

**“WOULDN’T PISS ON THEM IF THEY WERE ON FIRE”:
HOW DISCRIMINATION AGAINST SEX WORKERS, DRUG USERS
AND ABORIGINAL WOMEN ENABLED A SERIAL KILLER**

**Report of Independent Counsel
to the Commissioner of the Missing Women Commission of Inquiry**

Submitted this 25th day of June, 2012

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Introduction

Prostitution will always lead into a moral quagmire in democratic societies with capitalist economies; it invades the terrain of intimate sexual relations yet beckons for regulation. A society's response to prostitution goes to the core of how it chooses between the rights of some persons and the protection of others.

BARBARA MEIL HOBSON, *Uneasy Virtue*

This is the Report of Independent Counsel for the interests and perspectives of individuals and organizations within the Downtown Eastside who may be affected by findings of fact and recommendations of the Missing Women Commission of Inquiry.

Independent Counsel was appointed by the Commissioner of Inquiry on August 15, 2011, to act in the public interest at the Missing Women Commission of Inquiry by consulting with, taking guidance from and representing the interests and perspectives of affected communities of the Downtown Eastside. The appointment of Independent Counsel was necessitated by the refusal of the Attorney General of British Columbia, Barry Penner, to follow the Commissioner's March 10, 2011 recommendation to fund legal counsel for four sets of full participant groups.¹

The Missing Women Commission of Inquiry has a duty to make findings of fact and recommendations respecting the conduct of the missing women investigations. This duty will be satisfied in the public interest by taking a values-based approach to answering the question of why the missing women were not protected by the Provincial RCMP and Municipal police forces in British Columbia. It is not appropriate to attend exclusively to police decision-making outside the sphere of human values; policing is not a robotic exercise.

To understand policing and the exercise of police discretion, it is necessary to make findings of fact dealing with police attitudes and biases that affected police decision-making. Even ideal laws, regulations and policies cannot prevent tragedy if the persons governed by them harbour attitudes and biases that lead to selective enforcement. This Inquiry cannot hope to succeed unless it persuades the public that it is wrong to diminish the value placed on the lives of survival sex workers.

A central task of this Inquiry is therefore to set forth the discriminatory attitudes and beliefs that contributed to the ongoing disappearances of survival sex workers. Survival

¹ The four unfunded Full Participant groupings were as follows: (1) Sex Workers United Against Violence, Prostitution Alternatives Counselling and Education Society and Women's Information and Safe House; (2) Native Women's Association of Canada; (3) Vancouver Area Network of Drug Users, Frank Paul Society and Walk4Justice; and (4) Downtown Eastside Women's Centre and the Committee of the February 14 Memorial March. Of these organizations, Vancouver Area Network of Drug Users was the only organization not to withdraw from the Missing Women's Inquiry.

sex workers exist at the interstices of moral and legal discrimination against sex work, moral and legal discrimination against drug use, racial discrimination against Aboriginal persons, and gender-based discrimination against women.²

Discriminatory attitudes and beliefs on the part of police marginalized and perpetuated the existence of a social underclass of survival sex workers who were driven by the public and by the police into the most dangerous recesses of Vancouver's Downtown Eastside and were not provided with police protection in proportion to the risks they faced.

It is critical for this Inquiry to strike a balance between individual and institutional responsibility for discrimination against survival sex workers. The leadership of hierarchical policing organizations bears responsibility for the culture and values of these institutions. Instances of discriminatory conduct should be placed into the context of institutional cultures, recognizing that specific instances of discrimination may be both an expression of a wider institutional culture and may contribute to the perpetuation of that culture.

Similarly, it is important for this Inquiry to strike a balance between institutional responsibility and societal responsibility. This Inquiry must set out the legislated and political demands on police forces to eradicate public sex work and drug use and to remove sex workers from public areas. Setting out the cultural context of policing may limit the temptation to blame the police while ignoring the failings of the society within which policing occurs.

Inevitably, however, the conduct of municipal police forces, the Provincial police force and individual members of those forces are under scrutiny at this Inquiry, and their decisions and values are subject to examination. It is hoped that this report will assist members of the public in striking a balance in their minds between individual, institutional and societal responsibility for the horrific murders and physical and sexual assaults of survival sex workers.

It should be recalled that the perspectives and interests of individuals and organizations within the Downtown Eastside are not unified. Opinions diverge about whether this Inquiry has the capacity to reach its aspirations, whether sex work should be decriminalized and regulated, and what approach this Inquiry should take. Resort to Independent Counsel rather than funding divergent organizations necessarily limits the range of perspectives to which this Inquiry has access.

Many organizations and individuals were consulted about the approach to the evidence taken by Independent Counsel, and some of those individuals and organization provided guidance. In synthesizing guidance from community members regarding interests and perspectives within the Downtown Eastside, this report is most influenced by the

² Other forms of discrimination against sex workers exist, including class-based discrimination, oppressive poverty and discrimination against persons with disabilities including mental health issues. This Report predominantly addresses discrimination against drug users, sex workers and Aboriginal women.

perspectives and interests of the women most directly affected by police discrimination: survival sex workers.

This Report of Independent Counsel is intended as a final written submission to the Commissioner of Inquiry to persuade him to incorporate the perspectives and interests of the Downtown Eastside into his more comprehensive Inquiry Report. It is hoped that this document will serve the public interest by offering the satisfaction of truth and provide a resource to individuals and organizations within the Downtown Eastside. Finally, it is hoped that policing institutions, civilian staff, independent contractors, Provincial and municipal decision-makers and police officers may benefit from seeing themselves reflected in this report.

Executive Summary

This report sets out how discrimination against sex workers, drug users and Aboriginal women within the Vancouver Police Department and the Provincial Police Service of the Royal Canadian Mounted Police enabled the horrific activities of a serial killer during the period of reference from January 23, 1997 to February 5, 2002.

This report is divided into five chapters, addressing in turn: (1) discriminatory failure to deploy resources to protect sex workers from known risks to their lives and safety; (2) police investigations were undermined by discriminatory attitudes, bias and stereotyping of victims; (3) police suppression of recognition of a risk of a serial killer of sex workers by means of deception and smear campaigns; (4) factual analysis of the decision of Crown counsel to stay the attempt murder charge against Robert William Pickton in January of 1997; and (5) recommendations for reform.

The first chapter of this report sets out police failure to respond to three known levels of risk to sex workers. The first level of risk is of ongoing risk of serious physical and sexual violence; the second level is a risk that a serial killer was responsible for murdering and hiding the bodies of the missing women; the third level is the risk posed to sex workers by Robert William Pickton.

The first chapter concludes that the RCMP and VPD failed to deploy resources commensurate to any of the three levels of risk faced by sex workers, and that, based on the adverse effects of inadequate police deployment to the lives and safety of sex workers, the failure to deploy resources was discriminatory. The normative principle guiding the first chapter is that all citizens are entitled to equal protection of the law, in proportion to the risks they face. The analysis in this chapter is an analysis of discriminatory effects.

The second chapter of this report addresses overt discrimination and manifestations of bias in decision-making within each of the investigations during the period of reference. This chapter demonstrates how discriminatory attitudes and false stereotypes and biased beliefs about sex workers undermined investigations by precluding the gathering and analysis of vital information about missing women, by misdirecting police investigators, by undermining the integrity of investigative teams, and by preventing investigators from drawing inferences crucial to solving the cases.

The normative principle guiding the second chapter is that people have a right to be free from discrimination and biased treatment. The practical observation of this chapter is that police work can be undermined by biased attitudes, stereotyping and overt discrimination.

The third chapter of this report deals with the active suppression of the recognition of the risk of an active serial killer, in contravention of the police's duty to warn sex workers of specific dangers they faced. Suppressive activity on the part of the VPD and RCMP

includes deception of the Attorney General of British Columbia, deception of the Vancouver Police Board, and deception of the general public and the media.

Civilian employees and police officers within the Vancouver Police and the RCMP were also oppressed and marginalized for voicing concerns and expressing the desire to investigate the probability that a serial killer was preying on sex workers from the Downtown Eastside. Downtown Eastside activist groups and individuals were publicly attacked using police powers and police resources when they attempted to raise awareness of the risks to sex workers' lives and safety. Finally, family and friends of missing women who criticized the police's refusal to act on the risk of a serial killer were subject to a vicious smear campaign by the Vancouver Police.

The third chapter demonstrates that within the period of reference, institutional imperatives to maintain control over resource deployment improperly overrode the police's duty to protect and warn sex workers and the duty of the police not to deliberately mislead organizations and Ministers responsible for their oversight. The third chapter also reveals that policing organizations may maintain a hostile relationship to the public and civilian overseers, and that police forces are dangerously capable of deception when their interests are threatened and when oversight bodies and public watchdogs ask the hard questions that sometimes need asking. The third chapter presents a need for legislation limiting the ability of the police to deceive to situations where the deception advances an investigative goal that could not be accomplished without the deception.

The accretive picture built by this Report is of police forces within British Columbia that refuse to deploy resources to protect vulnerable women who are at extraordinary risk to their lives and safety and who have greater need of police protection, police forces that are reliant on discriminatory stereotypes, attitudes and biases that undermine their ability to succeed at police work, and police forces that are prepared to advance their institutional interests by deceiving the public and civilian oversight bodies.

The fourth chapter of this report is a factual analysis of the stay of the charges against Robert William Pickton in January of 1997. The chapter concludes that the decision to stay the proceedings was influenced in part the postponement of preparations for the attempted murder trial until a week before the trial was scheduled to commence and in part by Ms. Anderson's partial impairment by drugs at an interview with Crown counsel. The risk that Ms. Anderson might appear at the trial impaired by illicit substances did not stand alone; the Crown's self-imposed shortage of time to prepare Ms. Anderson to testify decreased Ms. Anderson's value as a witness for the prosecution.

The fifth chapter of this report sets out recommendations for positive reform. Reform of aspects of the criminal justice system in British Columbia to generate the institutional culture and investigative capacity necessary to serve and protect sex work, drug use, Aboriginal persons and women. Cultural reforms of this type are the work of decades. This Report concludes with ancillary recommendations for changes to health and social policy that would reduce the risks to survival sex workers.

Chapter 1: Failure to Deploy Adequate Resources to Address Known Risk

The Vancouver Police Department discriminated against survival sex workers by failing to deploy adequate resources to address the risks they knew were faced by sex workers during the period of reference. This finding involves three stages of analysis: (1) police forces were aware of the levels of risk faced by survival sex workers; (2) police forces failed to deploy adequate resources to protect sex workers from the risks to their lives and safety; and (3) the failure to deploy resources was discriminatory.

Chapter 1, Part 1: Police Awareness of Risk

Vancouver Police were aware of three levels of risk to survival sex workers in the Downtown Eastside: firstly, the Vancouver Police were aware that street level sex workers in Vancouver were at heightened risk of serious violence; secondly, Vancouver Police were aware of a specific risk that a serial killer or serial killers were killing sex workers from the Downtown Eastside; and thirdly, Vancouver Police were aware that Robert William Pickton was a threat to survival sex workers in the Downtown Eastside.

A focus on police awareness of the three layers of risk answers the concern that we not criticize police for failing to respond to risks of which they were unaware or for failing to respond to risks of which they had no obligation to become aware. Given the wealth of evidence regarding police awareness of risk, it is not a product of hindsight bias to conclude that policing institutions and specific officers were well aware of the risks faced by sex workers and the risk that a serial killer was preying on them.

The First Level of Risk: Sex Workers were at Extraordinary Risk of Serious Violence

The Vancouver Police Department were aware during the period of reference that street level sex workers were at extraordinary risk of serious bodily and psychological harm from violent offences and sexual offences.

Knowledge of the extraordinary risk facing sex workers long predates the period of reference. Between 1982 and 1994, 56 sex workers were murdered in British Columbia.³ From 1985 to 1993, nearly all the murders of sex workers were murders of women from the Mount Pleasant and Downtown Eastside streets.⁴ Statistics Canada's Report on Street Prostitution in Canada⁵, published in February 1997, set out the following:

... physical and sexual assaults on street prostitutes are commonly carried out by clients, pimps and boyfriends...

³ Testimony of Prof. Lowman, October 13, 2011, p.84

⁴ Testimony of Prof. Lowman, October 17, 2011, p.85

⁵ Exhibit 145, pp.1-13

Sometimes assaults are serious enough to cause death. Indeed, 63 known prostitutes were found murdered between 1991 and 1995 (Table 4). Most (50) appeared to have been killed by customers. Eight were thought to have been killed by pimps or in a drug-related incident. The remaining deaths were at the hands of husbands, common-law spouses and boyfriends.

Almost all of the murdered prostitutes were female: 60 of the 63...

... most prostitute homicides go unsolved. At the end of 1996, 34 incidents (54%) reported between 1991 and 1995 remained unsolved. In comparison, 20% of homicide incidents involving victims other than known prostitutes were unsolved.

Vancouver sex workers, with the assistance of the non-profit organizations, Alliance for the Safety of Prostitutes, Prostitutes and Other Women for Equal Rights, and Downtown Eastside Youth Achievement Society, prepared notices called "Bad Date Sheets". Bad Date Sheets were created as a warning system so that sex workers could make each other aware of dangerous predators by describing them, their behaviour patterns and their vehicles to each other.⁶

Bad Date Sheets were an alternative to sex workers reporting crimes of violence to the police. The crimes would be reported to the non-profit organizations which would collect the data and publish it to sex workers and others. There were lots of bad dates and a significant number of repeat offenders. Sometimes the repeat offenders were described as such in the Sheets. Repeat offenders would be marked by repeated descriptions of the same individual, patterns of violence or licence plates.⁷ Indeed, the Bad Date Sheet program is predicated on the existence of repeat offenders.

The Vancouver Police Department were aware of the Bad Date Sheet program and can be taken to have understood that it was a registry of serial sex offenders and violent predators. The VPD had ongoing access to the information collected by these organizations⁸ and various VPD departments regularly looked at the Bad Date Sheets, but the VPD did not have a program to initiate investigations as a result of the information on the sheets.⁹

In 1995, Professor John Lowman, a Professor of Criminology at the Simon Fraser University School of Criminology, published a report commissioned by the Department of Justice Canada entitled "Violence Against Persons Who Prostitute: The Experience in British Columbia". The report concluded that the Bad Date Sheets reveal that 17.6 of the men described in the sheets are repeat offenders. Professor Lowman's report was provided to the Vancouver Police Department.¹⁰

⁶ Testimony of Prof. Lowman, October 17, 2011, p.85

⁷ Testimony of Prof. Lowman, October 17, 2011, p.87

⁸ Testimony of Prof. Lowman, October 17, 2011, p.90

⁹ Testimony of Prof. Lowman, October 17, 2011, p.85

¹⁰ Testimony of Prof. Lowman, October 17, 2011, pp.87-89

Containment of sex workers in isolated spaces away from main streets are correlated to a 3-fold increased likelihood of sex workers being coerced into unprotected sex by clients.¹¹ By September 1, 1998, Deputy Chief Constable Brian McGuinness, commanding officer of the Operational Support Division lent his support to the formation of a task force on Downtown Eastside Missing Persons.¹² The formation of the task force was predicated on his awareness of a field of sexual predators operating in the Downtown Eastside and an understanding of a real risk that one or more serial killers was in the Downtown Eastside.

In September 4, 1998, the President of the British Columbia Civil Liberties Association wrote to Chief Constable Bruce Chambers regarding street prostitution in Vancouver, and, in particular, the DISC program initiated by the Vancouver Police Department. The letter stated in part:

The BCCLA is as alarmed as other citizens about the dismal record we have of protecting those in the street-level sex-trade, and prosecuting those who assault and kill them. Despite the fact that their profession is viewed by many as immoral... they deserve no less protection than any other citizen. We do not mean to imply that the police have failed in their duty to protect prostitutes or adequately investigate assaults or murders. Rather, we recognize the enhanced need that street-level prostitutes have for police protection, and encourage measures to respond to that need.¹³

Implying that they read it, the following officers' names, initials and comments are handwritten on the BCCLA letter: Deputy Chief Blythe, Deputy Chief Doern, Insp. Greer, Sgt. McKellar, Sgt. Cooper. Cst. Mitchell prepared a responsive memorandum addressed to Insp. Gary Greer dated October 19, 1998.¹⁴ The section dealing with danger to sex workers is as follows:

Protection of prostitutes – the B.C.C.L.A. is concerned about the “dismal record we (who is we?) have of protecting sex trade workers. I agree that they deserve no less protection than any other citizen; the question is whether they deserve more? There is a legal doctrine known as *volenti non fit injuria*, also known as ‘assumption of risk;’. Though it is a civil doctrine generally applying to lawsuits arising out of personal injury, it is somewhat apropos here. Should society be held liable to provide enhanced protection to those who voluntarily assume such obvious personal dangers (an underlying question of course is whether, or how many, prostitutes (juvenile or adult) assume that risk voluntarily?)¹⁵

This excerpt from Cst. Mitchell’s memorandum is predicated on his awareness of heightened risk to street level sex workers. Cst. Mitchell frames the resource deployment issue as a question of “deserving” rather than “entitlement”, as though police protection

¹¹ Exhibit 6, p.41

¹² Exhibit 88

¹³ Exhibit 145, p.99

¹⁴ Exhibit 145, p.105

¹⁵ Exhibit 145, p.108

for sex workers was something that sex workers needs to earn. His framing of the issue clearly shows that sex workers' need for police protection is insufficient to his mind to justify the deployment of those resources.

Professor Lowman published a Department of Justice Report in 1995 that called for attention to high numbers of murders sex workers.¹⁶ Awareness of higher risks facing sex workers was not accompanied by a general program for effective monitoring of the orange light district.¹⁷

Chief Constable Terry Blythe knew about the high levels of risk to sex workers. His knowledge can be inferred from his February 25, 1997 press release.¹⁸

The Missing Persons Review Team was well aware of the higher risks faced by survival sex workers. By the end of August, 1998, within two months of commencing her term at the Missing Persons Unit, Det/Cst. Shenher had identified a number of serious predators active in the Downtown Eastside. In her memorandum to the Police Board authored on April 22, 1999, Sgt. Field acknowledges that sex workers “are all at high risk... and worked in a highly dangerous environment.”¹⁹ The same memorandum states:

The plight of women working the streets has always been a concern. It is obviously a high-risk situation and attracts a high number of sexual predators to the street environs. It is also a concern of the Police Department to identify and apprehend those who prey on women no matter who they are or where they live.²⁰

One telling example is in a memorandum from Det/Cst. Shenher to Sgt. Field dated May 17, 2000, responding to criticisms levelled by Dets. Fell and Wolthers, in which she asserts:

In response to paragraph three, I can only say that there has never been any concrete evidence from this traffic stop onward that Mr. Niedermeyer is anything more than a sex offender. I am not discounting the possibility, but merely stating there is no evidence to say that he is a killer other than Mr. Niedermeyer's lifestyle, and if we had the luxury to investigate each one of them for one entire year, I am sure we would likely uncover some criminal activity on their parts as well. Had Det/Csts Fell and Wolthers pursued each of those with the same vigilance, it is likely other offences would have been uncovered.²¹

It is noteworthy that just as Cst. Mitchell questions whether sex workers “deserve” extra protection, Det/Cst. Shenher describes the investigation of potential serial sex offenders – investigations which are likely to uncover offences – as a “luxury”.

¹⁶ Testimony of Prof. Lowman, October 13, 2011, p.92

¹⁷ Testimony of Prof. Lowman, October 13, 2011, p.96

¹⁸ Testimony of Prof. Lowman, October 13, 2011, p.96

¹⁹ Exhibit 146, p.144

²⁰ Exhibit 146, p.147

²¹ Exhibit 146, p.26

PACE attended an *in camera* meeting of the Vancouver Police Board on December 6, 2000 to make an advance presentation of the findings in its research paper entitled “Violence Against Women in the Vancouver Street Level Sex Trade”.²² The research reported high levels of serious violence against sex workers in the Downtown Eastside, including violence and coercion inflicted on sex workers by VPD members. The research data was provided to the Police Board in support of PACE’s proposal for the creation of a sex worker liaison position within VPD without a budget increase.

On January 29, 2001, the VPD completed an Administrative Report for the Police Board authored by Insp. Melymick.²³ The report analyzed the elements of the sex worker liaison proposal and concluded as follows that there was no shortage of resources devoted to sex worker safety:

The Vancouver Police Department has, and continues to provide the necessary levels of service relative to the Sex Trade. The issues of “trust, compassion and sensitivity” are advocated by and prescribed by our members. The continuance of training and education throughout our Organization will ensure that we successfully meet the challenges in dealing with the concerns voiced by PACE.

The Vancouver Police Department senior management²⁴ opposed the sex worker liaison position on the basis that there were already sufficient resources devoted to protecting sex workers.²⁵

When the PACE report was released publicly in early June 2000, the VPD publicly condemned the results as unsubstantiated, publicly attacked the character of its authors and removed the PACE representative from sensitivity training for its recruits.²⁶ Insp. Morris circulated an internal memorandum describing the PACE report as follows:

[the study] must at best rely on anecdotal information that can be neither proved nor disproved. Members of the Investigation Division demonstrate a commitment to serve the City of Vancouver with loyalty and dedication to duty that is above reproach. It is reprehensible that such spurious allegations should be levelled against these investigators who are forceful and uncompromising in their pursuit of violent offenders.²⁷

Insp. Morris’ reactionary comments in effect dismiss first-hand reports by sex workers attesting to their experience of abuse by police officers. Insp. Morris suggests that it is reprehensible for sex workers or sex worker advocacy groups even to suggest misconduct by officers. The record, on the other hand, reveals that violence against sex workers was

²² Testimony of Prof. Lowman, October 17, 2011, p.52-59; Exhibit 145, p.198

²³ Exhibit 145, p.217

²⁴ Cst. Russ Mitchell led the opposition before the Police Board, supported by the Chief Constable and Insp. Melymick. Testimony of Prof. Lowman, October 17, 2011, p.55

²⁵ Testimony of Prof. Lowman, October 17, 2011, p.57

²⁶ Testimony of Prof. Lowman, October 17, 2011, p.54, 59, 76-77; Exhibit 145, p.216

²⁷ Exhibit 146, p.205

widespread, and that PACE's collection of data on a confidential and anonymous basis was intended to satisfy ethics protocols for research of vulnerable populations.²⁸

One compelling example of risk to sex workers arose out of a police check and search of a man on September 10, 1999, near Salisbury Avenue and East Hastings while he was picking up a sex worker. The man, who proved to be a volunteer at the Vancouver Police Chinatown Community Policing Office, was wearing a rolled up balaclava with eye, nose and mouth slits, and he was wearing nylons. A duffel bag in the back seat of his vehicle contained a rape kit: a 9 inch butcher knife, a pair of handcuffs, a roll of duct tape. He gave contradictory answers about why he had those items.²⁹

The MAKA study authored by Dr. Kate Shannon, which conducted interviews of 237 survival sex workers in 2008, demonstrates that extreme levels of violence against sex workers exists today: 100% of sex workers in the study cohort reported verbal harassment; 67% reported physical assault; 49% reported assault with a weapon; 27% reported strangling; 26% reported abduction or kidnapping; 21% reported sexual assault; and 20% reported being thrown out of a moving car.

It is undeniable that the Vancouver Police were aware of a serious risk of sexual and physical violence against sex workers in the Downtown Eastside. This awareness gave rise to an obligation to deploy commensurate resources to respond to that risk.

The Second Level of Risk: Awareness of Significant Risk of a Serial Killer

Throughout the period of reference, Vancouver Police and Royal Canadian Mounted Police were aware of the significant risk that one or more serial killers were preying on sex workers in the Downtown Eastside.

Awareness of the risk of one or more serial killers long predated the period of reference. In 1992, the RCMP and VPD convened Project Eclipse, a multi-disciplinary, multi-jurisdictional analysis of 26 sex worker homicides in British Columbia. Project Eclipse concluded that there were up to four serial killers preying on sex workers within British Columbia,³⁰ with a high degree of probability that there was at least one serial killer.³¹ A serial killer task force was not created at that time to respond to that risk.

Within the policing circles there was widespread awareness of infamous serial killers who targeted street-level sex workers. Names of serial killers of sex workers include Gary Leon Ridgway, Peter Sutcliffe, Robert Lee Yates, Arthur Shawcross, Joel Rifkin, Gilbert Paul Jordan, Keith Jespersion, George Waterfield Russell, Kendall Francois and Jack the Ripper.³² Det/Insp. Kim Rossmo testified that it shouldn't have come as a surprise that a serial killer was active in the Downtown Eastside; many more than ten

²⁸ Testimony of Dr. Shannon. October 18, 2011, p.51

²⁹ Exhibit 146, pp.205 and 206. There was no record of a meaningful investigation of the VPD Community Policing volunteer.

³⁰ Testimony of Kim Rossmo. January 26, 2012, p.21

³¹ Exhibit 146, pp.262, 263

³² Testimony of Prof. Lowman, October 17, 2011, p.81-83. Exhibit 67, pp.26 and 27

serial killers were active in the Pacific Northwest from 1980 to 2000, and at least three of them were active at any given time.³³

By September 1, 1998, Deputy Chief Constable Brian McGuinness, commanding officer of the Operational Support Division, lent his support to the formation of a task force on Downtown Eastside Missing Persons.³⁴ The formation of the task force was predicated on the awareness of a field of sexual predators operating in the Downtown Eastside and an understanding of a real risk that one or more serial killers was operating in the Downtown Eastside.

In 1999, Professor Lowman warned that there was a strong possibility of an active serial killer preying on sex workers in the Downtown Eastside.³⁵ Professor Lowman had a long working relationship with the Vancouver Police, and his expertise in the area lent his opinion some authority.

In April of 1999, Det/Cst. Lori Shenher travelled to Poughkeepsie, New York, to confer with investigators into the serial killing of eight sex workers who disappeared from their stroll within a period of 22 months, in approximately 1996 or 1997.^{36 37} According to Det/Cst. Shenher, their lead investigator told her that they only had disappearances, no bodies, no indications of foul play. The perpetrator proved to be a regular customer.³⁸ The area from which the women disappeared was similar in terms of poverty.³⁹

Det/Cst. Shenher understood the Poughkeepsie disappearances to be very similar to the disappearances in Vancouver. After Det/Cst. Shenher became aware of the Poughkeepsie murders in April of 1999, it ceased to be plausible for Project Amelia to deny the existence of a serial killer with the ability to dispose of bodies, even if it had been plausible before that date.

In May of 1999, Det/Insp. Rossmo completed a statistical analysis demonstrating that the missing women were very unlikely to be found. Although it ultimately did not flourish as such, Project Amelia was intended to be a suspect-based investigation predicated on the assumption that one or more of the suspects were responsible for making the missing women disappear.

On June 16, 1999, RCMP profiler Keith Davidson completed and distributed his case profile report, entitled Project Orion, which outlined the risk of a serial killer preying on sex workers. The report was given to D/Comm. Gary Bass and Vancouver Police members.⁴⁰

³³ Testimony of Kim Rossmo. January 26, 2012, p.24

³⁴ Exhibit 88

³⁵ Testimony of Prof. Lowman, October 13, 2011, p.131

³⁶ Exhibit 146, p.159

³⁷ Testimony of Doug Lepard. November 29, 2011, p.146

³⁸ Exhibit 146, p.167

³⁹ Exhibit 146, p.172

⁴⁰ Testimony of Keith Davidson. May 24, 2012, pp.10-12

On May 5, 2000, Det/Csts Fell and Wolthers described the state of affairs at the time they were ejected from Project Amelia: “The MPRT investigation is quite simply uncharted policing territory. Twenty-two women missing without a trace since 1995 would bring any experienced investigator to the conclusion 22 women [been] murdered by a serial killer(s).”⁴¹ The likelihood of a serial killer or killers preying on sex workers in the Downtown Eastside was reiterated by Det/Csts. Fell and Wolthers in their memorandum to Chief Constable Terry Blythe dated May 12, 2000.

Aside from a period from January 2000 to December of 2000, sex workers from the Downtown Eastside regularly disappeared during the period of reference, at a rate of one woman approximately every six weeks.⁴²

It was not established to an absolute certainty in the minds of senior Vancouver Police and RCMP management that a serial killer was preying on sex workers in the Downtown Eastside. However, VPD and RCMP senior management and front-line investigators knew beyond any doubt that there was a significant risk that a serial killer was preying on sex workers in the Downtown Eastside. Awareness of that risk gave rise to an obligation on the part of the Vancouver Police and Provincial RCMP services to deploy a commensurate level of resources to protect sex workers and an obligation to warn sex workers of the risk of a serial killer.

The Third Level of Risk: Awareness that Mr. Pickton was a Threat to Sex Workers

Throughout the period of reference, Vancouver Police, Port Coquitlam RCMP, and Provincial RCMP were aware that Robert William Pickton was a serious threat to survival sex workers. Their awareness of this risk arose from multiple independent sources of corroborating information.

Following the arrest of Robert William Pickton for his attack on Ms. Anderson, Port Coquitlam RCMP was aware that Robert Pickton was a risk to sex workers. Cpl. Connor’s Report to Crown Counsel recommended that his bail conditions include a term preventing him from attending at any place where prostitution is taking place.⁴³ Such a condition implies that the officer requesting it is aware of a risk posed by the accused.

After Robert Pickton’s arrest in March of 1997, Cpl. Connor of the Port Coquitlam RCMP detachment released a CPIC message to all Lower Mainland Detachments and Police Departments. The CPIC message set out details of the attack and set out the following conclusions:

⁴¹ Exhibit 146, p.176

⁴² Exhibit 33. Timeline of missing women reports.

⁴³ While it is the case that Crown counsel Richard Romano failed to impose a condition preventing Robert Pickton from attending prostitution strolls or preventing him from attending the Downtown Eastside of Vancouver, where Robert Pickton was known to have picked up Ms. Anderson, the failure of Crown counsel to impose bail conditions does not fall within the terms of reference, and cannot be the subject of findings of fact at this Inquiry.

It has been determined that [Anderson] is an East Hastings area hooker and Pickton is known to frequent that area weekly (?).

Given the violence shown by Pickton towards prostitutes and women in general, this information is being forwarded to your attention should you have like offences etc. We suspect that in the near future we will have photographs of this subject.⁴⁴

Cpl. Connor's source of information that Robert Pickton is known to frequent the East Hastings area weekly and has shown violence towards sex workers (in the plural) and women in general is unknown. It appears, however, that Cpl. Connor had been in touch with Sgt. Field, who had five years of experience in the Vancouver Police sexual offence squad, about Anderson's history as a sex worker, and she may have relayed the information about Anderson and perhaps the information about Robert Pickton to him.⁴⁵

It also appears that the Port Coquitlam RCMP had sources of information about Robert Pickton within the detachment, including a civilian employee named Bev Hyacinthe, who was sufficiently well-placed to report to Cpl. Connor that Mr. Pickton had become aware of covert surveillance. The source of Cpl. Connor's information that Mr. Pickton was violent towards sex workers and women in general was not revealed with any certainty at the Inquiry, in part due to the Commission's decision not to hear testimony from Bev Hyacinthe and in part due to the Commission's decision to abbreviate cross-examination of Port Coquitlam RCMP witnesses.

Whatever the source of Cpl. Connor's information, the broadcast of his CPIC entry is strong evidence of widespread police awareness as of March 1997 that Robert Pickton was a threat specifically to sex workers in the Downtown Eastside.

In August and early September, 1998, William Hiscox provided police with detailed information about the threat Robert William Pickton posed to sex workers in the Downtown Eastside. The information provided by Mr. Hiscox included details about Mr. Pickton's attack on Ms. Anderson, asserted that Robert Pickton had killed Sarah de Vries, that he was responsible for the missing women, and that he had a means of disposing of bodies.

The information provided by William Hiscox to the Vancouver Police was considered credible by Det/Cst. Lori Shenher, to whom it was initially given. Mr. Hiscox's information was considered reliable by Cpl. Connor of the Port Coquitlam RCMP, to whom the information was quickly relayed by Det/Cst. Shenher. The high level of detail of the information and its partial corroboration by credible information about the Anderson attack deepened the VPD and RCMP's knowledge of the risks posed by Robert William Pickton.

⁴⁴ Exhibit 146, p.133

⁴⁵ Cross-examination of Sgt. Field was severely time-limited and she testified in a panel format next to her former superiors.

In addition to the information provided by Mr. Hiscox in August and September of 1998, the New Westminster Police Department caught Mr. Pickton and Ms. Ellingsen “prowling” for sex workers on the 12th Avenue stroll in New Westminster in March of 1999. Mr. Pickton and Ms. Ellingsen explained that they were just out for a drive. Handwritten notes of Cst. Yurkiw of the Port Coquitlam RCMP detachment state that this occurred on March 21, 1999 and many other documents confirm that the information was distributed to VPD and RCMP.⁴⁶

In late March of 1999, Robert Pickton was identified as the primary suspect in a violent attack and attempted strangulation of a New Westminster sex worker. This information was relayed to Cpl. Connor. Ultimately, the sex worker did not wish to cooperate with police investigators, but the initial identification of Robert Pickton as the assailant was believed to be credible information.

On July 30, 1999, Ross Caldwell provided information to the Vancouver Police Department after speaking with the Port Coquitlam detachment of the RCMP. The information was that “Pickton utilized his girlfriend, at the time, to get a hooker, once Pickton got the hooker to his trailer he took her into his bedroom sexually assaulted her, then began to beat her up, he then took her from the bedroom in handcuffs and out to an outbuilding, he was observed to have the hooker hanging by the neck and was skinning her.”⁴⁷ Ross Caldwell received this information directly from Ms. Ellingsen.

The information provided by Ross Caldwell in July of 1999 was independently corroborated by Ms. Ellingsen’s common-law husband, Ron Menard, and by an acquaintance of Ms. Ellingsen, Leah Best, throughout August and September of 1999.⁴⁸ When interviewed, Ms. Ellingsen confirmed aspects of the information, and in particular, confirmed that she had received money from Mr. Pickton, who had asked her and an unknown sex worker, “Which one of you is first?” before going into a room in his trailer with the sex worker. Surveillance of Mr. Pickton in mid-August confirmed that he attended the West Coast Reduction facilities near the Downtown Eastside of Vancouver, which corroborated informant statements and confirmed Mr. Pickton’s ability to dispose of bodies.

The accretive effect of the many sources of information was reflected in Det/Cst. Shenher’s memorandum to Sgt. Field dated May 17, 2000:

Had Det/Csts. Fell and Wolthers not been so fixated on Mr. Niedermeyer, they would have seen from other MPRT and Bad Date Sheet entries that this behaviour is not unique among sex trade consumers and sex offenders. Mr. Picton [sic] is a very good example of a potential suspect. Det/Csts Fell and Wolthers were never interested in him despite the comparatively large amount of information suggesting he is an excellent suspect.⁴⁹

⁴⁶ Exhibit 146, p.116

⁴⁷ Exhibit 146, p.118

⁴⁸ Exhibit 146, p.116

⁴⁹ Exhibit 146, p.26

Possession of a “comparatively large amount of information suggesting that Robert Pickton is an excellent suspect” in the missing women cases reflects an awareness that Robert Pickton was a threat to survival sex workers.

The evidence supports the inference that from March of 1997 onwards, and to a greater extent as time went on, the Vancouver Police, the Provincial RCMP service, and the Port Coquitlam detachment were aware the Mr. Pickton posed a risk to sex workers living and working in the Downtown Eastside.

Awareness of Three Levels of Risk

Vancouver Police, Provincial RCMP, and Port Coquitlam RCMP were aware that sex workers in the Downtown Eastside faced three levels of risk during the period of reference: risk of serious violence and sexual assault; risk of death from one or more serial killers; and the risk posed by Robert William Pickton. VPD and RMCP had an obligation to respond to each of these levels of risk.

Chapter 1, Part 2: Adequate Resources Were Not Deployed

The evidence reveals that Vancouver Police, Provincial RCMP and the Port Coquitlam RCMP failed to devote the appropriate quality or quantity of resources to address any of the three levels of risk to the lives and safety of sex workers. There was no general devotion of resources to deal with known serial sexual predators, no true serial killer investigation, and no adequate investigation of Robert William Pickton.

The measure of the adequacy of the resources devoted to a risk should be guided by the principle that all persons are entitled to the equal protection of the law, in proportion to the risks they face. The resources devoted to the three levels of risk to sex workers were not in proportion to those risks.

RCMP profiler Keith Davidson testified that the adequacy of the resources devoted to a serial killer investigation would depend on a number of factors that a command triangle⁵⁰ should assess on an ongoing basis. Delayed investigation of tips, loss of up-to-date information about missing women, and losing track of or failing to investigate people on a suspect list are indications that insufficient resources are devoted to the investigation.⁵¹

Geographic profiler Det/Insp. Kim Rossmo testified that generally a serial murder investigation involves 30 to 200 detectives depending on the scope of the investigation.⁵² The evidence reveals that at neither the Vancouver Police nor the RCMP devoted

⁵⁰ Use of Major Case Management principles, including command triangles, was recommended by Mr. Justice Archie Campbell in the Bernardo Inquiry, which released its report in June of 1996. Insp. Lepard was aware of the recommendations of the Campbell Inquiry.

⁵¹ Testimony of Keith Davidson. May 24, 2012, p.16-18

⁵² Testimony of Kim Rossmo. January 26, 2012, p.19

anywhere near 30 to 200 detectives to investigate the missing women cases at any time during the period of reference.

i) Prior to July 1998

This Inquiry heard compelling reports of police refusal to respond to widespread violence against sex workers prior to July of 1998.

There were many anecdotes of specific incidents of police refusal to respond to specific incidents: Susan Davis reported that she waited on a street corner for an hour for police to arrive after reporting that she had been raped at knifepoint⁵³; Sarah De Vries' diary relays her account of her sexual and physical violation by a man, and indifference to the offences committed against her by police, and their degrading treatment of her at a detachment; Ms. Davies relays that she witnessed a female officer tell a sex worker that she did not want to hear about a bad date, and hearing an officer say, "Good", when told that a sex worker had been violently sexually assaulted⁵⁴; Rae-Lyn Dicks testified, and police records confirm, that when a 14 year old sex worker reported a devastating rape, it took Vancouver Police over three hours to attend the hospital to obtain her statement.

ii) July 1998 to May 1999

From July 1998 to May 1999, Det/Cst. Shenher worked almost alone, without meaningful supervision, on the missing women files. The deployment of a single officer was inadequate to address any of the three levels of risk faced by sex workers in the Downtown Eastside. Det/Cst. Shenher was unable on her own to conduct a thorough investigation either into past disappearances or into the 13 new disappearances that were reported from July of 1998 to May of 1999.

Det/Cst. Shenher worked from July 1998 to May 1999 without a computer database system of any type to organize her work. She was unable to or was not tasked to perform a review of past missing persons files. She assumed conduct of files identified on an intuitive basis by Sandra Cameron. The mandate imposed on her by her superiors was to locate the missing women; she was directed to assume that they were still alive and she was effectively directed not to assume that the women had met with foul play.

Det/Cst. Shenher's investigation of Robert William Pickton was inept; she lacked the training and experience necessary to conduct a homicide investigation. She unwittingly betrayed the identity of her informant, William Hiscox, to Cpl. Connor. Although resources to conduct an undercover operation or to pursue a search warrant may have been available to her and to Cpl. Connor, both of them failed to pursue those investigative avenues.

There is no guarantee that the execution of a search warrant on the Pickton property on Dominion Avenue would have yielded evidence of an offence, and no guarantee that an

⁵³ Testimony of Susan Davis. October 31, 2011, p.24

⁵⁴ Testimony of Susan Davis. October 31, 2011, p.46

undercover operation would have succeeded. The only guarantee was that the failure to take investigative steps would lead to investigative failure.

Det/Csts. Fell and Wolthers note in their critical memorandum dated May 12, 2000 to Chief Constable Blythe that:

Upon our assignment to the MPRT we discovered that the investigators involved failed to thoroughly check out all aspects of the disappearance of the missing STWs. Examples include failing to question close friends, associates, neighbours or street people. There was even a failure to check a missing STWs effects or premises.⁵⁵

In Det/Cst. Shenher's responsive May 17, 2000 memorandum, she does not deny that the work had not been done, but states instead, "Perhaps Det/Csts. Fell and Wolthers do not understand that prior to the formation of the MRPT in May, 1999, only two investigators had been working on the thirty-one files. There was not a failure to do these tasks, but an inability to do them due to time constraints."⁵⁶

The Vancouver Homicide unit did not investigate the disappearances of sex workers within their jurisdiction. No explanation was afforded for their failure to investigate. Det/Cst. Shenher advised that she consulted with experienced homicide detectives on an ongoing basis. She testified that Insp. Ditchfield told her before her assignment to Missing Persons that the missing women cases could very possibly turn into a serial killer investigation.⁵⁷

The Provincial Police service, implemented by contract with the Royal Canadian Mounted Police ("E-Division"), did nothing to protect sex workers or investigate their disappearances from July 1998 to May 1999. The Provincial Police Service was aware of the risks associated with the disappearances because Keith Davidson, and RCMP profiler, was involved with and advised the Missing Persons Working Group and was aware of the status of the investigations throughout.

The Provincial Unsolved Homicide Unit, which had a highly discretionary mandate influenced by A/Comm. Gary Bass, did not investigate the disappearances despite the reality that many of the disappearances were "historical" in nature in the sense that they had remained unsolved for more than a year. It was repeatedly denied that UHU had an informal "no body, no homicide" policy, but no explanation was afforded for UHU's failure to investigate.

From July 1998 to May 1999, the Vancouver Police and RCMP at a municipal and Provincial levels did not respond meaningfully to the three levels of threat to sex workers.

⁵⁵ Exhibit 146, p.185

⁵⁶ Exhibit 146, p.30

⁵⁷ Testimony of Det/Cst. Shenher. January 30, 2012, p.52

iii) *May 1999 to November 2000 (“Project Amelia”)*

Project Amelia, which was functional between May 19, 1999 and November of 2000, with one notable exception, failed to address any of the three levels of risk to sex workers of which the VPD were aware.

Project Amelia did not address the widespread risk of violence and rape faced by survival sex workers in the Downtown Eastside. Det/Cst. Shenher in her memorandum to Sgt. Field dated May 17, 2000, referred to general investigation of serial sex predators as a “luxury”.⁵⁸ In the same memorandum, more than a year after Project Amelia started, Det/Cst. Shenher admits that entry of Bad Date sheet information, which includes first hand observations of predators by sex workers⁵⁹, was “in the plans”⁶⁰ and had not been done “because there is far too much work from one person to enter and that backlog has been huge”.⁶¹ Project Amelia was in no way oriented towards the detection and apprehension or deterrence of the many sexual predators targeting sex workers.

Project Amelia did not address the risk that a killer or killers was preying on survival sex workers. Project Amelia was not a suspect focussed serial killer investigation. As Sgt. Field admits in her debriefing memorandum to Insp. Spencer dated May 17, 2000: “this was still a missing persons investigation and not a serial killer investigation as [Fell and Wolthers] allude to constantly.”⁶²

Det. Dan Dickout also confirms that Project Amelia was not a suspect focussed investigation in his April 5, 2004 interview with Deputy Chief Lepard:

Right from the get go when the MWRT was started up, the big push was to find the women, they weren't murdered, they were just missing, like we know addicted hookers will do, so we spent a lot of time checking the death records across the country. So when they found the 4, that was the great thing. But we had MW, and we had unknown human remains as well. They found the one who died in Alberta. The push was to find them, but there was no push to find a serial killer. I probably believed there was a serial killer.⁶³

Project Amelia's lack of suspect focus was the subject of critical mention in Det/Csts. Fell and Wolthers memorandum to Chief Constable Blythe. In their view, as of May 12, 2000, “there appeared to be no serious attempts at apprehending anyone responsible for the missing STWs. Until the arrest of Mr. Niedermeyer by D/Cs Mark Wolthers and Doug Fell, the MPRT had not even generated a single arrest of a simple assault on a STW.”⁶⁴

⁵⁸ Exhibit 146, p.26

⁵⁹ The Bad Date Sheets set out first-hand descriptions of serial sex offenders and their vehicles, and in some cases, their licence plates.

⁶⁰ Exhibit 146, p.26

⁶¹ Exhibit 146, p.27

⁶² Exhibit 146, p.151

⁶³ Exhibit 146, p.82

⁶⁴ Exhibit 146, p.185

Around November of 1999, Dets. Lepine and Chernoff were reassigned from Project Amelia to Homicide and they were not replaced. Det/Cst. Alex Clarke, who had been conducting a manual review of indigent burial records in an effort to locate the women among the unidentified deceased, was reassigned from Project Amelia at around the same time, and she was not replaced. In May of 2000, at Sgt. Field's and Det/Cst. Shenher's joint request, Det/Csts. Fell and Wolthers were reassigned from Project Amelia and they were not replaced.

Failure to replace resources that were assigned away from Project Amelia was contrary to the known investigative needs. An accurate assessment of the resource needs during that period is set out in Sgt. Field's May 17, 2000 memorandum to Insp. Spencer:

This investigation is very complex and difficult. Det/Cst. Shenher has done an excellent job under extremely difficult circumstances. It will require further extensive resources to reach any reasonable conclusion and it is my understanding that efforts are underway to address this need.⁶⁵

Similarly, after Det/Csts. Fell and Wolthers were given Sgt. Field's May 3, 2000 memorandum, they noted in their May 5, 2000 memorandum to Sgt. Field that that it remained for the Review Team to complete the following steps:

Follow up on SUISS-generated information
Continuation of the showing of offender's photos to STW (round 2)
Further review of all Missing person files
Review of information generated through the tip lines
Establishing protocol and procedure with DEYAS members for collection of bad date information
Establishing police procedure for the handling of DEYAS bad date information
Conclude POI434 file
Conclude [another suspect] file
Further investigation of [another suspect]⁶⁶

The viable investigative avenues listed above were not completed by Project Amelia after May of 2000. The steps emphasized obtaining information directly from sex workers by showing them photo packs and channelling the bad date sheet information to police. After Fell and Wolthers were removed from Project Amelia, efforts by field investigators to reach out directly to sex workers would not occur again until late January of 2002.

Another avenue of investigation suggested by Det/Csts. Fell and Wolthers in their memorandum to Chief Constable Blythe on May 12, 2000 was mining Bad Date Sheets dating back to 1988 that included an abundance of information identifying licence plates and suspects that had never been looked at.⁶⁷ This information had not been entered into

⁶⁵ Exhibit 146, p.151

⁶⁶ Exhibit 146, p.176

⁶⁷ Exhibit 146, p.181

the computer so no comparison had been made.⁶⁸ This work was not done by Project Amelia after May of 2000, and it is unclear whether it was ever done.

In their May 12, 2000 memorandum to Chief Constable Blythe, Det/Csts. Fell and Wolthers articulate the following dire warning:

At the time of this writing, there are three other excellent suspects which have surfaced from the investigative efforts of D/Cs Mark Wolthers and Doug Fell. These suspects do not include ones that may surface from a proven computer program.

It is unconscionable to think that personality conflicts could cause the transfer of D/Cs Mark Wolthers and Doug Fell at such a crucial time when the Vancouver Police Department's MPRT are narrowing in on persons responsible for the Missing Downtown Eastside Women.⁶⁹

Notwithstanding this warning, Chief Constable Blythe did not assign investigators to follow up on the leads brought to his attention by Fell and Wolthers.

From May to November of 2000, "further extensive resources" were not assigned to Project Amelia and, as Sgt. Field predicted, Project Amelia did not "reach any reasonable conclusion". By the end of May of 2000, less than a year after its commencement, only Cst. Shenher remained on Project Amelia. Her time, from May of 2000 to November of 2000 was consumed by her attempts to organize files that were too embarrassingly disorganized to transfer to the Provincial RCMP for a review.

There are no documents setting out the reasons why the Vancouver Police Department failed to pursue viable and necessary investigative strategies after May of 2000. In May of 2000, Sgt. Field reports that the Provincial Unsolved Homicide Unit or a Joint Task Force would investigate the missing women, but, of course, UHU did not investigate the missing women and a Joint Task Force agreement was not signed and work did not seriously commence on a Joint Task Force until April of 2001.

Nothing had occurred to diminish the general risk to sex workers, the risk of a serial killer of sex workers, or the risk posed by Robert William Pickton. Indeed, Jennifer Furminger was reported missing in March of 2000, and Brenda Wolfe was reported missing in April of 2000.

Vancouver Police senior management failed to assign adequate supervisory or leadership resources to Project Amelia. As set out by Sgt. Field in her memorandum to Insp. Spencer dated May 17, 2000:

It became apparent that the team was in need of a constant "leader". Some who would be in the project room the majority of the time. I had already requested

⁶⁸ Exhibit 146, p.182

⁶⁹ Exhibit 146, p.186

another Sergeant be assigned to the team but was advised none was available. Det/Cst. Shenher was not able to control Fell and Wolthers or to obtain the required information from them... It was decided that Det. Lepine would act in the capacity of an A/Sgt. For the team. A/Sgt. Lepine would keep me apprised of the progress of the investigation. This was the situation for a very short time due to summer annual leaves and the re-assignment of Lepine and Chernoff back to Homicide because of a serious double murder investigation that was taxing the whole squad.⁷⁰

Det. Lepine testified that he was on the verge of retirement and was unwilling to act in a supervisory role for what appeared from the outset to be a long investigation. An Investigative Services Division internal report states that Det. Lepine's stint as Acting Sergeant "did not last very long as he was routinely pulled away and assigned to new homicide investigations."⁷¹ Sgt. Field admitted that Det/Cst. Shenher asked to be appointed A/Sgt. for the investigation but that Insp. Doern refused that request. Project Amelia was without meaningful supervision throughout its brief existence.

The finding that Project Amelia's supervision was inadequate is confirmed by the Internal Services Division internal report:

Supervision was an issue with the MPRT due to the fact that the NCO was unable to fully commit to the investigation. Sergeant Field was constantly being pulled away to other duties as was Detective Lepine when he was put in charge. Detective Constable Shenher, as the file coordinator, was not given Acting Sergeant status and did not feel she could exercise the necessary authority.⁷²

During Project Amelia, the VPD failed to adequately supervise Det/Cst. Shenher and the Review Team. As recalled by Insp. Spencer in his interview with Deputy Chief Lepard, "Geramy [Sgt. Field] may have been in charge, but I think I put her in charge to deal with the problems. I think she was working on this off the side of her desk, trying to work on this, and having difficulty with Fell and Wolthers."⁷³ Senior management was aware from the outset that Project Amelia was inadequately supervised.

The Port Coquitlam investigation during August of 1999 had sufficient numbers of investigators, but it was beset by incompetence and interference, particularly on the part of Cpl. Henley, who interfered, contrary to his direction, with the interrogation of the suspect Lynn Ellingsen, who had confessed to Mr. Menard, Mr. Caldwell and Ms. Best to serious offences amounting to kidnapping, unlawful confinement and murder.

After August of 1999, the Port Coquitlam investigation of Robert Pickton was deprioritized. Surveillance of Mr. Pickton was called off despite the West Coast Reduction information. There was no interview of West Coast Reduction employees and the West Coast Reduction records were not reviewed. An experienced but incompetent

⁷⁰ Exhibit 146, p.150

⁷¹ Exhibit 146, p.191

⁷² Exhibit 146, p.194

⁷³ Exhibit 146, p.43

investigator, Cst. Yurkiw, was assigned to interview Robert Pickton but failed to question him in September of 1999 because he asked her to “come back in the rainy season.” The interview of Mr. Pickton in February of 2000 was impromptu and unplanned; it occurred only due to a chance meeting of Cst. Yurkiw and Gina Huston. There was no follow-up from the February 2000 interview. Aside from the brief and unplanned interview of Robert Pickton, few if any investigative steps were taken.

On February 14, 2000, an investigative team met to address the Port Coquitlam RCMP investigation of Robert Pickton.⁷⁴ Profiler Keith Davidson was in attendance. It was resolved at that meeting to pursue a wiretap authorization and a search warrant, but those efforts were never made within the Port Coquitlam detachment or by E-Division investigators.

v) November 2000 to late January 2001

Between November 2000 and late January 2001, the Vancouver Police Department did not meaningfully respond to the three levels of risk facing survival sex workers. There was no general deployment to address the high rates of serious violence and sexual assault of sex workers. There was no VPD serial killer investigation. There was no VPD investigation of Robert Pickton from November 2000 to late January 2001.

The Royal Canadian Mounted Police similarly did not address general violence against sex workers or Robert William Pickton. The RCMP investigation, dubbed “Evenhanded”, during this time amounted to an attempt to structure a comparison of historical offences with DNA evidence and the DNA of potential offenders.

Despite RCMP knowledge of ongoing disappearances as of February of 2001, Project Evenhanded did not adjust to investigate an ongoing serial killer until late January of 2002. Det. McKnight admitted, to his credit, that he had not drawn an inference available to him from the evidence, and he admitted that Project Evenhanded did not adapt quickly enough to knowledge that the serial killer was active.

In contrast to Det. McKnight’s candour, Sgt. Don Adam did not offer any meaningful explanation for his failure to respond to knowledge of ongoing disappearances of sex workers. Cpl. Adam was evasive and resistant to admitting that the ongoing disappearances of sex workers throughout 2001 were meaningful or deserved a meaningful response from their investigative force. Cpl. Adam disavowed responsibility for keeping track of the new missing women.

From November 2000 to late January 2001, Project Evenhanded did not address the risk posed to sex workers by Robert William Pickton. The Port Coquitlam investigative files from the attack on Ms. Anderson were reviewed by Sgt. Adam and Sgt. Adam had access to the information provided by Mr. Hiscox, Mr. Menard, Ms. Best and Mr. Caldwell.⁷⁵

⁷⁴ Testimony of Keith Davidson. May 24, 2012, pp.37-40

⁷⁵ Testimony of Don Adam. February 29, 2012, p.179

Despite being aware of the risk posed to sex workers by Mr. Pickton, Project Evenhanded investigators did not investigate him. Instead, Sgt. Adam constructed a very wide net to create a tiered list of suspects, ranked by their propensity to commit violence against women and sex workers. Sgt. Adam testified that by mid-Summer of 2001, more than two dozen suspects were in the first, most dangerous, tier of suspects.

Casting such a broad net for suspects was clearly not directed exclusively to the investigation of missing women. The criteria for prioritizing tier one suspects did not include the sustained ability to effectively dispose of bodies over a period of at least five years. Det. McKnight admitted that it made sense to include the ability to dispose of bodies as a criterion for tier one suspects.⁷⁶

If the ability to dispose of sex worker's bodies had been used as a criterion, the list of tier one suspects would have been significantly smaller, and Robert William Pickton would have been on the 'first tier' list of suspects because his ability to dispose of bodies was known from the information provided by Mr. Hiscox.⁷⁷

vi) Late January 2001 to March 2001

In late January of 2001, Project Evenhanded deployed 12 field investigators to interview street level sex workers in the Downtown Eastside. This level of investigation was an appropriate deployment of resources to respond to the risk of a serial killer or killers preying on sex workers.

After Robert Pickton was arrested, the field investigators were diminished in number. In March of 2001, the remaining field investigators were subsumed into the Robert Pickton investigation. The residual risk that serial killers other than Robert William Pickton were continuing to prey on sex workers after Mr. Pickton's arrest remained uninvestigated. There was no evidence of a meaningful investigation after March of 2001 for the killer or cause of the disappearances of the over 35 missing women whose DNA was not discovered at the Dominion Avenue property.

vii) The Director of Police Services

The Director of Police Services within the Province of British Columbia has an important oversight and supervisory role over policing policy and operations, including investigative priorities.

The Director of Police Services has the following powers under the *Police Act*:

- 40** (1) Without limiting section 39 (1), the director has the following functions:
- (a) to inspect and report on the quality and standard of policing and law enforcement services delivery;
 - (a.1) to establish standards respecting the following:

⁷⁶ Testimony of Jim McKnight. May 24, 2012, pp.143-144

⁷⁷ Testimony of Don Adam. February 29, 2012, pp.170-180

- (i) the training of persons to become officers or IIO investigators;
 - (ii) the training and retraining of officers, IIO investigators or the chief civilian director;
 - (iii) the use of force;
 - (iv) places of detention and equipment and supplies to be used in relation to policing and law enforcement;
 - (v) cooperation between the independent investigations office and the provincial police force, municipal police departments, designated policing units and designated law enforcement units in relation to investigations by the independent investigations office;
 - (vi) cooperation and coordination among the provincial police force, municipal police departments and designated policing units in relation to investigations that are complex or involve serious crimes, including, without limitation, investigations of murder, attempted murder, sexual assault, kidnapping, armed robbery or money laundering;
- (a.2) to evaluate compliance with the following:
- (i) the director's standards;
 - (ii) section 68.1 [*requirement to use information management system*];
- (b) to maintain a system of statistical records required to carry out inspections, evaluations and research studies;
- (c) to consult with and provide information and advice to the minister, chief civilian director, chief constables, chief officers, boards and committees, on matters related to policing and law enforcement;
- (d) to make recommendations to the minister about appointments to a board;
- (e) to make recommendations to the minister on
- (i) the minimum standards for the selection and training of officers or IIO investigators or classes of officers,
 - (ii) the use of force by officers or IIO investigators or classes of officers, including, without limitation, their training and retraining in the use of force, and
 - (iii) any other matter related to policing and law enforcement;
- (f) to establish and carry out, or approve and supervise, programs to promote cooperative and productive relationships between officers or IIO investigators and the public;
- (g) to assist in the coordination of policing and law enforcement provided by the independent investigations office, provincial police force, municipal police departments, designated policing units and designated law enforcement units;
- (h) to report to the minister on the activities of police forces, police departments, designated policing units and designated law enforcement units in their provision of policing and law enforcement services;
- (i) to perform other functions and duties assigned to the director under this Act or under the *Security Services Act*.

The Director of Police Service enjoys comprehensive powers to inspect and report on the quality of police services and to ensure cooperation and coordination between police services. Contributing to and reporting on the inter-departmental investigation of missing women was squarely within the mandate of the Director of Police Services.

Before, during and after the period of reference, the Director of Police Services failed to exercise his powers to require investigation into the risk of a serial killer and failed to ensure that police protected survival sex workers from the well-known extraordinary risk of serious sexual and physical violence. Moreover, the Director of Police Services failed to implement a Province-wide missing persons system when disasters caused by the fragmented municipality-based missing persons system became publicly apparent.

Regrettably, the Director of Police Services during the period of reference, Kevin Begg, was not called as a witness at this Inquiry to answer to the failings of his office, and the records of the Director of Police Services were not disclosed to participants at the Inquiry.

viii) Conclusion

The Vancouver Police, Provincial RCMP and Port Coquitlam RCMP failed to devote adequate resources to protect survival sex workers from the many risks they faced. There was no adequate police response to the ongoing risk to sex workers of sexual and physical violence. Adequate resources were not devoted to investigate the risk of a serial killer or to protect sex workers from the risk of a serial killer. The VPD failed to devote adequate resources to protect sex workers from the risk they faced from Robert William Pickton.

The whole of the evidence supports the conclusion that the Vancouver Police and the RCMP at all levels failed to satisfy the overarching principle that all persons, at whatever station or position in society, are entitled to police protection in proportion to the risks they face.

Chapter 1, Part 3: Failure To Investigate Was Discriminatory

The failure of the VPD and RCMP to deploy investigative resources to respond to the three levels of risk was discriminatory. The failure to deploy resources was a breach of the principle, guaranteed by s.15 of the *Canadian Charter of Rights and Freedoms*, that every person is entitled to the equal protection of the law.

Section 15 of the *Charter of Rights and Freedoms* provides as follows:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The principle underlying the equality rights in s.15 was recently set out by the Supreme Court of Canada in *Withler*⁷⁸:

To resolve this appeal, we must consider comparison and the role of “mirror” comparator groups under s.15(1), an issue that divided the courts below. In our view, the central issue in this and other s.15(1) cases is whether the impugned law violates the animating norm of s.15(1), substantive equality: [*Andrews*]. To determine whether the law violates this norm, the matter must be considered in the full context of the case, including the law’s real impact on the claimants and members of the group to which they belong. The central s.15(1) concern is substantive, not formal, equality. A formal equality analysis based on mirror comparator groups can be detrimental to the analysis. Care must be taken to avoid converting the inquiry in to substantive equality into a formalistic and arbitrary search for the “proper” comparator group. At the end of the day there is only one question: Does the challenged law violate the norm of substantive equality in s.15(1) of the *Charter*?

... The question is whether, having regard to all relevant factors, the impugned measure perpetuates disadvantage or stereotypes the claimant group, contrary to s.15(1) of the *Charter*.

The Supreme Court in *Withler* rejected the “mirror comparator group” approach requiring a comparison between groups closely matched to one another but for the discriminatory factor.

Discrimination was defined in the *Andrews* case as follows:

... discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed on others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society.⁷⁹

The definition in *Andrews* was elaborated into a two-part test in *Kapp*:

[17] The template in *Andrews*, as further developed in a series of cases culminating in *Law v. Canada (Minister of Employment and Immigration)*, [1999 CanLII 675 \(SCC\)](#), [1999] 1 S.C.R. 497, established in essence a two-part test for showing discrimination under [s. 15\(1\)](#): (1) Does the law create a distinction based on an enumerated or analogous ground? (2) Does the distinction create a

⁷⁸ *Withler v. Canada (Attorney General)*, 2011 SCC 12

⁷⁹ *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143

disadvantage by perpetuating prejudice or stereotyping? These were divided, in *Law*, into three steps, but in our view the test is, in substance, the same.⁸⁰

Survival sex workers are, in themselves, a vulnerable status group that is entitled to protection from discrimination under s.15(1) of the *Charter* due to their vulnerability and need for protection. Moreover, the high proportion of Aboriginal persons, the high proportion of women, and the high rate of addiction, trauma, and disability within the survival sex worker community, justify recognition that survival sex workers are persons who are protected by enumerated ground of discrimination.

Although a “mirror” comparator group is not necessary and may be undesirable, a discrimination analysis under s.15 of the *Charter* requires comparative reference to other groups or individuals who receive comparatively higher rates of protection from police forces. In this case, an apt comparison is to the level of protection afforded to persons at risk of home invasion within Vancouver by means of the Home Invasion Task Force deployed by the Vancouver Police in 1999 and 2000.

While it is difficult to weigh the harms caused by serious forms of violence, the terror and trauma caused by home invasions is often at the same end of the spectrum of serious violence as violent rape. It is difficult to argue that risk to a homeowner of unlawful confinement, threats, and serious violence that attend a home invasion is less serious than the risk of serious sexual assaults and extreme violence faced by sex workers. For the purpose of this analysis, the risks attending home invasions and the risks faced by survival sex workers in the Downtown Eastside are assumed to be equal.

The Home Invasion Task Force

The Home Invasion Task Force (“HITF”) provides a meaningful opportunity to compare a large and successful investigation that occurred during the period of reference to the level of resources the Vancouver Police deployed to investigate the missing women. HITF illustrates what the VPD did not do for the missing women.

HITF was created after Vancouver Police management became aware of increased risk to the public of home invasions. HITF furnishes evidence that the VPD had the capacity to execute a competent complex investigation to respond to heightened risk to the public during the period of reference. HITF deployed significant human and technical resources under the command of then-Sgt. Lepard, whose investigative skills are widely respected within the department. An inventory of HIFT activities is set out in a report to the Vancouver Police Board dated February 14, 2000.⁸¹

HITF was active for approximately one year commencing February 1999. Deployment included door-to-door canvassing of 2,600 homes in Vancouver, examining each stolen vehicle within 48 hours of a home invasion, obtaining search warrants for cell phone sites

⁸⁰ *R. v. Kapp*, 2008 SCC 41

⁸¹ Exhibit 146, pp.212-217

throughout Vancouver, reviewing all similar offences occurring within 24 hours of the invasions and examination of 290 tips.

In pursuit of suspects, HITF interviewed with more than 200 suspects, conducted a coordinated review of all pawn shop reporting sheets, conducted a complete review of all occupants in designated group homes in Vancouver, installed concealed cameras in local army surplus stores, pursued forensic dental impressions of food items bitten by suspects, and conducted a full review of all half-way houses and adolescent group homes in Vancouver including the names of occupants and their criminal records.

To understand the victimology of the offences, HITF pursued intimate knowledge of the details of each victim's day-to-day activities, including drug stores, doctors, dentists, groceries, social events, relatives, garbage pick-up, home repairs, newspaper subscriptions, churches, organizations, restaurants, banks and public transportation, and conducted a full internet history of each victim.

Technical resources deployed for HITF included the application of the SIUSS databank to enter each and every tip that came into the unit, consultation with four forensic psychiatrists and a criminal profiler, consultation with FBI in Washington regarding footwear, an analyst prepared a complete time and link analysis chart, consulted with US Military Intelligence with respect to satellite images of the lower mainland on the nights of the home invasions, and used DNA matching technology.

No resources were withheld from HITF; D/Chief Doug Lepard testified that every request he made for resources was satisfied by the VPD.

HITF yielded enough evidence to lay charges with respect to five separate home invasion robberies. HITF was a successful complex investigation.

The success of HITF demonstrates that the Vancouver Police Department had the technical, organizational and investigative wherewithal to mobilize a complex investigation. The disappearances of thirty sex workers were no less serious and important than the home invasions, but the resources deployed for each project were vastly different. As can be expected, the project with fewer resources was less successful.

The HITF deployment was responsive to community demands and responsive to the risk to homeowners of serious violence or death. HITF is an indication the type and strength of investigative resources deployable by the Vancouver Police Department in response to a known risk of serious harm when there are no countervailing attitudes or beliefs to hold those resources back.

Comparison Reveals Discrimination

The difference in resources deployed to meet the risk of home invasions and the resources deployed to meet the risks faced by survival sex workers demonstrates discrimination under s.15 of the *Charter of Rights and Freedoms*.

The missing women investigation and the Home Invasion Task Force were contemporaneous. Both occurred within the period of reference. The missing women investigation and the Home Invasion Task Force were responses to public outcry and responses to perceived risk of extremely serious violent crimes. The missing women investigation and the Home Invasion Task Force recognized the potential that unknown serial offenders could be responsible for attacks and that, if the offenders were apprehended, the offences would stop.

The evidence establishes an effects based distinction on the basis of sex worker status, race and ethnicity, and disability. The victims in the missing women investigation were an especially vulnerable and politically powerless group of criminalized survival sex workers while the victims of home invasions were law abiding residents or homeowners within established Vancouver neighbourhoods. Because the devotion of police resources created a distinction based on an enumerated or analogous grounds, the exercise of police discretion establishes first stage of the *Kapp* discrimination analysis.

The difference in police resources devoted to HITF and the investigation of missing sex workers created a disadvantage for sex workers, as manifested by the tragic disappearances and murders of sex workers during the period of reference. In contradistinction, the wealth of resources devoted to HITF succeeded in apprehending four sets of perpetrators and succeeded in significantly diminishing the rate of home invasions. The creation of a horrific disadvantage for survival sex workers establishes the second stage of the *Kapp* discrimination analysis.

Conclusion: Discriminatory Failure to Respond to Known Risks to Sex Workers

The evidentiary phase of the Inquiry supports the finding that the Vancouver Police, Provincial RMCP and Port Coquitlam RCMP failed to adequately respond to known risks of serious physical and sexual violence against sex workers, failed to adequately respond to the known risk that a serial killer or killers may be preying on sex workers, and failed to respond to the risk known to be posed to sex workers by Robert Pickton.

The failure of the police forces to respond is a breach of the right of all people to equal protection of the law, which is guaranteed by s.15 of the *Charter of Rights and Freedoms*, and, in particular, the failure of police forces to investigate the missing women and protect sex workers infringes the principle that all persons are entitled to police protection in proportion to the risks they face.

Chapter 2: Stereotyping, Biased Attitudes and Discriminatory Conduct Prejudiced the Investigations of Missing Women

Stereotyping, overt expressions of bigotry and discriminatory attitudes against sex workers, drug users, and Aboriginal women undermined the investigations of missing women. Chapter 2 of this report sets out numerous key policies, practices, and specific decisions made by police that were influenced by or were expressions of discriminatory attitudes, bias against sex workers and drug users and relied on false stereotypes.

Chapter 2 begins with an outline of the legal, social and cultural forces that created and reinforced the biases against sex workers and drug users. This section provides context for the attitudes and biases held by police forces, and reinforces the fact that the police are not a socially isolated institution. Police both reflect and generate our shared culture.

On some occasions, discriminatory police attitudes and bias are overt and apparent on the face of the document or conduct. On other occasions, discrimination and bias are demonstrated by foreseeable adverse effects a decision had on sex workers. Both forms of discrimination – overt discrimination and foreseeable adverse effects discrimination – are recognized by Federal and Provincial anti-discrimination law, including the British Columbia *Human Rights Code* and the *Canada Human Rights Code*.

This chapter concludes that discriminatory attitudes and false stereotypes and biased beliefs about sex workers undermined the Missing Persons Unit by precluding the gathering and analysis of vital information about the women as they went missing, misdirected police investigators during Project Amelia, Project Evenhanded and the Port Coquitlam investigation, undermining the integrity of investigative teams, and preventing investigators from drawing inferences crucial to solving the cases.

Chapter 2, Part 1: Formation of Police Biases and Discriminatory Attitudes

Discriminatory attitudes and bias towards sex workers by police forces and officers did not emerge fully formed from a social void. Police officers and policing institutions respond to, re-enact and reinforce community and cultural attitudes when exercising their discretion. Close interaction and value sharing between police and community is often praised under the notion of “Community Policing”,⁸² but the community does not always share our collective aspirations.

Long before the policing investigations under scrutiny during the period of reference, Vancouver residents, merchants, politicians, City Hall, and police worked together remove sex workers from the public eye. Their efforts were enabled by legislation that deemed street level sex work to be a public nuisance and a judiciary motivated to the same ends. An understanding of the cultural forces gathered against survival sex workers is necessary to understanding why police discretion was exercised to in a way that devalued the lives and safety of sex workers.

⁸² Oppal Report on Policing 1994

i) *The Effect of Legislation and Judicial Adoption of Sex Work Prohibition*

Police attitudes towards survival sex workers were affected by the reality that, under Canadian law, the missing women were criminals. Federal legislation criminalized sex workers' addictions to heroin and cocaine and their means of generating income. Criminalization of survival sex workers affected the exercise of police discretion.

Section 4(1) of the *Controlled Drugs and Substances Act*⁸³ creates the offence of possession of heroin and cocaine. Heroin and cocaine, including crack cocaine, are listed in Schedule I of the *CDSA*, and under s.4(3) of the *CDSA*, the punishment for possession of a Schedule I substance is a maximum term of incarceration of seven years.⁸⁴

Survival sex workers, almost all of whom are addicted to heroin or cocaine, are considered by police to be criminals because they are frequently in possession of illegal drugs. Although society, jurists and the police are approaching the realization that addiction is a health condition and a disability rather than a moral issue, during the terms of reference this cultural realization was in its nascent stages.⁸⁵

Section 213 of the *Criminal Code of Canada*, enacted December 20, 1985, creates the criminal prohibition against communicating in a public place for the purpose of prostitution. It reads as follows:

- 213 (1) Every person who in a public place or place open to public view
- (a) stops or attempts to stop any motor vehicle,
 - (b) impedes the flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or
 - (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person
- for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction.

213(2) In this section, "public place" includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or any place open to public view.

The missing women were all or almost all survival sex workers engaged in street level solicitation of sexual services to motorists. Their means to earn an income is and was criminal.⁸⁶

⁸³ [S.C. 1996] c-19

⁸⁴ The maximum term of incarceration if the prosecution elects to proceed by indictment is seven years. If, as is more common, the prosecution elects to proceed summarily, the maximum term of incarceration is six months for the first offence and one year for subsequent offences.

⁸⁵ Even the recent *PHS* case from the Supreme Court of Canada demonstrates that the transition from criminalization to medicalization is tentative and partial, being temporally and geographically localized. At this time, there is an unstated preference for substitution of legally designated medical authorities for criminal authorities to a non-medical regulatory regime akin to tobacco and alcohol.

⁸⁶ Aside from criminalization of sex work and drug possession, sex workers sometimes engage in other criminal activities such as theft and robbery to support the purchase of drugs. We should be wary of over-

From the lens of the criminal law, the lives of survival sex workers consist of the repeated commission of one set of criminal offences in support of the commission of other criminal offences.

Criminal legislation is not value neutral. The implication of criminalization is that democratically elected leadership of Canada has deemed the conduct harmful to the community or to the individual or both. The persons engaged in the conduct are considered by the entire country to deserve punishment and stigmatization.

The prohibition on street solicitation was challenged in a reference case stated before the Supreme Court of Canada in 1990. In his reasons for judgment upholding the prohibition, the Chief Justice of the Supreme Court of Canada commented as follows:

...[I]n my view, the legislation is aimed at taking solicitation for the purposes of prostitution off the streets and out of public view.

The Criminal Code provision subject to attack in these proceedings clearly responds to the concerns of home-owners, businesses, and the residents of urban neighbourhoods. Public solicitation for the purposes of prostitution is closely associated with street congestion and noise, oral harassment of non-participants and general detrimental effects on passers-by or bystanders, especially children. In my opinion, the eradication of the nuisance-related problems caused by street solicitation is a pressing and substantial concern. I find, therefore, that sending the message that street solicitation for the purposes of prostitution is not to be tolerated constitutes a valid legislative aim...

The objective of this provision, however, is not restricted to the control of actual disturbances or nuisances. It is broader, in the sense that it is directed at controlling, in general, the nuisance-related problems identified above that stem from street soliciting. Much street soliciting occurs in specified areas where the congregation of prostitutes and their customers amounts to a nuisance. In effect, the legislation discourages prostitutes and customers from concentrating their activities in any particular location. While it is the cumulative impact of individual transactions concentrated in a public area that effectively produces the social nuisance at which the legislation in part aims, Parliament can only act by focusing on individual transactions. The notion of nuisance in connection with street soliciting extends beyond interference with the individual citizen to interference with the public at large, that is with the environment represented by streets, public places and neighbouring premises.

Reference re ss. 193 and 195.1(1)(c) of the Criminal Code (Man.), 1990 CanLII 105 (SCC)

romanticizing survival sex work and sex workers in general, or the missing women themselves, by failing to recognize that sex workers were sometimes the perpetrators of violence against others.

With the words set out above, the Canadian judiciary signalled its accord with the legislature that removing sex workers from public streets and putting them out of the public view is an important social objective, the benefits of which are not outweighed by its costs.

The attitudes of police officers, all of whom have sworn to uphold the law and prevent all offences against persons and property⁸⁷, are channelled and guided by the criminal law. Any testimony to the contrary should be disregarded.⁸⁸

Aside from exposing sex workers to liability for criminal arrest, prosecution, conviction and sentencing following arrest, criminalization of sex workers also opens a field of discretion for police officers dealing with sex workers. Where a police officer has a basis to suspect that a woman is engaged in sex work or is in possession of illicit drugs, there is a lawful discretion to detain and frisk search her, whether or not the police officer decides to pursue a charge or arrest the woman,⁸⁹ and whether or not a “no charge” policy in respect of s.213 is in place.⁹⁰ In respect of survival sex workers, there would almost always be a lawful basis for police officers to detain and search.

Legislated prohibition of street level sex work and judicial elaboration of the purpose and meaning of that legislation ensures that police bias against survival sex workers is mandatory. Antagonism between sex workers and the police is a job requirement of police officers.

ii) Intolerance of Vancouverites to Survival Sex Workers

Police attitudes towards sex workers were affected by the long history of intolerance towards survival sex workers within the City of Vancouver. Intolerance was manifested by Vancouver residents associations, merchants associations and homeowners. City Planners and municipal politicians and mayors worked to implement this intolerance into policies of displacement and containment.

The history of Vancouver’s intolerance towards sex workers since 1977 was set out for this Inquiry by Professor John Lowman of the Faculty of Criminology at Simon Fraser University, who was qualified as an expert to give opinion evidence in respect of sex

⁸⁷ *Police Act - Police Oath/Solemn Affirmation Regulation* BC Reg 136/2002.

⁸⁸ Deputy Chief Lepard repeatedly asserted that a woman’s status as a sex worker and drug user has no effect on the discretion of officers. His scattered examples of investigations of murders and sexual assault of sex workers that were, in his view, thoroughly investigated, are a weak and subjective data set from which to draw conclusions.

⁸⁹ As a practical reality, a woman’s status as a sex worker and drug user creates an environment ripe for lawlessness and abuse of authority by police. The weak forms of police accountability available to the public are not practicable for sex workers given their criminal histories and the potential for retaliation by individual police officers. Police officers dealing with sex workers are effectively unchecked.

⁹⁰ The number of prostitution charges in Vancouver under s.213 of the Criminal Code during the terms of reference were as follows: 1997: 378; 1998: 60; 1999: 90; 2000: 193; 2001: 263; 2002: 418. The average number of charges during the terms of reference was 234 per annum.

workers and the regulation of sex work.⁹¹ Prof. Lowman's evidence was that Vancouver maintained a policy of displacement and containment.

Displacement of sex workers refers to the forced migration of sex workers from place to place, neighbourhood to neighbourhood, within the City of Vancouver. In recent history, the process of displacement began with forcing sex workers out of the stroll on Davie Street in the West End neighbourhood. The process was initiated by sustained advocacy against street level sex work by a group calling themselves Concerned Citizens of the West End ("CROWE")⁹² who were funded for this purpose by a grant from the City of Vancouver.

In July of 1984, the Attorney General of British Columbia applied to the Supreme Court of British Columbia for an injunction to prohibit public prostitution in the West End. In granting the injunction, the Chief Justice of the Supreme Court wrote the following comments, which leave little doubt about his personal distaste for sex workers:

[25] Before I turn to the terms of my order, I wish to make it clear that I do not base my judgment solely on the ground that the West End is a residential area. That prostitutes should invade a residential community is, as I have said, an extraordinary circumstance, but a public nuisance in any area would equally be enjoined upon proper circumstances being shown. The streets and sidewalks belong to all of us...

[27] Those who would defile our city must understand that in addition to the criminal law, the citizens of this country are protected by a common law which is a statement of the accumulated wisdom of history. But it is a dynamic force which is always ready to respond to the reasonable requirements of civilization...

[34] Lastly, with respect to the geographical limits of my order, I am naturally concerned about the affidavit filed by a respondent and sworn by a lady who says she is the co-founder of an alliance of prostitutes. She says that the prostitutes who created this nuisance have decided to move en masse to an area bounded by Drake, Nelson, Burrard and Pacific Boulevard. I cannot help but recognize that if these respondents and others can move en masse to that location, they may also move to other areas inside or outside the area described by the Attorney General in his notice of motion, and the court is not disposed to secure such portion of the West End at the expense of another portion or of an adjacent area. Neither is the court prepared to tolerate such an artificial attempt to evade its authority. To paraphrase Winston Churchill, what kind of people do these prostitutes and their associates think British Columbians are that they would tolerate such indecency on a continuing basis?...

[35] Even in the face of such an affront to decency, the court must proceed with caution. The West End of Vancouver is a geographic unit. While there may be

⁹¹ Exhibit 3, Expert Report and Appendices. Dr. John Lowman.

⁹² Testimony of Prof. Lowman, October 13, 2011, p.80

differences of opinion about its eastern boundary, it is not completely arbitrary to say that it begins at the east property line of Granville Street. The area covered by the injunction, if the Attorney General requests it, will therefore be the area of downtown Vancouver north of False Creek and English Bay, and west of the east property line to Granville Street.⁹³

Attorney General (British Columbia) v. Couillard, 1984 CanLII 374 (BCSC)

The injunction set the stage for further geographic displacement of street level sex workers through the latter half of the 1980s and throughout the 1990s out of the downtown area East of Pender to what was then the Yaletown industrial area, and from there into the Chinatown and Mount Pleasant areas, and from there towards the Downtown Eastside, Franklin and smaller Kingsway and Broadway/Fraser strolls.⁹⁴

Containment of survival sex workers within a “street prostitute tolerance zone” in the industrial area North of Hastings in the Downtown Eastside commenced in 1988 when police and social service agencies devised a strategy to displace sex workers from the residential areas of the Strathcona neighbourhood. The containment process began with the distribution of moderately respectful notices posted on lampposts asking women to keep their business to non-residential areas.⁹⁵

The Planning Department of the City of Vancouver was likely involved in selecting the area designated from time to time as a “tolerance zone”,⁹⁶ but the lack of disclosure from the City of Vancouver makes it difficult to pinpoint the bureaucrats involved in the planning process at the municipal level. Professor Lowman gave evidence of a meeting in the early 1990s about where the containment area could be located given the development in Yaletown. The meeting was “confidential because we don’t want a headline in the Province tomorrow saying ‘Vancouver Sets Up Red Light District’”.⁹⁷

Following distribution of the notice, police and social workers informed street level sex workers that if they worked in the industrial area North of Hastings along East Cordova Street and the adjacent alleys between Jackson and Campbell Avenues that they would not be charged with the communicating offence under s.213 of the *Criminal Code*. Conversely, sex workers were advised that they would be charged if they worked in the residential area South of Hastings Street.⁹⁸

Tolerance of street level sex work within ascertained geographic zones was referred to by Professor Lowman as an “orange light district”⁹⁹. Prof. Lowman differentiated an “orange light district” from a “red light district” to indicate that public officials were generally unwilling to publicly acknowledge that sex work was *de facto* legalized within

⁹³ Inquiry Exhibit 5

⁹⁴ Lowman Report. Exhibit 3, p.16

⁹⁵ Lowman Report. Exhibit 3, p.10. Testimony of Prof. Lowman. October 13, 2011, pp.27-8

⁹⁶ Testimony of Prof. Lowman, October 13, 2011, p.11

⁹⁷ Testimony of Prof. Lowman, October 13, 2011, p.96

⁹⁸ Lowman Report. Exhibit 3, p.10

⁹⁹ Testimony of Prof. Lowman. October 13, 2011. pp.11 and 12

these areas. According to Professor Lowman, once the containment zone was established there was much less of an interest in enforcing the communicating law.¹⁰⁰

In addition to geographic containment, the Vancouver Police Department used their discretion to force sex workers to work at night. Professor Lowman referred to this exercise of discretion as “temporal displacement”.¹⁰¹ After survival sex workers were contained in the industrial area, the Vancouver Police started receiving complaints, in February of 1997, from business groups in the light industrial area.¹⁰² In a memorandum dated July 2, 1998, Cst. Mitchell of the Hastings North Neighbourhood Patrol reports that “more of the prostitutes are getting the message that working during business hours is not acceptable”.¹⁰³

Geographic containment in industrial areas and temporal containment forcing women to work at night creates a working environment lacking in third parties who are able to witness a sex worker getting into a perpetrator’s vehicle, and where there is no one to hear a cry for help.¹⁰⁴

The Vancouver Police Department containment strategy was set out in a VPD press release dated February 25, 1997, signed by Deputy Chiefs Rawlins and Blythe.¹⁰⁵ A City of Vancouver Backgrounder on Street Prostitution in Vancouver, revised December 8, 1997, shows the following widespread community involvement in the containment strategy:

The Police Department is initiating an interim program to deal with complaints about street prostitution. Neighbourhood Safety Offices (NSOs, also known as Crime Prevention Offices) in Vancouver have been empowered to handle complaints about street prostitution using progressive enforcement options.

Once a complaint is forwarded to the NSO, someone (either a police officer, the NOS Coordinator, or a volunteer) will follow up with the complainant. A police officer may interview the prostitute(s) and ask that they move, especially if they are working too close to a school, playground or community centre. If the prostitute continues to work in the area, Police will ask a prostitution outreach agency to intervene. If the prostitute continues to ignore this advice and police warnings, the officer will ask for enforcement action from the Vice Unit.¹⁰⁶

Neighbourhood Safety Offices were the Vancouver Police Department’s effort to implement the community policing model. The Backgrounder on Street Prostitution lists the Chinatown, Downtown Eastside, Gastown, Mt. Pleasant and Strathcona offices as

¹⁰⁰ Testimony of Prof. Lowman. October 13, 2011. p.26; October 17, 2011, pp.14-16

¹⁰¹ Testimony of Prof. Lowman. October 13, 2011. p.12

¹⁰² Exhibit 145, p.33

¹⁰³ Exhibit 145, p.91

¹⁰⁴ Testimony of Dr. Shannon, October 17, 2011, p.152

¹⁰⁵ Lowman Report. Exhibit 3, p.10. Testimony of Prof. Lowman, October 13, 2011, pp.92-5

¹⁰⁶ Exhibit 145, p.72

NSOs empowered to deal with complaints about sex workers. The Vancouver Police Native Liason Society is also listed as an NSO empowered to deal with complaints.¹⁰⁷

Acquiescence by some non-profit advocacy groups in the Downtown Eastside to the containment policy as a less harmful alternative to criminal prosecution is indicated by a City of Vancouver document entitled “Strategies for NSOs”.¹⁰⁸ Listed among the groups that can help neighbourhoods deal with street prostitution activity are Prostitution Alternatives Counselling and Education (PACE) and Downtown Eastside Youth Activities Society (DEYAS).¹⁰⁹

A VPD memorandum from A/Deputy Chief Doern distributing the Backgrounder on Street Prostitution to Chief Constable and Deputy Chiefs Battershill, Blythe, Higgins and McGuinness shows that the VPD Senior Management Team were aware of the containment policy.¹¹⁰ The “tolerance zone” is mentioned in a memorandum from Cst. Yee to Insp. Greer dated February 20, 1997, requesting authorization to conduct operations against sex workers working outside the zone.¹¹¹

Cst. Mitchell of the Hastings North Neighbourhood Patrol office sets out a snapshot of his efforts with Det. Clark to contain sex workers within industrial areas in his memorandum dated February 23, 1997 to Insp. Greer.¹¹² The memo acknowledges that the Neighbourhood Patrol did not attempt to disrupt the sex trade in the industrial area because the trade would move to “socially sensitive” areas, and speaks to their efforts to liase with local residential and merchant groups.¹¹³

Cst. Mitchell’s follow-up memorandum to Insp. Greer dated March 6, 1997 candidly admits:

We did not attempt to disrupt the sex trade itself in the industrial area, for the reasons that:

- we were then receiving very few complaints of the trade form local businesses. What complaints we did receive we attempted to resolve informally through cooperation of the sex trade workers themselves and by non-enforcement initiatives;
- aggressive enforcement would likely have exactly the effect we wished to avoid; that is, the trade would simply move to another, more socially sensitive, area. This is what was accomplished historically by enforcement activity in other communities.¹¹⁴

¹⁰⁷ Exhibit 145, p.74

¹⁰⁸ Exhibit 145, p.86

¹⁰⁹ Exhibit 145, p.87

¹¹⁰ Exhibit 145, p.77

¹¹¹ Exhibit 145, p.27

¹¹² Exhibit 145, p.28

¹¹³ There is also an indication that the Vancouver Police occasionally took a “no tolerance” approach to street level sex work anywhere in the City of Vancouver, contrary to the containment policy, but this memorandum is apparently at odds with the preponderance of documents. Exhibit 145, p.48

¹¹⁴ Exhibit 145, p.39

The Vancouver Police Board received reports from VPD senior management regarding geographic displacement of sex workers. Minutes of the Police Board meeting dated April 30, 1997 report that Insp. Greer advised the Board that 3,000 people signed a petition saying that they wished the law to be enforced and noted that business people in the industrial areas are not happy with the impact of prostitution in their area. The same minutes note that there was no consensus on where street prostitution could be located.¹¹⁵

The minutes of the April 30, 1997 Vancouver Police Board meeting note that the Board was aware of geographic displacement and containment of survival sex workers. The minutes report that the Police Board felt itself unable to deal with the issue:

Discussion ensued on the differing perspectives and there was no consensus on where street prostitution could be located within no impact and the legalization of bawdy houses. Generally, it was agreed that prostitution is a massive social issue that involved everyone and goes beyond the jurisdiction of the Police Board.¹¹⁶

Officers within the Vancouver Police Department were clearly frustrated by the ongoing need to devote policing resources in response to nuisance complaints about sex workers. As Sgt. McKellar wrote to Insp. Greer in his May 20, 1997 memorandum, explaining the futility of the 9 week program to “attack the problem of Street Prostitution in the City of Vancouver”:

The idea [attacking the problem of Street Prostitution] has merit, providing it is what the Community and Government want. It seems that this endeavour is always one sided, that being the side of the Police who are acting to the publics concerns, as in this case. Our Government, City, Provincial and Federal do little if nothing to deal with this problem. They refuse to make any decision as to keeping it a Criminal Offence or to Legalize it in some form or another. Until this issue is addressed, it will continue to be a pain to Law Enforcement.¹¹⁷

As explained by Prof. Lowman, the Vancouver Police Department’s use of their discretionary powers to displace sex workers was driven by complaints by residents and businesses.¹¹⁸ Prof. Lowman’s insight has a strong documentary foundation.¹¹⁹ Neighbourhood Safety Offices staffed by employees of the Vancouver Police Department worked closely with individual representing residents and merchants, and the Safety Offices reported community concerns up the chain of command.¹²⁰

A selection of the numerous complaints and references to complaints by Chinatown Merchants Association, Strathcona Residents Association and the Hastings East

¹¹⁵ Exhibit 145, pp.55 and 56

¹¹⁶ Exhibit 145, p.56

¹¹⁷ Exhibit 145, p.62

¹¹⁸ Lowman Report, Exhibit 3, p.9

¹¹⁹ Exhibit 145, p.23-7, 64, 88

¹²⁰ see, for example, Exhibit 145, pp.21, 25

Neighbourhood Action Group, other groups and individual residents and businesses are in evidence.¹²¹

The interests of residents are apparent from their letters and comments: they wish their families to live in neighbourhoods free from used hypodermic needles and condoms; they worry about exposing their children to overt sexuality for sale; and there may be some pecuniary interest in the value of their properties as well.

Similarly, the interests of merchants and industrial property owners are clear from the documents: they are concerned that their revenues will be reduced if sex workers intimidate staff or drive away their customers. It is all too easy to dismiss these interests as mere financial interests, but some of the merchants of the Downtown Eastside are small business owners whose enterprises represent their life's work and hold their life savings.

While the interests of residents and merchants are understandable as human ambitions incompatible with survival sex work, the expression of these interests are sometimes intolerant and untempered by compassion. Sex workers are variously described as a "plague" or "infestation". Sex work itself is described as "immoral", "tawdry", "a neighbourhood blight", a "siege"¹²² and a "scourge"¹²³. There was also aggressive conduct by community organizations, including letters to the editor wishing for harm to come to sex workers.¹²⁴ "Community patrols" would harass and intimidate sex workers.¹²⁵

One VPD memorandum notes that residents and merchants associations had proposed some "inflammatory suggestions for community action", with plans to "escalate their activity until they achieved their objective" of eradicating street level sex work.¹²⁶ Professor Lowman testified that one business owner, for example, posted a sinister handbill threatening sex workers on telephone poles in the area¹²⁷, and that he heard residents asking police officers to take sex workers into back alleys and beat them up.¹²⁸

Vancouver press and broadcast media also engaged in what was described by Professor Lowman as a "discourse of disposal", which assigned a low social value to sex workers and effectively encouraged violence against them.¹²⁹ Counsel for the Vancouver Police Department tendered into evidence a list of articles using the word "hooker" in its own defence as evidence of the widespread use of that word, but the use of the word by media

¹²¹ Exhibit 145, pp.14-65

¹²² Exhibit 145, p.121

¹²³ Testimony of Prof. Lowman, October 13, 2011, p.62

¹²⁴ Testimony of Prof. Lowman, October 13, 2011, p.99

¹²⁵ These community patrols would sometimes operate under the banner of a "Shame the Johns" campaign, but the evidence suggests that sex workers were often targeted and picketed. Testimony of Prof. Lowman, October 17, 2011, p.60-63

¹²⁶ Exhibit 145, p.34

¹²⁷ Testimony of Prof. Lowman, October 13, 2011, p.98

¹²⁸ Testimony of Prof. Lowman, October 13, 2011, pp.62 and 100

¹²⁹ Testimony of Prof. Lowman, October 13, 2011, p.98; October 17, 2011, pp.79-81

outlets does not remove its derogatory nature. The list only shows that public devaluation and disrespect of sex workers was encouraged by media outlets.

Bias against sex workers was not merely a creation of legislation criminalizing sex work and drug use. Police bias against sex workers was the product of the consistent and determined advocacy on the part of residents and merchants who asked the Vancouver Police to rid their neighbourhoods of survival sex workers. To understand police bias, we must recognize that the police were doing what they were asked to do.

Community Policing placed the Vancouver Police Department between survival sex workers and the residents and merchants who were intolerant to their presence. The Community Policing model espoused by the 1994 Oppal Report into Policing in British Columbia recommended that police involve the community and consult with the community in identifying community needs and policing goals.¹³⁰

Even as we hold the Vancouver Police Department accountable for the attitudes and biases underlying their failure to devote sufficient and adequate resources to the investigation of missing women, we should recall that those attitudes and biases were reinforced by the political attitudes prevalent at the time in significant and influential quarters of the community they were charged with serving.

iii) Vancouver Police Resources Deployed Against Sex Workers

Within the City of Vancouver, during the period of reference, an astounding array of techniques and impressive policing and municipal resources were deployed against sex workers, largely in response to concerns expressed by more established residents of Vancouver.¹³¹ Resources and techniques deployed against sex workers were the product of a community policing approach that was attentive to community concerns, legislated goals and judicial pronouncements of community priorities.

Resources and tactics deployed specifically against sex workers in the Downtown Eastside included the following:

- District 2 Street Safety Expansion Project. 7 full-time members deployed from March 12, 1997 to May 20, 1997 to “attack the problem of street prostitution”. The priority of this team was to force sex workers out of District 2.¹³² The Project involved “checking” sex workers, which included obtaining information from sex workers about whether they were HIV positive.¹³³

¹³⁰ *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. Recommendations 35 and 36.

¹³¹ Testimony of Prof. Lowman, October 13, 2011, pp.133-4; October 17, 2011, pp.5-12. See also Exhibit 145, p.4: the Juristat Report: Street Prostitution in Canada, Statistics Canada, February 1997, notes that public complaints or media coverage can lead to a few large crackdowns

¹³² Exhibit 145, pp.49-54

¹³³ Exhibit 145, p.45, 47, 52, 62

- Vancouver Police Community Safety Offices facilitated local residents groups¹³⁴ and provided training to community groups operating “community patrols”, including the Hastings East Neighbourhood Action Group and the Strathcona Residents Patrol.¹³⁵ Patrols recorded vehicle licence numbers of potential customers.
- Vehicular Traffic Disruption. The City of Vancouver Engineering Department installed concrete diversions, speed bumps, created one-way streets, installed “no entry” signs.¹³⁶ Vancouver Police Department would create temporary disruption by parking a vehicle across a road blocking all traffic.¹³⁷
- Traffic Tickets. The Vancouver Police Department used traffic bylaw and *Motor Vehicle Act* tickets to discourage vehicular traffic.¹³⁸
- Undercover stings against sex workers and their customers.¹³⁹ Undercover operations are labour intensive and expensive, and would involve a minimum of three officers, one of whom would assume the guise of a sex worker or a customer.¹⁴⁰ \$200,000 was spent in 1995 in overtime costs for undercover operations and the resulting prosecutions.¹⁴¹ Undercover operations would sometimes be used to obtain “no-go” bail conditions.¹⁴²
- “Dear John” Letters. Letters were sent to the home address of men who were seen in the vicinity of sex workers, stating that they had been observed engaging with sex workers. The intent was to notify customers’ family members about their activities.¹⁴³ These initiatives were intended to deter customers but were disruptive to the lives of sex workers.¹⁴⁴
- Sex Worker Registry and Photo Books.¹⁴⁵ This program involved photographing sex workers while they sat in the back of a police cruiser and collecting the photos in books, and assembling identifying information about sex workers.¹⁴⁶ The photo-books, known as “hooker books”, were not disclosed by the Vancouver Police Department.

¹³⁴ Exhibit 145, p.31. The Vancouver Police Department was not only influenced by residents’ and merchants’ attitudes against the presence of sex workers; VPD also facilitated the expression of those attitudes.

¹³⁵ Exhibit 145, p.18, 73

¹³⁶ Exhibit 145, p.19, 20, 32; Testimony of Prof. Lowman, October 17, 2011, p.22

¹³⁷ Testimony of Prof. Lowman, October 17, 2011, pp.20-1

¹³⁸ Exhibit 145, p.56; Testimony of Prof. Lowman, p.44

¹³⁹ Exhibit 145, p.31

¹⁴⁰ Testimony of Prof. Lowman, October 17, 2011, p.19

¹⁴¹ Exhibit 145, p.81

¹⁴² Exhibit 145, p.91

¹⁴³ Testimony of Prof. Lowman, October 17, 2011, p.34

¹⁴⁴ Exhibit 145, p.31, 42

¹⁴⁵ Exhibit 145, p.41, 176

¹⁴⁶ Exhibit 145, p.88; testimony of Prof. Lowman, October 17, 2011, p.42; Testimony of Susan Davis. October 31, 2011, p.46

- Disruptive observation. Vancouver Police Department members parked in an area of sex work activity and would observe the women, and would shine lights on them.¹⁴⁷ The intention was to discourage johns and interfere with a sex worker's ability to enter transactions.^{148 149}
- Attempting to influence judicial decision making. The Vancouver Police Department facilitated and provided training for Court Watch¹⁵⁰ and assisted residents in drafting victim impact statements with a view to encouraging harsher sentences.¹⁵¹
- Provincial Prostitution Unit. This unit operated within the Ministry of the Attorney General to address problems arising from street prostitution. It engaged in a wide variety of activities, including developing videos and facilitator's guides.¹⁵² There was very little disclosure dealing with the activities of the Provincial Prostitution Unit.
- Children and Family Services. Women involved in sex work are at risk of having their children taken by the Provincial government.¹⁵³
- The Deter and Inform Sex Consumers (DISC) program. This program involved gathering data on sex workers, their customers, and persons found driving around the containment zone. A database of that information was compiled in a database. Access to the data was provided to police organizations throughout Canada and North America.¹⁵⁴
- Harassment of women. Many sex workers reported so-called "Starlight Tours": being picked up by police officers and dropped off in another place as far away as UBC.¹⁵⁵ Officers confiscated condoms, self-protective devices¹⁵⁶ and clean needles¹⁵⁷ from women and dumped their purses on the street, which interfered with their lives and exposed them to greater risk.¹⁵⁸

¹⁴⁷ Testimony of Susan Davis. October 31, 2011, p.49

¹⁴⁸ Exhibit 145, p.72

¹⁴⁹ Testimony of Prof. Lowman, October 13, 2011, p.62

¹⁵⁰ Exhibit 145, p.74, 168, 20

¹⁵¹ Exhibit 145, p.73

¹⁵² Exhibit 145, p.83

¹⁵³ Testimony of Susan Davis. October 31, 2011, p.79

¹⁵⁴ Exhibit 145, p.88, 90, 93-96, 110

¹⁵⁵ Testimony of Prof. Lowman, October 13, 2011, pp.42 and 62. Jane Smith gave testimony that was similar in fact to the description a Starlight Tour given by Prof. Lowman. The phrase echoes the treatment of young Aboriginal men in the Niel Stonechild Inquiry.

¹⁵⁶ Report of Dr. Shannon, Exhibit 6, p.43

¹⁵⁷ Testimony of Dr. Shannon, October 17, 2011, p.145

¹⁵⁸ Testimony of Prof. Lowman, October 13, 2011, p.62, 64 and 65; Testimony of Dr. Shannon, October 17, 2011, p.148

iv) Downtown Eastside Extraordinary Policing

Considerable policing resources, in the form of the Downtown Eastside Extraordinary Police (“DEEP”) program, were devoted to address the perception of ‘street disorder’ in the Downtown Eastside during the terms of reference. While the program did not focus exclusively on sex workers, its target, street disorder, included both drug transactions and sex work.¹⁵⁹ Although DEEP tried to focus on traffickers, many of the traffickers that the police encountered were addict traffickers.¹⁶⁰

DEEP was operational from approximately Spring of 1998 to the Spring of 2001.¹⁶¹ It involved the special deployment of approximately 40 officers on a full-time basis, including 36 constables and 4 sergeants, as well as crime analysis, research support and administrative support.¹⁶² In addition, a six-member Drug Education and Enforcement Team (DEET) was reassigned to the Downtown Eastside.¹⁶³

Funding for DEEP was provided by a special grant of 3.6 million dollars over the life of the project, in addition to 3.6 million dollars from the VPD operational budget.¹⁶⁴ There were significant budget surpluses in each year, including a surplus of \$173,000 in 1999.¹⁶⁵ DEEP was co-chaired by the Deputy Chief Constable in charge of Operations, who was then Terry Blythe.¹⁶⁶

DEEP members liaised with Neighbourhood Safety Offices from time to time to address street level sex work.¹⁶⁷ This approach ensured that the enhanced street disorder resources could be deployed in response to specific community complaints regarding survival sex workers.

Every six months, Planning and Research personnel measured the performance of the DEEP program by obtaining appraisals for the value of commercial space in the Downtown Eastside. If property values went up, the program was deemed to be successful.¹⁶⁸ Official reliance on a correlation between policing success and property values confirms in part that economic interests of the landowning class were among the interests animating the Vancouver Police Department.¹⁶⁹

The deployment levels of DEEP are a strong index of the political will and management enthusiasm to suppress street disorder including street level sex work. Generous VPD senior management and City Hall attitudes towards DEEP deployment are in stark

¹⁵⁹ see, for example, Exhibit 145, p.165; Testimony of Prof. Lowman, October 17, 2011, p.50

¹⁶⁰ Exhibit 145, p.194

¹⁶¹ Exhibit 145, p.150

¹⁶² Exhibit 145, p.113, 182

¹⁶³ Exhibit 145, p.136, 141

¹⁶⁴ Exhibit 145, p.113, 134, 146

¹⁶⁵ Exhibit 145, p.185, 190, 197

¹⁶⁶ Exhibit 145, p.113

¹⁶⁷ Exhibit 145, p.104, 135

¹⁶⁸ Exhibit 145, p.139, 162

¹⁶⁹ Professor Lowman testified as well that “public propriety and property values are prioritized over the problems these women face”. Testimony of Prof. Lowman, October 13, 2011, p.44

contrast to the extremely parsimonious approach to resource deployment taken in respect of the missing women investigation. DEEP deployment conclusively refutes any argument that Vancouver Police lacked the human resources to properly investigate the missing women.

DEEP provides valuable insight into the priorities and attitudes within the Vancouver Police Department. Although suppression of street disorder was not the exclusive focus of VPD senior management, DEEP was under the command of Deputy Chief Terry Blythe, who maintained an interest in its success or failure. As Mr. Blythe became Chief Constable of the Vancouver Police Department, it can fairly be assumed that he carried his operational priorities and interests with him.

v) Conclusion Regarding Formation of Attitudes

An array of legislation, court decisions, and political pressures from politicians, residents and merchants created a cultural atmosphere during the period of reference that consistently demanded that police mobilize on the basis that sex workers and drug users were a public nuisance that should be eradicated.

The political climate against sex work and drug use caused VPD senior management to prioritize displacement and containment of sex work, as well as oppression of drug use and street disorder over protection of survival sex workers. The political and legal environment encouraged police officers to consider survival sex workers to be chronic criminals.

In the parts that follow, we see that resistance to adequately investigating the disappearances of sex workers and poor choices made during police investigations was influenced by the biases and attitudes shaped by the culture outside the police forces.

Chapter 2, Part 2: Discrimination within Missing Persons Systems

Discrimination against sex workers influenced the dysfunction of missing persons systems with the Vancouver Police and the RCMP. Before, during and after the period of reference, the Vancouver Police Department Missing Persons system had serious problems with intake policy, intake practices, failures to investigate, failure to keep adequate records, and abusive and discriminatory treatment of the public. Failings within the Missing Persons intake system were a product of discriminatory attitudes and bias.

Anti-sex worker bias at Missing Persons made a significant contribution to the failure of the missing persons investigations. Missing persons intake was typically the earliest police involvement in each missing woman's case. Intake and record-keeping problems within the Missing Persons Unit became ground zero of the missing women investigative failures, and failures at the intake level radiated outwards and poisoned follow-up investigations and efforts to analyse trends.

From an investigative point of view, intake failures corrupted and limited the data set on which police investigators depend. From a human point of view, intake failures seal a tomb for victims without names or causes of death, in respect of whom discrimination and bias negated even their disappearance.

VPD and RCMP failure to record missing persons reports may be responsible for many investigative dead ends. Unidentified DNA unearthed at the Pickton property on Dominion Avenue may be that of missing persons that VPD and RCMP refused to recognize. Refusal to accept reports of missing persons may have prevented investigators from establishing the connection.

Intake failures make it impossible for this Commission of Inquiry to speak with certainty about the number of women missing from the Downtown Eastside; it is more probable than not that the VPD Missing Persons Unit refused to take or failed to maintain records of a significant number of missing women.

An understanding of the problems with missing persons intake allows us to appreciate how much information was never recorded and how many potential investigative connections were lost because information was not recorded. Recognizing the range of lost investigative potential means recognizing the inability of this Inquiry to provide factual closure to those who continue to grieve the missing. Because it deepens the mystery of what might have happened, it is particularly important for this Inquiry to unflinchingly expose problems with the missing persons system.

i) Problems with Missing Persons Intake Policy and Failure to Address Policy Problems

Throughout the period of reference, the Missing Persons unit was governed by a formal intake policy that was known by VPD senior management to have negative effects on sex workers. VPD efforts to improve the missing persons policy were partial and delayed.

VPD maintained three portals for intake of missing persons reports: the front counter at the police detachment at 312 Main Street, a direct telephone number at the missing persons office, and the general dispatch number which was maintained initially by the VPD dispatch centre and later outsourced to 911 E-comm communications centre.

The earliest written record of intake policy problems disclosed to Inquiry participants is a memorandum dated January 9, 1998, from Sgt. Cooper to Insp. Biddlecombe. In the memorandum, Sgt. Cooper reports to Insp. Biddlecombe that he had met with Freda Ens and Morris Bates of the Vancouver Police Native Liason Society, who had received complaints from people who had been rebuffed by staff at the Public Information Counter and Communications when attempting to file missing persons reports.

Sgt. Cooper's memorandum sets out the following specific concerns:

1. That the reportee is only a friend of the missing person as opposed to a relative.

2. That the person must be missing for 24 hours before a report can be taken.
3. That just because the reportee has not seen the person doesn't mean they are missing.¹⁷⁰

The complaints referred to in the memorandum were primarily from members of the Aboriginal community with relatives who had gone missing from the Downtown Eastside. In the context of the complaints relayed by Ms. Ens, Sgt. Cooper's memorandum recognizes that treatment of reportees constitutes overt discrimination.

Sgt. Cooper specifically refers to the potential for a missing persons report to be a potential homicide and connects the policy flaws to a series of sex worker homicides in Aggasiz.¹⁷¹ In this context, Sgt. Cooper's memorandum recognizes a significant potential for adverse effects discrimination; that missing persons policy as of 1998 could prevent the Vancouver Police from identifying homicide victims who are sex workers.

Sgt. Cooper's memorandum of January 9, 1998, requests of Insp. Biddlecombe that the Planning and Research Department be asked to review and amend the missing persons policy and that the 24 hour requirement be suspended in the interim.¹⁷² There is no record that the Planning and Research Department was assigned to review Missing Persons Policy until 1999.

The Planning and Research Department, of which Deputy Chief Lepard was in charge, failed to address the missing persons policy until the year 2000, and failed to improve the three problems identified by the Aboriginal complainants and VP-NLS. An interim suspension of the 24 hour policy was not implemented by Missing Persons during the period of reference.

Aside from the three problems noted above, the written Missing Persons policy required a person to be resident in Vancouver for a report to be taken. Sandra Cameron and Rae-Lynn Dicks testified that Vancouver Police dispatch and E-Comm centres interpreted that policy to mean that if a person was of no fixed address, as were many survival sex workers, reports that they were missing would not be taken.¹⁷³

Freda Ens reported that her attempt to report Mary Lidguerre missing to Sandra Cameron was refused on the basis that Ms. Ens was not "next of kin."¹⁷⁴ Jack Spence, brother of Dorothy Spence, who worked at the Native Liason Society, ran up against the same type of problems when he tried to report his sister missing. The "next of kin" rule has no written underpinning; it appears to be an informal unwritten policy adopted by Ms.

¹⁷⁰ Exhibit 146, p.1

¹⁷¹ Exhibit 146, p.2

¹⁷² Exhibit 146, p.2

¹⁷³ Testimony of Rae-Lynn Dicks. The written Missing Persons policy in effect during the period of reference provided that reports of visitors to Vancouver who were missing would be taken, but it appears that this provision did not prevent the refusal of missing persons reports.

¹⁷⁴ Testimony of Freda Ens. April 2, 2012, p.96

Cameron. Det/Cst. Shenher indicated that Ms. Cameron was allowed to adopt her own policies.¹⁷⁵

RCMP intake policies also had a discriminatory effect. While the VPD refused to accept missing persons reports unless the person was resident in Vancouver, municipal RCMP detachments refused to take reports of missing persons unless the person was last seen within their municipality, even if that person was ordinarily resident within their municipality.

The combined effect VPD and RCMP intake policies prevented a person resident outside Vancouver but last seen in Vancouver from being reported missing either to VPD or RCMP.¹⁷⁶ Instead, a reportee would bounce back and forth between VPD, who would refer the reportee to RCMP, and the RCMP, in turn, would refer the reportee to the VPD.

The divergence between RCMP and VPD policies at the point of intake illustrates the arbitrary nature of each of their intake policies. Each organization adopted a discretionary policy that restricted the acceptance of certain reports, and, in particular, treated reports of certain people as “not our problem”.¹⁷⁷ The selection of these policies may simply be a product of individual or institutional laziness, but it is likely that the policies were motivated by animus against survival sex workers.

The combined effect of the RCMP and VPD policies discouraged and exhausted reportees. Morris Bates of the Native Liason Society noted this problem and attributed a nine-year delay in accepting the report of the disappearance of Elsie Sebastian to this problem.¹⁷⁸ If it is assumed that the policies were implemented as they are written, it is highly likely that a large number of telephone and in-person reports of missing sex workers were never recorded by VPD and RCMP employees.

According to civilian Missing Persons clerk Sandra Cameron, the problems with intake policy existed in the two decades preceding the period of reference. Ms. Cameron testified that she attempted for many years to bring the problems arising from the combined effect of VPD and RCMP intake policies to the attention of VPD and RCMP senior management, and that neither institution acted on her expressed concerns.

Policy problems at the Missing Persons intake level had a deleterious effect on the safety of sex workers, and, due to the loss of missing persons reports and information, likely undermined the missing persons investigations in fundamental ways that this Inquiry cannot access.

Sgt. Cooper’s January 9, 1998 memorandum identifies and communicates the potential that missing persons policy will have an adverse effect on the investigation of missing persons and particularly, may undermine investigations into homicides of sex workers. The memorandum establishes Insp. Biddlecombe’s knowledge, towards the beginning of

¹⁷⁵ Testimony of Doug Lepard. November 28, 2011, p.160

¹⁷⁶ Testimony of Sandra Cameron and Rae-Lynn Dicks.

¹⁷⁷ Testimony of Morris Bates. April 3, 2012, p.32

¹⁷⁸ Testimony of Morris Bates. April 2, 2012, p.80

the period of reference, of a significant risk that missing persons policy shortcomings would have an adverse effect on investigations of sex worker disappearances and homicides.

Awareness of a growing risk to investigative integrity posed by the restrictive missing persons intake policy spread as the numbers of missing women grew. As the number of missing women climbed, the need for and institutional obligation to reform missing persons policy increased. In particular, by February of 1999, Det/Insp. Rossmo drew Deputy Chief McGuinness' attention to a spike in the number of missing women. By February of 1999, management's failure to satisfy their obligation to fix missing women's policy cannot be characterized as a passive omission; VPD failure to fix missing persons policy can be fairly described as an active refusal to do its duty.

Policy failings are often attributed to the institutions that create them. At this Inquiry, the failings of Missing Persons policy may also be attributed personally to Insp. Biddlecombe, Deputy Chief McGuinness and Deputy Chief Doug Lepard, all of whom were aware of the policy problems, were aware that the policies carried a risk of limiting the Vancouver Police's ability to investigate the missing women cases, had sufficient managerial influence to change the policy, and did little or nothing to improve the policy in a timely way.

ii) Absence of Missing Persons Investigative Policy and Failure to Implement One

The work of the Missing Persons Unit suffered from a lack of written investigative policy. There was no policy, guideline or template dealing with investigative steps to be taken in respect of missing persons. In particular, there were no written directions with respect to contacting family, friends, landlords, social service agencies, Aboriginal non-profits and friendship centres, and health care providers, searching places of residence, recording investigative steps, or providing a timeline for the completion of standard investigative steps. There were thus no formal metrics to ascertain whether an investigation was complete or what steps remained in an investigation.

Importantly, there was no policy setting out a threshold for when missing persons should be assumed to be victims of foul play, or policy for transfer of the files to or consultation with the homicide division. A formal threshold or thresholds are easy to imagine: the lapse of a given period of time, completion of specific investigative steps, and/or failure to pick up welfare cheques or pick up necessary pharmaceuticals or medical appointments.

Importantly, there was no formal policy at the VPD or RCMP for inter-agency cooperation and investigation of missing persons reports. The absence of formal policy left inter-jurisdictional investigations at the mercy of the personal inter-agency contacts of each investigator or clerk.

Lack of investigative policies at Missing Person ensured that there was no institutional trigger to move a missing persons file from the usual "attempt to locate" mandate to an

“investigate foul play” mandate. The discretion to attempt to locate the women or to investigate their disappearance as a product of foul play was thus an unstructured discretion exercised by Det/Cst. Shenher, Det. Al Howlett, Sgt. Field, Insp. Biddlecombe, Deputy Chief McGuinness, and others.

As we have seen, the discretion to locate the women or investigate foul play was exercised throughout the period of reference in the direction of fewer resources. This level of resource allocation is more consistent with an attempt to generate the public appearance of investigative activity rather than a bona fide attempt to achieve investigative goals. Failure to enact a policy triggering the investigation of foul play enabled this level of inaction.

The absence of investigative policies was either apparent or ought to have been apparent at a very early stage in the period of reference. The Vancouver Police and Royal Canadian Mounted Police did not respond appropriately to this problem.

The Vancouver Police policy audit was completed by retired VPD Inspector Schouten in 2004, more than two years after Robert William Pickton was investigated, more than three years after requested to do so by Sgt. McKnight¹⁷⁹, and more than six years after Sgt. Cooper’s memorandum to Insp. Biddlecombe, after which the adverse consequences of these policies were foreseen by many and foreseeable to all, is a good indication that known disappearances of sex workers were not a priority for the Vancouver Police Department or the Royal Canadian Mounted Police.

iii) Problems with Missing Persons Unit Practices

a) Missing Persons Unit was a Low Investigative Priority

The VPD Missing Persons Unit was a low institutional priority. The low priority was illustrated by the assignment of retiring officer to the unit, and the assignment of officers unable to engage in field investigations to the role of Detective¹⁸⁰, the comparatively low esteem in which the missing persons detectives were held by their peers, the supervisory indifference to long stretches of leave taken by missing persons detectives, and by the long-acknowledged impropriety of having the bulk of missing persons investigations conducted by a civilian clerk.

Det/Cst. Shenher testified that, when she arrived at the Missing Persons Unit in July of 1998, Det. Al Howlett “wanted nothing to do with the MW files.”¹⁸¹

Responding to Dets. Fell and Wolthers criticisms that the Review Team had failed to thoroughly investigate reports of missing women, Det/Cst. Shenher herself admitted in her memorandum to Sgt. Field on May 17, 2000 that too few resources were devoted to the missing persons unit from July 1998 to May 1999:

¹⁷⁹ Exhibit 146, p.3

¹⁸⁰ Sgt. Mackay-Dunn described the Missing Persons Unit as a “dumping ground” for the “walking wounded”. March 8, 2012, pp.87-88

¹⁸¹ Exhibit 146, p.9

Paragraph twenty is incorrect. Perhaps Det/Csts Fell and Wolthers do not understand that prior to the formation of the MPRT in May, 1999, only two investigators had been working on thirty-one files. There was not a failure to do these tasks, but an inability to do them due to time constraints. There was one STW's residence that was not checked because there was some dispute between Det. Howlett and the Portland Hotel staff as to whether the effects belonged to the MP.

There was evidence that some Vancouver Police members believed missing persons reports to be outside their job descriptions. Cst. Johns of the Native Liaison Society testified that it was not his job as a VPD member to make missing persons reports because that would involve dealing with the Missing Persons civilian clerk. To Cst. Johns' mind, the NLS civilian employee, Freda Ens, was better suited to dealing with the civilian intake staff in Missing Persons.¹⁸²

b) Overt Discrimination Within VPD Missing Persons Intake

The Missing Persons intake portals were the site of systemic overt discrimination against sex workers, drug users, and Aboriginal persons. Discriminatory attitudes and beliefs were overly manifested by RCMP and VPD members and staff in their interactions with reportees and attempted reportees of missing women. Discriminatory attitudes and beliefs coincided with and underlay the repeated decisions not to accept reports of missing survival sex workers.

Det/Cst. Shenher put it this way in her November 22, 2002 interview with Deputy Chief Lepard:

Sandy Cameron was a big problem regarding the victim families. I would hear her on the phone a lot and the way she dealt with people generally wasn't great. I heard racist stuff. The only specific thing to the MW file was there was one day when I think it was Tanya Holyk's mother, Dorothy Purcell, I think she's one of the 15 he's charged with... she said Sandy wouldn't take her calls, then said if I'd been a better mother... that she'd been harsh. It seemed that there had been racial undertones...¹⁸³

... when I confronted her about [pretending to be a police officer] she would completely deny it. Her level of self-awareness was pretty low. Same with racial things, but not in reference to MW. For example, she was speaking to someone I assume was Asian. She was hollering into the phone, "speak English, this is Canada." I confronted her and she denied it was racist and said if they can't speak English they should go back to their country...

¹⁸² Testimony of Cst. Johns. April 2, 2012, p.115

¹⁸³ Exhibit 146, p.6

... There were sort of two sides of her. I definitely saw it go along racial lines. As she started to get a sense this was getting to be a bigger deal, she started to be a little easier to deal with. I think she picked and chose who she chose to deal with, and I think it was along racial lines. I know Sandra Gagnon, sister of Janet Henry, who's native, I know she had contact with Sandy that was not good, even though Sandy wouldn't say that. She thought when Janet went missing Sandy didn't treat her well...¹⁸⁴

Cst. Dave Dickson put it this way in his statement to Deputy Chief Lepard: "I'd hear Sandy on the phone saying 'we don't look for missing hookers... we don't look for hookers.'"¹⁸⁵ Morris Bates testified that Ms. Cameron once came into the Native Liaison Society office once to deliver a document and left a message to, "Tell Morris I found one of his whores."¹⁸⁶

The use of the derisive term "hooker" was widespread within Missing Persons (as well as later investigations). The term was written onto many Missing Persons Report forms, a few of which are in evidence, including reference to Kerry Koski, Diana Melnick, and Catherine Knight as "hookers."¹⁸⁷ The term was freely used by sworn members of the VPD in official memoranda dealing with missing persons.¹⁸⁸

Within Missing Persons there was a level of awareness that the use of the term "hooker" was inappropriate. Sandra Cameron, in a bantering or sarcastic email to Det/Cst. Shenher, described a missing sex worker as "Hooker, oops, sorry, SEX TRADE WORKER missing since June 28", and ending her email with a very familiar "see ya chickypoo".

When cross-examined about this email, Ms. Cameron testified that she had mistyped the word "hooker" and was trying to take it back by writing the correct term in capital letters, as though her delete key was not functional. This evidence is a strong indication of the reliability of Mr. Cameron's general denials that she engaged in inappropriate discourse.

Marian Bryce, the mother of Patricia Johnson, testified that she attempted to report her daughter missing on March 5, 2001. She attended the front desk at 312 Main Street and they told her to phone 911. She phoned 911 from the detachment and attempted to report Patricia missing. The woman who dealt with her on the phone told her, "Oh, she will show up. She's just out there partying because she's a working girl."¹⁸⁹ Ms. Bryce remembered that the woman was very snappy.¹⁹⁰

Ms. Bryce testified that she returned to the detachment the next day with photos to deliver to the missing persons office. She was told that she wasn't allowed to do so and

¹⁸⁴ Exhibit 146, p.7

¹⁸⁵ Exhibit 146, p.12

¹⁸⁶ Testimony of Morris Bates. April 2, 2012, p.97

¹⁸⁷ Exhibit 146, pp.68-72

¹⁸⁸ Exhibit 146, pp.77, 80, 81. Testimony of Doug Lepard. November 29, 2011, p.100

¹⁸⁹ Testimony of Marion Bryce. December 16, 2011, pp.3-4

¹⁹⁰ Testimony of Marion Bryce. December 16, 2011, p.8

she would have to call upstairs again, which she then did. The woman that Ms. Bryce spoke to repeated that Patricia will eventually show up and that she's out partying, and told her to leave the pictures at the front desk.¹⁹¹ Ms. Bryce then made several calls to the Missing Persons Unit.

In about June of 2001, police officers came to take a statement from Ms. Bryce and she had the impression that she was being interrogated. Ms. Bryce was left with the impression that she was not treated fairly.

Donalee Sebastian, daughter of Elsie Sebastian of the Pacheedaht First Nation, attempted to report her mother missing to the VPD. She spoke to Morris Bates, a Native Liaison Worker, as did her Grandma Dora, her father, her Uncle Russell, her Uncle John Paul, her Aunt Cathy, her sister, and her auntie Ann Livingston, over a two-year period from 1992 to 1994. One time, when she tried to call into the general office she was reconnected with Mr. Bates, and she was told that Mr. Bates is the contact person for missing native people.¹⁹²

Ms. Sebastian testified that Mr. Bates told her that, "Well, you might as well prepare yourself, Donalee, because nobody wants to look for a 40-year-old native woman. They're not interested in looking for her," and said that looking for a drug-using woman in the Downtown Eastside is looking for a needle in the haystack.¹⁹³ Mr. Bates confirmed that this conversation probably happened as Ms. Sebastian describes it.¹⁹⁴ Mr. Bates testified that Sandra Cameron refused to take a missing persons compliant regarding Ms. Sebastian because he was not next of kin to Ms. Sebastian and because the report would have to be made to the Hazelton RCMP as Ms. Sebastian was a member of the Hagwilget Reserve.¹⁹⁵

Lorraine Crey testified about reporting her sister, Dawn Crey, missing to Vancouver Police. Initially the police did not ask for any information other than Dawn's name. Lorraine Crey estimated a gap of approximately a year between the time she reported her sister missing in mid-December 1999 and the time she was contacted by police for information.¹⁹⁶

Lila Purcell, the aunt of Tanya Holyk, reported that her sister, Dorothy, Tanya's mother, called Vancouver Police to report Tanya missing after a few days of looking for her.¹⁹⁷ Dorothy indicated that Sandra Cameron told her that Tanya was a cokehead who had abandoned her son and threatened to call the Ministry to have Tanya's son apprehended by the Province, and further told Dorothy that she was not a good mother because she did not call Missing Persons for updates frequently enough, and then later, on the basis of

¹⁹¹ Testimony of Marion Bryce. December 16, 2011, p.5

¹⁹² Testimony of Donalee Sebastian. October 25, 2011, p.133

¹⁹³ Testimony of Donalee Sebastian. October 25, 2011, p.69

¹⁹⁴ Testimony of Morris Bates. April 3, 2012, p.77

¹⁹⁵ Testimony of Morris Bates. April 3, 2012, p.66

¹⁹⁶ Testimony of Lorraine Crey. October 27, 2011, p.53

¹⁹⁷ Testimony of Dorothy Purcell. April 16, 2012, p.14

what was told to her by an anonymous informant, told Dorothy that Tanya was out partying and police were not going to waste their time looking for her.¹⁹⁸

Dorothy Purcell wrote to the Vancouver Police to advise that she had been verbally abused by Ms. Cameron and that Tanya Holyk's file had been improperly closed. There was no response. Although the file was reopened by the Native Liason Society, it was ultimately over 16 months until the Vancouver Police got around to even interviewing Tanya's ex-boyfriend.¹⁹⁹ Det/Cst. Shenher reported that Ms. Cameron was so awful to Ms. Purcell that Ms. Purcell just stopped calling.²⁰⁰

Lisa Bigjohn, sister of Mona Wilson, testified that she was rebuffed by the staff at Vancouver Police Native Liason society when she tried to report her sister missing.²⁰¹

Aside from family evidence, Morris Bates, an employee of the Vancouver Police Native Liaison Society, testified that he was repeatedly unable, in his official capacity, to convince Missing Persons to accept reports of missing Aboriginal women.²⁰² He noted the frustration he felt from knowing that a missing persons report is a pre-requisite for any investigation; it does not matter how many police are deployed if no missing persons report is taken. Cst. Johns confirmed that the Native Liason Society staff generally had difficulty getting Missing Persons to accept reports of missing women.²⁰³

Morris Bates specifically testified that when he attempted to report Mary Lidguerre missing, and when Jack Spence attempted to report his sister Dorothy Spence missing, they were each told by Ms. Cameron that the women would be found at the Sunrise Pub behind a pint of beer.²⁰⁴

The preponderance of evidence establishes that Ms. Cameron openly and overtly verbally and psychologically abused family and friends of missing women. While doing so, Ms. Cameron displayed discriminatory attitudes and bias, including racism, toward missing women and persons who attempted to report them missing.

Aside from the inherent harm caused to families and friends of missing women, Ms. Cameron's discriminatory abusive conduct interfered with the investigation by repelling and refusing to document important information about the missing women and interfering with the integrity of the investigative teams with which she dealt.

¹⁹⁸ Testimony of Dorothy Purcell. April 16, 2012, pp.19-23. Sandra Cameron's notes provide that Tanya's file was closed after the telephone number of an anonymous hang-up caller was given by Tanya's mother to Ms. Cameron. Ms. Cameron called the number and spoke to an unidentified woman who said that Tanya was seen at that residence earlier. This anonymous information was sufficient, according to Ms. Cameron's own notes, to close the Holyk file.

¹⁹⁹ Testimony of Dorothy Purcell. April 16, 2012, pp.28-32

²⁰⁰ Testimony of Doug Lepard. November 28, 2011, p.158

²⁰¹ Testimony of Lisa Bigjohn. April 17, 2012, p.121

²⁰² Testimony of Morris Bates. April 2, 2012, p.67.

²⁰³ Testimony of Cst. Johns. April 2, 2012, p.77

²⁰⁴ Testimony of Morris Bates. April 2, 2012, p.98

c) Failure of Supervisors to Address Overt Discrimination

Throughout the period of reference, Vancouver Police Department senior management was aware that Ms. Cameron was abusive and racist towards members of the public and were aware that her conduct undermined the integrity of the Missing Persons Unit and missing women investigations. Through almost all of the period of reference, VPD management failed to fix the problem.

Near the end of the period of reference, Ms. Cameron was reassigned to the VPD archives, shortly after an investigation into her conduct was commenced by Sgt. Heatherington on October 24, 2001.²⁰⁵ The report of the investigation into Ms. Cameron's conduct, if there is one, was not disclosed to participants. In effect, management quietly reassigned Ms. Cameron to another post without adverse comment when publicity about her and pressure from families became too intense in October of 2001.

Freda Ens and Morris Bates testified that they brought problems with discriminatory intake policies and practices to the attention of the Board of the Native Liason Society, which included Insp. Bob Taylor, Chris Bjornrud, Insp. Beach, Sgt. MacKay-Dunn, Insp. Greer and Deputy Chief McGuinness, at various times. To Ms. Ens and Mr. Bates' knowledge, these members of the Vancouver Police senior management team did nothing to rectify the problems and the problems continued.²⁰⁶

Det/Cst. Shenher said that she went to her supervisor, Sgt. Field, "numerous times about her concerns with Sandy."²⁰⁷ Sgt. Field admitted in her statement to Deputy Chief Lepard that "Cameron was a problem employee, she can be sweet as pie or very insensitive, 'you're not a family member, I'm not going to take a report.'"²⁰⁸, but plainly Sgt. Field did nothing to address the issue of Ms. Cameron's conduct.

Former VPD Chief Constable Terry Blythe admitted the following in his Lepard interview: "I recall discussions in our SMT [Senior Management Team] meetings where Brian McGuinness spoke around the whole issue of Missing Women. And the aboriginal [sic] community was really dissatisfied with our Missing Persons people, whether they were taking things seriously and they complained about Sandy Cameron... the one thing I did hear was Sandy Cameron and her attitude"²⁰⁹ Chief Constable Blythe did not address overt discriminatory conduct, either as Chief Constable or in any of his other roles.

The following complaints about Sandra Cameron by family members recorded by Det. McKnight in his October 22, 2001 memorandum to Insp. Boyd:

²⁰⁵ Testimony of Doug Lepard. November 29, 2011, p.12

²⁰⁶ Testimony of Morris Bates and Freda Ens. April 2, 2012, p.130

²⁰⁷ Exhibit 146, p.8

²⁰⁸ Exhibit 146, p.19

²⁰⁹ Exhibit 146, pp. 14 and 15

Two family members complained of the way they were treated by staff assigned to Missing Persons, in particular Sandy Cameron. They stated that she was rude and belligerent. Many felt that she was a police officer and stated that they had learned that she was a civilian employee. A majority of the family group supported this allegation and stated that they would not deal with her again under any circumstances. Most wanted to ensure that you would be made aware of their comments, however none indicated that they were going to formally complain at this time.²¹⁰

Failure of senior VPD management to respond to discrimination and racism support a range of inferences. Through the most charitable lens, the evidence supports the practical inference that preventing discrimination, racism and verbal abuse of members of the public was not a priority for the senior management team, including Chief Constables Chambers and Blythe. Deputy Chief Evans, herself a senior manager of a police force, identified Ms. Cameron as a problem but did not take senior management to task for failing to address her conduct.

A less charitable interpretation of management's failure to stop Ms. Cameron from abusing members of the public is that members of the VPD senior management team condoned of discriminatory and racist treatment of missing women's families and friends, or condoned the discriminatory treatment because the conduct in question – abusive, bigoted language use – was pervasive throughout the department. On this interpretation, Ms. Cameron was not disciplined because Ms. Cameron's conduct was consistent with the pervasive Vancouver Police culture.

Whether we interpret the failure of the VPD senior management to respond to known discrimination and racism as “disengagement” or “condoning”, it can only be concluded that, by failing to act, the Vancouver Police during the period of reference was an institution that was home to discriminatory bias and racist attitudes.

d) Wilful Blindness to Discrimination and Bias

The evidence at the Inquiry revealed a current tendency at Vancouver Police Department to ignore and deny the existence of systemic discrimination and bias within its ranks and systems. Numerous Vancouver Police witnesses, including current VPD officers, testified at the Inquiry that they did not themselves witness any racist or discriminatory behaviour at the Vancouver Police Department.

Deputy Chief Lepard's report reveals that he was unwilling or unable to confront the issue of racism and discrimination directly. In his report, he describes Ms. Cameron's racist and bigoted language use as “alleged”, as though he had yet to determine whether Ms. Cameron's language use was racist and bigoted. Under cross-examination, Deputy Chief Lepard testified that he did not know why he had repeatedly used the word

²¹⁰ Exhibit 146, p.3

“alleged” to describe Ms. Cameron’s language, and that he would be comfortable if the word “alleged” were removed from his report in those instances.²¹¹

In his report, Deputy Chief Lepard describes the “allegedly prejudicial” conduct as “isolated incidents”, and concludes that those “isolated incidents” do not support an inference of systemic bias or racism within the VPD. However, Deputy Chief Lepard failed to include in his report the pattern of racist and abusive language use by VPD members and civilian staff at the information counter, dispatch and Missing Persons Unit prior to and during the period of reference, despite his awareness of that pattern.

Under cross-examination, Deputy Chief Lepard admitted that the use of the term “hooker” has a derisive quality to it. Many members of the VPD used the term “hooker” for internal communications within the department or with other police forces, but the VPD used the term “sex trade worker” to refer to the missing women in public.²¹²

When questioned about whether Sgt. Adam’s use of the term “hooker” could reflect bias against sex workers, Deputy Chief Lepard stated, “I have no idea whether that it was reflective of a bias or whether that it was simply a generational thing that that was a word that was much more commonly used in an earlier time...”²¹³

Under cross-examination, Deputy Chief Lepard admitted that he had not researched his own department’s policies on racism and discrimination because, despite the public outcry that the VPD was racist and discriminatory, he had elected not to investigate racism and discrimination.²¹⁴

Under cross-examination, Deputy Chief Lepard admitted that he did not review and investigate management’s failure to deal with Ms. Cameron’s bigoted conduct,²¹⁵ even though Ms. Cameron’s conduct interfered with the integrity of the team and at the point of information intake. Deputy Chief Lepard admitted he did not investigate whether management had fulfilled its duty to ensure a workplace free from harassment and discrimination,²¹⁶ and agreed that Vancouver Police do not have a policy addressing discriminatory dealings with members of the public.

When cross-examined about the failure of his report to address the significance of discriminatory conduct and management’s failure to address that conduct, Deputy Chief Lepard testified that investigating bias, discrimination and racism was not a priority for him in preparing his report.

In overall response to the fact that he did not prioritize the investigation of bias and discrimination, his failure to draw obvious inferences from widespread language use, his failure to hold management to account for acquiescing to racist and bigoted treatment of

²¹¹ Testimony of Doug Lepard. November 28, 2011, p.174

²¹² Testimony of Doug Lepard. November 29, 2011, p.89

²¹³ Testimony of Doug Lepard. November 29, 2011, p.88

²¹⁴ Testimony of Doug Lepard. November 29, 2011, pp.22-25

²¹⁵ Testimony of Doug Lepard. November 28, 2011, p.181

²¹⁶ Testimony of Doug Lepard. November 29, 2011, p.14

the public by missing persons intake, Deputy Chief Constable Lepard makes the following comment:

And then just the last thing I'd like to quickly say is because I agree that I was fairly limited in my focus on bias, but I did say that right from the beginning, and what I said in my report was:

Bias against sex trade workers by the investigative team was not the cause of the deficiencies in the investigation. In other words, this review has not found that the investigation into the missing women was deficient because the VPD viewed the missing women as just prostitutes whose murders did not warrant full investigation.

And so in the context of my review what I've said is, not excluding points that you've brought up, was that it wasn't deficient because VPD members didn't believe that the murders of sex workers weren't deserving of a full and proper investigation. The point I made was -- I've given evidence about why there were deficiencies and why the leap wasn't made to believing there were murders soon enough and everything, but also made the point is that when it is clear that a sex trade worker has been murdered, for example, with all the frailties and warts in the VPD, still they did an extraordinary job and were very successful in investigating murders of sex workers. So that's what I limited myself to, is to the issue of broader systemic bias issues in the police department or in society itself. I agree that those are worthy issues for examination, but I did not do that in my report.²¹⁷

It is striking that Deputy Chief Lepard would conclude in his report, which was touted to the public as comprehensive, that systemic bias against sex workers did not compromise the investigation.

Deputy Chief Lepard testified that the current Chief Constable and members of the senior management team had reviewed his report before its release and they all concurred with it. No member of the senior management team suggested there was any difficulty with the conclusion that there was no cause for concern about systemic discrimination.²¹⁸

Addressing racism and discrimination within a traditional hierarchical organization is a momentous task. Cultural change requires leadership to inspire an organization to switch perspectives, embrace an ethic of equality and reconcile an institution to its own historical injustices. Strong leadership is necessary to propel a cultural shift from a rough-hewn distinction between “good guys” and “bad guys” to a nuanced and exacting principle that everyone is entitled to police protection in proportion to the risks they face. During the period of reference, the Vancouver Police lacked that strength in leadership.

²¹⁷ Testimony of Doug Lepard. November 29, 2011, pp.144 and 145

²¹⁸ Testimony of Doug Lepard. November 28, 2011, pp.142-143

d) Poor Tracking and Record Keeping

Det. McKnight's October 22, 2001 memorandum records that many family members reported that information provided to the Missing Persons section was not recorded accurately, contained spelling mistakes and inaccurate descriptions of the victims.

Project Evenhanded proceeded until the end of January of 2002 on the footing that the serial killer or killers of sex workers were inactive – that the homicides were historical. While Sgt. Field reported to Evenhanded in February of 2001 that there were at least three new verified reports of missing women, there is no evidence that Missing Persons maintained a meaningful register or ledger of missing women.

It is possible that Missing Persons actually maintained a meaningful and up to date register of missing women and that this register was communicated to Project Evenhanded on an ongoing basis. If this was so, no records thereof were disclosed to the Inquiry participants, and there was little documentary evidence or testimony to support the proposition that the list of missing women was maintained in current and up to date form by Missing Persons throughout 2001.

It is most likely that Missing Persons kept some disorganized manual records of disappearances of sex workers reported after July of 1999, and that these records were provided in some disorganized form to Project Evenhanded in around August of 2001, after Brian Oger circulated his report into the likelihood of a serial killer.

e) Over-reliance on Dave Dickson

The VPD Missing Persons system relied on Cst. Dave Dickson to a greater extent than was reasonable, given the focus of his work and work habits. Cst. Dickson was designated expressly or by convention to be the one officer assigned to assist the downtrodden of the Downtown Eastside including survival sex workers, and he, to his credit embraced that role. Regrettably, the VPD overrelied on Cst. Dickson.

When an issue dealing with protection of sex workers or information from sex workers arose, other members of the VPD tended to refer the issue to Cst. Dickson. Reliance on Cst. Dickson created the impression that other VPD member were not required to and not expected to deal with members of the Downtown Eastside community. The tendency within VPD was that since Dave Dickson was dealing with the downtrodden, no one else needed to. This tendency overburdened Cst. Dickson with more work than one officer could thoroughly address.

Cst. Dickson's role was a form of overspecialization and overcompartmentalizing in a field where all officers should be more or less able to peacefully, respectfully, diplomatically and effectively interview sex worker or other persons from the Downtown Eastside. Instead, when asked whether VPD had a good relationship with people living on the Downtown Eastside, witnesses referred to Cst. Dickson as the officer who

maintained that relationship.²¹⁹ At times, victims were told that they could only report criminal complaints to Cst. Dickson.²²⁰ Cst. Dickson testified that the other community safety offices were more involved in “driving the bad people away”, and he was more involved in working with the “bad people.”²²¹

A single officer, as the evidence shows, is not enough. While it is a good institutional gesture to designate a special diplomat or particularly talented officer to reach out to marginalized communities, the price is too high if this designation results in an abnegation of the general duty of all officers to establish and maintain respectful and protective relationships with all communities.

A further difficulty with Cst. Dickson’s long-term assignment to the Downtown Eastside arose because regular members of the Vancouver Police Department considered Cst. Dickson to have greater loyalty to the Downtown Eastside community than to the Department. Sgt. Mackay-Dunn testified that most of the bosses at VPD believed that Cst. Dickson had been “Stockholmed”, referring to the syndrome in which a hostage feels loyalty to his or her captors.²²² Insp. Greer considered that Cst. Dickson had crossed a line. Cst. Dickson’s information was downgraded as it was perceived to be serving political interests adverse to the interests of the Vancouver Police and its members.²²³ Cst. Dickson's marginalization within the Vancouver Police was complete; he was unaware that he had been marginalized.

Another practical difficulty with over-reliance by the VPD on Cst. Dickson was that he was a poor note-taker. Part of the reason for his poor note-taking was that Cst. Dickson was less of an investigator of crimes and more of an off-book problem solver, resorting, for example, to coercion to solve exploitation problems that did not lend themselves to a viable solution within the criminal justice framework. He was a valuable resource to the Vancouver Police and to the vulnerable members of the Downtown Eastside community, but reliance on Cst. Dickson to assist in formal investigations was imprudent.

Morris Bates put the difficulty with over-reliance on Cst. Dickson this way:

We had one police constable. I mean, we got one police constable that's for the Downtown Eastside, which we don't even know what the hell he's been doing, and he was in all these -- he'd be up at WISH, he'd be down there. He's still doing it. So you say, "Okay. Well, we told Dave Dickson about it." Well, Dave Dickson doesn't tell nobody. So if you're talking to a constable, you're talking to him, he'll take a note out and write it down and say, "Look, okay, we better check on this person," you know, and just run it through the different. Not in jail, not dead, ta da. Maybe we'll take a look at it. Well, if you got a guy out there that's -- women

²¹⁹ Testimony of Freda Ens. April 3, 2012, p.13

²²⁰ Testimony of Morris Bates. April 3, 2012, p.12

²²¹ Testimony of Dave Dickson. March 8, 2012, p.113

²²² Testimony of Doug Mackay-Dunn. March 8, 2012, p.61

²²³ Testimony of Dave Dickson. March 8, 2012, p.112

are leaving and he's not following through on the stuff – you see, you've got one -- one Vancouver PD officer sitting there with this information.²²⁴

As Mr. Bates noted, Cst. Dickson does not appear to have filled out Missing Persons reports.²²⁵

The evidence shows that Cst. Dickson was overconfident in his ability to reach and gain the trust of sex workers. The PACE report, for example, reveals a very high level of distrust for all police officers. The MAKA research conducted by Dr. Shannon revealed that of 255 women interviewed, 9 percent reported having been to Pickton's farm and 73 percent reported knowing women who had been to Pickton's farm. None of the women approached by Cst. Dickson spoke to him about Robert Pickton, and no sex workers volunteered information about Mr. Pickton to Cst. Dickson. Although Cst. Dickson clearly had the trust and respect of many sex workers, confidence in him was less universal than he and others believed.

f) Failure to Adequately Interview and Approach Sex Workers

The Vancouver Police investigations of missing sex workers was deficient in its failure to interview sex workers and members of the Downtown Eastside community, including friends, colleagues, and boyfriends. While there were scattered efforts at interviews and liaisons with Dave Dickson, the approach to individuals living in the Downtown Eastside community was limited and sparse.

During her tenure in Missing Persons from June of 1998 to May of 1999, Det/Cst. Shenher apparently ventured out of the office into the Downtown Eastside three times: once in February of 1999 to make a presentation to the Strathcona Residents Association (which was engaged in advocacy at the time to press sex workers out of Strathcona), once to the Women's Information and Safe House, and once to show photographs to approximately 60 sex workers (for which no comprehensive notes were taken).

It is clear from the social science and medical research that survival sex workers are reluctant to report violence given the lack of action on violence and a sense of apathy that police will not act on information disclosed to them. Survival sex workers are also afraid of arrest if they disclose sex work or drug use.²²⁶

However, the barriers to reaching out to sex workers are not insurmountable. Det/Csts. Fell and Wolthers were able to reach sex workers by conducting 'street interviews' and showing them photo packs. Det/Csts. Fell and Wolthers persevered to find numerous witnesses who were ready able and willing to testify, and the witnesses they identified were sufficiently credible to assist the Crown to convict Mr. Niedermeyer of numerous crimes involving sexual violence.

²²⁴ Testimony of Morris Bates. April 2, 2012, p.88

²²⁵ Testimony of Morris Bates. April 2 2012, p.171

²²⁶ Testimony of Dr. Shannon, October 17, 2011, p.142

Failure to personally interview residents of the Downtown Eastside for information about the missing women is predicated on a stereotypical presumption that sex workers are socially isolated and have few if any meaningful relationships with people who would know their whereabouts. Reliance on this false stereotype of sex workers is expressly admitted by Det/Cst. Lori Shenher in her memorandum to the Attorney General:

... the fact that [these women] are lacking address books, known schedules, reliable routines and homes for us to search for clues to make this [investigation] more difficult...²²⁷

Det/Cst. Shenher's assertion that sex workers lack known schedules, reliable routines and homes is a false and pernicious stereotype that precluded her from conducting a full investigation.

Missing Persons investigators failed to contact health care providers, friends, sex worker colleagues who worked nearby, suppliers of illicit drugs²²⁸, and, for the most part, landlords and neighbours. There was little effort to obtain essential background information from family members, who were in some cases able to provide valuable investigative information about the women's backgrounds, social connections, lives and behaviour patterns.

g) VPD Estrangement from Urban Aboriginal Women

The Vancouver Police were unable to meaningfully investigate the disappearances of Aboriginal women because, as an institution, the Vancouver Police were estranged from the lives of urban Aboriginal women.

Without basic background understanding of the lives and social circumstances of Aboriginal women, Vancouver Police Missing Persons unit was unable to reach out to the community for information. The VPD simply did not know where to start any investigation, and were apparently unaware that viable investigative strategies were available for missing Aboriginal persons that would not otherwise be available for other members of the public.

There was little effort by Missing Persons to contact Friendship Centres, Band Offices, Aboriginal advocacy groups, First Nations Health Clinics and First Nations Drop-in Centres. Aboriginal women's status, band membership, hereditary relations, and Aboriginal group or groups of origin are not recorded in Missing Persons investigative records. As noted by Morris Bates, "it's a very small, little community out there, everybody knows each other and you can find someone."²²⁹

²²⁷ Exhibit 146, p.141

²²⁸ Testimony of Morris Bates. April 2, 2012, p.84

²²⁹ Testimony of Morris Bates. April 2, 2012, p.87. One example is the Sebastian family. Mr. Bates testified that he is one of 270 Sebastian grandchildren residing throughout British Columbia. April 3, 2012, p.79

Morris Bates testified that Det/Cst. Shenher had worked at the Missing Persons Unit for two years before she even visited the Vancouver Police Native Liaison Society offices.²³⁰ According to Mr. Bates, Det/Cst. Shenher did not attend VPNLS offices until after she had finished her assignment with Missing Persons. Mr. Bates testified that he had to steal a missing persons poster from Vancouver Police for the NLS office.²³¹ Cst. Lawson testified that he learned of Project Amelia through the newspapers and nobody delivered any posters to NLS offices for him to distribute to Aboriginal groups, even though his primary mandate was community outreach.²³²

Det/Cst. Shenher knew that many of the missing women were Aboriginal women, but she failed to reach out to the Aboriginal community, even to the extent of reaching out to the Vancouver Police's own Aboriginal liaison team, which was located immediately across the street from the police detachment where she worked. This alone demonstrates the near complete estrangement of Vancouver Police and Vancouver's urban Aboriginal community.

The lack for movement by Missing Persons investigators to the Aboriginal community policing was one problem. Another problem was that Vancouver Police widely advertised their Native Liaison Society office as the preferred intake location for criminal complaints from Aboriginal people, including the preferred intake location for missing persons reports made by or regarding missing Aboriginal people.²³³ Indeed, the funding for VPNLS was granted on the basis that NLS would serve investigative functions.²³⁴ The difficulty was that the Native Liaison Society lacked any significant investigative capacity and VPD investigation units were not receptive to VPNLS attempts to relay criminal complaints to them.²³⁵

Many of the Vancouver Police witnesses who were asked about their knowledge of the lives of urban Aboriginal people in Vancouver effectively testified that they were unaware of the Aboriginal familial, social or health services or organizations within Vancouver. The lack of understanding of the lives of Aboriginal women provides one explanation for the lack of Missing Persons records dealing with the Aboriginal background of the missing women. A few women are noted as being "Native" or "non-white", but substantive background information is conspicuously absent from many of the files.

Police witnesses were unaware of that many Aboriginal people are suspicious of or legitimately feel threatened by authority figures, especially law enforcement figures, and

²³⁰ Testimony of Morris Bates. April 2, 2012, p.141

²³¹ Testimony of Morris Bates. April 2, 2012, p.144

²³² Testimony of Cst. Lawson. April 2, 2012, p.146

²³³ Testimony of Freda Ens. April 3, 2012, p.7.

²³⁴ Testimony of Morris Bates. April 3, 2012, p.120-130

²³⁵ Testimony of Morris Bates. April 3, 2012, p.11

child apprehension figures²³⁶, based on the long history of cultural genocide, child apprehensions, over-policing, over-incarceration and residential school abuse.²³⁷

Individual officers and civilian employees cannot be faulted for failing to acquire rudimentary knowledge of the lives of Aboriginal women. The Vancouver Police as an institution, however, is at fault for failing to establish a proper relationship between its investigators and the Aboriginal community. The fault lies in failing to hire Aboriginal officers, failing to learn about the lives of urban Aboriginal people, the failure to train its officers in some of the fundamental cultural backgrounds of people the police have a duty to serve. The resulting ignorance is fertile soil for the growth of bigoted attitudes.

Given the context of Aboriginal over-policing and over-incarceration in Vancouver and throughout Canada, Vancouver Police members can be inferred to have thousands of interactions with Aboriginal people every year. It would appear that Vancouver Police investigators did not understand Aboriginal women as living human beings with family and friends, embedded in community.

v) *RCMP Missing Persons Systems*

RCMP missing persons systems were not systematically addressed at the evidentiary phase of this Inquiry, with the exception of the problems with the location and residence policy to which Vancouver Police witnesses could speak. The Commission permitted the RCMP to file an affidavit attaching records dealing with investigations dealing with some of the missing women on the final day of the inquiry. The affiant was called but he had no knowledge of the documents assembled in his affidavit.

iv) *Conclusions: Racism and Bias against Sex Workers Undermined Missing Persons*

Discrimination and bias against sex workers and racism undermined the policies and practices in the Missing Persons systems. Policies that were known during the period of reference to have serious potential for adverse effects on investigations of missing women were not fixed, despite the prominent rise in the number of missing sex workers in the period of reference.

The Missing Persons Unit was of low importance within the VPD, there was intense overt discrimination that undermined team cohesion and alienated family and friends who attempted to report women missing or provide information, supervisors were aware of but failed to address the overt discrimination, responsibility for dealing with sex workers and marginalized members of the Downtown Eastside community was disproportionately and irresponsibly delegated to a single officer, and the VPD missing persons system was hopelessly estranged from Vancouver's urban Aboriginal community.

²³⁶ Testimony of Freda Ens. April 2, 2012, p.106. Aboriginal women are at significant risk of having their children apprehended by the government. Once children are apprehended, it is a minimum of three months before the children and mother can be reunited.

²³⁷ Testimony of Cst. Lawson. April 2, 2012, p.91

Missing Persons policy and practices were in effect the mechanism for marginalizing sex workers, drug users, and their friends and families. They are an expression of the low value placed on the lives and safety of sex workers in the Downtown Eastside of Vancouver. Those policies and practices contributed to the institutional failure to respond appropriately to the disappearances of the missing women.

Chapter 2, Part 3: Discrimination within Project Amelia

Discrimination and bias weakened the Project Amelia investigation. Bias and discrimination influenced the VPD's failure to assign sufficient resources. Failure to respect the privacy of and confidentiality needs of sex workers undermined information gathering. Overt discriminatory conduct eroded the integrity of the investigative team, and discriminatory language use by supervisors restricted their ability to discipline team members for discriminatory conduct.

i) Failure to Assign Sufficient Resources

As noted in the previous section, insufficient resources were assigned to Project Amelia to respond to the risk of serial killer or the risk posed by Robert Pickton to sex workers in the Downtown Eastside. Aside from Det/Cst. Shenher, Dets. Lepine and Chernoff were distracted and departed within a few months, Det/Csts. Fell and Wolthers concentrated of Mr. Niedermeyer, and Det/Cst. Clarke was relegated to manual search of indigent burial records. Det/Cst. Shenher herself was inexperienced as an investigator and had no experience managing a complex investigation, and she was left almost entirely unsupervised.

Periodic and overly modest appeals to senior management for more resources were not satisfied. Project Amelia was functionally over by November of 1999, although it languished without significant activity until November of 2000. The record shows that Project Amelia was reluctantly formed to respond to the tips arising from a reward for information that the Vancouver Police opposed.

This failure to assign sufficient resources to Project Amelia is attributable in significant measure to discriminatory attitudes and bias against sex workers and drug users held by managers within the Vancouver Police who were responsible for resource allocation.

Insp. Biddlecombe was insistent that investigators locate the missing women rather than investigate the potential they had met with foul play, despite Det/Insp. Rossmo's May 1999 statistical analysis of CPIC data showing a 94% probability that each woman would not be located. Insp. Biddlecombe ascribed to the notion that sex workers were transient. He assumed that women may have overdosed despite the absence of bodies and the lack of a comparable number of missing men. He directed Det/Cst. Clarke to spend months reviewing indigent burial records in a fruitless attempt to locate the women at a time that Project Amelia was publicly stated to be suspect-focussed. Even after his retirement he wrote to Sgt. Adam to suggest an investigative avenue that might assist in locating the missing women.

Insp. Biddlecombe's notions that sex workers could be located outside of Vancouver – the so-called “transience” notion – was based on stereotypical assumptions about sex workers. In particular, his assumption was that they were not permanent residents of Vancouver – that they were from elsewhere and going home or that they were heading elsewhere. There was no empirical foundation for his belief, but his belief was nearly unshakeable.

Insp. Biddlecombe's irrational rejection of compelling evidence coupled with his stereotypical assumptions about sex worker transience demonstrate that his decisions were motivated by discriminatory attitudes towards sex workers and an unwillingness to prioritize the investigation of sex workers within the Major Crime Section.

Insp. Biddlecombe's false assumptions about transient sex workers must be placed into context. Deputy Chief McGuinness had the power to allocate greater resources to Project Amelia if he disagreed with Insp. Biddlecombe's assessment of the risks to sex workers. Deputy Chief McGuinness failed to do so. Similarly, Chief Constable Chambers had full authority and other members of the Senior Management Team had influence over resource allocation. Insp. Biddlecombe was not alone in his use of false stereotyping to downplay the risks faced by sex workers.

Cst. Dickout, for example, in his 2004 interview with Deputy Chief Lepard, made the following comment:

Right from the get go when the Missing Women's Review Team was started up, the big push was to find the women, they weren't murdered, they were just missing, like we know addicted hookers will do, so we spent a lot of time checking the death records across the country.²³⁸

The notion that missing women were not victims of foul play because “they were just missing, like we know addicted hookers will do”, captures both the factually inaccurate stereotype of the lives of survival sex workers and the way that the derisive use of the term “hooker” influences and supports the reliance on those stereotypes.

Det/Cst. Shenher puts the discriminatory attitudes of senior managers in this way in her April 7, 2004 statement to Deputy Chief Lepard:

I would hear that certain managers like Unger I was told would say they were ‘just a bunch of fucking hookers.’ But I found most people in the VPD were not judgmental like that; that attitude wasn't an overall prevailing problem. What I encountered the most was just denial, that if we just ignore it long enough and look like we're doing something it will go away.²³⁹

²³⁸ Exhibit 146, p.81

²³⁹ Exhibit 146, p.57

This statement was made when Det/Cst. Shenher's intended to remain a VPD member and is influenced by her desire to protect her career as an officer.

In her book manuscript, written at a time when she did not expect to continue her policing career, Det/Cst. Shenher states that some of the officers within the VPD "wouldn't have pissed on the women if they were on fire." Senior management harboured negative attitudes and biases against sex workers, as is expected from a force that was required to "eradicate sex work" from public spaces.

Insp. Greer indicated that resource allocation decisions would be influenced by the criminal history of persons who used drugs and engaged in other criminal activity. Insp. Greer's honesty is a credit to him; he was one of the few officers who were candid about what is obvious from the whole of the evidence.

Insp. Greer's testimony is consistent with Cst. Mitchell memorandum to Insp. Greer seriously questioning whether sex workers deserve extra protection from the enhanced risks they face. When cross-examined on the delayed recognition of new missing women in 2001, Det. McKnight let it slip that he thought that missing women might not pick up a welfare cheque because they are on a "binge", although he quickly retracted that testimony after realizing its implications.

Sgt. Mackay-Dunn testified that, within VPD management, there was a view that sex workers were "untermenchen": an underclass of persons whose lives were devalued because of the activities in which they were involved.²⁴⁰ Like Insp. Greer, his honest and accurate characterization of the VPD's approach to sex workers accords with the legal lens that saw survival sex workers as chronic criminals and street nuisance who needed to disappear from public view.

Sgt. Mackay-Dunn testified that he did not believe that sex workers were transient because he had been advised by his wife, who is a nurse working in the Vancouver Jail and who had treated many of the missing women, that survival sex workers are or tend to be residents of Vancouver. Sgt. Mackay-Dunn also relied on information from Cst. Dickson and Det/Insp. Rossmo to support his view that sex workers were not transient.

Sgt. Mackay-Dunn agreed²⁴¹ that in some meetings he challenged the notion that sex workers were transient, but the desire to restrain resource deployment supported a myth that sex workers were transient despite facts to the contrary.

There was no general lack of resources, as exemplified by the Home Invasion Task Force and the Downtown Eastside Extraordinary Policing Program. The Vancouver Police's refusal at this Inquiry to address their reasons for deploying inadequate resources to address the risks facing sex workers is a consideration that should be met by this Inquiry with strong recommendations about training for senior managers.

²⁴⁰ Testimony of Doug Mackay-Dunn. March 8, 2012, pp.35-36

²⁴¹ Testimony of Doug Mackay-Dunn. March 8, 2012, p.48

To say that Vancouver Police senior management were biased against sex workers and hence failed to deploy sufficient resources to protect them is not to say that any VPD member consciously wanted sex workers to be killed, beaten or raped. It is only to say that the disappearance of sex workers from the public eye was consistent with what the law and the community demanded of the Vancouver Police. The lack of resources given to Project Amelia was attributable to discriminatory attitudes and bias against sex workers and drug users.

ii) Failure to Respect Privacy and Need for Confidentiality

Missing Persons investigators failed to respect the need of sex workers for privacy and confidentiality. This devaluation of the importance of confidentiality and privacy for sex workers debilitated the investigation of missing women.

One example of the failure to respect privacy and confidentiality is the survey administered to sex workers in 1999. After returning from her trip to Poughkeepsie, New York, in about July of 1999, Det/Cst. Shenher drafted a questionnaire for survival sex workers, in an effort to “try to get inside their heads a bit.”²⁴² The questionnaire asked questions that were not relevant to the missing women cases, including “What sexual acts do you refuse to do?”, “If a lot of money was offered to, would this [refusal to do sex acts] change?”.²⁴³ The questionnaire was administered to 40 sex workers at the Women’s Information Safe House drop-in centre.

The questionnaire demonstrates ignorance of the power differential between survival sex workers and police officers, and manifests disrespect for the privacy of sex workers. As noted by Dr. Shannon, women would be concerned about criminalization and concerned about how the information would be used.²⁴⁴ The questionnaire itself is abusive, salacious, unnecessarily intrusive, and the style of its administration in a public setting is disrespectful.

The questionnaire, administered by Det/Cst. Shenher more than a year after she commenced work on the women’s cases at the Missing Persons Unit, exemplifies how little insight and experience she had gained over that year about the lives of and choices facing survival sex workers.

The questionnaire also demonstrates a level of discomfort on the part of Det/Cst. Shenher with approaching sex workers personally to learn background information about their lives, how and through whom they could be located if missing, their connections in the community and day-to-day routines. Such information would be necessary background knowledge to guide any investigation, whether it been directed at locating missing women or a suspect-based investigation. However, the survey makes little effort to solicit disclosure of this type of important background information and Det/Cst. Shenher made no meaningful effort to learn this type of background information.

²⁴² Exhibit 146, p.172

²⁴³ Testimony of Dr. Shannon. October 18, 2011, p.45

²⁴⁴ Testimony of Dr. Shannon. October 18, 2011, p.46

Dr. Shannon testified that guarantees of privacy and appropriate privacy controls promote the effective flow of information in the context of health and epidemiological research.²⁴⁵ It can be inferred that lack of respect for privacy of sex workers and lack of understanding of inhibiting power differentials interfered with Project Amelia's ability to move forward.

The failure to respect sex workers' need for privacy and confidentiality and the salacious emphasis on sex workers' specific sexual practices exemplified the gulf between VPD investigators and sex workers themselves, and created a barrier between sex workers and VPD investigators that discouraged a free-flowing exchange of information, and made it more difficult to respond to the risks faced by sex workers.

iii) Overt Discriminatory Conduct

Project Amelia was rife with overtly discriminatory conduct, including discrimination against sex workers and drug users, as well as homophobia and sexism within the ranks.

Similarly, Det/Cst. Shenher wrote in her memorandum to Sgt. Field dated May 17, 2000, that she "had to defend [Fell & Wolthers] to STWs I have dealt with because they are clearly not the friends to the working women they pretend to be. Every member of the MPRT has heard Det/Csts Fell and Wolthers refer to our victims as 'whores' and 'fucking whores' in the past year."²⁴⁶

In her interview with Deputy Chief Lepard on November 12, 2002, Det/Cst. Shenher expanded on her concerns about Dets. Fell and Wolthers:

So the people that were in the office the most were "two stupid women" with these guys who thought they knew everything and didn't do anything to help. They were racist, sexist, calling the STWs 'fucking whores', everything.²⁴⁷

Det. Alex Clarke made similar comments about Dets. Fell and Wolthers in her statement to Deputy Chief Lepard on November 19, 2003:

They were well known in the Hastings North area, really active in the drug scene, and lots of girls complained about them to me. Doug and his old partner Ron Brown they called Laurel and Hardy because they were funny, but really intrusive... lot sof women didn't like them, called them assholes, "they treat me like shit." They used the term whores, which they didn't like. So when they came in, I was a bit shocked. They were definitely verbally abusive to the STWs (historically).²⁴⁸

²⁴⁵ Exhibit 146, p.49

²⁴⁶ Exhibit 146, p.26

²⁴⁷ Exhibit 146, p.33

²⁴⁸ Exhibit 146, p.37. Note that Det. Clarke was not called to testify before the Inquiry, and counsel for Dets. Fell and Wolthers did not have an opportunity to cross-examine Det. Clarke on her reported experiences.

Det. Clarke made similar observations in respect of sexism in the Project Amelia ranks, stating that, “[Fell and Wolthers] didn’t have anything to add at the meeting because they didn’t share anything so Lori was like in the dark which she shouldn’t have been. They didn’t respect her as an investigator because she was junior to them, a female, I think they thought both of us were incompetent idiots.”²⁴⁹

Sgt. Field also testified that she raised inappropriate language use with Det/Csts. Fell and Wolthers and their response to her concerns was dismissive, inappropriate and racist.²⁵⁰

Within Project Amelia, as within the Missing Persons Unit, written use of the derisive term “hooker” in official correspondence and records was commonplace.²⁵¹ Sgt. Field herself repeated used the term in writing. While isolated uses of the term “hooker” could not be presumed to indicate anything other than isolated disrespect, widespread use of the term in writing in official documents indicates a pernicious institutional disrespect for sex workers, consistent with legislated and community policies to “eradicate” sex work from the public eye.

Widespread use of the term also fosters a climate in which devaluation of the lives of sex workers is the institutional norm. Use of derisive terms by officers in charge, such as Sgt. Field and Sgt. Adam’s reference to “Hooker Task Force”, restricted management’s ability to discipline investigators for inappropriate language use or abuse of sex workers or their families.

Discriminatory language use and attitudes interfered with the integrity of the investigative team and contributed to undermining the investigation. It is important to recognize that criticizing derisive language and discriminatory attitudes is not an exercise in political correctness intended to sanitize language use. The purpose of criticism is to raise awareness within police forces about how language use and attitudes can propagate discriminatory attitudes that can undermine morale and ultimately interfere with the integrity and success of investigations.

iv) Failure to Adequately Supervise

Sgt. Field, in her April 21, 2004, statement to Deputy Chief Lepard, makes the following admission:

Alex [Det. Clarke] and [civilian data analyst] Dorothy [McKee] came to me once about [Dets. Fell and Wolther’s] homophobia, and that they were calling the stws whores and they just thought it wasn’t right. I talked to them about their attitude and about being team players and importance of being professional. They then decided to tell me a story about how they’d almost run over a chinese [sic] person

²⁴⁹ Exhibit 146, p.40

²⁵⁰ Exhibit 146, p.60

²⁵¹ Exhibit 146, pp.83-92

that morning and were making racist comments and it just lowered my opinion of them, but they did make a case for their hard work.²⁵²

In her memorandum to Insp. Spencer dated May 17, 2000, Sgt. Field confirms in more guarded language that her attempts to restrain Dets. Fell and Wolthers were ineffective:

Around the same time [October of 1999] Det/Cst. Clark approached me regarding Det/ Cst Wolthers attitude towards her in the office. She felt he was rude and condescending towards her and the work she was doing in the office. I spoke to both Fell and Wolthers privately and advised them of the need to develop a better team attitude. Det/Cst. Clark also spoke to Det/Cst Wolthers, but felt it fell on deaf ears... I continued further mediation but it was apparent a personality conflict existed within the office between all the team members and Det/Cst. Fell and Wolthers. However, in spite of this we had a job to do and agreed to continue on.²⁵³

Sgt. Field's diminution of disrespectful and discriminatory conduct as a "personality conflict" and her decision to maintain the status quo was a dereliction of duty.

In her testimony before the Commission of Inquiry, Sgt. Field first gave the remarkable testimony that she had never witnessed any discriminatory conduct within the Vancouver Police. After being shown her April 21, 2004 statement, she very reluctantly conceded that she had witnessed discriminatory conduct and that she had not properly addressed that discriminatory conduct.

It is probable that Sgt. Field felt inhibited from fulfilling her duty to discipline officers under her command by the fact that her boss' boss, Deputy Chief McGuinness, had appointed Det/Csts. Fell and Wolthers to Project Amelia against the wishes of her boss, Insp. Biddlecombe, and by her relatively recent appointment as the first female Sergeant in charge of a homicide squad at the Vancouver Police Department.²⁵⁴

It is also probable that Sgt. Field's failure to address the disruptive use of discriminatory language by members of Project Amelia was influenced by her own prolific use of the discriminatory term "hooker", which she admitted in her testimony was inappropriate. The use of the term extended to documents written regarding "hooker homicides" to her superiors, Insp. Spencer and Boyd as late as March 6, 2001,²⁵⁵ and emails from Sgt. Field to Det/Cst. Shenher.²⁵⁶ It would have been hypocritical for Sgt. Field to discipline or even question Dets. Fell and Wolthers about their use of the term "whore" if she herself tended to use the term "hooker". As importantly, Sgt. Field's use of the term

²⁵² Exhibit 146, p.60

²⁵³ Exhibit 146, p.150

²⁵⁴ Det/Cst. Shenher testified that Sgt. Field was squeezed between her duties as a Sergeant, a male-dominated policing hierarchy, and Deputy Chief McGuinness' support for Det/Csts. Fell and Wolthers. Sgt. Field was dismissive of this assessment in her testimony, but her wholesale disavowal of any knowledge of discriminatory conduct or attitudes within the Department is scarcely to be believed.

²⁵⁵ Exhibit 146, p.95-96, 102

²⁵⁶ October 10, 2000 email from Sgt. Field to Det/Cst. Shenher. Exhibit 146, p.103

“hooker” may have encouraged or normalized the use of the words “hooker” or “whore” within Missing Persons and Project Amelia.

v) *Conclusion*

Discriminatory conduct and biased attitudes contributed to the failures of Project Amelia. Bias and discrimination influenced the VPD’s failure to assign sufficient resources, failure to respect privacy and confidentiality needs of sex workers undermined information gathering, overt discriminatory conduct eroded the integrity of the investigative team, and discriminatory language use by supervisors restricted their ability to discipline team members for discriminatory conduct.

Chapter 2, Part 4: Discrimination Encouraged the Failings of Project Evenhanded

Discriminatory attitudes and indifference to the risks faced by sex workers affected the decisions made by, and encourage the failings of, Project Evenhanded.

i) *Discriminatory Language Use*

Before it was dubbed “Project Evenhanded”, the Joint Task Force was referred to by its leader, Sgt. Don Adam, as the “Hooker Task Force”, in widely distributed Continuation Reports²⁵⁷ and in emails to senior investigators.²⁵⁸

Sgt. Adam testified that his use of the term “hooker” was not derisive; he said that he thought “hooker” was a non-judgmental term in common currency. Sgt. Adam’s testimony was not forthright on this point. He would have been aware of the term “prostitution” in the *Criminal Code of Canada* and he would have been aware, for example, of the “Provincial Prostitution Unit.” Sgt. Adam knew that the term “hooker” was derisive and he used it to describe the investigation over which he had charge.

To his credit, Vancouver Police Deputy Chief Unger objected to the use of “hooker task force” to refer to the Joint Forces Investigation. Deputy Chief Unger’s objection confirms that it was possible within policing culture, even between VPD and RCMP, to make such objections, and confirms what everyone knows: that “hooker” is a derisive term inappropriate for public or official use.

Despite Deputy Chief Unger’s objection, the term “hooker task force” did not disappear from the written record. The term appears again in an email sent on July 10, 2001, by Wayne Clary, the Acting Inspector in charge of Project Evenhanded, who was substituting for Sgt. Adam while he was on a two-month vacation. The July 10, 2001 email suggests that the term “hooker task force” may have been common currency in discourse, though rarely set to writing.

²⁵⁷ Exhibit 146, p.120-128, 130

²⁵⁸ Exhibit 146, p.129

Det. Jim McKnight testified, before quickly correcting himself, that missing sex workers, even those who had not picked up their welfare cheques, might have been out on a “binge”. His slip is a glimpse into the thinly veiled attitudes and stereotypes that appear when officers are challenged by circumstances.

Det. Scott Driemel, one of the spokespeople for Project Evenhanded, was forced to resign in November of 2002 after making jokes playing on the word “hooker” at a Justice Institute function. A representative of the Vancouver Police Union complained after the speech, again showing that complaints about inappropriate language use are possible and effective. Det. Driemel’s joke reflects his perception that making such jokes was acceptable to the highly placed Vancouver Police and RCMP officers assembled at the function.

The evidence reveals the presence of discriminatory language and attitudes within some members of the leadership of Project Evenhanded.

ii) The Attitude that Serious Violence Against Sex Workers Need Not Be Investigated

Sgt. Don Adam, in attempting to explain why Project Evenhanded did not target Robert Pickton, repeatedly referred to the large number of sexual predators who attacked sex workers. He referred in his testimony in graphic detail to the violence these men inflicted on their victims.

Sgt. Adam’s testimony reveals his personal awareness of the ongoing risk of serious violence and sexual violation of sex workers by a large number of men. This testimony does not justify Sgt. Adam’s neglect to investigate Robert Pickton. Sgt. Adam’s testimony demonstrates the RCMP’s obligation to protect sex workers from these numerous predators. Sgt. Adam’s testimony revealed that he did not consider himself to have any responsibility to investigate or promote the investigation of such serious crime or protect women.

Sgt. Adam purported in his testimony that he was unable to investigate any suspects because he was concerned about “tunnel vision”.²⁵⁹ Tunnel vision consists of fixating on one suspect and ignoring or misinterpreting evidence implicating other good suspects. But a concern about tunnel vision is not a basis to forego investigation of suspects altogether; investigators cannot refrain from pursuing any of its suspects until it has a complete list of all suspects. Sgt. Adam’s testimony about a surplussage of suspects is more a retrospective excuse for inertia – an assertion that there are too many serious sexual offences committed against sex workers to investigate them all – than a credible basis for inaction.

The pernicious logic behind Sgt. Adam’s “large number of offenders” approach to his investigation suggests that serious offences committed against sex workers do not all need to be investigated, and that all serial sex offenders need not be investigated. The

²⁵⁹ Testimony of Don Adam. February 16, 2012, p.191

assumption is contrary to the obligation of police services to protect all persons equally, in proportion to the risks they face.

Sgt. Adam's tacit assumption is akin to Det/Cst. Shenher's assertion that investigating all serial offenders and offences would be a "luxury", and Cst. Mitchell's questioning whether sex workers deserve extra protection given their "choices". His evidence demonstrates how far police forces have yet to come before they realize the magnitude of their obligation to protect sex workers from the dangers they face.

iii) Failure to Keep Track of Active Serial Killer

As set out previously, Project Evenhanded, and, in particular, Sgt. Don Adam, failed to investigate or attempt to confirm the assumption that the serial killer was inactive before structuring its investigation to pursue an inactive killer. Although Sgt. Field and Sylvia Port told Sgt. Adam on January 30, 2001, that there were five new reports of missing women,²⁶⁰ three of whom had been last seen recently, Project Evenhanded failed to recognize that the serial killer was active until somewhere between mid-August²⁶¹ and mid-October of 2001.²⁶²

When pressed on cross-examination about whether a seven-month period was inappropriately long to assess whether a woman is actually missing, Sgt. Adam defended the delay by descending into crude stereotypes akin to the "transience" notion:

Question: I'm asking whether you're prepared to admit to the families of Dawn Crey and Deborah Jones that seven months is an unacceptably long delay to figure out whether or not the women are actually missing?

Answer: I actually can't answer that, Mr. Commissioner, because I've never actually worked on those missings using the -- using their template. There's a lot that goes in there. And -- and the history of the missing is entirely shrouded in ambiguity insofar as that women did move away, they did create new lives for themselves, they did not want their families to know they had gone away. There's a well-documented history of that, changing their names, dying under other names. People -- there was -- the city had developed a system that required extensive work, and I believe if you look at the Project Amelia, I don't know if you ever asked Lori Shenher how long it would take to do all of those inquiries, but I would suggest that it seemed the longer you looked you have to remember that we actually were finding women who were reported missing by doing an extensive amount of work.²⁶³

²⁶⁰ Testimony of Don Adam. February 29, 2012, p.87

²⁶¹ Testimony of Jim McKnight. May 24, 2012, p.119

²⁶² Testimony of Don Adam. February 29, 2012, p.93

²⁶³ Testimony of Don Adam. February 29, 2012, p.116

Sgt. Adam, by relying on the notion that sex workers lives are “shrouded in ambiguity”, that they created new lives for themselves, that they wanted to avoid their families, was prepared to allow his investigation to be guided by unfounded stereotypes of sex workers and drug users. Reliance on those notions contributed to the untimely recognition that women continued to disappear and the untimely recognition that a serial killer was active.

Det. McKnight of the Vancouver Police Department, who joined Project Evenhanded in February of 2001 as the Primary Investigator without receiving Major Case Management Training, at first denied that anyone within Project Evenhanded was responsible for keeping track of new reports of missing women and their status, and then admitted that he was responsible within Project Evenhanded for keeping track of new reports of missing women and their status.²⁶⁴

When cross-examined about whether it ought to take more than six months for police investigators to determine whether a sex worker is truly missing, Det. McKnight engaged in the following exchange:

Q All right. You appreciate what it takes to confirm the survival sex worker is actually missing?

A Yes, I do. It takes a lot of work.

Q Doesn't it just take going down to the welfare office and seeing whether she's picked up her cheque?

A No, I don't agree with that. I think the threshold has to be far higher than that.

Q Why is that?

A I don't know how many people don't show up for welfare if they're out on a binge. I can't answer that question.

Q Sorry?

A If people are gone or on a binge, how can I tell where they are? I mean, that happens all the time.

Q You're saying that if survival sex workers are out on a binge --

A Don't put words in my mouth. I'm saying there's circumstances that have to happen. I withdraw that comment, Mr. Commissioner. I'm just telling you that the lifestyles are such that if -- if a person has just not picked up their welfare cheque, that's not necessarily enough. It's certainly an indicator, but I still think the threshold has to be higher.²⁶⁵

²⁶⁴ Testimony of Jim McKnight. May 24, 2012, p.129-130

²⁶⁵ Testimony of Jim McKnight. May 24, 2012, p.136-137

Det. McKnight, in relying on the notion that sex workers might be on a “binge” and fail to pick up their welfare cheques, for months on end, demonstrated his willingness to rely on stereotypes of drug users that have little or no foundation in reality. These stereotypes precluded the recognition that urgent and direct investigation into newly reported missing women was necessary, and unnecessarily delayed the commencement of investigation by Project Evenhanded into an active serial killer.

Apart from reliance on stereotypes by lead Evenhanded investigators, it was quickly clear or ought to have been quickly clear to investigators that women were continuing to disappear and that the serial killer was active. By November of 2000, it was well known that failure to pick up a welfare check was a convincing practical confirmation that a survival sex worker was missing. Moreover, Det/Insp. Rossmo’s May 1999 analysis demonstrated that a flux of two weeks allows a strong statistical confirmation that a survival sex worker was likely missing. Sgt. Adam and his command triangle have no sustainable excuse for a seven-month delay in confirming that a sex worker is truly missing and that her disappearance requires investigation.

The failure of the Project Evenhanded command triangle to gather information about newly reported missing women was especially problematic given the “Project Orion” report prepared by RCMP profiler Keith Davidson, which recommended that the RCMP maintain up-to-date information about the missing women.²⁶⁶

Aside from his distraction by other investigations, interrogation projects and two-month summer vacations, Sgt. Adam’s false preconceptions and stereotypes about the lives of sex workers being “shrouded in ambiguity” is, and Det. McKnight’s ideas about missing women being on “binges” contributed, on a balance of probabilities, to their failure to recognize that the serial killer was active.

iv) Failure to Respond to (late) Awareness of an Active Serial Killer

Once they recognized that the serial killer was active, Project Evenhanded waited four to six months before finally deploying an active field team to investigate in late January of 2002,²⁶⁷ at a time that investigators knew that women were disappearing every six to eight weeks. Det. McKnight, to his credit, admitted that the gap of four to six months was too long.²⁶⁸ The failure to actively investigate an active serial killer from November of 2000 to late January of 2002 amounts at minimum to wilful blindness to known or readily ascertainable information.

²⁶⁶ Testimony of Keith Davidson. May 24, 2012, p.15

²⁶⁷ The timing of the February 5, 2002 warrant and the deployment of the field team in late January 2002 and windup of the field team in March of 2002 suggests that the field team was deployed in anticipation of the execution of the search warrant, and that the February 2002 warrant for guns using Scott Chubb’s information was a pretext search that anticipated finding evidence of murder on the Dominion Avenue farm. No documents were produced to participants to support this suspicion, and the Commissioner elected not to call Scott Chubb or Cst. Nathan Wells.

²⁶⁸ Testimony of Jim McKnight. May 24, 2012, p.156

v) Summary of How Discrimination Affected Project Evenhanded

These failings represent a failure of the police to protect citizens from known risk, and those failings were most certainly the product of distracted and incompetent senior investigators. Sgt. Adam's two-month-long summer vacation and his pre-occupation with establishing an interrogations team²⁶⁹, and his ongoing reassignment to other murder investigations throughout British Columbia demonstrate his lack of commitment to Project Evenhanded, which deserved his undivided attention. The primary investigator, Det. McKnight, was not assigned until late February of 2001, and the file coordinator was not assigned until late April, 2001.²⁷⁰ It must be concluded that these failings also resulted from Sgt. Adam's attitude that the obligations of Project Evenhanded and the RCMP to protect sex workers are minimal.

The evidence – the use of the term “hooker” by two members of the command triangle, the suggestion that disappearances were due to “binges”, the long vacations, wilful blindness to evidence of new missing women, late deployment of field investigators – amounts in the aggregate to a demonstration that the risks facing sex workers were devalued by the senior investigators forming the command triangle of Project Evenhanded.

Compared with the Vancouver Police, there is less evidence of bias and discriminatory attitudes at Project Evenhanded. This is consistent with the finding that the RCMP was not subject to the unrelenting political pressure from Vancouver City Hall, residents groups and merchants associations to eradicate public sex work, to which the VPD was subject. The relative absence of evidence of bias and discrimination on the part of the RCMP may also reflect incomplete disclosure by the Royal Canadian Mounted Police.

Chapter 2, Part 5: The Port Coquitlam Investigation

Cross-examination of Cpl. Henley, Insp. Moulton, Cst. Yurkiw and Cst. Pollock was too restricted to meaningfully pursue the issue of whether the failure of the Port Coquitlam investigation was due to discrimination and bias against sex workers, drug users or Aboriginal women. Important Port Coquitlam witnesses were not called. It is not possible to conclude whether discrimination and bias were responsible for the failure of the Port Coquitlam investigation.

On the available evidence, it can only be concluded that the Port Coquitlam investigation failed due to a mixture of gross incompetence, indifference and perhaps corruption.

Cpl. Henley deserves special individual censure for deeming information from Mr. Hiscox, Mr. Caldwell, Ms. Best and Mr. Menard to be unreliable without conducting an adequate investigation, for failing to conduct an adequate interview of Mr. Pickton, for interfering with, undermining, and failing to properly prepare for the interview of Ms.

²⁶⁹ Testimony of Don Adam. February 16, 2012, p.155-6

²⁷⁰ Testimony of Don Adam. February 29, 2012, p.109

Ellingsen, for attending the Dominion Avenue property and advising Mr. Pickton of the names of confidential informants, thereby placing them at risk, advising Mr. Pickton that he was suspected of serial killings, and attempting to persuade Sgt. Adam that Mr. Pickton was not a viable suspect.

It is outside the terms of reference to find that Cpl. Henley's conduct attracts criminal liability. However, this Commission of Inquiry can take notice of the RCMP's failure to initiate a criminal investigation into Cpl. Henley's conduct.

Chapter 3: Suppression of Recognition of a Serial Killer

The Vancouver Police Department and Royal Canadian Mounted Police actively suppressed public recognition that serial killers were actively killing sex workers working in the Downtown Eastside.

Suppression of recognition of the risk of a serial killer of sex workers was not a passive failure to quickly recognize that a serial killer was active; VPD engaged in a sustained effort over the course of the period of reference and thereafter to marginalize any person within the force who attempted to respond to the risk of a serial killer and to misinform the media, the general public, elected representatives and the Police Board about the risk of a serial killer.

i) Suppressing Det/Insp. Rossmo and the Working Group

In early September of 1998, Det/Insp. Rossmo, with the support of Insp. Greer and Deputy Chief Constable McGuinness, raised the risk that a serial killer may be targeting sex workers in the Downtown Eastside. The risk was referred to as one of the possibilities that needed to be confirmed or denied by taking various steps set out in a blueprint for action for a Missing Persons Working Group.

It is clear that anti-intellectual bias against statistical methods, professional jealousy of academic recognition, and rivalry within the senior management team for control of resources led to the dissolution of the Missing Persons Working Group. Access to missing persons and homicide files were throttled by Sgt. Field under the direction of Insp. Biddlecombe. The dissolution of the Working Group postponed action on the investigation of foul play for eight months.

The proposed activities of the Working Group included a press release that would openly acknowledge the possibility of a serial killer and that the missing women had met foul play. The decision not to issue that press release falls on Insp. Biddlecombe, his superior, Deputy Chief McGuinness, and his superior, Chief Constable Chambers, who initially supported the press release but did not persevere with his support for the Working Group over Insp. Biddlecombe's objections.

The senior management of the Vancouver Police went further than suppressing Det/Insp. Rossmo and preventing him from marshalling Homicide and Missing Persons resources to investigate the possibility of a serial killer. VPD senior management suppressed open public acknowledgement of the possibility of a serial killer.

Even though Insp. Biddlecombe was, perhaps rightfully, upset about the attempt by Det/Insp. Rossmo and the District Two Commander, Insp. Greer, to investigate in his areas of responsibility, there was no reason for Insp. Biddlecombe not to take charge of the Working Group from Det/Insp. Rossmo and Insp. Greer, perhaps having Det/Insp. Rossmo reporting to a team commander of his choice. And, when Insp. Biddlecombe was reluctant to do so, there was no reason for Deputy Chief McGuinness not to order him to do so.

The suppression of the Working Group must be understood not as a passive delay in accepting the serial killer, but an active suppression of an attempt to investigate the possible existence of and risk posed by a serial killer, and the active suppression of an attempt to openly advise the public of the risk of a serial killer and to explain to the public what the VPD is doing to respond to that risk.

ii) April 9, 1999 Memo to Attorney General

In April of 1999, senior management of the Vancouver Police attempted to mislead the Attorney General of British Columbia about the risk that a serial killer was preying on sex workers in the Downtown Eastside. The deception was intended to discourage the Attorney General from supporting a reward for information and supporting a true serial killer investigation.

In February and March of 1999, family members, including Maggie De Vries, and community activists, including Wayne Leng and Jamie Lee Hamilton, had succeeded in generating community support and political momentum for a two-pronged approach to the missing women cases. The first prong was a \$100,000 reward for information dealing with the kidnap or murder of missing women; this prong was analogous to the \$100,000 reward for information dealing with garage robberies in more affluent areas of Vancouver. The second prong was a task force akin to the well-resourced Home Invasion Task Force, headed by Insp. Doug Lepard.

The political momentum for the two-pronged approach was sufficient to spur the Attorney-General of British Columbia, Ujjal Dosanjh, to invite the Provincial RCMP and the Vancouver Police to brief him on the missing women cases. The meeting was set for April 9, 1999.

The Attorney General testified that in his meeting with VPD and RCMP senior management, he asked about what the police forces were doing to investigate the missing women files, asked about the likelihood of a serial killer, and impliedly invited the police forces to request resources to conduct a fulsome serial killer investigation.

Record-keeping and record retention for the April 9, 1999 meeting was grossly negligent, judging by the state of the documents disclosed. On the basis of the documents disclosed, we are left to infer that high-ranking members of the VPD and RCMP, as well as the Attorney General, his staff, the Minister of Women's Equality and the Minister of Aboriginal Affairs, and their staff, failed entirely to create minutes of the meeting or notes of the meeting.

No emails or correspondence requesting the meeting or in relation to scheduling the meeting of more than a dozen people were disclosed to the Commission. No emails were disclosed dealing with VPD or RCMP intentions about what to say during the meeting. No internal emails within or to or from the Attorney General's office, to, for example, the Director of Police Services, Kevin Begg, were disclosed.

The only inference to be drawn from the near complete failure to make records of the meeting, retain records of the meeting, or disclose records of the meeting is that the participants, or many of them, had something to hide; something unseemly, of which they are not proud. Either they hid it at the time of the meeting by failing to record the events, or they hid what happened by failing to preserve the records of this meeting. Either way, an adverse inference can be drawn from the absence of records disclosed to this Inquiry. There is no positive or neutral explanation for the lack of formal records of a high-level meeting of public officials on a prominent matter of public interest.

The best indication of what happened at the April 9, 1999 meeting is found in the memorandum of same date authored by Det/Cst. Lori Shenher, which apparently was delivered to the office of the Attorney General. The memorandum contains the following misrepresentations:

Each of these disappearances has been investigated in the very same manner as we would approach a murder – minus a body and forensic evidence, witnesses, a crime scene, a crime time and any information that a murder has, in fact, taken place. The bulk of our work lies in interviewing people close to those missing and attempting to retrace their steps.

In each of these files, we have – through interviewing family, partners and friends – identified as many persons of interest as we can find. All of those people we have been able to locate have been interviewed by us, in some cases more than once. There are very few people of interest to us yet to be located and interviewed...

These cases are not being investigated any less strenuously because they involve women, nor are they taken less seriously because they are poor, but we hear these criticisms daily. Yes, the fact that they are lacking address books, known schedules, reliable routines and homes for us to search for clues does make this more difficult, but in no way does it mean we value them less or consider them throwaways. I truly believe we have done and are doing everything we can to find them in light of the information and evidence available to us.

As I write this report, there is no evidence of a person or persons preying on these women. That does not mean that we do not think it is a possibility, only that we have to weigh this with all other possibilities. We cannot investigate a murder without a body, witnesses, time of crime, scene of crime, or suspect and we have none of these things.²⁷¹

The passages above contain significant misrepresentations about the lives of missing women and the level of resources deployed to investigate the missing women cases. The lives of the missing women were not as scattered and unpredictable as Det/Cst. Shenher's assertions suggest – Det/Cst. Shenher relies on stereotypes about the transience and volatility of survival sex workers to play up the difficulty of the investigative task. Moreover, there is a wide chasm between a homicide investigation and what Det/Cst. Shenher set out to do at the Missing Persons Unit, as her many investigative missteps in the 1998 investigation of Robert Pickton make clear.

In particular, Det/Cst. Shenher did not pursue all investigative avenues open to her. Det/Csts. Fell and Wolthers reported to the Chief Constable that, upon their arrival at the Review Team in June or July of 1999, Det/Cst. Shenher and Det. Howlett had failed to question close friends, associates and neighbours.²⁷² Det/Cst. Shenher did not deny this allegation in her responsive memorandum but blamed the failings on a lack of resources.²⁷³

The most serious misrepresentations in Det/Cst. Shenher's April 9, 1999 memorandum, however, are in respect of the lack of evidence and lack of suspects. Det/Cst. Shenher falsely states that there is no evidence of a serial killer preying on the women, when, in fact, as of April 9, 1999, there was a great deal of evidence to suggest that there is a serious risk of one or more serial killers preying on the women and, more particularly, there was significant evidence from the Anderson attack and the Hiscox information to link Robert Pickton to the killings.

The starkest misrepresentation was is the statement that the Vancouver Police do not have a murder suspect. The statement is contradicted by the joint Vancouver Police and Port Coquitlam RCMP of Robert William Pickton that commenced in early August, 1998.

When confronted with the contradiction on the witness stand, Det/Cst. Shenher attempted to rely on a flimsy distinction between the word "suspect" and the term "person of interest". Her distinction is not borne out by her interchangeable use of the terms throughout the remainder of the documents she authored, including documents dating from both before and after April 9, 1999 showing that Det/Cst. Shenher regularly referred to the list of persons of interest as "suspects".

²⁷¹ Exhibit 146, p.141

²⁷² Exhibit 146, p.185

²⁷³ Exhibit 146, p.30

Det/Cst. Shenher's denial that she personally and deliberately misled the Attorney General of British Columbia was contradictory and implausible. It must be concluded that Det/Cst. Shenher deliberately misled the Attorney General for the purpose of persuading the Attorney General not to fund a reward for information and a task force to investigate the missing women.

While Det/Cst. Shenher clearly provided emotional support to family members, her good work does not negate her responsibility for a severe breach of public trust.

Responsibility for this deceit cannot be attributed solely to Det/Cst. Shenher. An official communication from a field investigator assigned to the Missing Persons Unit does not pass directly to the office of a Provincial Attorney General. The Senior Management Team, including Chief Constable Chambers, Deputy Chief McGuinness and Insp. Biddlecombe, reviewed and approved the memorandum before it was delivered. Sgt. Field would have reviewed and approved the memorandum before it as delivered. In this sense, the April 9, 1999 Shenher memorandum is a disgrace of the Vancouver Police Department as an institution.

The usual protocol within Vancouver Police Department during the period of reference was for ranking officers to initial documents and comment on them in handwriting.²⁷⁴ The fact that there is no copy of the April 9, 1999 memorandum with initials or comments of senior management suggests that senior management knowingly attempted to distance itself from the misrepresentations in Det/Cst. Shenher's memorandum.

The Vancouver Police Department's suppression tactics worked, in part, by convincing the Attorney General to adhere to the status quo and, in particular, not to provide funding and support for a serial killer task force. The Attorney General's decision, predicated as it was on misleading information, is among the primary causes for under-resourcing subsequent missing women investigations, including Project Amelia and Evenhanded, and the inactivity in between. The VPD's deception of the Attorney General directly contributed to the failure of the missing women investigation.

That being said, the VPD efforts to deceive the Attorney General failed, in part, because the Attorney General announced his support for a reward by funding \$70,000 of the full \$100,000 amount for information into kidnapping and murder of the missing women. The reward generated significant publicity, particularly as its release was well-publicized and coordinated with an America's Most Wanted episode featuring the missing women cases, and the Vancouver Police management was forced to assign members to address the many tips arising from the reward, which included valuable information from Mr. Caldwell, Ms. Best, Mr. Menard and Ms. Ellingsen.

Without ascribing criminal or civil liability to the Vancouver Police Department or any of its members, the deliberate deception of the Attorney General of British Columbia by Det/Cst. Shenher, Sgt. Field, Deputy Chief McGuinness and Chief Constable Chambers is a breach of public trust of the highest order, is contrary to the Rule of Law, is a

²⁷⁴ see, for example, Exhibit 145, p.97, 105;

violation of the principles of civilian oversight, and deserves the highest level of censure available to a Commission of Inquiry under the *Public Inquiry Act*.

iii) April 20, 1999: VPD Senior Management Tries to Deceive the Vancouver Police Board

By April of 1999, as noted above, family and friends of the missing women and community activists had succeeded in generating political momentum for a reward and a serial killer task force. On April 28, 1999, the Vancouver Police Board met to discuss whether to support a reward and task force at their level.

Members of Vancouver Police senior management, including Chief Constable Chambers and Deputy Chief Constable Brian McGuinness, attended the Board meeting. The position of the Chief Constable, as set out in a memorandum to the Police Board authored by Sgt. Field and, was to “support the current investigation”²⁷⁵, which consisted at the time of Det/Cst. Shenher working almost alone, working to locate the missing women, and almost without supervision. In essence, Vancouver Police senior management opposed the reward and serial killer task force.

Sgt. Field’s April 22, 1999 memorandum to the Police Board contained the following distortions and misrepresentations, designed to reduce Police Board support for a reward and task force:

The most recent in-depth look [into serial killing of sex workers], which took place in 1991... [took place] ... in order to profile the outstanding homicides of women believed to be prostitutes. 26 unsolved cases were examined in depth. Without going into all the details of the investigations, the results of this conference and criminal profiling, these 26 homicides were not considered the work of one offender but a number of offenders...

A number of people, including members of the police community, are concerned about the apparent high numbers of women missing from the streets of Vancouver. I use the term apparent, because in many of the cases, there has been such a long delay in reporting, often many weeks and in some cases up to six (6) months, it cannot be determined where these women were when they actually went missing...

.... The fact that they lack address books, known schedules, reliable routines and homes for us to search for clues makes this more difficult. It does not mean that we value them less or consider them throwaways. Everything possible that can be done is being done in spite of the lack of information and evidence available to us.

There has been an extensive amount of media coverage surrounding this issue already and to date neither the Police Department or Crimestoppers has received a single tip...

²⁷⁵ Exhibit 146, p.143

... Some of these women do not want to be located and will take extreme measures to avoid the police, their families, and in some cases, an abusive relationship.²⁷⁶

Sgt. Field's memorandum attempts to minimize the significance of the high numbers of missing women by suggesting that they are not truly missing and that they are better understood as "apparently missing" women who are very difficult to locate and potentially are in hiding. It also suggests that Project Eclipse determined in 1992 that there was no serial killer of sex workers, when in fact Project Eclipse determined that four of the murders, which were separate in time, were likely the work of one killer.

Sgt. Field's memorandum also exaggerates the efforts underway to locate the women. Sgt. Field's assertion that "everything possible that can be done is being done" is in stark contrast to Det/Cst. Shenher's assertion that, prior to May of 1999, she and Det. Howlett were unable to perform investigative tasks "due to time constraints,"²⁷⁷ and the obstruction of the Missing Persons Working Group in September of 1998, in respect of which Sgt. Field had provided key assistance.

In an effort to suggest that a reward would not yield useful information, Sgt. Field's memorandum falsely states that the Vancouver Police and Crimestoppers had not received a single tip. That information is false, and, despite Sgt. Field's testimony that she was unaware of the information provided by Mr. Hiscox (which came to the Vancouver Police directly and through Crimestoppers), it is highly likely that Sgt. Field was aware of the Hiscox information. Sgt. Field's statement to the Police Board that VPD has not received a single tip is a deliberate falsehood.

Importantly, Sgt. Field's background memorandum omitted very important information about the alarming increase in the number of missing women since Det/Cst. Shenher began her work in July of 1998. Failure to communicate this information amounts to further suppression of information to suggest that the women had met with foul play, and was part of the effort to deprive the Police Board of information it needed to set policing priorities within the City of Vancouver.

As with the April 9, 1999 memorandum authored by Det/Cst. Shenher, the contents of the April 22, 1999 memorandum authored by Sgt. Field should be ascribed to Vancouver Police senior management, including Deputy Chief McGuinness and Chief Constable Chambers, both of whom knew about the Missing Women Working Group and had a duty to prevent the dissemination of misinformation to the Police Board.

The overall messages that went out from VPD senior management through Sgt. Field to the Police Board were that the investigation of the missing women was difficult, that nothing else could be done, and that a reward would be counterproductive and a waste of

²⁷⁶ Exhibit 146, pp.143-148

²⁷⁷ Exhibit 146, p.31

resources, that a task force was unnecessary, and that the women said to be missing were likely not even missing.

Although the deceptive messages of the Department to the Police Board did not prevent the Board from supporting a reward by funding \$30,000 of the \$100,000 reward, the Board did not resolve to support and fund a full task force into the missing women cases, which led to the formation of the under-resourced Review Team. The misrepresentations had a significant deleterious effect on the missing women investigations that followed.

Without ascribing criminal or civil liability to the Vancouver Police Department or any of its members, deliberate deception of the Attorney General of British Columbia by Det/Cst. Shenher, Sgt. Field, Deputy Chief McGuinness and Chief Constable Chambers is a breach of public trust of the highest order, is contrary to the Rule of Law, is a violation of the principles of civilian oversight, and it deserves the highest level of censure available to a Commission of Inquiry under the *Public Inquiry Act*.

iv) The Disinformation Campaign: “No Evidence of A Serial Killer”

Throughout the period of reference, the VPD and RCMP propagated the public message that there was “no evidence of a serial killer”. The evidentiary record includes 87 newspaper articles published within the period of reference that relay Vancouver Police’s “no evidence” line to the public.²⁷⁸

The “no evidence” message was propagated by the VPD to contradict competing messages from family and friends of the missing women and from community activists, who were arguing publicly for a more thorough investigation to address the risk of a serial killer. The purpose behind the “no evidence” message was to ensure that the devotion of resources was not driven by the public.²⁷⁹

Vancouver Police messaging took place in a social context in which resource allocation decisions were highly politicized. Influential business and residents groups were calling for a crackdown on open drug trafficking and sex work, while equality-seeking groups were demanding more protection and reduced enforcement.

Jamie Lee Hamilton was dropping pairs of shoes off on the steps of City Hall, Vancouver Area Network of Drug Users was planting crosses at Oppenheimer Park and carrying mock coffins into City Council chambers to press for harm reduction, BC Civil Liberties Association was arguing for increased protection for sex workers, Prostitution Alternatives Counselling and Education was releasing reports about violence (including violence by police) against sex workers, the Women’s Memorial March was protesting the deaths and disappearances of Aboriginal Women.

Perhaps because the missing women lived at the intersection of discrimination against Aboriginal people, discrimination against women, discrimination against sex workers,

²⁷⁸ Exhibit 146, p.158, 159, 161

²⁷⁹ Testimony of Doug Mackay-Dunn. March 8, 2012, p.53

and discrimination against drug users, the missing women cases and police failure to investigate the missing women often became a common cause for otherwise disparate groups and concerns.

Missing women became a recurring theme regarding which the Vancouver Police were called upon to respond. In particular, Vancouver Police was called upon to respond to the (now demonstrably true) accusation that they were not doing enough to investigate the missing women. The “no evidence” line was repeated most strenuously by police spokespeople in periods of anticipated resource allocation decisions.²⁸⁰

In September of 1998, in response to a leak of the nascent Missing Women Working Group blueprint, Insp. Biddlecombe was quoted in the Vancouver Sun as saying that there is no evidence of a serial killer. Sgt. Field is quoted in the same article suggesting that drug overdoses may be responsible for the disappearances.²⁸¹

On March 3, 1999, in response to publicity generated by Jamie Lee Hamilton demanding that the disappearances be treated like homicides and arguing that a serial killer is active, VPD spokeswoman Cst. Anne Drennan is cited as saying, “There is not a single piece of evidence to suggest a serial killer.”²⁸² Her comments grate against VPD knowledge of the Hiscox information and the Anderson attack.

On July 3, 1998, the Supreme Court of Ontario released its reasons in *Doe v. Metropolitan Toronto (Municipality) Commissioners of Police*.²⁸³ The *Jane Doe* case, as it has come to be called, confirmed a duty on police organizations to warn persons who are at risk of violence. In the *Jane Doe* case, a serial rapist was climbing into second floor windows of apartment buildings in a small neighbourhood in Toronto, and raping the female occupants at knifepoint. The police saw the pattern and failed to warn the women who were at risk.

The *Jane Doe* case was widely discussed in police circles, and it was released at around the same time Det/Cst. Shenher was assigned to the Missing Persons Unit. Vancouver Police were aware that they had a duty to warn women of the risk of a serial killer. More particularly, after receiving information from Mr. Caldwell, Mr. Menard and Ms. Best that Mr. Pickton and Ms. Ellingsen were accomplices in bringing sex workers to Port Coquitlam, the police should have warned sex workers that Mr. Pickton wore wigs and had a female accomplice.

Instead of warning women, the Vancouver Police continued to propagate the notion that they had been thoroughly investigating the matter and that there was “no evidence” of a serial killer, which strongly suggested that there was no serial killer.

²⁸⁰ Compilations of media articles are marked as Exhibits 23, 24, 26, 35, 37, 38

²⁸¹ Exhibit 74, p.2

²⁸² Exhibit 146, p.154

²⁸³ 1998 CanLII 14826 (ON SC)

v) *Concealment of Women Reported Missing after July 1999 by VPD and Project Evenhanded*

Although there was a gap in disappearances from May of 2000 to December of 2000, missing women steadily disappeared at an alarming pace during the period of reference.

Nineteen sex workers were reported missing after the Missing Women Poster and official list of missing women was released by the Attorney General and the Vancouver Police Department in July of 1999. The poster was not updated and the official list of missing women was not updated until after Robert Pickton was arrested.

Failing to update the reward poster closed a significant avenue for information transfer from the public to the police about the new missing women.

The express reason given by Evenhanded to suppress dissemination of the ever increasing number of missing women was to enable Sgt. Adam and Det. McKnight to maintain control over resource deployment.²⁸⁴

By October 22, 2001, families were still upset that VPD had not taken any further steps to identify any new potential missing women.²⁸⁵ By this date, Project Evenhanded and Vancouver Police Missing Persons were aware of the identities of many of the missing women but Sgt. Adam and his media team was unwilling to release this information to the public. Det. McKnight's October 22, 2001 memorandum implies that the families were not told that new missing women had been identified.

vi) *Fell and Wolthers Sidelined*

Fell and Wolthers were removed from the Review Team in May of 2000, over their objections. When they wrote to Chief Constable Blythe to advise of the risk that a serial offender was killing sex workers on the Downtown Eastside and that Project Amelia should not be wound down, a disciplinary investigation was commenced against them and their careers as investigators were derailed.

A written statement by Insp. Spencer indicates that the disciplinary proceedings and career derailment was a form of retaliation for threatening to go to the press and "expose" Project Amelia.²⁸⁶ Insp. Spencer was not called by the Commissioner to give evidence, notwithstanding his role as Inspector in charge of the Major Crime Squad, including Homicide and Missing Persons Units, during much of the period of reference.

On the whole of the evidence, the removal and punishment of Dets. Fell and Wolthers in May of 2000 is among the steps taken by senior VPD management to suppress the

²⁸⁴ A competing notion – that Project Evenhanded held off on obtaining a search warrant until February 2002 to ensure that women's remains would be found on the property – could not be tested because Cst. Wells was not called to testify and due to time limitations imposed on counsel by the Commissioner.

²⁸⁵ Det. McKnight's memorandum records this fact.

²⁸⁶ Statement of Insp. Spencer to Deputy Chief Lepard, February 20, 2004. Exhibit 146, p.44

investigation of and public recognition of the risk that a serial killer was preying on sex workers in the Downtown Eastside.

vii) *Detective Jim McKnight Threatened*

A note in the interview of Doug Lepard by Deputy Chief Jennifer Evans indicates that DC Evans learned that Det. Jim McKnight was “emphatic that he was going to be disciplined by Deputy Chief Unger for saying there was a serial killer.”²⁸⁷ Curtailment of the time allocated to counsel to cross-examine Det. McKnight precluded questioning Det. McKnight about this issue. As such, there is insufficient evidence to criticize Deputy Chief Unger for this incident.

viii) *Jamie Lee Hamilton’s Gramma’s House Raided*

In May of 2001, the Vancouver Police Department, acting on orders from Chief Constable Terry Blythe, raided and closed down Gramma’s House, the only non-profit brothel that served as a safe refuge for survival sex workers. The primary operator of Gramma’s House, a sex worker advocate named Jamie Lee Hamilton, was arrested and charged under the *Criminal Code* with the offence of operating a bawdy house.

In his examination in chief, Chief Constable Blythe testified that he “fully supported” Gramma’s House. Under cross-examination, Chief Constable Blythe admitted that he supported the raid and closure of Gramma’s House because a small fee was being charged to sex workers. For Chief Constable Blythe, this meant a crime was being committed that was of greater importance than the safety of survival sex workers, whom he knew to be at risk from a serial killer.

Chief Constable Blythe made the following comment:

A: And it's unfortunate if it resulted in the closing of that facility because, like I said, she did a lot of good work in the community and we fully supported her.

Q: Right. It's unfortunate because it increased the risk to survival sex workers in the Downtown Eastside, didn't it?

A: Well, I would hope she realized the consequence of that from her actions and what occurred there.²⁸⁸

It is unlikely that the discovery of criminality lay behind the closure of Gramma’s House. At the time of the raid, Gramma’s House had been very publicly operating for at least three years.

There is sufficient evidence to conclude that the raid of Gramma’s House and arrest of Jamie Lee Hamilton was retaliation for her relentless efforts to publicize the risk that a

²⁸⁷ Exhibit 146, p.165

²⁸⁸ Testimony of Terry Blythe. February 22, 2012, p.10

serial offender was killing sex workers in the Downtown Eastside. Ms. Hamilton voiced the risk of a serial killer to explain the need for Gramma's House, and everyone was aware of that connection. Jamie Lee Hamilton's advocacy put her at the ears of the Mayor of Vancouver and City Councillors on an ongoing basis, as she applied for funding and business licences to keep Gramma's House open.

ix) The Post-Arrest Smear

After William Robert Pickton's arrest in February of 2002, many of the family and friends of the missing women, as well as community groups, vocalized their views that the Vancouver Police Department had failed to respond appropriately to the risks facing survival sex workers. The Vancouver Police Board asked the Vancouver Police Department to respond to these criticisms.

The Vancouver Police Department's response to the criticisms took the form of a smear campaign levelled against its critics. Speaking notes of Insp. Beach set out what he describes as "insight into the persons that are constantly relied on by the media."²⁸⁹ The speaking notes proceed to attack family members and friends of some of the missing women in the most vile and defamatory terms.²⁹⁰

Senior management's willingness to suppress and marginalize critics who spoke out on the foreseeability of the risk of a serial killer provides a glimpse at the extent to which senior management was fiercely defensive, reactionary and oppositional to their critics. The reaction is reminiscent of the Vancouver Police's public reaction to the PACE research report into violence against Vancouver sex workers released in 2001, which was dismissed by Chief Constable Blythe as unsubstantiated, invalid and conducted in bad faith.²⁹¹

The post-arrest smear of family and friends of the missing women deserves significant censure by this Inquiry.

x) Conclusion: VPD was Strongly Opposed to a Serial Killer Investigation

On the whole of the evidence, it must be concluded that Vancouver Police senior management were strongly opposed to devoting significant resources to a serial killer investigation throughout the period of reference.

The strength of VPD's opposition to mounting an adequate investigation was marked by the willingness to deceive the Attorney General, the Vancouver Police Board and the public, and their willingness to attack and marginalize Det/Insp. Rossmo, Dets. Fell and Wolthers, the Prostitution Alternatives Counselling and Education Society, Jamie Lee

²⁸⁹ Exhibit 146, p.208

²⁹⁰ Exhibit 146, pp.210 and 211

²⁹¹ It should be recalled that Chief Constable Terry Blythe was the principal architect of the Downtown Eastside Extraordinary Policing project, which expended \$7.4 million to suppress street disorder, including public sex work, between 1999 and 2001.

Hamilton, as well as the accurate critics among the families and friends of missing women.

Chapter 4: Crown Counsel's Stay of the Anderson Charges

Crown counsel's decision to stay the attempted murder charges against Robert Pickton in January 1998 may have had²⁹² catastrophic unintended consequences. The decision to enter a stay was influenced in part by the key witness' impairment at a Crown interview and in part by a self-imposed shortage of time for Crown counsel to prepare for trial.

Crown counsel Randi Connor provided a single explanation for staying the proceedings against Robert William Pickton. She stated that the victim, Ms. Anderson, was unable to take the witness stand, and that if Ms. Anderson did not take the stand there was no longer a significant likelihood of conviction. The only current information relied on by Ms. Connor to arrive at the conclusion that Ms. Anderson was unable to take the witness stand was gained from a single interview of approximately 2 to 3 hours in duration that occurred a week before the commencement of trial.²⁹³

Ms. Connor testified that Ms. Anderson was completely incoherent during the interview²⁹⁴, although this testimony is not entirely reliable. Given the length of the interview, it is more probable than not that Ms. Anderson was at least partially coherent during the interview and was able to give some indication of her recollection of the attack. It is implausible that Ms. Connor would have persisted in a 2 or 3 hour interview with a person who was entirely incoherent, that she would not have called for medical assistance for Ms. Anderson if Ms. Anderson was entirely incoherent, or that she would have permitted Ms. Anderson to leave the Port Coquitlam Crown office to make her way home to Vancouver by herself without assistance if Ms. Anderson was entirely incoherent.

It is more probable than not that Ms. Anderson's recollections during her interview with Ms. Connor, though not completely incoherent, were unclear or compromised by drug use prior to the interview. It is also likely that Ms. Anderson would not have been a presentable or persuasive witness if she had arrived to Court in the same shape as she arrived at the interview. This would have given rise to concerns on Ms. Connor's part about the viability of the prosecution, but would by itself be unlikely to have been the sole controlling factor in deciding whether to stay the proceeding.

Quite apart from what happened at the Crown office, it is clear that it is imprudent to make snap judgements about the capacity of a drug user based on a single meeting. Dr.

²⁹² If the Crown had proceeded to trial, either on the date set or on a later date, Mr. Pickton may have been acquitted or have evaded criminal liability in another way, and may have been undeterred by the ordeal of criminal prosecution. The murders he committed may or may not have been prevented by his prosecution for the attempted murder and aggravated assault of Ms. Anderson.

²⁹³ Counsel for Vancouver Police Department and the Government of Canada attempted to have Ms. Connor adopt characterizations of Ms. Anderson's conduct during 1997 set out in a document that was authored by counsel for Robert William Pickton to further his interest in undermining Ms. Anderson's credibility. The contents of that document are inaccurate and the source documents underlying that document were not disclosed. In any event, Ms. Connor was not aware of Ms. Anderson's conduct between the attack on her by Robert Pickton and the date of the stay of proceedings.

²⁹⁴ Testimony of Randi Connor. April 12, 2012, p.19

Shannon, in a discussion dealing with interviews of survival sex workers during the MAKKA Project, testified that if women came in to be interviewed and they were not in a good position, they were nodding off or were drug sick, they would simply be re-booked. Sometimes the women would do part of the interview and a follow-up interview would be booked for the next day or next convenient date.²⁹⁵ By accommodating sex workers' schedules, work lives and problems arising from addiction, Dr. Shannon secured a 93% participation rate from those invited to participate in the MAKKA Project.²⁹⁶

Dr. Shannon's testimony contrasts Ms. Connor's testimony regarding the implications of an interviewee being unable to participate in an interview due to drug use. In Ms. Connor's estimation, Ms. Connor's inability to participate in a single interview implied that she would be unable to participate in interviews or give testimony within the next two weeks. In Dr. Shannon's formidable experience, a sex worker's inability to participate in an interview means only that the interview will need to be rescheduled for the next day or next convenient date.

Dr. Shannon's opinion is informed by eight years of experience specifically working with and interviewing survival sex workers,²⁹⁷ and by her understanding of the practices of the Vancouver Injection Drug User Study, which has been underway since 1996.²⁹⁸ Dr. Shannon's opinion is buttressed by her success rate in securing participation for her studies. Dr. Shannon's opinion regarding the implications of drug use on a single difficult interview is highly credible and carries great weight.

As noted above, Ms. Connor's testimony that Ms. Anderson was entirely incoherent and completely incapacitated was likely an exaggeration of the extent of Ms. Anderson's impairment. This whole of the evidence supports the conclusion on a balance of probabilities that Ms. Anderson's level of impairment was likely not the sole factor on the basis of which Ms. Connor made her decision to stay the proceedings. Ms. Connor's postponement of most of her preparations for the attempted murder trial until the week before it was scheduled to commence was also a contributing factor to her decision to stay the proceedings.²⁹⁹ Although Ms. Connor denied that her delay in preparing for trial influenced her decision, her testimony on that point is not believable.

If Ms. Connor's testimony about Ms. Anderson's impairment being the sole basis of her decision to stay the proceedings is accepted, which it should not be, it must be concluded that her decision to stay the proceedings was influenced by false and discriminatory beliefs about drug users and illicit drug use. However, as noted above, Ms. Anderson's

²⁹⁵ Testimony of Dr. Shannon. October 18, 2011, p.41

²⁹⁶ Testimony of Dr. Shannon. October 17, 2011, p.131

²⁹⁷ Testimony of Dr. Shannon. October 18, 2011, p.42

²⁹⁸ Testimony of Dr. Shannon. October 18, 2011, p.42

²⁹⁹ Testimony of Randi Connor. April 10 and 11, 2012. Ms. Connor admitted that one week before trial, she had not completed admissions requested by Judge Holmes, had not interviewed any of the 16 police officers notified that they would be testifying, had not interviewed the 2 civilian witnesses or any of the doctors or nurses who were to be called to testify about the severity of injuries suffered by the complainant, had not inspected the physical evidence, had not listened to the taped interviews of the accused or complainant, and had not conducted legal research. The file was flagged as a red file requiring additional advance preparation: April 12, 2012, p.140

impairment at the interview and drug use or addiction were likely not the sole factor that influenced the decision to stay the proceedings.

Ms. Connor did not have enough information about Ms. Anderson's drug use to predict with any certainty Ms. Anderson's likely drug use within the next two weeks, and it is unlikely that Ms. Connor did in fact achieve certainty on this point.³⁰⁰ Ms. Connor did not know what drug or drugs Ms. Anderson was using, and she did not know the amounts or frequency of her use of the drug or drugs.³⁰¹ Ms. Connor did not know whether Ms. Anderson was prescribed Methadone or what type or types of illicit drugs Ms. Anderson was using or was addicted to. Ms. Connor agreed under cross-examination that this type of information was necessary to draw strong conclusions, and, despite her testimony that she did not believe that Ms. Anderson's addiction would improve in the near future³⁰², it is unlikely that she did in fact draw conclusions about Ms. Anderson's drug use at a high degree of confidence:

Mr. Ward: Well, someone who's under the influence of a drug today, like heroin, may be perfectly lucid and credible and cogent next week when they're not under the influence of drugs, when they have -- when they have had the opportunity to have rest and food and some help, right?

Ms. Connor: Well, that's a hypothetical. It would depend on how badly addicted they are. It would depend on whether they needed to take drugs every day to function. I think that's a question that I would have difficulty answering because amounts matter.³⁰³

It is more probable than not that Ms. Connor was more frustrated than she otherwise would have been by an interview with a key witness who was significantly impaired, given that she was in the early stages of trial preparation only a week before trial commencement. Lack of preparation time amplified Ms. Connor's misgivings about Ms. Anderson's credibility. In other words, the risk that Ms. Anderson might appear at the trial impaired by illicit substances did not stand alone; the Crown's self-imposed shortage of time to prepare Ms. Anderson to testify decreased Ms. Anderson's value as a witness for the prosecution.

It is more probable than not that, as an experienced trial lawyer, Ms. Connor would have anticipated and considered the following implications of her interview with Ms. Anderson, as placed into the context of a self-imposed shortage of time to prepare:

1. If Ms. Connor's trial preparation had continued, at least two more witness interviews with Ms. Anderson would have been appropriate in the week

³⁰⁰ A note in the Report to Crown Counsel authored by Cpl. Connor in March of 1997 states that Ms. Anderson was addicted to heroin. This by itself is weak evidence of Ms. Anderson's level of addiction in January of 1998. A dated criminal record for minor possession and theft offences is even weaker evidence: April 10, 2012, p.89

³⁰¹ Testimony of Randi Connor. April 11, 2012, p.186-9. April 12, 2012, p.12

³⁰² Testimony of Randi Connor. April 13, 2012, p.182

³⁰³ Testimony of Randi Connor. April 11, 2012, p.28

before trial³⁰⁴, which would have added significantly to the burden of preparation without assurances that Ms. Anderson would necessarily be ready, willing and able to testify at the trial.

2. Even after further interviews with Ms. Anderson, a last-minute Crown adjournment application might have been necessary, and could have resulted in meaningful inconvenience and cost to witnesses, opposing counsel and wasted judicial resources. These costs would be attributed to the Crown.
3. If Ms. Anderson had taken the witness stand, there would have been an unknown level of risk that her testimony would not have implicated the accused. This would itself carry the risk of potential embarrassment in respect of an attempted murder trial.

Aspects of the above factors fall within the charge approval factors. The risk of squandering public resources, for example, is among the factors to be weighed by Crown counsel in assessing whether a prosecution should proceed. Other aspects of the above factors do not clearly fall within the charge approval policy.

It is difficult to speak definitively about the relative weight accorded each factor by Ms. Connor in the decision to stay the proceedings because Ms. Connor denied that the public interest branch of the charge approval policy had any role in her decision to stay the proceedings.³⁰⁵ Speculation on such matters is unlikely to be of advantage to the terms of reference.

Even assuming there the likelihood of conviction was insignificant, Ms. Connor admitted that she did not consider the exceptional circumstances branch of the Crown counsel charge approval standard, which, with the concurrence of Regional Crown, permits the prosecution of offences against high risk violent or dangerous offenders. The specific provision of the policy is as follows:

Exceptional circumstances may require that a prosecution proceed even though the usual evidential threshold may not be satisfied at the charge approval stage. Such circumstances will most often arise in cases of high risk violent or dangerous offenders or where public safety concerns are of paramount consideration. Such cases must be discussed with Regional Crown Counsel or designate prior to making the charging decision.³⁰⁶

Ms. Connor did not consult with Cpl. Connor of the Port Coquitlam RCMP detachment before making the decision to stay the proceedings. She may have been unaware of Cpl. Connor's view that violence was shown by Pickton towards sex workers and women in general,³⁰⁷ as was broadcast through the Canadian Police Information Centre system.

³⁰⁴ As Ms. Connor testified, "If she had shown up in good condition, I don't think we would have required a whole series of interviews". April 13, 2012, p.167

³⁰⁵ Testimony of Randi Connor. April 11, 2012, pp.4 and 5

³⁰⁶ Testimony of Randi Connor. April 12, 2012, p.37-42

³⁰⁷ Exhibit 146, p.133

Weighing all the evidence, this Inquiry must conclude that Ms. Anderson's value as a witness for the prosecution was diminished in part because of her drug use and in part because Ms. Connor delayed her preparations for trial for unknown reasons. Late preparation for trial also created a constellation of practical difficulties for the Crown that contributed to the decision to enter the stay of proceedings.

Chapter 5: Recommendations for Positive Change

Counsel for the interests of individuals and organizations within the Downtown Eastside who are affected by this Inquiry asks the Commission to make the following recommendations:

Recommend Financial Compensation for the Children of the Missing Women

- Recommend financial compensation for the children and grandchildren of the missing women. Money is no substitute for a mother's presence, love and support, but financial compensation may assist the children of the missing women to build their lives and advance the interests of their own families.

Recommend Reform of Police Practices and Policies

- Recommend training for senior management. "Sensitivity training" for new recruits is inadequate to address resource allocation problems. Senior managers who are unaware of the social conditions of communities entitled to protection will be unable to structure their institutions, departments, and deploy appropriate resources to protect those communities.³⁰⁸
- Recommend the enactment of Province-wide police regulations preventing all forms of racism and discrimination towards members of the public at all levels of policing³⁰⁹
- Recommend that the Minister of Justice direct the Director of Police Services conduct an audit under s.42 of the *Police Act* of Vancouver Police and Royal Canadian Mounted Police policies and practices to identify ways to reduce and eliminate racism and discrimination against groups and individuals at risk of serious violence, including sex workers and drug users.
- Recommend civilian participation in operational decision-making. The evidence shows that insular operational decision-making reinforces institution-serving decisions, including deception of civilian oversight mechanisms. Determining operational priorities are subject to characterization as both policy and operational decisions. Policy-oriented Police Boards may hesitate before setting priorities that require civilian input.
- Recommend an end to the prioritization of public propriety and property values over human life.³¹⁰ Displacement of vulnerable groups intended to facilitate property development and real estate speculation may often have adverse effects on the lives and safety of those groups. Deployment of police resources and

³⁰⁸ Testimony of Dr. Shannon, October 17, 2011, p.157

³⁰⁹ Testimony of Doug Lepard. November 29, 2011, p.20. VPD's anti-discrimination policy is limited to a workplace harassment policy.

³¹⁰ Testimony of Prof. Lowman, October 13, 2011, p.105

development projects should include formal requirements for assessment of harms to vulnerable populations, including any groups protected under s.15(1) of the *Charter*.

- Recommend municipal and Provincial funding to reopen the Vancouver Police Native Liason Office under civilian direction and provide it with an investigative mandate.³¹¹
- Recommend the completion of Project Evenhanded by comparing historical case files to known DNA. Sgt. Adam's attempt to initiate a 'wide net' investigation to compare historical DNA to known sex offender DNA is a worthy project. This investigation should be conducted.
- Recommend the enactment of straightforward regulatory guidelines for concurrent territorial jurisdiction of municipal detachments in British Columbia, guided by the principles of jurisdiction simpliciter and investigative convenience.³¹²
- Recommend the enactment of regulations to formalize the duty of the Provincial Police Service, whether provided by contract by the Royal Canadian Mounted Police or otherwise, to investigate all offences involving transport of persons or property over municipal boundaries. Temper this jurisdiction by a requirement to consult and collaborate with municipal detachments and with the principle of subsidiarity, which holds that nothing should be done by a larger and more complex organization that can be done equally well by a smaller and less complex organization.
- Recommend that the Minister of Justice direct the Director of Police Services to prepare a business case for an integrated Provincial or National level serial killer or serial offender unit.
- Recommend the creation of a Province-wide missing persons intake system and a civilian operated missing persons system with clear and formal rules to transfer investigations to the appropriate police service if foul play is suspected.
- Recommend implementation of the following means and programs to facilitate reporting of violence by sex workers:

³¹¹ Freda Ens testified that the previous mandate for Native Liason Society was a victims services mandate. Testimony of Freda Ens. April 2, 2012, p.31. There was testimony from police officers that their mandate within Native Liaison Society was not investigative; it was to meet and greet community groups and demonstrate that there is a friendly side to Vancouver Police. Testimony of Cst. Lawson. April 2, 2012, p.107. Cst. Johns testified that the VPD officers assigned to VPNLS may not have known what was going on at the VPNLS storefront: Testimony of Cst. Johns; April 2, 2012, p.136. VPNLS staff did not have access to police databases and did not have investigative training.

³¹² The proposed principles would be analogous to the jurisdiction rules for private international law disputes. These principles, recently confirmed in *Breedon v. Black*, 2012 SCC 19 (CanLII), are of utility in the policing context.

- Implement a sex worker liaison unit operating seven days a week throughout the day and night³¹³
 - Eliminate enforcement of arrest warrants for persons wishing to report violent or sexual offences. It may be necessary to consult with Provincial Courts administration regarding the form of arrest warrants³¹⁴
 - Cease the harassment of sex workers with checks, searches, involuntary information collection
 - Guarantee immunity from prosecution for persons wishing to report crimes of violence or sexual violence.³¹⁵
 - Implement a police control car with a peer worker³¹⁶
 - Create a “greenshirts” patrol of ten or more pedestrian officers who would only take reports from persons within the Downtown Eastside. Greenshirts would be directed not to arrest, detain or search any person. A three-month stint in the “greenshirts” could be a mandatory part of police training.
- Recommend renaming the “Vice Squad”³¹⁷ as the “Sexual Exploitation Squad”, targeting exploitative sexual relationships and abuses of positions of trust, power or authority, rather than consensual sexual transactions. It is not for the police constabulary to promote sexual virtue.
 - Recommend that discretionary police powers not be used to contain survival sex workers within industrial areas of Vancouver. Containment in isolated areas is correlated to a three-fold increase in sex workers being coerced into unprotected sex by clients.³¹⁸ Containment of sex workers is a discretionary exercise of police powers pursuant to unwritten policies. Containment policies are contrary to s.8 of the *Human Rights Code*, [RSBC 1996, c.210].
 - Recommend decriminalization and regulation of sex work, or as an alternative to decriminalization, recommend that formal policies requiring that police discretion be exercised to minimize or eliminate enforcement of the communication offence under s.213 of the *Criminal Code* against sex workers.³¹⁹ To promote legal change, this Inquiry must draw the causal connection between enforcement of s.213 enforcement and increased danger to sex workers. It is important to recognize that, notwithstanding the harm to women associated with enforcement, many women’s advocacy organizations within the Downtown Eastside oppose decriminalization and regulation on the basis that sex work is inherently oppressive of women and degrades women’s sexuality. Many Aboriginal individuals and organizations within the Downtown Eastside oppose

³¹³ Report of Dr. Shannon, Exhibit 6, p.40; Testimony of Dr. Shannon, October 17, 2011, p.157

³¹⁴ Testimony of Dr. Lowman. October 20, 2011, p.32

³¹⁵ Testimony of Susan Davis. October 31, 2011, p.174

³¹⁶ Testimony of Dr. Shannon, October, 17, 2011, p.158

³¹⁷ Susan Davis points out that the phrase “Vice Squad” is a historical remnant of the temperance movement. October 31, 2011, p.98

³¹⁸ Exhibit 6, p.41

³¹⁹ Testimony of Dr. Shannon, October 17, 2011, p.156

decriminalization of sex work on the principled basis that, given the high proportion of sex worker who are Aboriginal, sexual transactions represent one of the worst forms of colonial oppression of Aboriginal women and Aboriginal cultures. For these groups, decriminalization and regulation of the sex trade normalizes and permanently institutionalizes iniquity.

- Recommend decriminalization and regulation of possession and trafficking heroin and cocaine, allowing at a minimum for physician-prescribed heroin and cocaine. This could be accomplished through regulatory delisting of heroin and cocaine from Schedule I of the *Controlled Drugs and Substances Act* and Scheduling heroin and cocaine under the *Food and Drugs Act*. 63% of women engaged in sex work said that they would give up sex work if they did not need money for drugs.³²⁰ If drugs were provided at or near costs, there would be a dramatic decrease in sex work.³²¹

Recommend Positive Development of Crown Counsel Policies and Practices

- Recommend the creation and distribution of Crown counsel guidebook for vulnerable witnesses for distribution within British Columbia. Consult with and incorporate into the guidebook the interests of affected individuals and communities, including the urban Aboriginal community and the on-Reserve Aboriginal community.
- Recommend the creation of a Crown early identification system to identify cases that depend on the testimony of vulnerable or marginalized witnesses. The likelihood of successful prosecutions may be improved by the formation of a direct relationship between Crown prosecutors assigned to a case and vulnerable witnesses.
- Recommend that Crown counsel be given access to discretionary funding for treatment and housing for vulnerable witnesses. Recommend the creation of a victim entitlement protocol to structure the discretion.
- Recommend funding for a Crown Liaison Program. Front-line prosecutors are litigators who are difficult to contact by telephone or in person. Crown prosecutors are not provided with sufficient administrative support to answer to the immediate needs of vulnerable witnesses. Witness relations is not a function that can be meaningfully performed by the Victim's Services Branch.

Ancillary Recommendations for Reform of Practices and Policies

- Recommend further research into entry of young women get into the sex trade, especially Aboriginal women who are in transition from Reserves or foster homes

³²⁰ Testimony of Dr. Kerr. October 19, 2011, p.139

³²¹ Testimony of Dr. Kerr. October 19, 2011, p.142

to urban centres, and who are often homeless in the interim³²². Dr. Shannon reports that youth and Aboriginal women were particularly vulnerable to making this transition.³²³ Professor Lowman's report from 1995 indicates that between 30 and 70 percent of street level sex workers are Aboriginal women.³²⁴ Dr. Shannon's report indicates 40% of survival sex workers are Aboriginal.³²⁵ The proposed research would deepen our understanding of the class and race dimensions within sex work,³²⁶ and would enhance our understanding of vulnerable young people and what motivates them.³²⁷

- Recommend enhancing the limited range and extent of detoxification and treatment facilities in British Columbia. 14 percent of individuals who use drugs report having experienced difficulty accessing addiction treatment within the last six months.^{328 329} Poor availability of drug treatment is correlated to increased levels of violence against sex workers.³³⁰ All of the 255 sex workers forming the Maka cohort were drug users.³³¹
- Recommend increases in affordable housing, including supportive assisted living and addiction treatment facilities within British Columbia. Lack of housing is correlated to an increase in violence.³³²
- Recommend psychological support services for the physical and psychological traumas underlying drug addiction, and the traumas resulting from drug addiction and sex work.
- Recommend the creation of a tax credit, income subsidy or wage subsidy for low-threshold employment for persons with addiction. 63% of sex workers said they would no longer be interested in participating in sex work if they had access to low-threshold employment.³³³
- Recommend research into the promotion of street life by the foster system. A high proportion of state-raised youth are raised into street populations, including Aboriginal girls raised by the state.³³⁴ Recommend expansion of adult entitlements to housing and education for children raised by the state.

³²² Report of Dr. Shannon, Exhibit 6, p.36; Testimony of Dr. Shannon, October 17, 2011, p.136

³²³ Report of Dr. Shannon, Exhibit 6, p.40

³²⁴ Testimony of Prof. Lowman, October 17, 2011, p.90;

³²⁵ Exhibit 6, p.36

³²⁶ Testimony of Prof. Lowman, October 13, 2011, p.133; Juristat Report on Street Prostitution in Canada, Statistics Canada, February 1997; Exhibit 145, p.3

³²⁷ Testimony of Prof. Lowman, October 17, 2011, p.91

³²⁸ Testimony of Dr. Kerr. October 19, 2011, p.148

³²⁹ Testimony of Dr. Shannon, October 17, 2011, p.136

³³⁰ Testimony of Dr. Shannon, October 17, 2011, p.154

³³¹ Testimony of Dr. Shannon, October 18, 2011, p.4

³³² Report of Dr. Shannon, Exhibit 6, p.40; Testimony of Dr. Shannon, October 17, 2011, p.154; October 18, 2011

³³³ Testimony of Dr. Kerr. October 19, 2011, p.152

³³⁴ Testimony of Prof. Lowman, October 13, 2011, p.139

- Recommend the addition of “sex workers”, “poverty”, “addiction” and “social condition” to grounds of discrimination under *Human Rights Code*.
- Recommend the inclusion of sex worker entitlements in employment standards legislation, workers’ compensation legislation and criminal victims compensation legislation.³³⁵
- Recommend funding for a safe house or shelter system for street-involved women and sex workers.³³⁶
- Recommend the amendment of municipal bylaws to create zoning and licences for sex work and brothels.³³⁷ Recommend the repeal the bylaw dealing with managers of a social club.³³⁸ Eliminate the restriction that an escort licence is not available to persons with a criminal record.³³⁹
- Recommend the reinstallation of pay phones throughout the Downtown Eastside and in stroll areas.

³³⁵ Testimony of Dr. Kerr. October 20, 2011, p.15

³³⁶ 41% of women wanted a safe house or shelter. Testimony of Dr. Lowman. October 20, 2011, p.37

³³⁷ Testimony of Susan Davis. October 31, 2011, p.90; see also Testimony of Dr. Lowman regarding hypocritical bylaws dealing with sex work

³³⁸ Testimony of Susan Davis. October 31, 2011, p.94.

³³⁹ Testimony of Susan Davis. October 31, 2011, p.95

My boss is a real asshole. I wouldn't piss on him if he was on fire. #piss #asshole #dickhead #son-of-a-bitch #fuckface #fire. by Study Hungwell October 19, 2006. 64. 14. Get a I wouldn't piss on him if he was on fire mug for your grandma Sarah. Trending RN - December 22, 2019. 1. Feeding the Geese. I wouldn't piss up your ass if your guts were on fire. I wouldn't put anything past her. I wouldn't say no. I wouldn't shit on him if he was on fire. i wouldn't take a shit there. I wouldn't take her to a dogfight. I wouldn't take that. I wouldn't throw her out of bed for eating cookies. I wouldn't touch her with yours. I wouldn't touch that with a 20-foot pole. I wouldn't use it to hit a dog on the ass. I wouldn't worry about it. i would put it in her mouth. Discrimination is the systematic denial of certain peoples' or groups' full human rights because of who they are or what they believe. It is all too easy to deny a person's human rights if you consider them as "less than human". Discrimination law has been designed to prohibit the unfair treatment of a person or group of people based on those protected characteristics. Women have been fighting for their rights and have changed society, becoming important politicians and leaders. They still have some obstacles, women's salaries in some professions are devalued compared with men's salary and there is a lot of violence against women in everywhere. Discrimination runs against the most fundamental values of a modern society. Government workers have greater protection against being purged for their sexuality than those in the private sector. Is the employer a government contractor? Even though workers at private contractors aren't employees of the government, public agencies have a long history of conditioning contracts on non-discrimination. The coming executive order will ban discrimination against LGBT workers by federal contractors. Or a religious group? That decision "spurred by the case of Mia Macy, a transgender woman who applied to work at the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives" concluded that such firings were a form of sex discrimination and are prohibited under the 1964 Civil Rights Act.