdiction, and states that under no circumstances will a person be told that he or she must wait a certain amount of time before a report of a missing person can be made. 54

Most importantly, the 2015 Update provides no public accounting of what the RCMP is doing to respond to the serious findings of the Oppal Commission, the Inter-American Commission on Human Rights, and the United Nations CEDAW Committee on police failures in Canada. The need for new practices, protocols, standards, training and oversight mechanisms is and is highlighted by the CEDAW report. The CEDAW Committee observes, for example, that in spite of the existence of some guidelines regarding the handling of missing persons cases, many of the failures identified in the Oppal inquiry continue. It points out that the protocols and guidelines are non-binding, and there is a “lack of oversight and enforcement mechanisms”. 55 It also states that official responses to CEDAW queries showed “a lack of awareness of the persisting barriers faced by Aboriginal women when seeking to access the justice system”. 56 The CEDAW Committee says that the accounts from Indigenous women and their families, NGOs, and academics “were diametrically opposed to those provided by government officials and police who claimed that in responding to victims of violence and their families, they adhered to guidelines and Best Practices.” 57

The CEDAW Report emphasizes the need for an effective complaints and oversight process for the RCMP. It observes that based on the number of allegations of sexual misconduct related to policing in Northern British Columbia outlined in the Human Rights Watch report in May 2013, 58 the Commission of Public Complaints against the RCMP launched a public-interest investigation into the allegations. CEDAW notes that the government provided to it no information on the progress of this investigation. 59 Similarly, neither the 2014 Overview nor the 2015 Update contain information on this complaint, or any

51 Douglas Quan, “Case not closed on missing and murdered aboriginal women.” National Post, May 17, 2014 http://news.nationalpost.com/2014/05/17/case-not-closed-on-missing-and-murdered-abori...
53 Carlson, op. cit. supra note 51, at p. 2
55 CEDAW Report, para. 144
56 CEDAW Report, para. 144
57 CEDAW Report, para 135 and 138-144 148-150
59 CEDAW Report, para 155
other proceeding or complaint emanating from allegations of RCMP misconduct. This is a very serious omission.

In order to become part of the solution to the human rights crisis of murders and disappearances of Indigenous women and girls, the RCMP has to acknowledge that it has been part of the problem. Institutional self-examination and real change are necessary. The RCMP has failed, in various ways, to provide equal protection of the law to Indigenous women and girls, and it needs to report publicly on the steps it is taking to change its conduct and profile.

**Conclusion**

The 2015 Update was the ideal opportunity for the RCMP to address the questions raised, and left unanswered, by Minister Valcourt. They did not do so.

In 2014, the RCMP expressed considerable pride that it had, for the first time, produced statistics on missing and murdered Indigenous women drawing upon data from 300 police jurisdictions. In 2015, the RCMP brought forth an extremely limited data set, from its own records, to justify its claim that family violence is at the heart of violence against Indigenous women. This was an indirect way of validating Minister Valcourt’s claims without facing up to disclosure of the data on which they were allegedly based, and subjecting that data to public scrutiny.

Neither the 2014 nor the 2015 RCMP studies provide any information about the track record of the specialized joint task forces set up in BC, Alberta and Manitoba. Some of these task forces have been particularly associated with the notion that Indigenous women are prey to violence because they live risky lifestyles, code for engaging in sex work and substance abuse.

The ideas that Indigenous men are particularly violent towards their partners, and that Indigenous women lead particularly risky lifestyles, are both stereotypes which cast responsibility for violence against Indigenous women onto Indigenous people themselves. Such stereotypes allow the government to escape responsibility for both its long-term discrimination and deprivation of Indigenous peoples and also its lacklustre performance in investigating disappearances and murders.

Finally, the RCMP need to provide regular public reports on measures that they are taking to improve all aspects of their response to violence against Indigenous women and girls, and their interactions with Indigenous women and girls and their families.

It is time for real accountability of police and government for their major roles in the continuing victimization of Indigenous women and continuing disrespect for Indigenous peoples.