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F I E D	FEDERAL COURT COUR FÉDÉRALE File No.: T-1304-18 Oct 4, 2019
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Sarah Mantler	
Regina, SASK	- 19 -

Court File

FEDERAL COURT
PROPOSED CLASS ACTION

Between:

DIANE BIGEAGLE

Plaintiff

- and -

HER MAJESTY THE QUEEN

Defendant

SECOND AMENDED STATEMENT OF CLAIM TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiffs solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days. Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: July 5, 2018

Issued by: “Robert M’Vondo”
(Registry Officer)

Address of Local Office: Regina Local Office
2425 Victoria Avenue
Regina, Saskatchewan
S4P 3V7

TO: Her Majesty the Queen
Prairie Regional Office - Saskatoon
Department of Justice Canada
123-2nd Avenue S., 10th Floor
Saskatoon, Saskatchewan
S7K 7E6

CLAIM

1. The Plaintiff claims on her own behalf and the other members of the proposed class:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as a Representative Plaintiff for the Class;
 - (b) a declaration that the Defendant breached her duties to the Plaintiff and the Class by reason of the events described in this action;
 - (c) a declaration that the Defendant breached her common law duties of care owed to the Plaintiff and the Class by reason of the events described in this action;
 - (d) a declaration that the Defendant breached the *Charter* by reason of the events described in this action;
 - (e) damages, including but not limited to damages pursuant to s. 24(1) of the *Charter*, in the amount of \$500 million or any such amount as this Honourable Court deems appropriate;
 - (f) punitive damages of \$100 million, or such other sum as this Honourable Court may find appropriate;
 - (g) pre-judgment and post-judgment interest pursuant to the *Federal Courts Act*, R.S.C. 1985, c. F-7;
 - (h) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to Rule 334.38 of the *Federal Courts Rules*, SOR/98-106; and
 - (i) such further and other relief as this Honourable Court deems just and appropriate in all the circumstances.

THE PARTIES

2. The Plaintiff, Diane BigEagle (the “**Plaintiff**”) is an individual residing in Regina, Saskatchewan. She is the mother of the missing Danita Faith BigEagle, and is a homemaker caring for Danita Faith BigEagle’s two children.

3. The Defendant, Her Majesty the Queen (the “**Defendant**”) represents the Federal Government of Canada (the “**Federal Crown**”) and the Royal Canadian Mounted Police (the “**RCMP**”).

4. The Plaintiff pleads and relies on the *Crown Liability and Proceedings Act*, RSC 1985, c C-50 [the *CLPA*], including but not limited to ss. 3, 23(1) and 36 thereof.

DEFINITIONS

5. In this claim, the capitalized terms are defined as follows:

- (a) “**Community Member**” includes where applicable, all members of the reserve(s) from which the Victim hailed or lived;
- (b) “**Dependants Statutes**” means the *Family Compensation Act*, R.S.B.C. 1996, c. 126; *Fatal Accidents Act*, R.S.A. 2000, c. F-8; *Tort-Feasors Act*, R.S.A. 2000, c. T-5; *Fatal Accidents Act*, R.S.S. 1978, c. F-11; *Fatal Accidents Act*, C.C.S.M. c. F50; *Family Law Act*, R.S.O. 1990, c. F.3; *Civil Code of Québec*, CQLR c CCQ-1991; *Fatal Accidents Act*, R.S.N.B. 1973, c. F-7; *Fatal Accidents Act*, RSPEI 1988, c F-5; *Fatal Injuries Act*, R.S.N.S. 1989, c. 163; *Fatal Accidents Act*, R.S.N.L. 1990, c. F-6; *Fatal Accidents Act*, R.S.N.W.T. (Nu) 1988, c. F-3; *Fatal Accidents Act*, R.S.N.W.T. 1988, c. F-3; and the *Fatal Accidents Act*, R.S.Y. 2002, c. 86.
- (c) “**Extended Family Member**” includes a grandparent, grandchild, aunt, uncle, cousin, or niece;
- (d) “**Immediate Family Member**” includes a parent, guardian, spouse, sibling, or child (whether biological or through adoption or marriage);
- (e) “**Indigenous**” includes Inuit, Métis, Indian, and Aboriginal persons;

- (f) “**Victim**” means an Indigenous woman or two-spirited individual who (1) was murdered (and whose murder was reported to the RCMP but remains unresolved) or (2) has been missing for more than 30 days and whose disappearance was reported to the RCMP.

THE CLASS

- 6. The Plaintiff brings this action on her own behalf and on behalf of:
 - (a) All persons in Canada who have one or more Indigenous Immediate Family Members who are Victims (the “**Immediate Family Class**”);
 - (b) All persons in Canada who have one or more Indigenous Extended Family Members who are Victims (the “**Extended Family Class**”);
 - (c) All persons in Canada who, by reason of his or her relationship to a Class Member or Victim, are entitled to make claims under any of the Dependant Statutes as a result of injury to the Class Member or Victim (the “**Statutory Dependants Class**”);
 - (d) The heirs, assigns, and estates of all Victims (the “**Estate Class**”); and
 - (e) All persons in Canada who are Community Members in relation to a Victim, (collectively, the “**Class**”, “**Class Members**”, or “**Plaintiffs**”).

RCMP MANDATE

7. The RCMP’s mandate, as described by s. 18 of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 [the **RCMP Act**] is, through its peace officers, to “perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody.”

8. Part IV of the *RCMP Act* sets forth a code of conduct which all peace officers and others working with the RCMP are expected to uphold. It states, *inter alia*, that it is the responsibility of every member:

- (a) “to respect the rights of all persons;
- (b) to maintain the integrity of the law, law enforcement and the administration of justice;
- (c) to perform the member’s duties promptly, impartially and diligently, in accordance with the law and without abusing the member’s authority;
- (d) to avoid any actual, apparent or potential conflict of interests;
- (e) to ensure that any improper or unlawful conduct of any member is not concealed or permitted to continue;
- (f) to be incorruptible, never accepting or seeking special privilege in the performance of the member’s duties or otherwise placing the member under any obligation that may prejudice the proper performance of the member’s duties;
- (g) to act at all times in a courteous, respectful and honourable manner; and
- (h) to maintain the honour of the Force and its principles and purposes.”

9. As an arm of the Federal Crown, the RCMP shares with the Federal Crown the special responsibility for the protection of Indigenous peoples.

9a. As an arm of the Federal Crown, the RCMP shares with the Federal Crown the responsibility for giving effect to and implementing the *Canadian Charter of Rights and Freedoms* (the “*Charter*”), including but not limited to s. 7 and 15 thereof as described *infra*.

MISSING AND MURDERED INDIGENOUS WOMEN

10. According to the RCMP's 2014 report, *Missing and Murdered Aboriginal Women: A National Operational Overview* (the "**2014 Report**"), as of 2013, the RCMP had in its records 225 open and unsolved cases of missing or murdered Indigenous women dating back to 1980, including 105 who had been missing for more than 30 days and 120 unsolved homicides.

11. In the 2014 Report, the RCMP acknowledges that the rate of victimization among Indigenous Canadians had been significantly understated in the past, and that while the number of Indigenous female victims of homicide has remained relatively constant, the number of non-Aboriginal female victims has been declining. Indeed, Indigenous women represented 23% of female homicide victims in 2013 – nearly triple the rate from 1984 and manifestly higher than the percentage of females in Canada.

12. The unacceptably high rates of violence against Indigenous women and girls is well documented and known both nationally and internationally and has drawn criticism from national and international human rights watchdogs. These calls for action have been in practical effect ignored by the Defendant.

13. As a result, the relationship between Indigenous women and the police forces (including the RCMP) that are expected to protect them is, has been, and remains dysfunctional and police decision-making, resource allocation, and investigative decisions are, have been, and continue to be plagued by overt and covert racism and discrimination.

14. The RCMP has been especially criticized for its lackadaisical and negligent approach to the investigation of homicides and missing persons reports relating to Indigenous women and girls.

15. The RCMP defends its track record regarding these women and girls by painting them as being more vulnerable and at a disproportionately higher risk for exposure to these perils. For example, in its 2014 Report, the RCMP notes that:

- (a) “Aboriginal victims were less likely to be employed than non-Aboriginal victims (16% versus 40%). Aboriginal victims were more likely to support themselves through illegal means (18% versus 8%), be unemployed but still part of the labour force (12% versus 8%), and be on some form of social assistance or disability insurance (23% versus 9%).”

- (b) “From the data available between 1997 and 2012, Aboriginal females were more likely than non-Aboriginal females to have consumed some form of alcohol and/or drugs or other intoxicating substance prior to the incident (63% versus 20%).”

16. From the RCMP’s perspective, the relative risk that a Victim was exposed to due to their lifestyle circumstances or choices ought to have been an irrelevant consideration.

17. As a police force, the RCMP have a mandate to serve and protect “all persons”.

THE RELATIONSHIP WITH INDIGENOUS WOMEN

18. At least three reports have previously reviewed, in a comprehensive fashion, the relationship that exists between Indigenous peoples and the Federal Crown, including the Aboriginal Justice Inquiry of Manitoba (1991), the Royal Commission on Aboriginal Peoples (1996), and the Truth and Reconciliation Commission of Canada (2015).

19. The failure of police services, including the RCMP, to adequately address the needs of Indigenous women have been repeatedly highlighted. The 1991 AJI report, for example, notes that “the police and justice systems have tended to be unresponsive to the distinct needs of Indigenous women and have been unable to adequately protect them from violence or hold perpetrators to account. These factors enable violence against Indigenous women” (p. 12), and that while hundreds of recommendations have been made over the years on how to address these gaps, “government after government has failed to implement the vast majority” of them (p. 32).

20. The RCMP has been called on to apologize to the families of Victims in the past, and to create a compensation fund for those affected. In response, a compensation fund was created in 2014. But this fund failed to provide support to children of some Victims, due to the colonially-inspired definition of “family members” that is applied in that context.

21. The *Committee to End Discrimination Against Women*, a standing committee of the U.N., has also decried Canada's treatment of Victims. The Committee found that there are a serious lack of measures in place to address this violence. The report clearly stated that “... the disproportionate rates of violence experienced by Indigenous women and girls in Canada, and the lack of government protection, are violations of their human rights under international law.”

22. *Human Rights Watch* travelled throughout British Columbia in 2013 to report on the relationship between the RCMP and Indigenous women. They found that the RCMP has not only failed to protect Indigenous women and girls, but actively harmed and abused them. Harassment, pepper-spray, tasers, police dog attacks, “cross-gender” police searches, and excessive force were all reported. The report further castigated the police for their consistent failure to protect Indigenous women and girls. Police refused to investigate missing persons report promptly or at all. They blamed Indigenous women who reported abuse. They shamed the reporters for use of alcohol or other substances. *Human Rights Watch* stated that the RCMP has instituted progressive policies, but officers on the ground do not apply the policies in Indigenous communities.

23. In June 2017, *Human Rights Watch* issued another report documenting RCMP activities in Saskatchewan. The report found that the RCMP degraded and abused Indigenous women and girls. They used cross-gender body and strip searches, used excessive force during arrests, and intimidated these individuals. This directly led to Indigenous women not reporting police abuses out of fear of retaliation or their complaints not being taken seriously. The similarity between the two reports is demonstrative of a wide-spread, national pandemic of police abuse and irresponsibility.

24. This conduct caused and permitted the growing rate of murder and abuse to which Indigenous women and girls have been subjected. This conduct implicitly, by its failure to protect, “enable[d] violence against Indigenous women” as found by the 1991 AJL report and as found implicitly in the other studies and reports cited herein.

PLAINTIFF’S CLAIM

25. Diane BigEagle is a homemaker caring for the two children of her assumed deceased daughter, Danita Faith BigEagle (“**Danita**”).

26. Danita was born on March 6, 1984. She was a member of the Ocean Man First Nation, located in the southeast of Saskatchewan near Stoughton. While Danita was alive, she and her family travelled back and forth from time to time between Regina and Ocean Man.

27. She has been missing since Sunday, February 11th, 2007 and must be presumed to be dead.

28. Danita’s children and other family members are a part of the Class.

29. Like many who were murdered or missing and are presumed dead, Danita had children. Danita is survived by two children, her mother, and other family members.

30. Diane BigEagle estimates she has met with the RCMP in excess of 50 times over the years. On a couple of occasions only, the RCMP sat down with Diane BigEagle and seemed to listen, but most of the time they did not write anything down and they did not seem to be paying any attention to her.

31. In a number of the meetings with the RCMP, there were other members of murdered and missing Indigenous women and girls present, and this was on an estimated 30 different prearranged occasions of such meetings with members of the RCMP.

32. Diane BigEagle has seen a DVD held by the RCMP which includes a photograph of Danita and there were other pictures of missing Indigenous women and girls on the DVD.

33. When Danita first went missing, Diane BigEagle was quickly in contact with the police authorities who brushed her off with the assurance that Danita would probably come home.

34. The fact of Danita being missing, and the information from Diane BigEagle about the fact of her missing and now presumed dead daughter, was at no time given meaningful attention by the RCMP.

34a. Danita is a Victim.

CLASS MEMBERS' CLAIMS

35. There are numerous high profile cases that are demonstrative of the negligent manner in which the RCMP and other police forces have treated the Class, many of which are a matter of public record due to previous media reporting.

35a. Municipal, regional, provincial, and polices forces other than the RCMP, report and share information of disappearances, killings, and murders, which include Victims, with the RCMP.

36. Particulars pled herein are all concerning murdered and missing Indigenous women and girls and in almost every instance women and girls who were Indians or eligible to become Indians under the *Indian Act*.

37. **Abraham, Sharon Nora Jane:** Sharon Nora Jane Abraham, 39, from Sagkeeng First Nation, Manitoba, was a mother of five. In January 2004, Abraham was reported missing from New Westminister, British Columbia, and in November 2004 RCMP said forensic evidence linked her to serial killer Robert Pickton's farm. Her family said that evidence was her fingernail. Although the RCMP believes Pickton was responsible for Abraham's death, no charges were laid. Pursuant to media reports, "The B.C. Coroner has issued a death certificate using information gleaned from the investigation but in the absence of new or different information, no further action will be taken by the project team" said RCMP Cpl. Janelle Shoihet.

38. **Ackabee-Kokopenace, Azraya:** Azraya Ackabee-Kokopenace was just 14 years old when she was found dead in a wooded area on April 17, 2016, just days after she was last seen walking away from the hospital in Kenora, Ont., where she had been dropped off by provincial police. The Ontario Provincial Police ("OPP") will not say why they had contact with the teen on the night of April 15, nor will they comment on the nature of a police officer's altercation with Ackabee-Kokopenace — one that was caught on video — just weeks earlier, on March 26. The OPP say they will not comment on the case. A coroner's report on the cause of Ackabee-Kokopenace's death is not yet complete, but her father, Marlin Kokopenace, said he was told that she died by suicide which is incredulous and implies a coverup.

39. **Adam, Beatrice:** Last seen on a bridge in Prince Albert, Saskatchewan, on October 8, 2014, Beatrice Adam was then 36 years old. On October 12, 2014, the body of Beatrice Adam was found floating in the North Saskatchewan River. The Chief Coroner's Office of Saskatchewan declared her death was caused by drowning. A desultory and all but meaningless investigation was undertaken notwithstanding that three people were seen and are known to have been on the bridge with Beatrice shortly before her death, her male then boyfriend, and a third person. Since the death of Beatrice,

her boyfriend has been missing and finding him has not been pursued. Beatrice's father has stated, "The police just determined that she drowned, but my feeling is we don't know she got into the river. She had bruises on her nose, on her body ... she had broken ribs; maybe it was from the fall. We don't know."

40. **Brown, Ada Elaine:** On April 9, 2001, Eda's body was found in a hotel room in Prince George, British Columbia. According to documents obtained from the British Columbia Coroner's Office, she died from a "subdural hemorrhage" and complications from alcoholism. However, even though the post-mortem mentioned previous assaults, and it even noted that Brown had two black eyes when she died, the coroner's office determined that "this death is classified as undetermined." No one was ever charged in Ada's death. The family strongly believes a man Ada knew was responsible for her death. Her boyfriend was extremely abusive towards her, her sister Terri had stated. However, because of the circumstances, it was concluded by the police authorities that Ada's death would remain undetermined.

41. **Cardinal, Juanita Marie:** Juanita Marie Cardinal, 27, was fatally stabbed in Edmonton on Feb. 26, 2006, by a longtime friend after a night of drinking, according to Boudreau. Cardinal was a member of the Horse Lake First Nation in Alberta and the mother of one daughter, Brooklyn. Her death was declared a homicide by Edmonton police, but Boudreau learned two years later that no charges would be laid against the woman her family believes is responsible. "My sister took a stab wound to the neck ... and there wasn't even court, nothing," Boudreau said. So far, no one has been charged in relation to Cardinal's death and police said at the time that the case was concluded.

42. **Carpenter, Patricia:** Patricia (Trish) Carpenter, a 14-year-old mother of a two-month-old boy, was found dead at a Toronto construction site on Sept. 25, 1992. The coroner's investigative statement says Carpenter's body was "wedged very tightly, head-first, into a pit..." and that she died of asphyxiation. Members of her family, as well as construction workers who found her body, say it would have been impossible for Carpenter to have simply fallen into the hole, given that the opening was just 55 by 58 centimetres in size and about two metres deep. The initial investigative

statement of the Ontario coroner says, "No foul play shown by autopsy." But the notes indicate "after much discussion with the police," the coroner wrote a letter to the regional coroner giving reasons why an inquest should be called, though that letter is not part of the public record. A coroner's inquest later concluded that Trish's death was, indeed, suspicious. The case was not pursued.

43. **Catcheway, Jennifer:** Jennifer Catcheway was last heard from in 2008 on her 18th birthday. She called her mother from Grand Rapids and said she was on her way back to the family home in Portage la Prairie. After her mother went to the RCMP to report her daughter missing, she reports being brushed aside. Catcheway's mother had stated she recalled that "I said, 'I want to report my daughter missing'" "He [RCMP] said, 'Oh, how old is she?' ... and I said she just turned 18 Thursday, her birthday. [And he said] 'Oh, give her a week. She's on a drunk.'" A similar message came when a woman called Catcheway's mother and said she saw two men burning clothes in a field. Catcheway's mother stated the detachment responded by stating, "Oh, I know her ... she's a drunk. Don't believe her."

44. **Cocks, Ruth:** Ruth Cocks, 51, was last seen on video surveillance tape at 2:30 am leaving the Grand Union Hotel in Athabasca, Alberta on March 28, 2008. The Mikisew Cree First Nation woman's body was found three kilometres away on the frozen Athabasca River. The mother of three was found on April 7, 2008 and her death was determined to be suicide by a medical examiner. The RCMP did not investigate for foul play, but her sister, Berna Barore, said it just doesn't make sense that Ruth would walk three kilometres out of town, past her own apartment. Berna Barore stated "We couldn't get them to do a search. My family came from all over Canada. They came and helped me do the search for her," she said, adding that police didn't seem to know who she was asking about when she called for updates. Berna Barore stated that "I fought and fought. I was asking how the investigation is doing," she said. Berna Barore stated that "I called every day and they would say, 'What missing person?'" The Alberta RCMP have stated Ruth Cocks's death remains closed as a suicide.

45. **Daniels, Nicole:** Nicole Daniels was found in the snow, face down and unresponsive, on April 1, 2009. Police initially deemed the discovery of the 16-year-old's body, behind a car rental agency in east Winnipeg, as suspicious. Foul play was later ruled out after the autopsy report came back stating the cause of death was hypothermia, with acute alcohol intoxication listed as a significant contributing factor. Daniels's family said she was last seen leaving the house around 10 p.m. She got into a truck with a middle-aged man. They believe she met him on a telephone chat line. They said Winnipeg police knew those details, but they do not know if officers investigated further. The autopsy report documents 11 cuts and bruises on various parts of Nicole Daniels's body, including her face, arms, wrists, legs and inner thigh. The colour of the bruises ranged from red to purple to yellow or brown. The autopsy report's summary stated that "her jacket had been removed and her blouse undone suggesting paradoxical undressing due to hypothermia."

46. **Eagle, Peggy:** Peggy Eagle was murdered in 2005 in Kamsack, Saskatchewan.

47. **Erb, Moira:** Moira Erb, 36, was reported missing to police in Winnipeg on Aug. 10, 2003, by her family. Her body was found on Sept. 17, 2003, beside railway tracks in a remote area in the northwest corner of the city, on Klimpke Road south of Inkster Boulevard. Her injuries suggested she had been hit by a train, but her family questioned how she got to such a remote location. They did not recover her clothing. "She ended up not right at the track, at a deep ditch, in a brush area, on the north side of the tracks.... She was not visible from the track at all." recalled Glen Erb, Moira Erb's father. Manitoba RCMP said there was no reason to suspect foul play in Moira Erb's case. "I was hoping the police would do something years ago but they never did," Glen Erb said, adding that police did not interview the family.

48. **Favel, Patsy:** Patsy Favel went missing from Regina, Saskatchewan, in September 1984. She was last seen getting into a car, when she was 22.

49. **Gabriel, Rocelyn:** Rocelyn Gabriel, 20, was found near death at a Portage la Prairie, Manitoba., recycling depot around 9 a.m. on Jan. 26, 2014. The last time anyone recalled seeing her alive was around 4 a.m. at a nearby gathering. Portage la Prairie RCMP eventually ruled out foul play in her death. Joyce Gabriel strongly believes her daughter was dropped off at the depot by a car or a taxi, as there was a raging blizzard that night and it does not make sense that she would walk out into the storm alone. She says she felt police determined no foul play too quickly and failed to gather key evidence until the family urged them to do so. Joyce Gabriel stated that "we had to lead the investigation. We had to ask them to get the surveillance of all the other businesses — they didn't. We had to tell them to get the camera video at the recycling place."

50. **Gardiner, Rhonda:** Rhonda Gardiner, 33, was a mother of four from La Plonge First Nation in Saskatchewan. In an early morning in June 2004, Rhonda's body was found hanging in the bush close to her home, her neck tied to the trunk of a tree with a piece of fabric. Beauval RCMP and the Office of the Chief Coroner in Saskatchewan determined it was a suicide by hanging and did not suspect foul play. Her sister, Lavina Gardiner, believes her sister was killed and left in the bush. Emergency responders had commented that the scene was suspicious due to bruising on her body and that in the circumstances, there was "no way she could have hung herself." The police never investigated further.

51. **Gopher, Trudy:** Trudy Gopher was 19 when she was found dead behind the Sunchild First Nation School after attending a wedding in the Alberta Cree community on May 10, 1997. Trudy's mother, Grace Gopher, suspects she was killed and then hanged with her own jacket from a tree to make it look like a suicide. Grace Gopher stated that "Nothing was done over her death because they automatically ruled it as a suicide. Whoever did that to my daughter is walking around free out there."

52. **George, Pamela:** Pamela George was 22 when she went missing in Saskatchewan. Her mother is Ina George and her sister is Denise Peepeetch.

53. **Henderson, Marjorie:** Marjorie Henderson, 52, from Sakgeeng First Nation, Manitoba was found dead in her apartment after an altercation with her partner, Wallace Noel Seymour. A detective told her son, Tim Henderson, that his mom died from blunt force trauma to the head and she "was going to die anyways," Henderson recalled. News reports from that time stated Marjorie Henderson died from injuries to her body, and Seymour was charged with manslaughter and aggravated assault. Shortly after, Henderson learned Seymour was released on bail and all charges were dropped. "The latest medical evidence is that there is not enough evidence for a manslaughter case," Winnipeg police Supt. Con Gislason stated to media. Gislason was also quoted as saying "applied trauma" was the cause of death, adding the victim's lifestyle may have contributed to her own death.

54. **Hill, Tanya Marie:** Tanya was found on the laminate floor of the bedroom in her apartment on Barton Street East in Hamilton, Ontario. She was naked except for a white tank top and blue sweatshirt, which were pulled up over her head. The floor and walls were splattered with blood and dents, along with a blood-drenched letter. Brandy Hill remembers the scene clearly. Brandy Hill recalled that "there were 15 cops in there; none of them had gloves. They didn't even act like it was a murder scene." According to the Office of the Chief Coroner of Ontario, Tanya Hill died of acute alcohol poisoning. Her blood alcohol count was reportedly at .450 mg, a fatal level. According to a coroner's statement, there was "no indication of intent" in her death — that it was simply a case of too much alcohol intake with no other motive. However, the coroner's report also suggests that Hill's partner approached Hamilton police and was seemingly confessing to killing her. The investigation then went to Major Crimes, according to the coroner's investigation statement, noting the history of domestic violence in their relationship. The statement's summary said, "On the day of discovery, the decedent's boyfriend apparently attended a police station and indicated, 'My girlfriend was killed last night.'" Her death was eventually ruled accidental and not requiring further investigation. "I don't know why they didn't investigate," stated Tanya's family of the Hamilton Police Service's quick closing of Tanya's case. Tanya's family believes they just didn't want to do the paperwork. Despite numerous requests for comment about the family's allegations, the Hamilton Police Service and the Office of the Chief Coroner of Ontario have not responded.

55. **Johnson, Cheryl:** Cheryl Johnson, 23, was found drowned in Sydney Harbour, Nova Scotia, in May 2001. After a two-day investigation, local police closed the case, determining that no foul play was involved. Cheryl's mother, Patricia Johnson, said police told her Cheryl had died accidentally, but her family is unconvinced. Patricia Johnson said she also finds it suspicious that her daughter was found with her shirt half-off and with only a toonie in her pocket, even though she had \$200 cash when she left the house that night. Her jacket was left at the bar, but it had nothing in it but a lighter and some lipstick. The Cape Breton Regional Police Service told CBC News that Cheryl Johnson's case was closed and no foul play was suspected in her death.

56. **Kalluk, Tabitha:** Tabitha Kalluk was found dead in her home with battery acid and gas-line antifreeze in her blood on Christmas Day 2002 in Resolute Bay, Nunavut. RCMP started a murder investigation into the death of the 38-year-old Inuk mother of six, but claimed they did not garner enough evidence to prove as a homicide, even with the autopsy finding battery acid and antifreeze in her blood. RCMP from the Resolute Bay detachment, and then from the major crimes unit based in Iqaluit, found the death suspicious, but also claimed they could not find enough evidence to determine it was homicide.

57. **Keepness, Tamra:** Tamra Keepness was 5 years old when she went missing from her home in Regina, Saskatchewan, on July 5, 2004. Her mother Lorene Favel is from White Bear First Nation, Saskatchewan.

58. **Lonethunder, Shirley:** Shirley Lonethunder went missing from the White Bear First Nation, Saskatchewan. She was 20 at the time.

59. **Ootoova, Della:** Della Ootoova, 46, was pronounced dead in hospital on June 7, 2008, after police were called to a residence in Iqaluit, Nunavut, where officers found her lying on the floor. Ootoova's spouse, Amos Ootoova, was originally charged with murder, but the charges were stayed the same day, according to media reports at the time. The initial toxicology report indicated that Della Ootoova had consumed a lethal amount of alcohol, but the family disagreed with that conclusion. A final coroner's report came out a year later. It showed significantly less ethanol in her

blood than the original report and blunt force injuries to Ootoova's torso, face, back, arms and legs, as well as bite marks on her arms. The original report found 349 mg/100 ml alcohol levels while subsequent reports were 225 and 255 – not lethal concentrations. By the time the coroner's report came out in 2009, the charges against Amos Ootoova could not be reinstated, as he was no longer alive.

60. **Polchies, Sabrina:** Sabrina Polchies, 22, was last seen alive on July 1, 2010, and found dead in a Salisbury, New Brunswick, apartment five days later. RCMP officials ruled no foul play was involved. Sabrina's mother Mary Polchies stated its "it's like a blur" and "I don't know what happened to her. I really want to know."

61. **Machiskinic, Nadine:** Nadine Machiskinic was found dead on July 10, 2015, at a hotel in Regina, Saskatchewan. She had fallen 10 stories in a laundry chute, after being observed to have gone into the hotel and gotten onto the elevator with two males who were described as non Indigenous. Hotel video security tapes were not requested until a year after her death in highly suspicious circumstances. The cause of her death has been declared by police to be accidental. Nadine Machiskinic is survived by four children.

62. **Moose, Brooklyn:** The body of Brooklyn Moose disappeared February 27, 2015, and was found in an attic of a home in Regina's north central neighbourhood in Saskatchewan. At least one person broke into the home where the body of Brooklyn Moose was found and poured gas in the attic and lit it on fire following the discovery of Brooklyn's body. Elizabeth Popowich, on behalf of the Regina Police Service, explaining truncated investigation, wrote in an email to CBC News, "There was no evidence of foul play or criminal involvement in [the death]."

63. **Napope, Shelly:** Shelly Napope was murdered in 1992 in Saskatoon, Saskatchewan. She grew up on the One Arrow First Nation in Saskatchewan.

64. **Prudhomme, Carol Lynn:** The body of Carol Lynn Prudhomme, 46 at the time of her death, was found in her apartment with shopping bags over her head and knotted around her neck in 2003. Carol Lynn Prudhomme's younger sister, Sharon Pelletier, has stated, "Police say she did it herself, but she was claustrophobic, so I can't see it. If she wanted to kill herself, she had lots of pills. ... They didn't seem to be there very long and they made assumptions that she killed herself. [There were] too many assumptions going on."

65. **Running Bird, Rhonda:** Rhonda disappeared without a trace while on a hunting trip with her common-law partner, Fred Lagrelle. At the time, Running Bird was using a colostomy bag for injuries she suffered during a brutal beating by Lagrelle, according to her mother and hospital records. Her body was never found, and police say there is not enough evidence to determine whether her disappearance involved foul play. An officer from the Rocky Mountain House RCMP was leading the investigation. According to Rhonda's family, the officer said, "Your daughter must be in Edmonton, just getting drunk." Police gave the family permission to search the area and they found what they believe to be Running Bird's glasses, a shoe and her colostomy bag. According to RCMP, the items did not belong to her, Rhonda's family stated. However, Rhonda's family stated "But I know it was her shoe. As a little girl and growing up, she always tied her shoe in a certain way and that's how her shoe was tied."

66. **Sangwais, Lisa:** Lisa Sangwais was found dead in a back alley in Regina, Saskatchewan, in 2000.

67. **Shabaquay, Verna:** Verna Shabaquay, who mostly went by the last name Simard, was a 50-year-old mother of five. She died in front of Vancouver's Regent Hotel in British Columbia on the evening of Sept. 16, 2011. She had fallen from the hotel's sixth floor. Vancouver police initially treated Verna's case as suspicious, but later concluded the investigation after determining the case did not involve foul play. "It was a joke investigation," said Jesse Ranville, 25, her youngest son. "They didn't really look too hard into it; they said it was an accident and swept it under the rug." The British Columbia coroner's report stated that Verna fell to her death and the incident was reported

to 911 by "multiple witnesses on the street." The report stated that she had a moderate to heavy level of alcohol intoxication and that "was seen as contributory to her death." The report also stated that investigations determined she was involved with a man who was "reportedly violent and physically abusive to her." That man was in her apartment at the hotel on the day she died.

68. **Sheepskin, Lisa:** Lisa Sheepskin from the Whitebear First Nation in Saskatchewan, went missing at the age of 18. Her mother is Shirley Sheepskin.

69. **Simon, Gladys:** Gladys Simon, 41, disappeared while out on a daily walk at the Restigouche Hospital Centre in Campbellton, New Brunswick, in 2004. Eight years later, the Elsipogtog First Nation woman's partial remains were discovered near New Dam Lake, in a heavily wooded park near the hospital. Foul play was ruled out by New Brunswick RCMP. Her sister, Andrea Colfer, said the medical examiner working at the site told her the day after Simon's body was found that he had concluded the investigation and no foul play was indicated. RCMP in New Brunswick said in a news release at the time that it was believed Simon may have become disoriented during her walk and may have been unable to find her way back to the hospital.

70. **Smith, Edna:** Edna Smith, 24, went missing from a camp with her boyfriend and sister-in-law near East Trout Lake in Saskatchewan on Oct. 15, 1983. Her brother, James Smith, said there was something unusual about Edna's demeanor as the trio was leaving. A boat the trio had previously used was later found capsized in the lake. Saskatoon RCMP suspected that all three individuals drowned. A search party located the bodies of Edna's boyfriend and his sister, but Edna has never been found. More than a decade has passed and no information about the investigation has been provided.

71. **Smith, Jasmine:** Jasmine Smith was murdered on June 4, 2011.

72. **Tillotson, Joyce:** Joyce Tillotson went missing when she was 19.

72a. Abraham, Sharon Nora Jane; Ackabee-Kokopenace, Azraya; Adam, Beatrice; Brown, Ada Elaine; Cardinal, Juanita Marie; Carpenter, Patricia; Catcheway, Jennifer; Cocks, Ruth; Daniels, Nicole; Eagle, Peggy; Erb, Moira; Favel, Patsy; Gabriel, Rocelyn; Gardiner, Rhonda; Gopher, Trudy; George, Pamela; Henderson, Marjorie; Hill, Tanya Marie; Johnson, Cheryl; Kalluk, Tabitha; Keepness, Tamra; Lonethunder, Shirley; Ootoova, Della; Polchies, Sabrina; Machiskinic, Nadine; Moose, Brooklyn; Napope, Shelly; Prudhomme, Carol Lynn; Running Bird, Rhonda; Sangwais, Lisa; Shabaquay, Verna; Sheepskin, Lisa; Simon, Gladys; Smith, Edna; Smith, Jasmine; and Tillotson, Joyce are Victims.

The National Inquiry into Missing and Murdered Indigenous Women and Girls:

72b. On June 3, 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls (“National Inquiry”) announced the release of its Final Report entitled *Reclaiming Power and Place* (“Final Report”).

72c. The Final Report contains the truths of more than 2,380 family members, survivors of violence, experts and ‘Knowledge Keepers’ shared over two years of cross-country public hearings and evidence gathering, and delivers 231 individual ‘Calls for Justice’ directed at governments, institutions, social service providers, industries and all Canadians.

72d. The National Inquiry stated the following with regards to the use of the acronym 2SLGTBQQIA. The National Inquiry has chosen to use the term “2SLGBTQQIA” (representing Two-Spirit, lesbian, gay, bisexual, transgender, queer and questioning, intersex and asexual people). “Queer” and “Two-Spirit” are also both usually understood as umbrella terms. The National Inquiry also noted that no acronym is perfect. Some Indigenous people use Two-Spirit exclusively and reject “LGBTQ,” some prefer only the term specific to their identity (e.g. lesbian, transgender, intersex, asexual), while others prefer the terminology specific to their Nation and culture.

72e. The National Inquiry states that one of its main limitations is that it cannot resolve individual

cases or declare certain people or institutions legally at fault because public inquiries are meant to focus on systemic problems and solutions with the understanding that these problems cannot be traced back to "a few bad apples."

72f. The National Inquiry established the Forensic Document Review Project ("FDRP") to conduct a review of police and other related institutional files to identify systemic barriers, problems, and areas of weakness relating to the protection of Indigenous women, girls, and 2SLGBTQQIA people for the purpose of making recommendations to the National Inquiry about the systemic causes of their disappearances and deaths.

72g. The FDRP obtained and reviewed 174 files and 35 previous reports and studies on policing related to Indigenous women, girls, and 2SLGBTQQIA people and analyzed publicly available information related to those files, and identified the following significant issues over the course of its review:

- (a) There is no reliable estimate of the numbers of missing and murdered Indigenous women, girls, and 2SLGBTQQIA persons in Canada;
- (b) The two Royal Canadian Mounted Police (RCMP) reports dated 2014 and 2015 on missing and murdered Indigenous women and girls identify narrow and incomplete causes of homicides of Indigenous women and girls in Canada;
- (c) The often-cited statistic that Indigenous men are responsible for 70% of murders of Indigenous women and girls is not factually based;
- (d) Virtually no information was found with respect to either the numbers or causes of missing and murdered Métis and Inuit women and girls and Indigenous 2SLGBTQQIA persons;
- (e) Indigenous communities, particularly in remote areas, are under-prioritized and under-resourced;
- (f) There is a lack of communication to families and Indigenous communities by police services and a lack of trust of the police by Indigenous

communities;

- (g) There continues to be a lack of communication with and coordination between the police and other service agencies; and
- (h) Deaths and disappearances of Indigenous women, girls, and 2SLGBTQQIA people are marked by indifference. Specifically, prejudice, stereotypes, and inaccurate beliefs and attitudes about Indigenous women, girls, and 2SLGBTQQIA persons negatively influence police investigations, and therefore death and disappearances are investigated and treated differently from other cases.

72h. The FDRP could not do the following:

- (a) Disclose publicly any information obtained by the FDRP, except in accordance with the *Legal Path: Rules of Respectful Practice* or as required by law;
- (b) Examine the exercise of prosecutorial discretion by Crown counsel;
- (c) Make specific findings of misconduct in respect to any identifiable person or organization;
- (d) Reinvestigate police investigations; and
- (e) Express conclusions or recommendations about the possible civil or criminal liability of any person or organization.

72i. The FDRP had issues with the Federal Government, including, but not limited to, the following issues as stated in the following paragraphs extracted from the Final Report:

...
While the federal government ultimately granted a short extension to the mandate of the National Inquiry by six months until the end of June 2019, the number of files that could be obtained and the extent of analysis that could be undertaken on the files that were obtained were restricted by our inability to subpoena documents or testimony past December 31, 2018 – a fact that would have been well understood by the government and police forces within the context of the decision not to extend the National Inquiry’s mandate. The National Inquiry’s ability to resolve police objections to the production of documents for the FDRP would be significantly impeded and the scope of work would not be as comprehensive as it had initially

hoped.

...

The FDRP selected only files for review that related to families or survivors who engaged with or registered with the National Inquiry as part of its Community Hearings and Statement Gathering events. The Commissioners, Commission counsel, and staff also referred files based on evidence and hearings. The FDRP had lists of cases of missing and murdered Indigenous women, girls, and 2SLGBTQIA people created by some police forces that were shared with the National Inquiry. The large public and private record created in the Truth-Gathering Process also meant that the FDRP could rely on the testimony shared with the National Inquiry.

...

In total, between September 20, 2018, and December 31, 2018, the National Inquiry issued 30 subpoenas specifically for the FDRP to 28 police forces across Canada, seeking a total of 479 files. For a variety of reasons – for example, the age of the file, lack of identifying information, or public interest privilege claims – and due to the time constraints, the National Inquiry was not able to obtain all of the files subpoenaed.

...

The table below sets out, by police force, not including Quebec, the number of files subpoenaed for the FDRP and the number of files obtained at the time of writing this summary.

RCMP (three subpoenas) File Requested 298 Files Received 107

...

By contrast, the RCMP demonstrated reluctance to provide the FDRP with the information requested. The degree to which the RCMP, represented by the Department of Justice, resisted disclosure of the files sought by the FDRP created a challenge to its ability to obtain and review the necessary documents. Many of the files received contained redactions that rendered some documents unintelligible. This affected the analysis. This is particularly significant because the RCMP is the national police force responsible for policing approximately 40% of the Indigenous population and 39% of unsolved cases reviewed by FDRP.

...

There were ongoing disputes over production of RCMP files between the National Inquiry and the Government of Canada. In relation to some files, where a valid subpoena was issued, Canada gave the National Inquiry production schedules that went into the spring of 2021. The government also argued that the National Inquiry should have sought these files earlier. Part of the National Inquiry's investigative mandate was to collect evidence and determine which files were needed. Community Hearings, where families and survivors shared their truths, did not end until April 2018. Statement gathering continued until December 2018.

...

In relation to a couple of files, the National Inquiry filed an application pursuant to section 37(3)(a) of the *Canada Evidence Act*, RSC 1985, c. C-5 in the Federal Court

to dispute Canada's claim of public interest immunity. As these matters are before the court and subject to confidentiality orders, we will not be able to provide specific information about the contested files. We assert the position that the files are not protected by public interest privilege. The files are no longer under active investigation. The files should be produced and are important to making recommendations regarding the systemic causes of the disappearances and deaths of Indigenous women and girls. We argue that public interest in disclosure to the National Inquiry outweighs any assertion of public interest privilege. We will not know whether our application will be successful or not at the time the *Final Report* is released.

72j. The FDRP identified issues with the policies and practices of the RCMP which include, but are not limited to, the following issues as stated in the following paragraphs extracted from the Final Report:

...
The 2014 Report states that there have been 1,017 homicides and 164 disappearances (1,181 total) of Indigenous women and girls in Canada between 1980 and 2012. However, the RCMP acknowledged that these figures are unreliable and the actual figures could well be many times higher.

...
In the 2015 Report, the RCMP make a brief reference to having reviewed all outstanding (unsolved) cases of missing and murdered Indigenous women and girls within RCMP jurisdiction reported in the 2014 Report and reaching the conclusion that "investigations were being diligently investigated with appropriate investigative resourcing." There is no empirical basis for this conclusion and it is at odds with many of the files reviewed by the FDRP.

...
In our view, the RCMP's reliance on such a small number of cases creates an unreliable basis upon which to focus policy. A focus on spousal violence, on the basis of flawed statistics, has resulted in an erroneously narrow focus on Indigenous men as the perpetrators of violence against Indigenous women and girls, and neglects other significant patterns in relation to missing and murdered Indigenous women and girls in Canada.

For example, the RCMP has acknowledged that they create policies and procedures on the basis of only the offences committed within RCMP jurisdiction. The RCMP does not consider the nationwide data collected by Statistics Canada. This creates a significant risk that the policies developed by the RCMP may be skewed by unreliable empirical data that does not provide an accurate picture of the causes of violence against Indigenous women and girls.

...

The FDRP found repeated instances of police officers' failing to adequately communicate information to family members and loved ones of victims. Often, communication was scheduled for once or twice per year. In other instances, the determination was made not to communicate with the family of a victim for "operational reasons."

...

The FDRP found numerous references to determinations of the causes of deaths or disappearances as "non-suspicious" that can be described only as being based on prejudices and stereotypes, including:

- a) determinations that a number of disappearances were due to victims' wishing to escape an unbearable situation (on-reserve);
- b) deaths determined to be non-suspicious, or suicides, as a result of the fact the victims worked as sex trade workers, had mental health issues, or had substance abuse issues; and,
- c) reluctance or refusal to classify someone as "missing," or to classify a disappearance as "suspicious," due to a determination that the victim led a "high-risk" lifestyle.

Further, the FDRP found repeated instances of unsolved disappearances or deaths in which a determination was made, without any adequate rationalization provided, to not actively investigate. Often, the only basis provided to justify ceasing activity on an investigation was a lack of resources, or as a result of "file prioritization."

The FDRP found examples of police officers holding negative views of victims of violence as a result of generalized prejudicial attitudes and beliefs. In one striking example, a middle-aged Indigenous woman was reported missing and subsequently found to have been killed in a remote community. Confidential records reviewed by the FDRP found that the police officers appear to take pains to point out that the victim was transient, unemployed, and engaged in paid sex work. The offender, who was not Indigenous, was portrayed as an otherwise respectable family man, who was "down on his luck," with a record of steady employment.

In that case, the offender was eventually charged and convicted of the homicide, but internal records show that the police force itself identified a number of failings in the investigation: notably, repeated delays of officers to provide relevant information to Crown counsel. During the course of the investigation, sensitive information associated with the investigation was left in a police vehicle and stolen when someone broke into the vehicle. The information was later returned by a member of the public.

The case of the death of Amber Tuccaro is an illustrative example of inaccurate, stereotyped, or prejudicial attitudes and beliefs that may have a negative impact on investigative decisions, particularly at the critical point at which an investigator must make the decision whether or not to declare a person “missing” and commence an investigation into the disappearance.

Amber Alyssa Tuccaro was a 20-year-old mother from the Mikisew Cree Nation, and was last seen on August 18, 2010, in Nisku, Alberta. When Amber was reported missing, the RCMP initially declined to consider her as a missing person, despite her family’s pleas. The police were of the view that Ms. Tuccaro was not missing, telling her mother that she may be out partying. It took the police one month to begin investigating her disappearance and it was four months before any interviews took place. Ms. Tuccaro’s family complained to the Commission for Public Complaints Against the RCMP in 2014. In September 2018, the commission found that the RCMP’s investigation was deficient and the delays in commencing the investigation were unreasonable and unexplained.

...
The sense of indifference observed in the files reviewed by the FDRP manifested itself in a myriad of ways. In numerous instances, there was an unusually high number of investigative errors, including:

- destruction or loss of evidence;
- delays in initiating an investigation;
- delays or apparent complete lack of follow-up in interviewing witnesses and suspects;
- failure to obtain and review relevant evidence;
- failure to follow up investigative leads or to otherwise take the investigative steps that, in the view of the FDRP, would be consistent with best investigative practices.

72k. Kinship bonds within the Indigenous community are weakened through colonialism, and the RCMP played a fundamental part of colonialism. The National Inquiry found that:

The historic and present-day role of the RCMP, the continued racism and sexism by many RCMP officers directed at Indigenous Peoples, the high rates of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, and lack or resolve have caused many Indigenous Peoples and communities to lose trust and confidence in the Canadian justice system, the RCMP, and police services in general.

...
The Canadian criminal justice system fails to provide justice for Indigenous people,

especially missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. The system's failure to effectively hold accountable those who commit violence against Indigenous women, girls, and 2SLGBTQQIA people means that violence against Indigenous women, girls, and 2SLGBTQQIA people is met with impunity.

72l. The Final Report concludes that from a very early age, Indigenous women, girls, and 2SLGBTQQIA persons' right to life and security is threatened by the cycle of violence that has been perpetuated for generations, and that this right is still largely compromised today due to ongoing acts of oppression perpetuated by police toward Indigenous women, girls, and 2SLGBTQQIA people.

72m. The National Inquiry concludes the existence of a genocide perpetrated by the Canadian state against Indigenous peoples, which has:

- a. been enabled by colonial structures and policies maintained over centuries until the present day;
- b. constitutes a root cause of the violence currently being perpetrated against Indigenous women, girls and 2SLGBTQQIA people; and
- c. consists of a composite wrongful act that triggers the responsibility of the Canadian state under international law.

72n. The Prime Minister of Canada, The Right Honourable Justin P.J. Trudeau, stated that with regards to the Final Report and the National Inquiry, "We accept their findings, including that what happened amounts to genocide".

'Man camps':

72o. Canada's policing responsibility includes prevention of crime through appropriate planning and analysis.

72p. Canada is a disproportionately resource aligned economy resulting in large resource and extraction projects in under populated and remote regions of Canada. These areas are frequently near

large populations of Indigenous women and girls which was known to Canada because for most of Canada's existence "Indians" were not even permitted to leave their reserve except with the permission of the Indian agent. Moreover, Indigenous women and children are known by Canada to be vulnerable in remote communities where the denial of wisdom, knowledge, and expertise are prevalent.

72q. "Man camps" refer to Industrial Camps in connection with a logging, sawmill, mining, oil or gas operation, a railway construction project, a cannery, or a similar thing, whereby an employer owns, operates or maintains, or has established, permanent or temporary structures for use by employees as living quarters. These camps created an environment of special risks of vulnerability for Indigenous women and girls. These camps were made up of almost entirely young male workers, and were often established a temporary basis of a few years. Man camps resulted in frontier boom town establishments emerging in the area including the sale of liquor and often the sale, use, and abuse of illicit drugs. Consequently, incidence of prostitution and sexual abuse rose. Indigenous people, being especially at risk, were largely swept along in this boom town, drinking, violent milieu; and the RCMP, while likely statistically aware of industrial camp dangers given Canada's long history of resource extraction, did not modify its policing to take protective steps for the local community. The RCMP further failed to allocate and sufficiently manage human and financial resources to better assist Indigenous communities falling victim to the dangerous realities that accompany these camps.

72r. The harms of large man camps of young working men, away from the social constraints of their homes and family, drinking heavily on their few days off, fighting, becoming involved with local Indigenous women and girls, particularly endangered Indigenous women and girls with no corrective or preplanned action taken by the RCMP. The RCMP is aware of the 'rigger culture' associated with these camps, where sexist and misogynistic views of women emerge.

72s. Notwithstanding this knowledge, no assistance and special protection was provided to Indigenous women and girls, and as such the RCMP stand accountable.

THE RCMP'S DUTIES OF CARE

73. The RCMP owed duties to Class Members including, *inter alia*:
- (a) to take reasonable care to enforce provisions of the *Criminal Code* and investigate and prosecute persons who commit the offences therein;
 - (b) to assign adequate and sufficient resources to investigate all reports of missing or murdered Indigenous women;
 - (c) to develop, implement, monitor, and enforce policies and procedures to ensure that all citizens are afforded equal and equitable service including Victims;
 - (d) to consider and pursue all available investigative strategies including but not limited to surveillance, undercover operations, execution of search warrants, seizure of evidence, and utilization of forensic evidence techniques;
 - (e) to employ investigate strategies and techniques that were sensitive and responsive to the unique needs and circumstances of the Indigenous witnesses and victims;
 - (f) to follow up on tips, information, and sources in a responsive manner;
 - (g) to establish and pursue suspect-based investigations;
 - (h) to confirm or rule out suspects in a reasonable, systematic fashion based on the available evidence;

 - (i) to address multi-jurisdictional issues and collaborate effectively across departments and with provincial and municipal police forces;
 - (j) to supervise and manage investigations appropriately;
 - (k) to engage in internal reviews to monitor, *inter alia*, languishing investigations and to take corrective action where required;
 - (l) to comply with the RCMP Act, including ss. 18, 37, and 38 (including *Code of Conduct*),
- (collectively, “**RCMP Duties**”).

CAUSES OF ACTION

Systemic Negligence

73b. The facts alleged *supra* are incorporated with respect to this claim.

74. The Plaintiff and the Class have been subjected to unnecessary and preventable mental anguish and psychological harm through the failures of the RCMP to adhere to the RCMP Duties, including a failure to properly investigate and prosecute the disappearances and murders of Victims.

74a. The acts or omissions of the Defendant for the purposes of not preventing mental anguish, psychological harm, and causing damages to the Class as asserted herein can be determined without reference to the circumstances of any individual Class member.

74b. The failures of the RCMP to carry out the RCMP Duties as asserted herein were systemic.

75. The RCMP and its members owed a duty of care to the Plaintiff and to the Class to enforce the rule of law, and to utilize all available investigative strategies and techniques to solve reported cases of missing or murdered Indigenous women.

75a. The duty of the RCMP to adhere to the RCMP Duties was clear and immutable at all material times.

75b. The duty of the RCMP to adhere to the RCMP Duties was common to the Victims, the Plaintiff, and the Class.

75c. The failure of the RCMP to adhere to the RCMP Duties constituted a general practice over a number of years and fell below any and all applicable standards of care to the duties owed to the Victims or the Class.

75d. The RCMP knew or ought to have known at all material times that the Victims (as compared with non-Indigenous women or two-spirited individuals), the Plaintiff, and the Class have been, and continue to be, impacted by unique societal, cultural, criminological, and other circumstances that could be expected to impact on the nature, scope, methodologies, approach, or resource allocation requirements in respect of police investigations relating to missing or murdered Victims (the “**Circumstances**”).

75e. The Defendant was aware of the Circumstances.

75f. The Defendant was aware that the Circumstances would have an impact on any and all applicable standards of care to the duties owed to the Class and Victims.

75g. In the context of the Circumstances, the Defendant’s conduct towards the Class and Victims as asserted herein fell below any and all applicable standards of care to the duties owed to the Class and Victims.

75h. The Defendant and the RCMP carried out the RCMP Duties and other common law duties owed to the Class and Victims in a markedly different manner than it carried out the RCMP Duties and other common law duties owed to everyone other than the Class and Victims.

75i. The Defendant and the RCMP did not have in place since at least 1982 the requisite policies, practices, and systems in place to carry its RCMP Duties and any other related common law duties owed to Class.

75j. The decision of the Defendants to not have in place since at least 1982 the requisite policies, practices, and systems in place to carry its RCMP Duties and any other related common law duties owed to Class and Victims either being aware of the Circumstances or not, was an operational decision (the “**Operational Decision**”).

75k. The Operational Decision of the Defendant and the RCMP resulted in the Defendant and the RCMP:

- (a) Carrying out the RCMP Duties and any other related common law duties owed to Class in a negligent or systemically negligent manner;
- (b) affording Victims and the Class a comparatively deficient level of service as compared with everyone else; and
- (c) failing to afford Victims and the Class a level and degree of service that was responsive to the Circumstances in which their cases arose.

76. The RCMP breached its duty of care to the Plaintiff and to the Class by failing to comply with the RCMP Duties collectively and individually, including by, *inter alia*:

- (a) choosing not to thoroughly, extensively, or expansively investigate reports of missing or murdered Indigenous women and girls by the Class, having appropriate and reasonable regard to the unique Circumstances facing Victims;
- (b) choosing not to reasonably supervise its members or take reasonable measures to ensure that its members were carrying out their duties in a responsible, non-discriminatory fashions vis-a-vis Victims;
- (c) choosing not to be transparent and accountable to the Class about the investigations, prosecutions, and oversight conducted regarding a Victim's disappearance or death;
- (d) choosing not to see and be aware of and not investigating and becoming aware of events which were clearly there to be seen;
- (e) failing to warn Victim's about their inability to support their rights to security of person;
- (f) providing false assurances of safety to the Victims and the Class;
- (g) providing inadequate training to its members to enable them to effectively carry out investigations in and related to Indigenous communities;
- (h) failing to employ investigative strategies that took into account the Indigenous background of witnesses and Victims;

- (i) failing to follow up on tips and mismanagement of information and information sources;
- (j) providing inadequate programs and services to the Class;
- (k) creating or tolerating a culture that discouraged the Class from pursuing complaints or reporting potential misconduct;
- (l) creating or tolerating attitudes of racism by members of the RCMP which created the stereotypical thinking that resulted in inadequate investigations;
- (m) creating through its members distrust by Indigenous people which interfered with investigations;
- (n) creating through inadequate investigations and the failure to prosecute a knowledge that the lives of Indigenous women and girls had a lesser value than those of other women and girls, that prosecution for wrongs to Indigenous women and girls was unlikely to be prosecuted, and in the result the absence of a fear of prosecution and retribution incurred and caused increased violence and death for Indigenous women and girls; and
- (o) failing to keep the Class informed of the progress of investigations relating to Victims.

(the “**RCMP Breaches**”)

76b. The RCMP’s Breaches include breaches of the *Code of Conduct* of the Royal Canadian Mounted Police.

76c. In particular, the RCMP’s Breaches include, but are not limited to, the RCMP and its members failing to execute their duties and responsibilities pursuant to section 37 of the *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10 by:

- (a) failing to respect the rights of *all* persons, by not respecting the aforementioned rights of Victims and the Class based on the discriminatory common denominator of Indigenous status;

- (b) failing to maintain the integrity of the law, law enforcement and the administration of justice;
- (c) failing to perform their duties promptly, impartially and diligently, in accordance with the law and without detracting their authority;
- (d) failing to ensure that improper or unlawful conduct of members were not concealed or permitted to continue;
- (e) failing to act in a courteous, respectful and honourable manner;
- (f) failing to maintain the honour of the Force and its principles and purposes, in that they *inter alia*:
 - (i) failing, pursuant to section 18(a) of the *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10, to perform their duties in relation to preventing crime and offences against the Victims and apprehending criminals and offenders against the Victims who may be lawfully taken into custody;
 - (ii) failing, pursuant to the mandate provided by the Honourable Ralph Goodale, P.C., M.P., Minister of Public Safety and Emergency Preparedness, to Commissioner Brenda Lucki, as set out in the *Commissioner's Mandate Letter*, to enhance the role of the RCMP in reconciliation with Indigenous Peoples, thereby diminishing the efficacy, the credibility and trust upon which the RCMP's authority depends;
 - (iii) failing, pursuant to said *Commissioner's Mandate Letter*, to lead the RCMP through a transformation of culture and management practices by failing to ensure that the RCMP efficiently and effectively delivers policing services based on appropriate priorities while keeping the Victims and Class, as Canadians, safe and protecting their civil liberties;
 - (iv) failing, pursuant to said *Commissioner's Mandate Letter*, to be a modern organization that reflects Canadian values and culture, such as the inclusion of interests of Indigenous Peoples, and failed to ensure that the RCMP has the trust, confidence and the enthusiastic support of the Indigenous Peoples,

- including the Victims and Class, that they should also serve;
- (v) failing, pursuant to the RCMP's values in its *Commitment To Our Communities*, to be unbiased and respectful in the treatment of the Victims and Class, to be accountable to the Victims and Class, to be culturally sensitive to the Victims and Class, to be open and honest with the Victims and Class, to effectively and efficiently use resources towards in the Victims and the Class, to provide quality and timely service to the Victims and the Class;
 - (vi) failing, pursuant to the RCMP's vision statement, to be a progressive, proactive and innovative organization, to provide the highest quality service in partnership with the Victims and Class as Indigenous Peoples as one of the diverse communities that the RCMP serve, to promote safe communities to the Victims and the Class;
 - (vii) failing, pursuant to the RCMP's mission statement, to commit to preserve peace in the interest of the Victims and Class as well, to uphold the law in the interest of the Victims and Class as well, and to provide quality service in partnership with the Class as members of the Indigenous community;
 - (viii) failing, pursuant to the *Core Values of the RCMP*, to be guided by integrity, honesty, professionalism, compassion, respect and accountability towards the Victims and the Class.

77. The RCMP knew or ought to have known that its actions and omissions (and the actions or omissions of its members) including, but not limited to the RCMP Breaches, were of a kind reasonably capable of causing harm to the Class and that the Class would suffer damages as a result.

78. The RCMP Breaches are ongoing.

Misfeasance in public office

78a. The facts alleged *supra* are incorporated with respect to this claim.

78b. Whether the RCMP (a) chose to allocate fewer resources and engage in less expansive investigations with respect to Victims than with respect to non-Indigenous individuals, or (b) failed to allocate sufficient resources or make sufficiently rigorous investigations in light of the unique Circumstances facing Victims, these choices, made on the basis of the Victims' Indigenous identity, were intentional and deliberate choices of the RCMP.

78c. The RCMP knew that making such choices on the basis of a Victim's Indigenous identity was discriminatory and unlawful.

78d. The RCMP knew that these choices would be likely to bring harm to the Victim and to the Class.

Negligent Police Investigation

78e. The facts alleged *supra* are incorporated with respect to this claim.

78f. The Supreme Court of Canada has previously recognized the tort of negligent police investigation as it relates to a suspect who, due to the ongoing police investigation, suffers compensable harm and is ultimately acquitted or cleared of any wrongdoing: *Hill v Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41. For clarity, the pleadings at paras. 78d through 78i are not based on the cause of action outlined in *Hill* but on an inverted characterization of the issue.

78g. The allegations at para. 74 to 78 are incorporated by reference with respect to the claim for negligent police investigation.

78h. The RCMP owed a standard of care to the Plaintiff and to each member of the Class to investigate, in accordance with the RCMP Duties, the murder or disappearance of associated Victims.

78i. As a consequence of the Circumstances and the RCMP's obligation to uphold the Crown's duties toward Indigenous individuals, the standard of care owed by the RCMP to the Plaintiff and to each member of the Class is heightened over that owed to members of the public generally.

78j. The RCMP knew or ought reasonably to have known that a breach of the RCMP duties and the applicable standard of care would be likely to cause harm to the Class.

78k. The RCMP through its negligent police investigative practices breached the applicable standard of care, causing foreseeable and compensable damage to the Plaintiff and to each member of the Class as pleaded herein.

Breach of the Canadian Charter of Rights and Freedoms

78l. The facts alleged *supra* are incorporated with respect to this claim.

79. The Defendant has breached the Victims' rights to security of the person by failing to adequately investigate and prosecute reports that they were missing or had been murdered and by committing (individually and collectively) the RCMP Breaches particularized above.

79a. These breaches of the Victims' right to security are not in accordance with the principles of fundamental justice.

79b. It is a principle of fundamental justice that administrative officials have a duty to act fairly.

79c. The Plaintiff and the Class were not treated fairly by the Defendant and the RCMP.

79d. It is a principle of fundamental justice that every person has dignity and worth.

79e. The Plaintiff and the Class were not treated with dignity and worth by the Defendant and the RCMP.

79f. It is a principle of fundamental justice that there is a generally held revulsion against punishment of the morally innocent.

79g. The RCMP Breaches amount to punishment of the Class and Victims who are morally innocent.

79h. The principles of fundamental justice are legal principles which can be identified with precision, are applicable in Canada, and yield predictable results.

79i. The Defendant breached the principles of fundamental justice as against the Class and the Victims with the RCMP Breaches, the Operational Decision , and other breaches asserted herein.

80. The Defendant has breached the Class' rights to be free from discrimination on the basis of ethnicity by, *inter alia*, committing the aforementioned RCMP Breaches and Operational Decision in respect of Victims while applying and enforcing different standards and policies in respect of non-Indigenous Victims or, alternatively, by failing to adapt their standards and policies to reflect the unique Circumstances faced by Victims.

80a. Discrimination, based on ethnicity, as asserted herein against the Defendant, is a part of the compendium of historical, traditional grounds of stigmatization of Victims perpetuated and institutionalized by the Defendant through the RCMP Breaches and the Operational Decision.

81. *Charter* damages pursuant to s. 24 are justified and, if awarded, would serve as compensation, vindication of the breached rights, and deterrence against future breaches.

82. The Plaintiff and the Class are justified in bringing this action because the Victims (who are deceased or reasonably presumed to be deceased) are unable to assert a claim on their own behalf, leading to the untenable circumstance where the wrongdoing by the RCMP, which is wrongdoing

by the Government, would otherwise essentially be immune to judicial sanction.

83. A proper interpretation of ss. 7, 15, and 24 of the *Charter* demands that a breach of the *Charter* due to negligence of the RCMP (and the Federal Crown) be actionable by members of the Class.

83a. The breaches of ss 7 and 15 of the *Charter*, the former without justification by principles of fundamental justice and the latter without justification, are deserving of sanction. These breaches are contrary the values and principles of Canada as a free and democratic society that embody faith in social and political institutions which enhance the participation of individuals and groups in society, commitment to social justice and equality, and respect for cultural and group identity. These breaches constitute a violation of the *Charter* in that they go beyond the rights *per se* and violate the human dignity as underlying value and principle to said rights.

84. The Defendant's *Charter* breaches as particularized herein are ongoing.

Quebec Law

84a. The facts alleged *supra* are incorporated with respect to this claim.

85. Where the actions of the RCMP took place in Québec, they constitute:

- (a) fault giving rise to the extracontractual civil liability towards the Plaintiff and Class members, pursuant to the *Civil Code of Québec*, S.Q. 1991, c. 64 (the "*Civil Code*"), Art. 1457, the *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12 (the "*Québec Charter*"), ss. 1, 4, 10, 10.1 and 16, and the *CPLA*, s. 3(a)(i); and
- (b) unlawful and intentional interference with the rights of the Plaintiff and Class members, from which arises liability of the Crown to pay punitive damages to the Plaintiff and Class Members, pursuant to the *Québec Charter*, s. 49 and the *Civil Code*, Art. 1621

86. Where the actions of the RCMP and its members took place in Québec, the Class have been unable to act, within the meaning of the *Civil Code*, Art. 2904.

Crimes Against Humanity and War Crimes Act

86a. The facts alleged *supra* are incorporated with respect to this claim.

86b. The *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24 (“*Crimes Against Humanity Act*”) allows for the living interpretation of the offences of the said act which is consistent with the evolution of customary international law.

86c. The National Inquiry concluded that the definition of genocide in international law, as it stands, encompasses the past and current actions and omissions of Canada towards Indigenous Peoples (as defined in the Final Report).

86d. Per the *Crimes Against Humanity Act*, the offence of genocide and crime against humanity encompasses both acts and omissions, either lethal or non-lethal.

86e. The National Inquiry concluded that:

- (a) targeting victims in a gender-oriented manner destroys the very foundations of the group as a social unit and leaves long-lasting scars within a group’s social fabric. It is inherent to its destruction;
- (b) genocide is a root cause of the violence perpetrated against Indigenous women and girls, not only because of the genocidal acts that were and still are perpetrated against them, but also because of all the societal vulnerabilities it fosters, which leads to deaths and disappearances and which permeates all aspects of Canadian society today;
- (c) the intent to destroy Indigenous peoples in Canada was implemented gradually and intermittently, using varied tactics against distinct Indigenous communities. These acts and omissions affected their rights to life and security, but also numerous

economic, cultural and social rights. In addition to the lethal conduct, the non-lethal tactics used were no less destructive and fall within the scope of the crime of genocide. These policies fluctuated in time and space, and in different incarnations, are still ongoing. Without a clear start or end date to encompass these genocidal policies, colonial genocide does not conform with popular notions of genocide as a determinate, quantifiable event;

- (d) that genocide in Canada can be understood as a “composite act,” which is “a breach of an international obligation by a state through a series of actions or omissions defined in aggregate as wrongful” and the “breach” extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation;
- (e) “composite acts” are limited to breaches of obligations which concern some aggregate of conduct and not individual acts as such. In other words, their focus is a series of acts or omissions defined in aggregate as wrongful. Examples include the obligations concerning genocide, apartheid or crimes against humanity, systematic acts of racial discrimination and some of the most serious wrongful acts in international law are defined in terms of their composite character;
- (f) the conduct and policies of the Canadian government generally targeted Indigenous peoples as a whole and considered them as such;
- (g) the Canadian genocide made a “mosaic of victims,” as did other recognized genocides, and the diversity within Indigenous peoples in Canada must not be construed as undermining the existence of the genocide that was perpetrated against them;
- (h) Indigenous peoples could possibly fall into all three of the above categories of protected groups (Inuit, Métis, and First Nations). They were targeted because of their distinct cultures, languages, spirituality, and occupation of traditional land;
- (i) serious bodily or mental harm encompasses a broad range of non-fatal genocidal acts. It has been jurisprudentially defined as “an intentional act or omission causing

serious bodily or mental suffering.” This concept encompasses, *inter alia*, acts of torture, be they bodily or mental, inhumane or degrading treatment, persecution. It should be noted that “serious harm need not cause permanent and irremediable harm, but it must involve harm that goes beyond temporary unhappiness, embarrassment or humiliation. It must be harm that results in a grave and long-term disadvantage to a person’s ability to lead a normal and constructive life;

- (j) specific intent may in the absence of direct explicit evidence, be inferred from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts;
- (k) the intent to destroy the group as a group is capable of being proved by evidence of an intent to cause the non-physical destruction of the group in whole or in part, except in particular cases in which physical destruction is required by the statute;
- (l) that “specific intent to destroy” covers not only physical or biological destruction, but also, at a minimum, the destruction of a group as a social unit;
- (m) Canada has displayed a continuous policy, with shifting expressed motives but an ultimately steady intention, to destroy Indigenous peoples physically, biologically, and as social units, thereby fulfilling the required specific intent element; and
- (n) Canada committed genocide and breached its international obligations through a series of actions and omissions taken as a whole, and this breach will persist as long as genocidal acts continue to occur and destructive policies are maintained. Under international law, Canada has a duty to redress the harm it caused and to provide restitution, compensation and satisfaction to Indigenous peoples.

86f. The Plaintiff pleads that the Defendant’s acts and omissions against the Victims and the Class include those stated by the National Inquiry and the Final Report.

86g. In breach of the *Crimes Against Humanity Act* and international law which includes the *Rome Statute of the International Criminal Court* adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998, as corrected by the *procès-verbaux* of November 10, 1998, July 12, 1999, November 30, 1999 and May 8, 2000, the Defendant committed and perpetuated the offences of genocide and crimes against humanity against the Victims and the Class by:

- (a) committing the RCMP Breaches;
 - (b) engaging in the Operational Decision;
 - (c) willfully ignoring the Circumstances; and

 - (d) engaging in other acts or omissions as asserted herein in breach of Canadian and international laws.
- (the “**Genocidal Actions**”)

86h. Pursuant to the *Crimes Against Humanity Act*, the Plaintiff seeks payments from the Crimes Against Humanity Fund for the families of the Victims and the Class for damages caused by the Defendant’s Genocide Actions.

DAMAGES

87. As a result of the systemic negligence of the RCMP for which the Defendant is vicariously liable, and the breach of the Plaintiff’s and Class Members’ *Charter* protected right to be free from discrimination, and aggravated by the breaches of the *Code of Conduct of the Royal Canadian Mounted Police and the Canadian Human Rights Act* R.S.C., 1985, c. H-6 (the “*CHRA*”), the Plaintiff and the Class have suffered and continue to suffer damages, which include, but are not limited to, the following:

- (a) physical, psychological and emotional harm and/or distress;
- (b) depression;
- (c) anxiety;
- (d) post-traumatic stress disorder;

- (e) nervous shock;
- (f) mental anguish;
- (g) interference with normal sleeping patterns;
- (h) impaired ability to concentrate;
- (i) suicidal ideation;
- (j) loss of consortium;
- (k) loss of opportunity;
- (l) loss of income; and
- (m) loss of enjoyment of life.

88. Further, as a result of the injuries suffered by the Plaintiff and the Class, the Plaintiff and the Class have sustained certain special damages, losses and expenses for medical treatment, rehabilitation, psychological counselling, and other care.

Aggravated, Punitive, and exemplary Damages

88a. The facts alleged *supra* are incorporated with respect to this claim.

89. The conduct of the RCMP was willful, arrogant, callous, and highhanded and constituted a gross violation of the rights of the Victims, the Plaintiff and the Class.

89a. The RCMP has adopted the provisions of the *CHRA* into its *Code of Conduct*.

89b. The RCMP Breaches, the Operational Decision, Genocidal Actions, and other breaches asserted herein are breaches of the *CHRA* and said breaches are morally repugnant.

89c. The Defendant engaged in the Genocidal Actions and committed and perpetuated the offences of genocide and crime against humanity against the Victims and the Class.

90. This is an appropriate case for punitive, aggravated and/or exemplary damages, to demonstrate that such willfully negligent, tortuous conduct will not be tolerated and this Honourable Court, the third arm of governance in Canada, will express its opprobrium on behalf of the people of Canada through awards of exemplary, punitive, and aggravated damages.

GENERAL

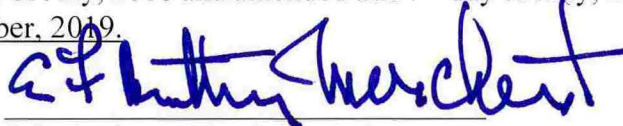
91. The Plaintiff pleads and relies upon the following:

- (a) *Federal Courts Act*, R.S.C. 1985, c. F-7;
- (b) *Federal Courts Rules*, SOR/98-106;
- (c) *Constitution Act*, 1867, 30 & 31 Victoria, c. 3 (U.K.);
- (d) *Constitution Act*, 1982, s.35(1), being Schedule "B" to the *Canada Act*, 1982 (U.K.), c. 11;
- (e) *Crown Liability Act*, S.C. 1952-53, c. 30;
- (f) *Crown Liability and Proceedings Act*, R.S.C. 1985, c C-50;
- (g) *Civil Code of Quebec*, S.Q. 1991, c. 64;
- (h) *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12;
- (i) *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10;
- (j) *Canadian Human Rights Act* R.S.C., 1985, c. H-6 ; ~~and~~
- (k) the Dependants Statutes (defined above) and any equivalent legislation and policy documents in any of the provinces and territories of Canada, or of a federal nature; and
- (l) *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24.

92. The Defendant, through the RCMP, is vicariously liable for the actions of its members.

93. The Plaintiff proposes that this action be tried at Regina, Saskatchewan.

DATED at Regina, Saskatchewan, this 5th day of July, 2018 and amended this 7th day of May, 2019,
and further amended this 27th day of September, 2019.



E.F. Anthony Merchant, Q.C.
MERCHANT LAW GROUP
Barristers and Solicitors
2401 Saskatchewan Drive
Regina, Saskatchewan, S4P 4H8
Phone: (306) 359-7777
Facsimile: (306) 522-3299
Email: tmerchant@merchantlaw.com

Lawyers for the Plaintiff