



# Submission to the House of Commons Standing Committee on Public Safety and National Security

Systemic Racism in Policing in Canada  
December 9, 2020

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**Submission to the House of Commons Standing Committee on Public Safety and  
National Security  
Systemic Racism in Policing in Canada  
Human Rights Watch**

## Background

Human Rights Watch is an independent, international organization that works in over 100 countries around the world as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all. Human Rights Watch has carried out two fact-finding projects related to systemic racism in policing in Canada:

- First, in August 2012, Human Rights Watch conducted five weeks of field research on Royal Canadian Mounted Police (RCMP) interactions with Indigenous women and girls in northern British Columbia, in addition to corresponding with police authorities in September 2012.
- Second, Human Rights Watch carried out six weeks of fact-finding on RCMP and municipal police interactions with Indigenous women in Saskatchewan between January and July 2016, in addition to interviewing and corresponding with police authorities and complaint mechanisms from August 2016 to January 2017.

As outlined in this briefing, many of the concerns raised by this research remain unaddressed or inadequately addressed. Systemic discrimination in policing in Canada has contributed to a pattern of violence against Indigenous women and girls that should be addressed by reducing the role of policing, investing in health and survivor services, and strengthening accountability for police abuse.

While this briefing is limited to the experiences of Indigenous women and girls with policing in two provinces, Human Rights Watch acknowledges that other communities of colour, especially Black communities, also report negative experiences with law enforcement.<sup>1</sup>

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<sup>1</sup> See, e.g. Ontario Human Rights Commission, “A Disparate Impact: Second Interim Report on the Inquiry into Racial Profiling and Racial Discrimination of Black Persons by the Toronto Police Service,” August 2020, <http://www.ohrc.on.ca/sites/default/files/A%20Disparate%20Impact%20Second%20interim%20report%20on%20the%20TPS%20inquiry%20executive%20summary.pdf#overlay-context=en/disparate-impact-second-interim-report-inquiry-racial-profiling-and-racial-discrimination-black> (accessed August 13, 2020); Ontario Human Rights Commission, “A Collective Impact: Interim Report of the Inquiry into Racial Profiling and Racial Discrimination of Black Persons by the Toronto Police Service,” November 2018, <http://www.ohrc.on.ca/en/public-interest-inquiry-racial-profiling-and-discrimination-toronto-police-service/collective-impact-interim-report-inquiry-racial-profiling-and-racial-discrimination-black> (accessed August 13, 2020).

## I. Systemic Discrimination against Indigenous Women and Girls and Vulnerability to Violence

Indigenous women and girls in Canada are disproportionately at risk of violence. A 2019 Department of Justice analysis of victimization rates in Canada found that “Indigenous women had an overall rate of violent victimization that was double that of Indigenous men and close to triple that of non-Indigenous women.” This analysis found that “even when controlling for various risk factors, Indigenous identity was a risk factor for violent victimization of Indigenous women.”<sup>2</sup>

This pattern has lethal consequences for Indigenous women and girls in Canada. According to one study, Indigenous women and girls are 12 times more likely to be murdered or missing than any other women in Canada.<sup>3</sup> According to Statistics Canada, homicide rates for Indigenous women were over six times higher than for non-Indigenous women in 2018.<sup>4</sup> Indigenous people are also over-represented among those killed in encounters with police.<sup>5</sup>

The Truth and Reconciliation Commission, the United Nations Committee on the Elimination of Discrimination Against Women, and the Inter-American Commission on Human Rights have each highlighted in their human rights inquiries that racial discrimination and socio-economic marginalization are root causes of violence experienced by Indigenous women in Canada.<sup>6</sup> The National Inquiry into Missing and Murdered Indigenous Women and Girls confirmed that discriminatory policing contributes as well.<sup>7</sup>

Many Indigenous women and service providers interviewed by Human Rights Watch in both 2012 and 2016 felt strongly that police officers brought a presumption of criminality to their interactions with Indigenous women.<sup>8</sup> Ashley D. said, “they look down on a lot of us Natives like we’re nothing;

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<sup>2</sup> “Indigenous Overrepresentation in the Criminal Justice System,” Department of Justice, Research and Statistics Division, May 2019, <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html> (accessed August 11, 2020).

<sup>3</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, Reclaiming Power and Place, Volume 1a, p 55, [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final\\_Report\\_Vol\\_1a-1.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf) (accessed December 1, 2020).

<sup>4</sup> Joel Roy and Sharon Marcellus, Statistics Canada, “Homicide in Canada, 2018,” November 27, 2019, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00016-eng.htm> (accessed December 1, 2020).

<sup>5</sup> According to a CBC analysis, while Indigenous people make up only 4.21 percent of the population (annualized over 20 years), they make up 16 percent of those killed in encounters with police. Inayat Singh, “2020 already a particularly deadly year for people killed in police encounters, CBC research shows,” CBC, July 23, 2020, <https://newsinteractives.cbc.ca/fatalpoliceencounters/> (accessed December 1, 2020).

<sup>6</sup> Truth & Reconciliation Commission, Canada’s Residential Schools: The Legacy, The Final Report of the Truth and Reconciliation Commission of Canada, Vol 5, p. 258-269, [http://www.trc.ca/assets/pdf/Volume\\_5\\_Legacy\\_English\\_Web.pdf](http://www.trc.ca/assets/pdf/Volume_5_Legacy_English_Web.pdf) (accessed December 1, 2020); CEDAW, Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/CAN/1, <https://digitallibrary.un.org/record/836103?ln=en> (accessed December 8, 2020), paras. 128-131; IACHR, Missing and Murdered Indigenous Women in British Columbia, Canada, OEA/Ser.L/V/II, Doc. 30/14, 21 December 2014, para 78, <https://www.oas.org/en/iachr/reports/pdfs/indigenous-women-bc-canada-en.pdf> (accessed December 1, 2020).

<sup>7</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, Reclaiming Power and Place, Volume 1a, p 690, [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final\\_Report\\_Vol\\_1a-1.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf) (accessed December 1, 2020).

<sup>8</sup> Human Rights Watch, Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada, 2013, p 57, <https://www.hrw.org/report/2013/02/13/those-who-take-us-away/abusive-policing-and-failures-protection-indigenous-women> (accessed December 1, 2020); Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence, 2017, p. 7-8 <https://www.hrw.org/news/2017/06/19/submission-government-canada-police-abuse-indigenous-women-saskatchewan-and> (accessed December 1, 2020).

like we don't deserve assistance. Like they're out to get us... A lot of time they [the police] will stop and ask 'Where are you going? What are you doing?' [The police] treat you like you got to be doing something [wrong]."<sup>9</sup>

International human rights experts have also raised concerns about entrenched and institutionalized stereotyping of Indigenous women by police. A United Nations inquiry into missing and murdered Indigenous women in Canada reported that structural bias was "reflected in the use of demeaning or derogatory language towards Aboriginal women and in stereotyping portrayals of Aboriginal women as prostitutes, transient or runaways and of having high-risk lifestyles."<sup>10</sup>

The overrepresentation of Indigenous women in the criminal justice system underscores these systemic problems. Indigenous women are significantly overrepresented in federal as well as provincial and territorial custody, and make up the fastest growing population under federal jurisdiction.<sup>11</sup>

## II. Police Abuses Against Indigenous Women and Girls

In both British Columbia and Saskatchewan, Human Rights Watch documented a troubling pattern of police abuses against Indigenous women. In Saskatchewan, Human Rights Watch documented 64 alleged cases of violent abuse against Indigenous women at the hands of police, including excessive use of force, invasive body and strip searches by male officers, and sexual harassment during these searches.<sup>12</sup> In ten towns across northern British Columbia, Human Rights Watch documented a similar pattern of human rights violations at the hands of RCMP: young girls pepper-sprayed and tasered; a 12-year old girl attacked by a police dog; a 17-year old punched repeatedly by an officer who had been called to help her; women strip-searched by male officers; and women injured due to excessive force used during arrest. Human Rights Watch also heard disturbing allegations of rape and sexual assault by RCMP officers, including from a woman who described how in July 2012 police officers took her outside of town, raped her, and threatened to kill her if she told anyone.<sup>13</sup>

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<sup>9</sup> Human Rights Watch interview with Ashley D., Saskatoon, July 14, 2016.

<sup>10</sup> CEDAW, Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/CAN/1, <https://digitallibrary.un.org/record/836103?ln=en> (accessed December 8, 2020), paras. 138.

<sup>11</sup> Government of Canada, Office of the Correctional Investigator, "Federally Sentenced Women," 2016, <https://www.oci-bec.gc.ca/cnt/priorities-priorites/women-femmes-eng.aspx> ; <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html> (accessed December 1, 2020).

<sup>12</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, 2017, <https://www.hrw.org/news/2017/06/19/submission-government-canada-police-abuse-indigenous-women-saskatchewan-and> (accessed December 1, 2020).

<sup>13</sup> Human Rights Watch, Those Who Take Us Away, 2013, <https://www.hrw.org/report/2013/02/13/those-who-take-us-away/abusive-policing-and-failures-protection-indigenous-women> (accessed December 1, 2020).

These cases mirror a broader pattern of allegations of physical and sexual abuse of Indigenous women by police services in Canada.<sup>14</sup>

## Excessive Force

In Saskatchewan and British Columbia, Human Rights Watch documented incidents in which the relevant municipal police service or the RCMP reportedly used excessive force against Indigenous women and girls, including: physical beatings, use of force causing broken bones or loss of movement, and attacks by police dogs during arrest and while in custody that required stitches.<sup>15</sup> In some cases, these abuses occurred in the context of wellness checks, where police were called to assist someone in crisis.

Human Rights Watch also documented two cases in British Columbia where police injured girls who they had been called in to protect. One of these cases was that of Sophie B., a 17-year-old girl repeatedly punched in the face by an officer in the back of a police car in 2011. Sophie told Human Rights Watch that she was walking through a field from a friend's house when she heard people screaming, and shortly after found herself being chased by gang members. Passing a woman on a balcony she asked her to call the police before she hid behind a fence. More than four police cars came, with at least two police officers in each car. "The cops came. They lifted me up and threw me to the ground... they put my arms behind my back and slammed me on the ground," Sophie said. Sophie told Human Rights Watch:

I was yelling at them saying: "I was the one who called for help. Why are you guys chasing me?" And they didn't say anything else... They roughed me up. They handcuffed me and put me in the back of the police car and would not allow my mother to come see me... One of them came up and said [through the police car window], "Keep kicking and see what happens." ... He punched me in the face more than six times. Half of his body was in the police car. Both my mom and sister saw him punch me. Then my mom came over and saw my face swollen up." Sophie was then held over-night. She remembered that one said, "Stupid Indian," and that another laughed at her.<sup>16</sup>

The second case Human Rights Watch documented was that of 15-year-old Emily G.: a police officer broke her arm during a response to a domestic violence call in 2012. Lena G., Emily's

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<sup>14</sup> See, e.g. A 2019 inquiry into police abuse of Indigenous women in Quebec concluded, "it seems impossible to deny that members of First Nations and Inuit are victims of systemic discrimination in their relations with the public services that are the subject of this inquiry." Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress, Final Report, 2019, p 203, [https://www.cerp.gouv.qc.ca/fileadmin/Fichiers\\_clients/Rapport/Final\\_report.pdf](https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Rapport/Final_report.pdf) (accessed December 1, 2020).

<sup>15</sup> Human Rights Watch, *Those Who Take Us Away*, pp. 50-54; Human Rights Watch, *Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan*, pp 9-11.

<sup>16</sup> Human Rights Watch, *Those Who Take Us Away*, pp. 50-51.

mother, had called the police out of concern for her daughter when it seemed that an argument was out of control between Emily and Emily's 22-year-old boyfriend, who had a history of abusive behavior. On this occasion, Lena told the operator that her daughter had said that she would rather die than live in her mother's house, but Lena told the operator that she believed this was a teenage expression of frustration rather than a genuine indication of suicidal feeling. By the time the police responded to the call, the argument had settled down, and Emily and her boyfriend were sitting on opposite sides of the room. Emily described how the situation escalated after one officer told her to get her jacket:

He said he was going to take me to mental health. I told him in a raised voice that I didn't need a jacket. I guess I raised my voice. The officer who had been talking to [my boyfriend], Constable [Name], told me to calm down. He stopped me by stepping front of me. He was holding the curtain open between the part of the room where I was and where [my boyfriend] was. He had his finger in my face in front of my eyes. I was yelling and telling him to fuck off. He just barely touched my face and I pushed it away. I barely moved his finger. He grabbed my arm and pushed me up against the wall. He pulled my arm way back and pushed it so I was up on my tip toes and that was when my arm broke... He let go and the cuffed arm fell with the cuff and then I felt all the pain. I yelled, "What did you do to my arm?" three times. He handed the cuff over to the other cop and he held it while we walked out.<sup>17</sup>

Although Emily and Lena reported that police made no mention of concern for her mental state at the hospital, the RCMP subsequently told the press that the officers responded to a suicidal teenager and arrested her under the Mental Health Act as well as for assaulting an officer.<sup>18</sup>

In July 2020, the RCMP Civilian Review and Complaints Commission issued a statement expressing concern about an ongoing pattern of "unreasonable use of force in apprehending persons in crisis" due to the RCMP's "command and control" approach.<sup>19</sup>

Recent media coverage has highlighted the sometimes-lethal consequences for Indigenous people and other people of colour who encounter police during "wellness checks."<sup>20</sup> While there is no standard definition of "wellness check" across law enforcement agencies in Canada, the

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<sup>17</sup> Human Rights Watch interview with Emily G. and Lena G., British Columbia, July 2012.

<sup>18</sup> Human Rights Watch, *Those Who Take Us Away*, p 53.

<sup>19</sup> Civilian Review and Complaints Commission for the RCMP, "Chairperson's Statement on the RCMP's Response to Persons in Crisis and Wellness Checks," July 21, 2020, <https://www.crcc-cctcp.gc.ca/en/newsroom/chairpersons-statement-rcmps-response-persons-crisis-and-wellness-checks> (accessed September 17, 2020).

<sup>20</sup> Rebecca Gao, "Wellness Checks Are All Over The News—But What Are They?," *Chatelaine*, June 16 2020, <https://www.chatelaine.com/health/what-is-a-wellness-check/> (accessed August 26, 2020); Greg Mercer, Jamie Ross, and Jerry-Faye Flatt, "RCMP killings of Indigenous people intensify calls for police reform," *The Globe and Mail*, June 14, 2020, <https://www.theglobeandmail.com/canada/article-rcmp-killings-of-indigenous-people-intensify-calls-for-police-reform/> (accessed August 26, 2020); Alex Cooke, "Recent deaths prompt questions about police wellness checks," *CBC*, June 23 2020, <https://www.cbc.ca/news/canada/nova-scotia/police-wellness-checks-deaths-indigenous-black-1.5622320> (accessed August 26, 2020).

term is used to refer to situations where police are called to check on someone due to concerns about their mental health. In June of this year, for example Chantel Moore, a 26-year-old mother originally from the Tla-o-qui-aht First Nation, was fatally shot during a “wellness check” by an officer from the Edmundston Police Department in New Brunswick.<sup>21</sup> According to a CBC News analysis of 461 police deaths in Canada between 2000 and 2017, 70 percent of people who died during police encounters had a mental health condition and/or struggled with substance use, and Indigenous and Black people were over-represented in these deaths.<sup>22</sup>

Human Rights Watch also documented accounts of police abuse that reflect aggressive policing of public intoxication and reliance on detention to address alcohol or other substance use in Indigenous communities.<sup>23</sup> Indigenous women can struggle with substance use disorder associated with histories of trauma.<sup>24</sup> A lack of adequate treatment facilities—including lack of programming and resources for those struggling with chronic substance use problems and lack of culturally-appropriate wellness services—across northern Canada (including the Provincial North), leaves many at risk of arrest and further trauma. The Prince Albert Police Chief told Human Rights Watch that the most common crimes they see are alcohol-related and notes that his force “arrests 3,000 people a year for no other crime than public intoxication.”<sup>25</sup>

One woman, Elaine N., described the abuse and mistreatment she witnessed of another Indigenous woman arrested for public intoxication in a neighboring cell in Saskatoon in the summer of 2015:

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

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<sup>21</sup> Hadeel Ibrahim, “Killing of Indigenous woman raises questions about who should be doing wellness checks,” CBC, June 6, 2020, <https://www.cbc.ca/news/canada/new-brunswick/chantel-moore-indigenous-woman-shot-by-police-edmundston-1.5601097> (accessed December 1, 2020).

<sup>22</sup> The CBC analysis was based on data gathered from inquests, investigation unit reports, media reports and other public records. Jacques Marcoux and Katie Nicholson, *Deadly Force*, CBC, 2018, <https://newsinteractives.cbc.ca/longform-custom/deadly-force> (accessed December 1, 2020).

<sup>23</sup> Human Rights Watch, *Those Who Take Us Away*, p 30, 49; Human Rights Watch, *Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan*, p. 9-10.

<sup>24</sup> See e.g., *Reclaiming Power and Place*, Vol 1a, pp. 112-113, 435-437.

<sup>25</sup> Human Rights Watch telephone interview, Chief Troy Cooper, prince Albert, October 6, 2016.



[police officer] said she was trying to hurt herself, was going to use her bra to hang herself, so they had to take her clothes.<sup>26</sup>

## Strip Searches

Human Rights Watch documented reports of degrading and abusive body and strip searches by male officers of Indigenous women in both British Columbia and Saskatchewan.<sup>27</sup>

According to the Supreme Court of Canada, a strip search involves “the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person’s private areas, namely genitals, buttocks, breasts (in the case of a female), or undergarments.”<sup>28</sup> This has been interpreted by lower courts to include any removal and inspection of undergarments, and not limited to situations where police are searching an accused for weapons or evidence of the commission of a crime.<sup>29</sup>

The Supreme Court of Canada states that strip searches are “one of the most extreme exercises of police power” and “cannot be carried out as a matter of routine police department policy.”<sup>30</sup> But strip searches have remained common practice in a number of jurisdictions:

- A 2019 report from the Office of the Independent Police Review Director, which reviews complaints against the police, found that police in Ontario carried out “well over” 22,000 strip searches each year.<sup>31</sup>
- A 2020 report from the Civilian Review and Complaints Commission for the RCMP found that RCMP policies related to strip searches were unclear, inadequate, and inappropriate.<sup>32</sup> The report identified several ongoing issues including “the practice of routinely removing and/or searching a prisoner’s undergarments, which is inconsistent with RCMP strip search policies and relevant jurisprudence.”<sup>33</sup>

As the Supreme Court also observed, “[w]omen and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault. The

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<sup>26</sup> Human Rights Watch interview with Elaine N., Saskatoon, April 6, 2016.

<sup>27</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of Indigenous Women in Saskatchewan, pp 11-14; Human Rights Watch, *Those Who Take Us Away*, p. 57.

<sup>28</sup> R v. Golden, 2001 SCC 83, para 47, <http://canlii.ca/t/51xm> (accessed August 11, 2020).

<sup>29</sup> R v. Deschambault, 2013, SKPC 112, para. 52, <http://canlii.ca/t/fznh5> (accessed August 11, 2020); R v P.F.G., 2005, BCPC 187, para. 32-33, <http://canlii.ca/t/1kvk5> (accessed August 11, 2020).

<sup>30</sup> R v. Golden, paras. 89-90.

<sup>31</sup> Office of the Independent Police Review Director, *Breaking the Golden Rule: A Review of Police Strip Searches in Ontario*, March 2019, [https://www.oiprd.on.ca/wp-content/uploads/OIPRD\\_Breaking-the-Golden-Rule\\_Report\\_Accessible.pdf](https://www.oiprd.on.ca/wp-content/uploads/OIPRD_Breaking-the-Golden-Rule_Report_Accessible.pdf) (accessed December 1, 2020).

<sup>32</sup> Civilian Review and Complaints Commission for the RCMP, *Review of the RCMP’s Policies and Procedures Regarding Strip Searches*, July 2020, [https://www.crcc-ccetp.gc.ca/pdf/Strip\\_Search\\_Final\\_Report-eng.PDF](https://www.crcc-ccetp.gc.ca/pdf/Strip_Search_Final_Report-eng.PDF) (accessed December 1, 2020).

<sup>33</sup> *Ibid.* RCMP Commissioner Brenda Lucki supported most of the report’s recommendations. Commissioner’s Response, September 2, 2020, <https://www.crcc-ccetp.gc.ca/en/commissioners-response-Review-RCMP-Policies-Procedures-Strip%20Searches> (accessed December 1, 2020).

psychological effects of strip searches may also be particularly traumatic for individuals who have previously been subject to abuse.”<sup>34</sup>

The RCMP Civilian Review and Complaints Commission Chairperson similarly emphasized in an October 2020 statement that forced removal of bras results in a heightened risk of traumatization for women taken into police custody, who are often from marginalized groups, survivors of gender-based violence, and disproportionately from Indigenous communities.<sup>35</sup>

### Allegations of Sexual Assault by Law Enforcement Officers

In five of the ten towns Human Rights Watch visited in northern British Columbia, we heard allegations of rape or sexual assault by police officers.<sup>36</sup> Human Rights Watch was struck by the level of fear on the part of women we met to talk about sexual abuse inflicted by police officers. Even though Human Rights Watch conducted outreach to women and girls through trusted service providers with long histories of working in these communities, on several occasions, women who initially expressed interest in talking with Human Rights Watch about their experiences of police sexual abuse later declined to speak or did not appear for interviews. Fear of retaliation, a frequent reason why women and girls do not report police abuse in general, is compounded by fear of stigma and feelings of shame in cases of sexual abuse. As a consequence, it was very difficult to gather first-hand testimony to support the allegations we heard.

However, in one town, Human Rights Watch met Gabriella P., a homeless woman, who reported that in July 2012 she had been taken to a remote location outside of the town and raped by four police officers whose names she knew but would not provide. “I feel so dirty,” Gabriella said through tears, the first time she spoke with Human Rights Watch. “They threatened that if I told anybody they would take me out to the mountains and kill me and make it look like an accident.”<sup>37</sup> Gabriella said that she had been raped by police in similar circumstances on previous occasions. Human Rights Watch was able to find and photograph the remote location, which is inaccessible by public transportation, that Gabriella described.<sup>38</sup>

Human Rights Watch was also told of Indigenous women and girls being sexually abused in city cells after passing out due to intoxication. One such case was recounted by Hannah J. In 2007, when she was 25, police put her in city cells when she was intoxicated. She woke up to find herself naked from the waist down:

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<sup>34</sup> R v. Golden, para. 90.

<sup>35</sup> Civilian Review and Complaints Commission for the RCMP, Chairperson Statement on the RCMP’s Use of Strip Searches, December 1, 2020, <https://www.crcc-ccetp.gc.ca/en/newsroom/chairperson-statement-rcmps-use-strip-search> (accessed December 1, 2020).

<sup>36</sup> Human Rights Watch, *Those Who Take Us Away*, pp. 59-62.

<sup>37</sup> Human Rights Watch interview with Gabriella P., British Columbia, August 2012.

<sup>38</sup> Human Rights Watch, *Those Who Take Us Away*, p. 60.

I remember [two male officers] putting me in the cells and I passed out. I woke up with my pants and panties off. I asked the lady guard if I could look at the cameras. She asked why. She didn't let me look at the tape.... My pants were in the cell beside me. My panties weren't there... I felt funny, wet down there [pointing to between her legs]. I just went home and cried... Why did this happen to me? Why didn't they just leave me on the street?<sup>39</sup>

Hannah said that she felt too ashamed to file a complaint or even seek medical attention. Human Rights Watch also received a secondary report from a woman whose friend told her that she had awoken in police holding cells in 2012 to find herself being sexually assaulted by a police officer.<sup>40</sup>

Human Rights Watch spoke to several women whose alleged experience of abuse at the hands of the police dated back decades, but who were still waiting for their cases to be taken seriously so they could see justice. The scarring of their experiences and determination to seek redress has not waned as the decades have passed.<sup>41</sup>

Without a larger reckoning with police abuse against Indigenous women and girls, the Canadian government is sending a message to these women and any other person who has had such a traumatic experience with the police that it is not making any meaningful effort to meet its obligation to ensure non-repetition.

### III. Failure to Protect Indigenous Women and Girls

Police abuse undermines women and girls' safety far beyond the direct physical consequences of any physical mistreatment. Human Rights Watch heard from community members and direct services staff how police abuse contributed to historic distrust between Indigenous communities and law enforcement and discouraged many from calling the police for help.<sup>42</sup> One community counselor in Saskatoon told Human Rights Watch, "a few weeks back a pregnant woman where I live was being beaten up and no one was calling because they want to avoid all contact with the police."<sup>43</sup> Indigenous peoples' reticence to contact law enforcement to report crimes because of their mistrust of the police perpetuates impunity for perpetrators of violence against Indigenous women.

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<sup>39</sup> *Ibid.*, p. 61.

<sup>40</sup> *Ibid.*, pp. 61-62.

<sup>41</sup> Human Rights Watch, *Those Who Take Us Away*, p. 33-34.

<sup>42</sup> Human Rights Watch, *Those Who Take Us Away*, p 66; Human Rights Watch, *Submission to the Government of Canada on Police Abuse of Indigenous Women in Saskatchewan*, pp 4-5.

<sup>43</sup> Human Rights Watch interview with an Indigenous community counselor, Saskatoon, January 16, 2016.

When Indigenous women and girls do contact police for help, they often do not receive adequate care and face discriminatory treatment. In particular, domestic violence survivors and community organizations in British Columbia and Saskatchewan told Human Rights Watch that calls to the police by Indigenous women and girls seeking help with violence are frequently met with skepticism and victim-blaming questions and comments, and that police often arrest victims of abuse for actions taken in self-defense.<sup>44</sup> One service provider in British Columbia told Human Rights Watch that she had seen a number of Indigenous women charged as first-time offenders because they defended themselves in the context of domestic abuse, including a woman who had been arrested after police found bite marks on her abuser's arm that she had left in attempt to free herself from a chokehold.<sup>45</sup>

Policing best practice, according to both the Canadian Observatory on the Justice System's Response to Intimate Partner Violence and the RCMP Operations Manual, calls for police to avoid dual charges in domestic violence cases and instead identify and lay charges against the primary aggressor.<sup>46</sup> However, in British Columbia, Human Rights Watch learned of several incidents indicating that police fail to implement this instruction consistently.<sup>47</sup> In Saskatchewan, when Human Rights Watch asked municipal police services and RCMP in writing whether they had a specific policy on dual arrests in domestic violence cases, none of the police services could identify such a policy.<sup>48</sup>

Women reporting violence who have been using alcohol or drugs have had greater difficulty in getting the police to take their complaints seriously. "Police still have the attitude: 'All he did was punch her,' and with Aboriginal women: 'Were you drinking? Using?'" said one community service provider.<sup>49</sup> Amy N. told Human Rights Watch that she had called the police for help with an abusive partner on two separate occasions in different towns during the years that she was struggling with substance use disorder. She said both times the police were more interested in the drugs than the abuse. On the second occasion in 2006, a police officer told her, "You're pretty much asking for it when you're high on that stuff." Amy N. concluded that "They're always going to ask if you're under the influence and once that information was available, I was treated much differently."<sup>50</sup>

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<sup>44</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, pp 15-15; Human Rights Watch, *Those Who Take Us Away* pp 68-72.

<sup>45</sup> Human Rights Watch interview with community service provider (#11), British Columbia, July 2012.

<sup>46</sup> Canadian Observatory on the Justice System's Response to Intimate Partner Violence, National Framework for Collaborative Police Action on Intimate Partner Violence (IPV), 2016, [https://cscp.ca/index.html?asst\\_id=1200](https://cscp.ca/index.html?asst_id=1200) (accessed August 11, 2020), p. 16; RCMP "E" Division Operational Manual, Chapter 2.4. Violence in Relationships, secs. 5.3 and 6.1.

<sup>47</sup> Human Rights Watch, *Those Who Take Us Away*, p 69.

<sup>48</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, p. 16.

<sup>49</sup> Human Rights Watch interview with community service provider (#16), British Columbia, July 2012.

<sup>50</sup> Human Rights Watch interview with Amy N., British Columbia, July 2012.

## IV. Failure to Address Historic Lack of Accountability

In both British Columbia and Saskatchewan, Human Rights Watch was told how historic impunity for alleged police abuse against Indigenous people contributed to a culture of distrust between Indigenous people and police and discouraged Indigenous women from filing complaints.

In Saskatchewan, Human Rights Watch heard from a number of Indigenous women on how the now infamous “starlight tours” continued to evoke fear. The practice, reported as early as 1976, involves police driving Indigenous people to the outskirts of the city to walk home in the dead of winter, risking death by hypothermia.<sup>51</sup> In some cases, Indigenous women told Human Rights Watch that they would not call the police to report a crime committed against them or crimes that they had witnessed involving an Indigenous woman out of fear that the police may harass them, engage in physical violence toward the suspect, or take them on a “starlight tour.”<sup>52</sup> One woman, Karen D., did file a complaint against the police, but described feeling intense fear that she might be taken on a “starlight tour”: “I was scared shitless when I made the complaint. [I] feared for my life. After what happened to Neil Stonechild, how do I know they’re not going to take me out?”<sup>53</sup>

Neal Stonechild, a 17-year-old whose frozen body was found outside of Saskatoon in 1990, became the subject of a provincial commission of inquiry in 2003.<sup>54</sup> The Inquiry found that the police investigation into the death was “superficial at best” and “concluded prematurely,” with “glaring deficiencies” that went “beyond incompetence or neglect.”<sup>55</sup> Mr. Justice David H. Wright presiding over the commission noted the “overly defensive attitude” of police officers regarding complaints against its own.<sup>56</sup> No charges were ever laid against any police officers in connection with the death of Stonechild.

In British Columbia, Human Rights Watch spoke to several women whose alleged experience of abuse at the hands of the police dated back decades, but who were still waiting for their cases to be taken seriously so they could see justice.<sup>57</sup>

Human Rights Watch was also told about policing failures in investigating allegations of sexual exploitation of Indigenous children by RCMP officers, which contributed to a pervasive

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<sup>51</sup> “Saskatoon Police Chief Admits Starlight Cruises are not New,” Windspeaker, June 1, 2003, <http://www.ammsa.com/publications/windspeaker/saskatoon-police-chief-admits-starlight-cruises-are-not-new> (accessed August 11, 2020); “Saskatoon Police Chief Says Drop- Offs Happened ‘More Than Once,’” CBC, June 9, 2003, <http://www.cbc.ca/news/canada/saskatoon-police-chief-says-drop-offs-happened-more-than-once-1.380299> (accessed August 11, 2020).

<sup>52</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, pp. 4-5.

<sup>53</sup> Human Rights Watch interview with Karen D., Saskatoon, March 21, 2016.

<sup>54</sup> Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild, “Report of the Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild,” October 2004, [http://www.publications.gov.sk.ca/freelaw/Publications\\_Centre/Justice/Stonechild/Stonechild-FinalReport.pdf](http://www.publications.gov.sk.ca/freelaw/Publications_Centre/Justice/Stonechild/Stonechild-FinalReport.pdf) (accessed August 11, 2020) [Stonechild Commission of Inquiry].

<sup>55</sup> Stonechild Commission of Inquiry, pp. 198-200.

<sup>56</sup> Stonechild Commission of Inquiry, p. 207.

<sup>57</sup> Human Rights Watch, *Those Who Take Us Away*, pp. 33-34.

normalization of impunity for police abuse.<sup>58</sup> Allegations were made that as many as ten RCMP officers were involved in sexually exploiting and abusing the girls in Prince George in the early 2000s.<sup>59</sup> The RCMP investigated the allegations of police involvement in the sexual exploitation but only after delays.<sup>60</sup> An RCMP review board dismissed disciplinary action brought against one officer who was alleged to have paid a child \$60 for oral sex and then struck her in the face when she insisted he use a condom.<sup>61</sup> The board dismissed the action because it was taken more than one year after the commanding officer became aware of the allegations.<sup>62</sup> Other officers were investigated but none were criminally charged in the matter, and calls from Indigenous community leaders for a formal inquiry were not heeded.<sup>63</sup>

## V. Inadequate Complaint Mechanisms

Police accountability is required to ensure the safety of Indigenous women and girls. Canada needs independent civilian investigations of all allegations of serious police misconduct, including allegations of sexual assault. Our research has indicated that Canada has made only limited progress to ensure that police are accountable for their policing failures affecting Indigenous women and girls, as well as for the violence police officers have committed against Indigenous women and girls.

Most complaints of police misconduct are investigated by police themselves. At the provincial level, there are seven independent investigation units that have varying mandates to review police abuse. In June 2020, the Canadian Press found that of the 167 members involved in these units, 111 are former officers or have had a working relationship with police, and 118 of them are men.<sup>64</sup> Only 20 investigators identified as a “visible minority” or person of colour.<sup>65</sup> Saskatchewan, Prince Edward Island, New Brunswick, Yukon, Northwest Territories and Nunavut do not have independent units and outside forces are generally called in to investigate cases there.<sup>66</sup>

At the federal level, the Civilian Review and Complaints Commission (CRCC) for the RCMP reviews only a fraction of officer misconduct cases, leaving the RCMP to investigate the vast majority of

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<sup>58</sup> *Ibid.*, pp. 31-34.

<sup>59</sup> *Ibid.*, p. 32.

<sup>60</sup> *Ibid.*, p. 32.

<sup>61</sup> *Ibid.*, p. 32.

<sup>62</sup> *Ibid.*, p. 32.

<sup>63</sup> *Ibid.*, pp. 32-33.

<sup>64</sup> Kelly Geraldine Malone, “Most police watchdog investigators are white and former officers, Canadian Press tally finds,” CBC, June 19, 2020, <https://www.cbc.ca/news/canada/police-investigators-white-former-officers-majority-1.5620358> (accessed December 1, 2020).

<sup>65</sup> Every province but British Columbia provided the number of investigators in their units who identify as a visible minority or person of colour. *Ibid.*

<sup>66</sup> *Ibid.*; Erick Laming, “Police accountability begins with proper civilian oversight,” CBC, June 12, 2020, <https://www.cbc.ca/news/opinion/opinion-police-oversight-1.5606047> (accessed December 1, 2020).

complaints.<sup>67</sup> The CRCC, meanwhile can only make recommendations to the RCMP commissioner, and the commissioner may ultimately take no action.<sup>68</sup> Further, there are no time constraints requiring the RCMP to respond to the CRCC within a set timeframe, sometimes resulting in significant delays to investigations.<sup>69</sup>

Indigenous people interviewed by Human Rights Watch expressed skepticism about the independence and effectiveness of police complaint processes.<sup>70</sup>

RCMP officers also told Human Rights Watch about experiencing pressure to reach a pre-determined outcome when investigating abuses by other detachments. One remembered being told to go up to a particular northern town and “investigate this Taser incident that didn’t happen.”<sup>71</sup> Another said that he wrote up reports of investigations that were returned for revision when they did not reflect the outcome desired by his supervisors.<sup>72</sup>

Human Rights Watch was also told about police responses to complaints that raise concerns about the effectiveness of investigations into allegations of gender and sexual based violence, including: delayed or prolonged investigations, failure to interview witnesses or gather evidence, and filing of retaliatory charges against a complainant.<sup>73</sup>

Many of those we interviewed did not file a complaint. Fear of retaliation obstructs access to complaint mechanisms, particularly for women and girls who live in small communities, are homeless, or have had multiple contacts with the criminal justice system. “I never filed a complaint,” said Anna T., who was beaten by two officers in city cells, “because I’m well known and if you go back in its probably going to be worse.”<sup>74</sup> Another woman who described a serious sexual assault by police officers said the officers threatened to kill her if she told anyone. She chose not to make any complaints against them.<sup>75</sup>

In 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls echoed continued concern about inadequate accountability mechanisms:

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<sup>67</sup> Alex Ballingall, “Who investigates complaints about the RCMP? In ‘99.9%’ of cases it’s the RCMP,” Toronto Star, June 17, 2020, <https://www.thestar.com/politics/federal/2020/06/17/who-investigates-complaints-about-the-rcmp-in-99-9-of-cases-its-the-rcmp.html> (accessed December 1, 2020).

<sup>68</sup> The Honourable Ralph Goodale, Minister of Public Safety and emergency Preparedness, Departmental Results Report 2016-2017, <https://www.crcc-ccetp.gc.ca/en/departamental-results-reports-2016-2017> (accessed December 1, 2020).

<sup>69</sup> Alex Ballingall, “Who investigates complaints about the RCMP?; Jolson Lim, “RCMP watchdog says legislation needed to compel timely responses to complaint reports,” ipolitics, July 24, 2020, <https://ipolitics.ca/2020/07/24/rcmp-watchdog-says-legislation-needed-to-compel-timely-responses-to-complaint-reports/> (accessed December 1, 2020).

<sup>70</sup> Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, p. 18; Human Rights Watch, *Those Who Take Us Away*, pp. 60, 73-76.

<sup>71</sup> Human Rights Watch group interview with five RCMP officers, British Columbia, August 2012.

<sup>72</sup> Human Rights Watch interview with RCMP officer, British Columbia, July 2012.

<sup>73</sup> Human Rights Watch, *Those Who Take Us Away*, pp. 73-76; Human Rights Watch, Submission to the Government of Canada on Police Abuse of indigenous Women in Saskatchewan, pp 16-20.

<sup>74</sup> Human Rights Watch interview with Anna T., British Columbia, July 2012.

<sup>75</sup> Human Rights Watch interview with G. P., British Columbia, July 2012.

Existing oversight and accountability mechanisms for police services are largely inadequate and fail to elicit the confidence of Indigenous Peoples. Failure to establish and enforce meaningful and transparent accountability and oversight of police services and other law enforcement officials perpetuates poor service delivery and fuels distrust on behalf of Indigenous communities toward police.<sup>76</sup>

## VI. Lack of Disaggregated Data

While the collection of comprehensive data on gender-based violence, disaggregated both by sex and race, is a part of Canada's due diligence obligation under international law, there are no formally documented estimates that indicate how prevalent police mistreatment or abuse against Indigenous women is throughout Canada.<sup>77</sup>

In a positive step, in July 2020, Statistics Canada and the Canadian Association of Chiefs of Police agreed to work together to enable police to report race-based information about victims and accused persons.<sup>78</sup> While Statistics Canada has previously required all police forces to report whether homicide victims are Indigenous, it has not similarly gathered disaggregated data on missing persons.<sup>79</sup>

It is not yet clear if Statistics Canada will record race-based data for use-of-force incidents or mental health checks unless they involve a criminal offence.<sup>80</sup>

The absence of race-disaggregated data obscures the racial dimensions of the violence, and inhibits efforts to identify discrimination in responding to incidents of violence involving police officers.

## VII. Canada's Human Rights Obligations

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

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<sup>76</sup> Reclaiming Power and Place, Vol 1a, p 690.

<sup>77</sup> Violence against Women: The Due Diligence Standard as a Tool for the Elimination of Violence against Women, UN Doc. E/CN.4/2006/61 (January 20, 2006) para. 32, <https://digitallibrary.un.org/record/565946?ln=en> (accessed December 1, 2020); UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Indicators on violence against women and State response, UN Doc A/HRC/7/6, January 29, 2008, para. 30, <https://undocs.org/A/HRC/7/6> (accessed August 11, 2020).

<sup>78</sup> Catharine Tunney, "Statistics Canada to start collecting race-based crime data," CBC, July 15, 2020, <https://www.cbc.ca/news/politics/statistics-canada-race-data-police-1.5650273> (accessed December 1, 2020).

<sup>79</sup> Margo McDiarmid, "Still no way to tell how many indigenous women and girls go missing in Canada each year," CBC, December 21, 2017, <https://www.cbc.ca/news/politics/indigenous-missing-women-police-data-1.4449073> (accessed December 1, 2020)

<sup>80</sup> Catharine Tunney, "Statistics Canada to start collecting race-based crime data," CBC, July 15, 2020, <https://www.cbc.ca/news/politics/statistics-canada-race-data-police-1.5650273> (accessed December 1, 2020).



Discrimination (ICERD), and the Convention on the Elimination of All Forms of Discrimination Against Women that require it to address violence and discrimination against Indigenous women.<sup>81</sup>

Canada has an obligation to protect people's right to personal security under the ICCPR from reasonably foreseeable threats by private persons.<sup>82</sup> Canada is also obliged to ensure the rights of Indigenous women and children are respected, protected, and fulfilled. Central among these is their right to live free from discrimination; this fundamental right encompasses Indigenous women's right to live free from violence, a form of gender- and race-based discrimination.<sup>83</sup> The prohibition on discrimination in the ICERD bars policies and practices that have either the purpose or effect of restricting rights on the basis of race.<sup>84</sup>

All levels of government in Canada should exercise due diligence to prevent, investigate and punish violence against Indigenous women and girls.<sup>85</sup> The Canadian government should also ensure that police treat all people with respect and dignity in a non-discriminatory manner. Failure to act with due diligence in response to the violence against Indigenous women and girls, including police failures to investigate, amounts to a violation of the rights of Indigenous women victims of violence.<sup>86</sup>

Canada also has an obligation to respect, protect, and fulfill the right to the highest attainable standard of physical and mental health under the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the Convention on the Rights of the Child, which includes the obligation to ensure that health facilities, goods, and services are available and accessible to

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<sup>81</sup> International Covenant on Civil and Political Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976 (accessed to by Canada in 1976), Articles 6 and 26 <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed December 1, 2020); International Convention on the Elimination of All Forms of Racial Discrimination, adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969 (accessed to by Canada in 1970), Articles 2 and 5, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed December 1, 2020); Convention on the Elimination of All Forms of Discrimination Against Women, adopted December 18, 1979, G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981 (accessed to by Canada in 1981), Articles 1-2, <https://www.un.org/womenwatch/daw/cedaw/>, (accessed December 8, 2020).

<sup>82</sup> "The duty to protect the right to life by law also includes an obligation for States parties to adopt any appropriate laws or other measures in order to protect life from all reasonably foreseeable threats, including from threats emanating from private persons and entities." See UN Human Rights Committee, General Comment 36, Section 3, para. 18, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_GC\\_36\\_8785\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf) (accessed December 8, 2020); UN Human Rights Committee, Decision: Delgado Paez v. Colombia, (195/1985), July 12, 1990, <http://www.ohchr.org/Documents/Publications/SDecisionsVol3en.pdf> (accessed December 1, 2020), p. 135, para 5.5; UN Human Rights Committee, Decision: Jayawardene v. Sri Lanka, (916/00), U.N. Doc. A/57/40 at p. 234 (2002), <http://hrlibrary.umn.edu/undocs/916-2000.html>, para. 7.3 (accessed December 1, 2020).

<sup>83</sup> CEDAW, Article 8 Optional Protocol Inquiry Report, 2016, pg. 52/58, paras. 201-205; 208-209, <https://digitallibrary.un.org/record/836103?ln=en> (accessed December 8, 2020); United Nations Declaration on the Rights of Indigenous Peoples, adopted October 2, 2007, U.N. GAOR Supp 49 at 1-11, U.N. Doc. A/RES/61/295 (2007), art. 22, <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html> (accessed December 8, 2020); CEDAW, General Recommendation 19, Violence against Women, (Eleventh session, 1992), Compilation of General Comments and Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc HRI/GEN/1/Rev.1 (1994), p. 84, see paras. 1, 6, <https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx> (accessed December 8, 2020).

<sup>84</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted December 21, 1965, Part 1, Article 1, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed December 1, 2020).

<sup>85</sup> See Human Rights Watch, *Those Who Take Us Away*, p. 78, footnote 213; and Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, p. 69-81, [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/159.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/159.asp) (accessed December 8, 2020).

<sup>86</sup> CEDAW, Article 8 Optional Protocol Inquiry Report, para 210; see also *Violence against Women: The Due Diligence Standard as a Tool for the Elimination of Violence against Women*, UN Doc. E/CN.4/2006/61 (January 20, 2006), paras. 29-32, <https://digitallibrary.un.org/record/836103?ln=en> (accessed December 8, 2020).

everyone without discrimination, and are culturally appropriate.<sup>87</sup> The Committee on Economic, Social, and Cultural Rights, which provides authoritative interpretations of the ICESCR, has stated that a “violation of the obligation to fulfill” the right to health can occur when there is “insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups.”<sup>88</sup>

## VIII. Recommendations

In line with Canada’s international human rights obligations, Human Rights Watch urges the Standing Committee to press the government to:

### *Stop Over-Policing Indigenous Communities*

- Stop enforcing laws in ways that effectively criminalize people for their poverty or lack of housing, substance use, mental health, or status as victim of gender-based violence.
- End police involvement with people who are experiencing mental health crises.
- Explore the establishment of voluntary non-law enforcement and rights-based violence prevention programs, such as community-based mediation teams.
- Eliminate searches and monitoring of women and girls by male police officers in all but extraordinary circumstances and require documentation and supervisor and commander review of any such searches; prohibit cross-gender strip searches under any circumstances.
- Ensure that policing protocols relating to intimate partner violence, including within same-sex partnerships, require officers to distinguish assault from defensive self-protection and avoid charges against the victim of violence.

### *Invest in Communities to Advance Public Safety and Equal Rights*

- Prioritize funding for health and social services, including voluntary treatment services for substance use disorder and culturally-appropriate survivor services for Indigenous peoples. Consider reallocating funding from the RCMP budget to support Indigenous-led, community-based health services.
- Maintain effective, supportive, voluntary, and culturally-appropriate mental health services in the community, instead of responding to mental health issues with policing.

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<sup>87</sup> International Covenant on Economic, Social, and Cultural Rights, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360, (acceded to by Canada in 1976), Art. 12, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force in January 1976, in accordance with article 27.

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (accessed December 8, 2020); Committee on Economic Social and Cultural Rights, General Comment No. 14, para 12.

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDI mC0y%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbORPWNDxL> (accessed December 8, 2020).

<sup>88</sup> Committee on Economic Social and Cultural Rights, General Comment No. 14, para 52.

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDI mC0y%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbORPWNDxL> (accessed December 8, 2020).

### ***Develop Independent Accountability and Oversight Mechanisms***

- Establish independent community oversight bodies to investigate reported incidents of serious police misconduct, including incidents of rape and other sexual assault, in all jurisdictions. These bodies should have full access to police records, subpoena power, authority to conduct investigations, and the power to discipline officers and command staff.
- Ensure that the Chief Commissioner of the Civilian Review and Complaints Commission for the RCMP has the power to require Chiefs of Police to comply with the recommendations of civilian oversight bodies.
- Collect and make publicly available (as ethically appropriate) accurate and comprehensive race- and gender-disaggregated data on victims of crime, police stops and searches, police use of force (including use of weapons, service dogs, and physical force that results in injury), and on complainants of police misconduct, with their voluntary participation, and with the guidance of Indigenous women leaders and in cooperation with Indigenous community organizations.