



YUKON ABORIGINAL WOMEN'S COUNCIL

REPORT & RECOMMENDATIONS: NOVEMBER 21, 2010

DEDICATION:

The Yukon Aboriginal Women's Council dedicates this Report to the Aboriginal women that came forward to tell their stories, who shared their experiences and who spoke out for the development of strong, healthy communities built upon meaningful partnerships between families, RCMP and various levels of governments.

This Report will set out to echo the voices of Aboriginal women throughout the Yukon and uphold the recommendations put forward, premised on courage, true strength and wisdom.

EXECUTIVE SUMMARY:

The Yukon Aboriginal Women's Council ("YAWC") is mandated to support and advocate for the interests and human rights of Aboriginal women throughout the Yukon while working with various levels of governments, NGOs and community institutions to empower Aboriginal women to become involved in community development to affect positive social and economic change for the well being and safety of their Aboriginal sisters, First Nation families and children.

YAWC's participation in the RCMP Review is necessary work to ensure that Aboriginal women's experiences, stories and recommendations are properly reflected, to ensure meaningful change in their relationship with the RCMP and overall judicial system.

Within this process the Yukon Government provided YAWC with funding to participate in the RCMP Review, providing for the support and assistance of YAWC representative, Lorraine Netro, as well as providing resources for the research and technical assistance of Corinne McKay.

YAWC recognizes that Yukon First Nation governments are also engaged in the RCMP Review Process and have provided submissions and recommendations that will help to inform the governance relations that shape the Yukon. Thus

YAWC have focused their efforts and recommendations to uphold what Aboriginal women have identified as necessary to affect change, largely at the community level.

YAWC had committed that the research would look at various policing models, community based policing complaints processes, disciplinary processes and employment equity. These efforts have resulted in a bulk of research that we are confident can inform practical solutions at the local community and regional levels, as well as contribute to the higher level discussions between respective governments (First Nation, Yukon) and the RCMP.

YAWC trusts that the investment put forward by Aboriginal women in this process will not be in vain and that their experiences which shapes these materials will be clearly reflected in the Final Recommendations and that all Parties (RCMP, Yukon Government and Yukon First Nation governments) will carefully consider and implement such recommendations even when it may appear challenging to do so.

YAWC is grateful for the courage of Aboriginal women to come forward and share their experience and for the advocacy and assistance provided by both Lorraine and Corinne. The information that follows is their work.

1.0 BACKGROUND:

Two target meetings were specifically held for Yukon Aboriginal women (June 19th and August 3rd, 2010), as requested by Aboriginal women's organizations. Seventeen Aboriginal women who attended the meetings include the Presidents of Yukon Aboriginal Women's Council and the Whitehorse Aboriginal Women's Circle, former Chiefs, Elders who have been involved with Justice and Health for several years, as well as young women working in their community dealing with issues of violence against women, support programs for youth etc.

The discussions and personal experiences shared provided realistic pictures of concerns and issues, from all generations of Aboriginal women, which stemmed from their communities and families. It is noteworthy that YAWC findings, as informed by Lorraine's work, also reflects the efforts of other Aboriginal women who attended public meetings throughout the Whitehorse area and in the outlying communities, as well as those who chose to remain anonymous but have shared their stories through others.

The YAWC also attended and participated in a RCMP Review forum, established at the request of the Yukon First Nation Aboriginal Justice Network (November 4 – 5, 2010). This forum provided the YAWC the opportunity to share with Yukon First Nations Chiefs and the Justice Network-- Aboriginal women's perspectives,

recommendations as well as the research to support Aboriginal women's call for change at the community level (making justice accessible, improving RCMP community relations). Through these discussions YAWC echoed and supported the call for a technical working group (with First Nation representatives), to assist in the drafting of the final RCMP Review recommendations to the Minister of Justice as well as to assist in the implementation of such Recommendations in the immediate and long term towards improved RCMP services within First Nation communities.

2.0 WHAT ABORIGINAL WOMEN SAID ABOUT THE RCMP:

Many of the Aboriginal women shared personal stories of their experiences in relation to the RCMP. We heard both positive and negative experiences. In reviewing their stories, a number of important themes emerged.

2.1 History:

Historically, the relationship between the RCMP in Yukon and First Nations people was positive. The RCMP was welcomed into our communities and lived amongst our people. It was the First Nations people that educated and trained the RCMP members to live and survive in our traditional territories. Aboriginal women took great pride in sewing traditional clothing for the RCMP members and their families so that they may survive the harsh climate of the North. Aboriginal women took great pride to teach the RCMP members how to cook our traditional food to survive out on the land. This relationship, however, began to deteriorate over time due to the emergence of social vices, enforcement of liquor laws on our people, enforcing curfews on our communities, the removal of children from our communities due to residential schools and the child welfare system and the lack of empathy by the RCMP for our social realities.

2.2 Respect & Trust:

One of the recurring concerns that were expressed by Aboriginal women is the lack of trust of the RCMP.

“How can we build trust if we don't know the RCMP members in our community?”

“Need to improve relationship between First Nations women and RCMP. RCMP need to treat people with respect, compassion, dignity in all situations”.

“RCMP is not visible in community, we need to see them around”.

Many Aboriginal women spoke of the unfair and discriminatory treatment that Aboriginal peoples experience when they are in contact with the RCMP.

“They are prejudiced, they need to be more respectful, they need training”.

Reference was made to the deaths of Aboriginal peoples in police custody, namely, Freddie Stewart in 2000, Clark Whitehouse in 2003, Raymond Silverfox in 2008, and Robert Stone in 2010.

Yukon Aboriginal women also referred to the shooting death of Harley Timmers in 1998 by an RCMP officer and the death of young Angel Carlick, whose murder remains unsolved.

The cumulative effect of these deaths and citizens’ experiences with the RCMP has resulted in a lack of trust and respect for the RCMP. It is clear that this relationship must be repaired in order to improve relations amongst the RCMP, community members and First Nations governments.

Aboriginal women also spoke of the racist attitudes and the “brotherhood” or “culture” of the RCMP as impacting the delivery of police services in a negative manner.

“Culture of the RCMP-- what is being done with their own members? First Nations officers, First Nations people often have to compromise themselves to fit in, will this change?”

“RCMP take care of each other and their own kind”.

“Aboriginal police members are abused by their own people within the organization, they face racism, we have to fight for our own people and when they are abused, we have to make recommendations to this”.

Aboriginal women commented on the need for the RCMP to get to know the community that they are serving and the importance of building relationships with Aboriginal women and the First Nations government.

“Build a good working relationship with RCMP, this [will] help to build trust”.

“RCMP members used to get involved and volunteer in community, RCMP coached my sons in hockey, they helped my sons get to where they are today. The attitudes of RCMP have changed from those days, today they seem to have no compassion, especially in situations with First Nations people. The new, young RCMP members have bad attitude, they act like they are superior to us-- the First Nations people we then feel intimidated”.

“It takes time for people to get to know RCMP, be visible in the community, walk down the street and attend gatherings”.

“Get to know the dynamics of our community, who the key players are, get to know our elders and youth”.

Aboriginal women spoke of the need for the community to be involved in the selection and training of police officers.

“There should be some kind of assurance that when officers are placed in our communities, they come without prejudice”.

“RCMP is disconnected from people they are serving. We need First Nations trainers [to be part of the overall] RCMP training; and again when they are in our communities so they can know more about our people”.

Aboriginal women see the value in having RCMP as part of their community; however, members and officers need to be a real part of the community and not simply an institution with a particular culture that undermines meaningful service to the community it is charged with protecting. How are Aboriginal women and community members expected to “trust” officers that they do not know or how can officers be effective in their jobs if they do not know the people they serve? How are Aboriginal women and the community members expected to respect an institution and their representatives that are viewed as prejudicial and not concerned with the realities of Aboriginal people to the extent where family members are dying in their care or their deaths continue to raise more questions than answers?

Community awareness, Aboriginal historical and cultural training and orientation to understand the community and families within particular areas are important to restore relations with the RCMP.

2.3 Personal Safety Issues:

In many of the situations where RCMP have had to be involved, are often associated with vulnerable family situations such as child welfare, domestic violence and reporting personal safety issues.

“Stereotyping of women and child welfare issues, how they are treated in the justice system and by government workers”.

The women do not feel safe in reporting to RCMP, they do not trust that they will be taken seriously, that they will be heard, that their situation will improve, that they will receive the assistance that they ask for.

"I do not want the RCMP to be seen at my house and I will not be seen at social services asking for any help, so I live with my abuse. I will not live with the anxiety of court hanging over my head, this will bring shame to me, my family, my community, then everyone treats me bad and I am alone. I will not ask for help, I'll live with it".

Aboriginal women are often embarrassed when they have to continually call the RCMP. In addition to the strife and conflict that give rise to these situations, it is often coupled by being judged by everyone in community, so as a result Aboriginal women will suffer in silence -- without talking or confiding in any other person. They live with the reality, of being afraid, feeling alone and living with the violence.

"How do we deal with RCMP officers who have sexist attitudes toward women, especially First Nations women".

"There are girls from the communities coming in for high school, they don't feel safe or secure with anyone, they wouldn't feel safe going to the police to report any incidents".

Aboriginal women spoke of the need to improve the complaints process and to ensure that RCMP officers are held accountable for inappropriate behavior when they are in the communities to provide a service of public safety. Aboriginal women spoke of the real need to empower their young girls to be aware of their rights to ensure that people in position of authority do not abuse their powers because they are dealing with a person who is either Aboriginal, young or a woman.

"There is no discipline out there for RCMP, no respect and they don't give it".

"How you are treated when you report your situation is sometimes more traumatizing".

"RCMP take care of each other and their own kind".

"There is a lack of reliable complaint process for the RCMP. The public has no assurance that their complaints are even being given consideration. Having to file a complaint with the institution of RCMP is part of a major conflict of interest and there needs to be a better way".

2.4 Access to Resources:

Reporting of abuse and violent situations in smaller, isolated communities brings negative attention to the individual and their families. This can become a safety concern for individual Aboriginal women as well as their extended families. To report abuse to an officer can result in abuse being inflicted on a mother's child or her elderly parents. Taking a case to court does not always lead its way to real justice. Many situations find Aboriginal women experiencing greater degrees of violence because she has found the strength to speak out.

There is a critical need within the outlying Aboriginal communities for resources that provide Aboriginal women and their families with crisis support, alternative shelter options, along with a wide range of counseling and advocacy services. Notably most Women's shelters and counseling supports are predominantly located in the Whitehorse area. YAWC believes that all levels of government and the RCMP need to make a genuine commitment to ensure that Aboriginal women and their children, whom represent some of our most vulnerable in isolated small communities, have access to services to keep them safe, such a commitment requires action and proper resourcing.

3.0 YAWC RECOMMENDATIONS:

Many if not all Yukon First Nation communities and the Aboriginal women who live there come from a matriarchal society. Our relations with non Aboriginal people have changed the way our women are treated today. However, even in times of strife, conflict and social change our Aboriginal women continue to be the primary caretakers and nurturers of our families, sustaining the heart of our First Nation communities. The violence our Aboriginal women have to live with is weakening the heart of our communities. We look to those who can provide the necessary support to regain our strength, so that our children and Elders can live within their communities unafraid, working with the RCMP to build a better society. We do not want our sons and daughters, grandsons and grand-daughters to have negative experiences with the RCMP – for they are a part of our community. However, this relationship requires a genuine desire for effective and meaningful change to ensure that Aboriginal people are respected as human beings. We recognize that our Aboriginal people also need to uphold the laws and to be a part of the solution towards an effective new relationship. However, there must be a meeting of the minds, an appreciation of our cultural differences, to ensure that services that are in place to protect our interests reflect who we are as Aboriginal women and communities.

Based on the consultations with Aboriginal women and the supporting research, the YAWC submits the following recommendations:

3.1 IMPROVED RELATIONS:

As noted above, a recurring theme among consultation participants related to the mistrust of the RCMP and the need for the RCMP to be more responsive to community needs. Many people spoke of the “police culture” as contributing to the negative experiences that people had with the RCMP. These comments are validated in many police studies examining this issue and these studies have defined police culture as “a set of shared values, group attitudes, agreed upon behavioral norms, informal “craft” rules, a set of common understandings and informal guides for action”.¹

In particular, there is general agreement amongst these police studies relating to the traditional police culture as being described by the following general core values and qualities:

- **Solidarity** – emphasis on shared responsibility and loyalty to other police officers above all others;
- **Authoritarianism** – belief in, and willingness to exercise, power over others, believed to be either a function of the job or personality type;
- **Suspicion** – mistrust of people gained from limited and often negative contact with public; a protective response to uncertainty of the environment;
- **Conservative** – political and social outlook either caused by the moralistic and negative nature of police work or those who are attracted to police work;
- **Prejudicial** – tendency to prejudge others based on values, behavior and work experience – stereotyping gets the job done but can lead to racism, sexism, etc.;
- **Cynicism** – tendency to regard all non police as potential unreliable, unsympathetic and critical of police;
- **Blue collar** – describes the class background and values of most police officers as blue collar or working class, suggests that police cultural values reflect many of the general values and attitudes of working class males.²

In Yukon, it is perceived that this police culture contributed to the death of Raymond Silverfox in December, 2008.

¹ Murphy, Christopher and McKenna, Paul, “Rethinking Police Governance, Culture & Management” (December 3, 2007) Prepared for the Task Force on Governance Cultural Change in the RCMP, Public Safety Canada at page 5.

² Ibid, at p. 6.

The coroner determined that Raymond Silverfox died of acute pneumonia as a result of inhaling his own vomit. Evidence heard at the coroner's inquest determined that Silverfox spent at least 13 hours in police custody, had vomited at least 26 times and had defecated in the police cell that he occupied.

The Yukon News reports that "roughly 60 per cent of the cell was covered in the mess". During his 13 hours in police custody, RCMP officers ridiculed Silverfox and deprived him of medical attention.

On November 12, 2010 the RCMP "E" division cleared the police officers of any criminal wrongdoing.

From YAWC perspective and what Aboriginal women have brought forward, while there may have not been any criminal wrongdoing, although it is unclear to the public what types of information and perspectives are considered, there clearly was an injustice as a human life was lost and a daughter no longer has a father she can build memories with. To be held in cells for an extensive period of time and notably in distress, while officers may have checked in on Mr. Silverfox from time to time, someone needs to be held responsible because what appears to be passive behavior on part of the RCMP overseeing the cells contributed to a clear violation of human dignity. Such actions held unaccounted will only undermine public confidence and respect for the RCMP.

Research indicates "that the studies of excessive use of force, corruption and racism have implicated police culture in both rationalizing these activities but also providing protection from its discovery and elimination".³

The YAWC recognizes the challenges that many RCMP members face in policing our communities; however, a respect for human rights and dignity of the person is essential in ensuring the safety of our communities. The YAWC recognizes that we need to work with the RCMP to ensure that it provides services to achieve public safety but it is a responsibility of the RCMP to eradicate the police culture that impacts the policing in our communities in a negative manner.

The YAWC makes the following recommendations to improve the relations between the RCMP, the public, and Yukon First Nation governments and citizens.

³ Ibid.

RECOMMENDATION 1:

Implement a community based policing structure that is prevention focused and community driven.

As stated above, numerous studies affirm the existence of a police culture that justifies the behavior and response of individual police members. Other studies also point to the organizational structure of the RCMP as contributing to the existence of a police culture.

The RCMP organizational structure is based on a military-bureaucratic model with the following organizational characteristics:⁴

- Rank-based authority structure;
- Highly centralized administration and authority structure – all important decisions are made at the top;
- Command and control management philosophy – reliance on rank based authority, use of formal orders, reward rule following, punishment rule violation;
- Hierarchical decision-making structure that controls and directs police operations from the top; pyramid-shaped organizational structure; top down management;
- Formalized – with a heavy reliance on formal, written communications: rules, procedures, policies, etc.;
- Specialization of many police administrative and operational functions;
- Emphasis on technology and technique – generally rigid and inflexible organizational structure; resistant to change; and
- Insular and closed – organization resistant to outside political or community influence.

⁴ Ibid at p. 10.

The YAWC recognizes that there is a policing trend evolving in Canada towards community based policing models⁵ aimed at “achieving more effective and efficient crime control, reduced fear of crime, improved quality of life, improved police services and police legitimacy, through a proactive reliance on community resources that seeks to change crime-causing conditions. These trends suggest a greater accountability of police, increased public involvement in decision-making processes, and stronger efforts to uphold and protect civil rights and liberties”.⁶ YAWC endorses this approach – because empowering communities to become more involved in dealing with community conflicts encourages one to support others in the community, hold their members responsible, and can bring forward recommendations for community type solutions that may be more effective than what the current court systems can order. Through research YAWC is aware for those First Nation communities that have established their own police force, outside of the RCMP, reflect community based policing models and report satisfaction with the organizational structure and the services that the First Nations police force provides to Aboriginal people.⁷

However, it is not clear to the YAWC whether community based models are currently operating in the Yukon⁸ and if not, whether the commitment to develop community based policing models would result in a model premised on the RCMP military model and culture, which from YAWC could frustrate RCMP – community relations.

It is clear however that a successful approach to a community based model will require the RCMP to embrace the community based philosophy up throughout the RCMP organization, to ensure that the supports and benefits of community involvement are recognized and supported for effective policing services within respective First Nation communities. In terms of the philosophy and elements of

⁵ For a discussion of the efficacy of community-based policing in Canada see: Corsianos, Marilyn. Policing and Gendered Justice: Examining the Possibilities (University of Toronto Press, 2009); Linden, Rick; Clairmont, Donald and Murphy, Chris, “Aboriginal Policing in Manitoba”, 2001; Lithopoulos, Savvas, “International Comparison of Indigenous Policing Models”, (Public Safety Canada, 2007); Clairmont, Don, “Aboriginal Policing in Canada: An Overview of Developments in First Nations”, September 2006; Report of Manitoba Justice Inquiry, 1999.

⁶ Friedman, 1996.

⁷ Clairmont, Don, “Aboriginal Policing in Canada: An Overview of Developments in First Nations”, September 2006.

⁸ The Co-Chairs document for discussion, dated November 5, 2010 states at 1.6 “Affirm a commitment to community based policing in Yukon, with an emphasis on crime prevention, partnerships and collaboration that are adaptable to the needs of individual communities”. This reference appears unclear – does it mean that community policing has been implemented in the Yukon OR does it mean that the Yukon needs to commit to a community based policing model.

a community based model, research has identified that a successful model needs to consist of:

- (a) Community based crime prevention;
- (b) Proactive versus reactive response system;
- (c) Public participation in police deployment and planning; and
- (d) A downward shift of the command structure to empower the front line officer.⁹

The main challenge with implementing a community based policing model is the need for adequate resources to redirect policing services to become more prevention oriented and community driven.¹⁰ There would also need to be a comprehensive training of the police force with respect to what a community based policing philosophy is for Aboriginal women and communities.

An important aspect of a community based police model, which can provide great benefits and early investments towards improved relations between the RCMP and Aboriginal women and their communities, is to establish the office or services of a First Nations liaison officer,¹¹ within each respective First Nation community. Ideally, a First Nation liaison can work within the local RCMP detachment or in a First Nation government office. The benefits associated with such an office include informing RCMP policies in the treatment of Aboriginal people and dealing with remote Aboriginal communities and cultures, assisting with the orientation of new officers into the communities, or in the development and application of cultural training of officers in First Nation communities. The liaison officer could also be a tremendous support for and providing for the public safety of Aboriginal women, through building awareness of rights, assisting them

⁹ YAWC is aware that for those First Nation communities that exercise their own police force have built them on a community based model and philosophy which engages and involves the community in the police services through the establishment/operations of police boards, commissions and policing committees. The community vision of policing is reflective in the identification of policing priorities and objectives and is reflective of the community's cultures and values. In the spirit of working with First Nation communities, many for which are Self-Governing First Nations, a community based approach has the potential to strength RCMP-community relations, avoid having to develop separate policing services; however both the Yukon government and RCMP have to demonstrate a genuine commitment to a community based model, supported throughout the RCMP institution with supportive resources to ensure the success of these new approaches for First Nation communities and the Yukon at large.

¹⁰ See Clairmont, *supra*, at p.18-19 in the context of RCMP policing in First Nation communities pursuant to a community tripartite agreement or CTA.

¹¹ This position could be a new position or could work with an officer who takes on additional specific responsibilities such as outlined.

in unfamiliar RCMP and associated processes by educating women regarding their rights. While YAWC understand that this option would not require legislative action it will require political will and supporting resources.

YAWC appreciates that this approach and recommendation would likely be a part of a larger vision of policing throughout the Yukon, to ensure First Nation involvement in the overall design and delivery of policing services. However, we view our recommendation for a First Nation liaison officers as a necessary mechanism that can be implemented immediately which in turn will provide the opportunity for improving relationships between Aboriginal people and RCMP in the community and to move towards a relationship built upon trust and respect – necessary elements for a larger vision of good policing services throughout the Yukon.

RECOMMENDATION 2:

Increase the recruitment and retention of Aboriginal female police officers in Yukon communities.

YAWC also views that to improve relations at the community level requires an increase of Aboriginal officers within the force who come with experience and insight that can support efforts to achieve cultural awareness of Aboriginal people. YAWC is aware that there are approximately 153 members of the RCMP in the Yukon. Data provided indicates that of the 153 regular members, 20 are female and 15 are First Nation.¹² It is not clear from the data provided if any of the 20 female officers are First Nations. With the increasing number of Aboriginal women that find themselves in conflict with the law, or having to rely on the RCMP to assist in domestic violence situations or noting the disturbing numbers of Aboriginal women that have gone missing or have been found murdered, there is a real need to increase the recruitment and retention of Aboriginal women to become RCMP officers. Such an approach is one step towards building internal empathy within the RCMP for the challenges that impact Aboriginal women's lives and Aboriginal women within the communities may be able to look beyond the uniform and begin to appreciate and respect the service that the RCMP provide to their communities. Furthermore, YAWC is of the view that an increase in the number of Aboriginal women in the Yukon RCMP will have positive effects for our communities and RCMP relations by: (i) potentially increasing the reporting of domestic violence, (ii) encouragement of peaceful alternatives to conflict and (iii) increased communication between the RCMP and the community. YAWC recognizes that the retention of Aboriginal women in the RCMP offers its own set of challenges, due to a police culture that exists and the workplace demands of shift work especially as it relates to the raising of children.

¹² Clark, Peter, Presentation of "M" Division – Yukon, November 4, 2010.

It will be therefore necessary for the RCMP to review how it can take steps to promote and achieve the retention of Aboriginal women in the RCMP, which may require the eradication of the brotherhood mentality through organizational restructuring of management and senior officers' positions.

YAWC also appreciates that the internal brotherhood cultures and a lack of awareness of Aboriginal people can and have contributed to racist treatment of Aboriginal recruits, whether male or female officers, which makes it difficult to retain their service in the RCMP.

YAWC recognize that the RCMP has a duty to uphold the *Canadian Human Rights Act* and ensure that members and officers do not discriminate or become the target of discrimination. Further YAWC is aware that there are campaigns that are held to promote Aboriginal recruitment; however, what remains unclear is whether there are programs and supports that assist Aboriginal officers once recruited to deal with prejudicial attitudes and what measures does the institution exercise to eradicate racism or prejudicial attitudes within the service. YAWC is not attempting to make sweeping statements about the level of racism or prejudicial attitudes within the force; however there are public perspectives, based on experience of a family member or friend that serves or has served in the RCMP, that racism and prejudicial attitudes are still alive and well in spite of good intentions to eliminate it from within. An optimistic perspective is that to increase Aboriginal recruitment numbers can aid in removing misconceptions, stereotypes and uneducated perspectives of Aboriginal people, which can support efforts to eliminate discriminatory behaviors. However, YAWC also appreciates that to affect such change and increased recruitment and retention, also requires more than good will, it also requires available supports, such as an advocate or a process that is held to a high standard, objective and fair, and one which will not overlook the issues and contribute to system discrimination. If such programs and systems are in place to support Aboriginal recruits, this information is not so evident to the public or to Aboriginal communities. Therefore, to educate the public more information (which is not always accessible by the internet in small rural communities due to socio-economic realities) should be provided on a regular basis. Education is a key element to improving communication and can strengthen relations.

RECOMMENDATION 3:

Involve the community in the selection of officers and in the cross-cultural education and training of Yukon's police force.

With respect to improving RCMP-community relations, Aboriginal women spoke of the need for officers to understand the community, the culture and people they were assigned to serve. This form of knowledge and understanding clearly cannot be obtained in a training depot located in Regina. It is important for RCMP

officers also to appreciate the diversity of the culture and the relationships that Yukon First Nation communities have with each other, their history of development and the societal impacts as a result of the construction of the Alaska Highway, Residential Schools, the apprehension of children through child welfare legislation and through the imposition of the Indian Act on our communities. These points of contact and legislation, while historical in nature have had deleterious impacts on the advancement of Aboriginal people in the Yukon as well as their relations with each other and those with authority.¹³

Local communities will need adequate resources to properly educate new RCMP members with respect to the cultural practices and values of the community. Such knowledge and skill development to respond to these community realities, for the betterment of relations as well as for the RCMP and their families, should be informed by the Aboriginal people who form these communities. Assuming officers are genuinely interested in the Aboriginal communities they are assigned to and that they seek to enjoy the experience while being successful in their work as officers, working to combat crime, ensure the public safety of the community members, YAWC would like move towards a direction where RCMP are not viewed as an element of conflict, but rather an instrument of conflict resolution. Thus cultural training and orientation needs to be more than an exam question to obtain certification or a manual that one may be required to refer to from time to time. Effective cultural training and orientation requires ongoing development and programs and/or courses developed and administered by the respective First Nation.

YAWC also recognizes that to improve RCMP services to Aboriginal women and their communities, officers need to appreciate what the Aboriginal priorities are in order to be more responsive. In the absence of being aware of what the current issues are and the community needs, makes it difficult to assess whether the RCMP are providing good services and making positive contributions to the overall Aboriginal community development.

Cultural training and orientation coupled with informing RCMP services by reflecting Aboriginal community priorities requires a coordinated approach to ensure there is consistency in delivery of cultural programs and a process to exchange information between the RCMP and Aboriginal communities when examining the effectiveness of RCMP services. YAWC recommends that such a coordinated approach be developed either at the local community level or regionally to share in the resources, which can be designed along Aboriginal historical ties, language groups or political affiliations (for instance, Northern Tutchone would include Nacho Nyak Dun, Selkirk First Nation and Little Salmon Carmacks First Nation).

¹³ For a comprehensive discussion of the affects of systemic discrimination on Aboriginal peoples in the Canadian criminal justice system see: Report of Manitoba Justice Inquiry (1991).

YAWC is also of the view that the community should be a part of the selection of officers who are assigned to their respective communities. The individual community should be able to communicate to the RCMP the desirable traits of a members considered to service in their community to ensure accountability and transparency. The development of a First Nation liaison officer in each community could be the connection between the community and RCMP detachment to communicate the community's perspectives, interests and desirable traits of officer and associated police services. Another, more formal option, may be to establish a community consultative body (similar to those found within RCMP—First Nation tripartite agreements).

RECOMMENDATION 4:

Establish a public complaints process that is community based, accessible, transparent and accountable.

Aboriginal women consistently identified the need for a transparent accessible complaints process.

It was noted that many Aboriginal women were unaware that a process to raise complaints even existed and how to access it. For those who were aware of the process, most were hesitant to use it as the process was presumed to be or was, based upon experience, ineffective, whereby Aboriginal women indicated that such measures could not address the real issues or effect change where change was required. YAWC recognize that part of the challenge with the current complaints process is that many Aboriginal women and the general public do not understand how the process works, what types of matters it could hear and what remedies were available. Such information does not always need to be provided only in times of conflict; however, working with Aboriginal women's organizations and the Aboriginal communities to make such information accessible can lend community strength to help its citizens in times of need or a lack of understanding – thus citizens don't always need to turn to the RCMP but can work with their own organizations to make informed decisions.

Thus, more public education tools and working in partnership with local Aboriginal women's groups or non-government organizations, to understand and advise on application would go a great distance to improve RCMP-community relations. However, further to this element of education is a need to foster public confidence in any process. From YAWC perspective a public complaints process needs to function at an arms' length from the RCMP.

The YAWC shares the view of the Task Force on Governance and Cultural Change in the RCMP that “[i]n order for citizens to have confidence in their police, they must have confidence in those who ensure accountability of police to the public. There must be strong elements of civilian oversight and independence

in the public complaints process in order to safeguard the public perception that the process is legitimate”.¹⁴

“Police oversight is commonly associated with the mechanisms and methods established for the handling of complaints against a police service, including those pertaining to policy or individual officer behavior”.¹⁵

The research specific to police oversight makes a distinction between internal and external accountability. In fact the *RCMP Act* recognizes this distinction by enabling two processes for accountability, internal discipline mechanisms not restricted to citizen complaints (e.g. another police officer can file a complaint with respect to another officers’ conduct) and a review of a citizen’s complaint to the Public Complaints Commission.

Internal accountability refers to the internal police framework of discipline to control officer conduct. In the first section of this report, it was noted how police culture can have a negative impact on police conduct. The *RCMP Act* provides a comprehensive discipline process of its members and provides an extensive grievance procedure. The External Review Committee of the RCMP is mandated to hear grievances and make recommendations to the Commissioner of the RCMP.

It is noted that the internal accountability mechanisms within the *RCMP Act* are overly formalistic and adversarial.¹⁶ To that end, the YAWC supports the development of a more responsive and less adversarial internal discipline process that will create positive working environments for the members that police our communities.

Research has indicated that in other communities where policing is overseen by First Nations codes of conduct, direct influence over the discipline of officers, with local police boards or commissions provide for better policing within First Nation communities. YAWC appreciates that a discipline process should not be strictly about addressing unacceptable behavior but should also include availability of support, tools and information for RCMP officers to effectively change the behaviors.

External accountability relates to the civilian oversight of the police. The *RCMP Act* provides for the creation of a Public Complaints Commission that has the jurisdiction to review a public complaint. The first line of contact that a person has about an officer’s conduct is made directly to the individual detachment or to the Public Complaints Commission.

¹⁴ Task Force on Governance and Cultural Change in the RCMP, “Rebuilding the Trust” (Public Safety Canada, December 2007) at p. 14.

¹⁵ Murphy and McKenna, *supra*, at p. 38.

¹⁶ Task Force on Governance and Cultural Change in the RCMP, *supra*, at p.29.

Aboriginal women have clearly stated that the police should not police themselves. To do so, further entrenches the mistrust of the RCMP and the officers who serve in our communities as well it undermines the legitimacy of any process intended to hold officers accountable.

YAWC is of the view that an independent body be established outside of the RCMP and mandated to handle public complaints and conduct investigations into officer misconduct.

YAWC appreciates that the discipline process may be entering into the realm of impacting the RCMP exclusive jurisdiction to oversee the discipline of their own officers; however real change to regain the public's confidence requires a new direction. Currently Aboriginal women do not believe nor do they see themselves within the current public complaints process which results in decisions that affects Aboriginal women's interests and lives. The current process remains unclear, appears to operate behind closed private doors where Aboriginal women's voices are silenced and no clear indication as to who advances their interest when an officer is to be held accountable. Whereby the development of a new process which is understood to operate outside of the RCMP (at arms' length), is transparent, objective, fair and accountability – such a process could serve to increase public confidence even in situations where they may not agree with the decision, but if the process is clear and understood, Aboriginal women may be more likely to live with the outcome.

The YAWC is cognizant of the ongoing work of the RCMP in relation to finding workable solutions to address the need for internal and external accountability such as the establishment of the Independent Commission for Complaints and Oversight for the RCMP.¹⁷ However, we do not agree with the recommendation of the Task Force on Governance and Cultural Change that “[c]omplaints relating to actions of a police officer or the performance of an officer's duties should be referred initially to the head of the Force”.¹⁸ Aboriginal women have been clear that a more local, community based complaints process is needed. We do not feel that Aboriginal women should be restricted in making a complaint about an officers' conduct solely to the head of the detachment or commanding officer. There is an inaccessible process that does not work for Aboriginal women.

Aboriginal women's concerns with respect to the inaccessibility of safe public complaints processes, also highlights the concerns raised that Aboriginal women do not feel comfortable reporting domestic violence – which in effect results in an unclear picture of the real needs within our communities, which can frustrate our

¹⁷ Ibid, at p. 14-17.

¹⁸ Ibid, at p. 14.

governments and service providers (inclusive of the RCMP) to effectively address the root elements of violence.

Any complaints process established or newly developed should provide culturally relevant supports services, inclusive of advocacy, for Aboriginal women and families, to be made available and which stay in the community, to ensure informed decision making on part of Aboriginal women and which can provide important information to decisions makers when having to balance interests and ensure accountability back to communities that the RCMP serve.

RECOMMENDATION 5:

Increase resources and supports for the public safety of Aboriginal women

YAWC recognizes that there are increasing numbers of Aboriginal women who will not report incidents of domestic violence due to a number of complex factors (fear of reprisal, fear of removal of children, fear of RCMP, loss of financial stability).¹⁹

As stated earlier, under-reporting of domestic violence creates additional changes and affects the overall safety of all Yukoners. To that end, the YAWC is of the view that the attainment of public safety in a community is the collective responsibility of governments, citizens, inter-agency groups and the police.

Options to improve public safety in our communities would be at a minimum to:

- (a) increase the number of women's shelters in Yukon communities;
- (b) provide and increase resources, in the communities, to develop culturally based programs to address domestic violence; and
- (c) RCMP officers within the communities undergo domestic violence training informed from the Aboriginal perspective.

The availability of resources to develop community capacity continues to be a key element for any new approach to improving RCMP services within our First Nation communities. We trust that there be the political will exercised by governments and genuine support of the RCMP to ensure that either new resources become available or that there be a redistribution of current financial resources to address the glaring needs within Aboriginal communities.

¹⁹ Native Women's Association of Canada, "Aboriginal Women: Police Charging Polices & Domestic Violence", 1994.

4.0 POLICE GOVERNANCE:²⁰

YAWC recognizes that the recommendations provided, intended to demonstrate that effective change in the RCMP Aboriginal relations and improving RCMP services to Aboriginal communities requires development at the local level.

However, YAWC also appreciates that the counter balance to improved relations and better RCMP services when either dealing with Aboriginal people or protecting Aboriginal people requires other considerations and the attention of our governments.

Thus YAWC recognizes that our recommendations are part of a larger equation and that further work is required to ensure that Yukon First Nation governments can protect and advance their citizens' interests by becoming substantively involved in any policing service model or new approach.

YAWC appreciates that such discussions are largely governance in nature and have a number of legal considerations yet to be examined and discussed among the respective governments.

The RCMP is granted the authority to deliver policing services in the Yukon pursuant to the Territorial Policing Agreement that is set to expire on March 31, 2012. This Agreement sets out administrative and fiscal details (Yukon government pays for 70% of the RCMP's policing costs) but makes it clear that the internal management of the police force, including its administration and determination and application of professional police procedures, remains with the RCMP. This means that the *RCMP Act* and RCMP policy governs the overall administration and management of the police force. Until such time as the Yukon Government occupies the policing jurisdiction and establishes its own territorial police force with territorial police officers, the *RCMP Act* will continue to apply.²¹

²⁰ YWAC believes that the concept of police governance relates to the identification of (a) who has the jurisdiction to deliver policing services; and (b) the development of an overall framework (development of policy, monitoring and accountability) of how policing services will be carried out. This discussion is complex and raises constitutional division of powers issues. It is against this backdrop that the YAWC is encouraging all levels of government, First Nations, Territorial and Federal, to continue the discussions through implementation with respect to the identification of long-term options with respect to policing in the Yukon to improve better outcomes for our Aboriginal communities.

²¹ The Supreme Court of Canada in *P.G. Alberta c. Putnam* [1981] 2 S.C.R. 267 determined that the RCMP code of discipline is applicable to officers of that force, whatever be their duties, and the fact that policing contracts are authorized with a province or a municipality does not remove them from federal disciplinary control. Thus, the provinces cannot control or direct the RCMP, a federal institution with federal legislation.

Equally important is the fact that Yukon First Nations are self-governing nations and are able to either negotiate administration of justice agreements pursuant to their self-government agreement OR seek interim solutions through the negotiation of an agreement under First Nations policing initiatives.

YAWC recognize that many First Nations communities across Canada have removed the RCMP from policing their communities in order to exert more local community control over the design and delivery of policing services. We remain hopeful that the solution is to improve the relations and services of the RCMP and to work with the RCMP in our Aboriginal communities; however, we appreciate that Aboriginal women and First Nation communities have raised significant concerns about their relationship with the RCMP which impacts RCMP services within the communities. We recognize that we've raised a host of issues and provided many recommendations that may not appear doable at first glance. We remain hopeful that the Yukon Government and RCMP will do that which is necessary to ensure that Aboriginal women and their communities receive good RCMP services, unencumbered by prejudicial attitudes and informed by the community standards that reflect Aboriginal interests. YAWC appreciates that should the recommendations be too much, Yukon First Nations may choose to seek alternative approaches.

And while YAWC recommendations are largely local in nature, we recognize that the counterbalance is governance, as stated, and that the research we have conducted may be of value to the discussions and negotiations that may ensure following the completion of the RCMP Review Report to the Minister of Justice, supported by what we understand and support, an implementation plan.

Thus, as part of YAWC educational mandate we provide the following summary to aid the RCMP Review committee as well as Yukon First Nations on how other First Nation have addressed policing needs within their communities.

First Nation Policing Policy

The First Nations Policing Policy ("FNPP") was established by Canada in 1991 to permit First Nations across Canada with an opportunity to receive policing services that are professional, effective, culturally appropriate and accountable to the communities that they serve. Under the FNPP, the federal government, provincial and territorial governments and First Nations work together to negotiate tripartite agreements for police services that meet the particular needs of each community.

The policy principles of the FNPP are as follows:²²

- **Quality and level of service:** First Nations are to have input in determining the level and quality of the police services they are provided.
- **Responsibilities and authorities:** Police officers in First Nations communities have the authority to enforce applicable provincial and federal laws (including the Criminal Code) as well as Band by-laws.
- **Responsiveness to First Nations cultures and needs:** First Nations communities should be policed by such numbers of persons of a similar cultural and linguistic background to ensure that police services are effective and responsive to First Nations cultures.
- **Police service options:** First Nations communities should have access to at least the same police service models that are available to communities with similar conditions in the region. They should also have input in determining the model appropriate to their community.
- **Selection of police service model:** The selection of a model is to balance the need for cost-effectiveness and the policing needs of the community.
- **Implementation of new arrangements:** New First Nations administered police services should be phased in over a number of years to facilitate a successful transition.
- **Police accountability and independence:** First Nations communities should have an effective and appropriate role in directing their policing service. Therefore, First Nations policing services should include police boards, commissions and advisory bodies that are representative of the communities they serve. In addition to police management and accountability, these bodies should ensure police independence from partisan and inappropriate political influences.
- **Police Oversight:** Policing arrangements for First Nations communities should include mechanisms for impartial and independent review of allegations of improper exercise of police powers and violations of codes of conduct and mechanisms for grievance redress on matters related to discipline and dismissal.
- **Legislative Framework:** First Nations police services should be founded on a legislative framework that enables First Nations to establish, administer and regulate their police service and to appoint police officers,

²² First Nations Policing Policy at <http://www.publicsafety.gc.ca>

consistent with provincial norms and practices. The federal government will work with the provinces/territories and First Nations to promote legislation in support of First Nations policing where appropriate.

- **Cost-shared arrangements:** The federal and provincial governments, because they share jurisdiction, should share the cost of First Nations policing services.

The types of police service models that can be funded through the FNPP include:

(a) Community Tripartite Agreements (“CTAs”)

Community tripartite agreements are agreements where the existing police force, such as the RCMP, provides policing services to a First Nations community. This type of agreement is cost-shared between governments (52% Canada, 48% province). As of 2005, there were 78 CTAs in Canada covering 110 communities and employing 213 officers.²³ Community consultative groups are to be established to foster RCMP accountability to the community. The liability for the delivery of police services remains with the RCMP.

Since the launch of the FNPP, the RCMP has committed to partner with First Nation communities to deliver a community-based policing approach through its RCMP First Nations Community Policing Service.²⁴

The RCMP indicates that it can provide policing services to individual First Nations communities that would incorporate the following principles into the delivery of policing services:

- a) accountability to the community;
- b) policing jurisdiction;
- c) recruiting, training and supervising to remain with the Commissioner of the RCMP;
- d) funding is in accordance with the FNPP;
- e) responsibility for internal management rests with the Commissioner of the RCMP;

²³ Clairmont, Don, “Aboriginal Policing in Canada: An Overview of Developments in First Nations”, September 2006 at p. 16.

²⁴ Royal Canadian Mounted Police, “RCMP First Nations Community Policing Service” located at <http://www.rcmp-grc.gc.ca/pubs/abo-aut/fncps-spcpn-eng.htm>

- f) the minimum standard of policing rests with the RCMP in consultation with the province;
- g) baseline level of service will be determined by population, historical crime rates and special needs of the community.

The RCMP Community Policing Service is available as an option to First Nations wishing to become involved in policing in their communities. Communities interested in a RCMP - CTA must inform their provincial/territorial government and the federal Ministry of the Solicitor General, through a band council or community resolution or some other formal declaration of support.

(b) Self-Administered Agreements (“SAs”)

Self-administered agreements are agreements where the First Nation has its own police force. A police board and local police committees can be established. As of 2005, there were 48 SAs in Canada representing 197 First Nation communities and employing 775 officers.²⁵ Quebec has the largest number of SAs (29) and Ontario has 9. For instance, the Six Nations in Ontario have developed their own police service that services 11,000 people occupying 45,000 acres with a police complement of 25 officers, 13 civilians, and budget of \$3 million.²⁶ This type of agreement is cost-shared between governments. The liability for the delivery of police services remains with the governing authority and is a disincentive for many First Nation communities.

(c) Regional SA agreements

Regional SA agreements are agreements where police forces are regionally administered by a group of First Nations. For instance, the Dakota Ojibway Tribal Police in Manitoba services 8 Dakota communities, the Nishnawbe Aski Police Service in Ontario services 43 First Nations grouped into 8 tribal groups with a policing complement of 110 officers with a budget of 14 million.²⁷ This type of agreement is cost-shared between governments.

As of 2007, there were 162 tripartite policing agreements throughout Canada: 106 RCMP CTAs, 46 SAs, and 10 RCMP First Nations community police framework agreements (developmental agreements). As of 2007, 402 First Nation communities out of the eligible 657 are covered under the FNPP. This represents about 66% of the eligible on-reserve population. The number of Aboriginal police officers funded under the FNPP is 1, 197 (819 officers with SAs;

²⁵ Ibid, at p. 26.

²⁶ Ibid, at p. 43.

²⁷ Ibid, at p. 87.

346 officers with CTAs) and Canada's financial contribution was \$97 million for 2005-2006 and the estimated provincial contribution was \$76 million. Of this amount, 61% was for SAs and 24% for CTAs.²⁸

There have been a number of studies contracted by the Aboriginal Policing Directorate to assess the effectiveness of the CTAs and SAs. It is beyond the scope of this report to provide a full analysis with respect to the challenges confronting First Nations policing or how effective these community policing initiatives have been. We will provide a summary of these challenges and encourage further dialogue and engagement with respect to the First Nations policing models.

The challenges of the CTAs (RCMP provide policing services) have been the lack of resources to adequately implement a community based policing philosophy; the lack of community capacity to deal with the social issues; and the lack of trust between the RCMP and the community.²⁹

It is noted by one author that the SAs in Ontario have been fairly successful but there remains challenges to finding a balance between police presence (visibility) and adopting a community based policing philosophy due to a lack of resources (an emphasis by the federal/provincial governments that First Nations policing is not a replacement but rather an enhancement); recruiting qualified members; community capacity for local boards; wider range of issues to deal with (social problems, mental health); and responding to a volatile political and constitutional context.³⁰

CLOSING:

As identified, YAWC as informed by Aboriginal women and other Aboriginal Women's organizations in the Yukon recognize the importance of the RCMP Review and the efforts to improve RCMP services to our Yukon and First Nation communities. We are at a time where there are notable increases of Aboriginal women being subjected to high rates of violence and abuse, while there is a growing distrust in organizations and governments that are mandated to protect their interests and safety.

Aboriginal women and their families recognize that RCMP are a necessary part of our communities; however, such involvement cannot be at the expense of our human rights. Nor should RCMP officers be expected to be placed in environments where they are not trusted or respected. These realities need to change.

²⁸ Lithopoulos, Savvas, "International Comparison of Indigenous Policing Models", (Public Safety Canada, 2007) at p. 6-7.

²⁹ Clairmont, *supra*, at p. 18-19.

³⁰ *Ibid*, at p. 29.

YAWC firmly believes in the development of community based responses to address the policing needs of our communities. It is clear that we require positive change and a commitment by the Yukon government and RCMP to advance workable recommendations that will have an immediate impact on how policing services are carried out in the Yukon. To that end, the YAWC recommendations in summary are:

1. Implement a community based policing structure that is prevention focused and community driven.
2. Increase the recruitment of Aboriginal female police officers in Yukon communities.
3. Involve the community in the selection of police officers and in the cross cultural training of Yukon's police force.
4. Establish a public complaints process that is community based, accessible, transparent and accountable.
5. Increase resources and supports for the public safety of Aboriginal women.

Aboriginal women in the Yukon recognize that they can contribute to the solutions to build safer communities. Thus YAWC looks forward to continuing this work with that view in mind. We trust that the recommendations put forward are meaningful as is intended and will aid in the change that is necessary to strengthen our relations, to support the improvement of RCMP services and to ensure that our investment in this work and process will be beneficial for Yukon and Yukon First Nation families and communities.

Respectfully Submitted,

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