

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2026 CHRT 15

Date: March 2, 2026

File No.: T2459/1620

Between:

**Cathy Woodgate (Estate), Richard Perry, Dorothy Williams, Ann Tom (Estate),
Maurice Joseph and Emma Williams (Estate)**

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Royal Canadian Mounted Police

Respondent

-and-

Attorney General of British Columbia

Interested Person

Decision

Member: Colleen Harrington

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I. INTRODUCTION

[1] Cathy Woodgate, Richard Perry, Dorothy Williams, Ann Tom, Maurice Joseph and Emma Williams (Complainants) are members of the Lake Babine Nation, a First Nation in northern British Columbia (BC). They have filed a human rights complaint alleging that the Royal Canadian Mounted Police (RCMP or Respondent) discriminated against them and others by failing to properly investigate their claims that they experienced abuse while attending schools in northern BC in the 1960s and 1970s. The RCMP's investigations of these claims took place between 2012 and 2014.

[2] The main perpetrator of the reported abuse is someone referred to in this decision as A.B., due to a confidentiality order (*Woodgate et al. v RCMP*, 2022 CHRT 27). A.B. had been a gym teacher and coach at two Catholic schools in northern BC, Immaculata Elementary School in Burns Lake and at Prince George College, a high school in Prince George. The abuse was not reported to the RCMP until 2012, after some former students saw A.B. being interviewed on television about an unrelated matter, and after a reporter named Laura Robinson had come to the community to speak to several former students of Immaculata who told her about abuse by A.B.

[3] The first person to report abuse by A.B. to the RCMP was Beverly Abraham. She attended the RCMP detachment in Burns Lake in July of 2012 and provided a statement in which she said she had been physically and sexually abused by A.B. when she was a student at Immaculata. She also reported abuse by others who worked at the school.

[4] After she reported this abuse to the Burns Lake detachment, the investigation into Ms. Abraham's complaint was conducted by officers from the RCMP's North District General Investigation Section (GIS) based in Prince George. About a year after the investigation into Ms. Abraham's complaint began, the RCMP decided that a separate investigation should be conducted in relation to other allegations of abuse at Immaculata school made by several former students. This second investigation is referred to in this decision as the "spinoff" investigation and was also conducted by RCMP officers from the North District GIS.

[5] In conducting both Ms. Abraham's investigation and the spinoff investigation, the RCMP spoke to many former students of A.B.'s who alleged that he abused them. Several also alleged abuse by other school staff, including nuns and priests. Some alleged abuse by A.B. at Prince George College, but most were former Immaculata students. Both investigations resulted in the RCMP declining to recommend to Crown counsel that charges be laid as the officers did not conclude that the evidence gathered substantiated such a recommendation. As such, this was the conclusion of the RCMP's investigations into these complaints.

[6] The Complainants filed their human rights complaint with the Canadian Human Rights Commission (Commission) in January of 2017. The Complainants say the RCMP, in offering a service to the public, discriminated against them and other Indigenous people who experienced abuse and were affected by its investigations, on the basis of their race and national or ethnic origin, contrary to section 5 of the *Canadian Human Rights Act*, RSC, 1985, c.H-6 [CHRA]. The Complainants say the RCMP's conduct of its investigations had an adverse impact on those Indigenous people who experienced abuse at Immaculata and Prince George College, and that the RCMP failed to properly investigate the abuse they experienced as children by not modifying its traditional investigative methods to accommodate their needs as Indigenous crime complainants. They say that the RCMP's conduct was discriminatory because the Complainants and their witnesses are Indigenous, and A.B. is a prominent white man, and these were factors in the adverse treatment alleged. They also allege that the RCMP inappropriately speculated that the Indigenous crime complainants were being manipulated by Ms. Robinson, to whom they had initially told their stories of abuse.

[7] The RCMP argues that criminal investigations are not "services" pursuant to section 5 of the CHRA and so the Tribunal does not have the jurisdiction to consider this complaint.

[8] If the Tribunal concludes that investigations are a service, the RCMP's position is that it did not discriminate against the Complainants. It views this human rights complaint to be about the criminal investigation into Ms. Abraham's allegations of sexual abuse, which the RCMP says was thorough and professional and was conducted in a respectful, trauma-informed and culturally sensitive manner.

[9] The Complainants and Commission say that the RCMP has both mischaracterized the nature of the complaint, and that the RCMP's actions in relation to the investigations at issue in this complaint are a service pursuant to section 5 of the CHRA.

[10] This human rights case is about the RCMP's investigations into the historical abuse of Indigenous children at schools in northern British Columbia. The Tribunal's inquiry was not into whether this abuse occurred nor was the inquiry into any alleged abuser's guilt.

II. ACKNOWLEDGMENTS

[11] Sadly, before the hearing started, three of the Complainants, Cathy Woodgate, Emma Williams, and Ann Tom, passed away. However, the Tribunal received evidence relevant to their involvement in the police investigation that is at issue in this complaint as part of its inquiry. These three Complainants are represented by their Estates.

[12] During the hearing, the Tribunal admitted oral and documentary evidence about abuse experienced by Indigenous children at the hands of adults who were employed to educate and care for these children at Immaculata Elementary School and Prince George College. Some said they were abused because they spoke their own language, others because of disabilities that affected their ability to learn to read or to run fast enough in gym class. Others described sexual abuse by teachers and other school staff. The effects of this abuse have continued through their lives and the hurt it caused was still present and apparent to all who heard the testimony of the witnesses at this hearing.

[13] The Tribunal wants the brave survivors who testified and otherwise participated in the hearing to know that they were heard and that the Tribunal believes they suffered abuse at school. While providing testimony about such difficult experiences is never easy or comfortable, the Tribunal saw the love and support that enveloped the Complainants and their witnesses as they participated in the hearing, as offered by their First Nations, the Indian Residential School Survivors Society (IRSSS), and community members from Burns Lake and surrounding areas. I believe that this support made the hearing a safe space for the witnesses to testify about their traumatic experiences and also permitted counsel for the Commission and Complainants and RCMP, and the Tribunal itself, including its Registry

staff, to navigate a hearing with evidence relating to difficult and upsetting subject matter, particularly during the in-person portion of the hearing. I extend thanks on behalf of all of the parties and the Tribunal to the people in the community who offered this support, including for their songs, prayers, smudging and ceremonies, who enabled the hearing to proceed in a trauma-informed manner, and to the Complainants and their counsel for ensuring this occurred.

[14] The hearing concluded with receipt of the closing submissions from the parties. I acknowledge that the decision has taken longer to be issued than the parties and Tribunal would like, due to the enormous amount of evidence and complicated issues the parties put before the Tribunal, and I appreciate the patience of those involved who have been eagerly anticipating this decision, but have allowed me to carefully consider all of the evidence and arguments I heard to come to my decision.

III. DECISION

[15] The complaint is partially substantiated. I find that the Complainants have proven on a balance of probabilities that race and national or ethnic origin were a factor in some of the adverse differential treatment or denial of service that was experienced by some of the Complainants and their witnesses in relation to the RCMP's investigations. Specifically, I find the following conduct to be discriminatory: not advising Peter Mueller that he could separately report his abuse at Prince George College; not providing Richard Perry, Maurice Joseph, Emma Williams, Cathy Woodgate, Ruby Adam and Pius Charlie with an update on the outcome of the investigation into their allegations of abuse or, in the case of Ms. Woodgate, Ms. Adam and Mr. Charlie, not advising them that they could separately report their abuse at Immaculata to the RCMP; and, by asking Beverly Abraham repeatedly to take a polygraph after she disclosed being sexually assaulted as a child.

[16] The Tribunal orders remedies for these individuals who experienced the discrimination, and orders the RCMP to review all of its policies, practices, procedures and training related to the treatment of Indigenous crime complainants, witnesses and others

connected to investigations of allegations of historical abuse involving Indigenous peoples to ensure service delivery that is trauma-informed and culturally appropriate.

[17] All other aspects of the complaint are dismissed.

IV. ISSUES

[18] In deciding whether discrimination occurred in this case, I determine the following issues:

1. Have the Complainants established a *prima facie* case of discrimination:
 - A. Do the Complainants have one or more characteristics protected from discrimination under section 3 of the CHRA?
 - B. Pursuant to section 5 of the CHRA, did the RCMP deny the Complainants a service or treat them in an adverse differential manner in the provision of a service customarily available to the general public? In determining this issue, I must decide whether the RMCP was offering a service pursuant to section 5 of the CHRA by deciding the following:
 - (i) What is the “service” at issue in this complaint? In other words, what benefit or assistance is being held out by the RCMP?
 - (ii) Does the service create a public relationship between the service provider and the service user?
 - (iii) Were the complainants treated in an adverse differential manner when being provided a service or were they denied a service?
 - C. Were the protected grounds a factor in the adverse differential treatment or denial of service?
2. Has the Respondent provided a *bona fide* justification for its otherwise discriminatory actions?
3. If the RCMP cannot establish a justification, what remedies should be awarded that flow from the discrimination?
 - (a) Are personal remedies appropriate?
 - (b) Is any interest due?
 - (c) Are any public interest remedies appropriate?

V. LEGAL FRAMEWORK

[19] Section 5 of the CHRA states that it is a discriminatory practice in the provision of a service “customarily available to the general public” to: (a) deny an individual any such service, or access to such service, on a prohibited ground of discrimination, or (b) differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

[20] To establish that a respondent has engaged in a discriminatory practice contrary to section 5 of the CHRA, a complainant must first prove that the way they were treated by the respondent was, on its face, discriminatory, which is more formally referred to as establishing a *prima facie* case of discrimination.

[21] If a complainant proves *prima facie* discrimination, the respondent has the opportunity to establish a statutory defence. If the respondent succeeds, the Tribunal will find no discriminatory practice occurred.

[22] To establish *prima facie* discrimination, complainants must prove that it is more likely than not (i.e., on a balance of probabilities) that:

- (i) they have one or more characteristics protected under the CHRA (i.e., a prohibited ground of discrimination);
- (ii) they were denied a service or treated in an adverse differential manner by the respondent when it provided a service; and
- (iii) the prohibited ground of discrimination was a factor in the denial or adverse treatment (see *Moore v British Columbia (Education)*, 2012 SCC 61 [*Moore*] at para 33).

[23] The protected characteristic need not be the only factor in the adverse treatment or denial, and neither a causal connection nor an intention to discriminate is required (*Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39 [*Bombardier*] at paras 44-52).

[24] In deciding whether a complainant has established a *prima facie* case of discrimination, the Tribunal may consider all of the evidence that was introduced at the hearing by all parties with respect to the three elements of the *prima facie* test. This may include consideration of the respondent’s submissions and evidence, if any, aimed at

rebutting the complainant's evidence of a connection between the prohibited ground and the adverse treatment or denial, for example with a non-discriminatory and non-pretextual explanation that fully explains any adverse treatment or denial (*Bombardier* at paras 58, 59, 64, 83, 84).

[25] If the complainants meets their onus of establishing a *prima facie* case of discrimination on a balance of probabilities, then the Tribunal must consider whether the respondent has established on a balance of probabilities a statutory defence to the discrimination, for example under section 15 of the CHRA. Only after drawing a conclusion on the *prima facie* case may the Tribunal consider submissions regarding statutory justifications (*Moore* at para 33; *Bombardier* at para 55). If the respondent does not establish a defence under the CHRA, proof of the three elements of the *prima facie* test, on a balance of probabilities, will be sufficient for the Tribunal to find that section 5 of the CHRA has been contravened (see *Bombardier* at para 64).

[26] If, however, the respondent succeeds in justifying their conduct pursuant to a statutory defence under the CHRA, there will have been no contravention, not even if *prima facie* discrimination has been established (*Bombardier* at para 64).

[27] As the Tribunal has stated many times, "discrimination is not a practice which one would expect to see displayed overtly, in fact, there are rarely cases where one can show by direct evidence that discrimination is purposely practiced" (*Basi v. Canadian National Railway*, 1988 CanLII 108 (CHRT) [*Basi*]). The Tribunal can therefore consider circumstantial evidence to determine what was described in *Basi* as the "subtle scent of discrimination". However, circumstantial evidence must, if believed, tend to prove the allegation of discrimination. An inference of discrimination may only be drawn "where the evidence offered in support of it renders such an inference more probable than the other possible inferences or hypotheses": *Dawson v. Canada Post Corp*, 2008 CHRT 41 at para 73). As the Supreme Court of Canada explained in *Bombardier* at paragraph 88, social context evidence can support the Tribunal's findings but is not sufficient on its own to make out a *prima facie* case of discrimination:

It cannot be presumed solely on the basis of a social context of discrimination against a group that a specific decision against a member of that group is necessarily based on a prohibited ground under the *Charter*. In practice, this would amount to reversing the burden of proof in discrimination matters. Evidence of discrimination, even if it is circumstantial, must nonetheless be tangibly related to the impugned decision or conduct.

VI. FACTS

[28] The Complainants and their witnesses who testified about their participation in the RCMP's investigations were asked to give evidence about a police investigation that had occurred a decade prior to the hearing, and they were testifying about abuse they had experienced as children more than 50 years prior to the hearing. While their memories of what exactly occurred during the police investigation or in relation to how they came to give their statements to Ms. Robinson were not always accurate when compared to documentary evidence that was prepared at the time, their memories of the abuse they had experienced at school were generally consistent with what they had reported to Ms. Robinson and the RCMP. I have no reason to disbelieve the Complainants' and their witnesses' memories of abuse they experienced as children. It was evident that they continue to live with these traumatic childhood memories. The Tribunal was not conducting a criminal trial, where allegations must be proven beyond a reasonable doubt. A.B. and other alleged abusers did not participate or testify in the hearing, because the Tribunal's job is not to decide whether the abuse occurred, but rather to assess whether the RCMP discriminated against the Complainants and their witnesses in conducting its investigations of historical allegations of abuse.

[29] The Respondent provided evidence from several current and former RCMP members, including the three officers who conducted the investigations that are at issue in this complaint, although only one of them – Corporal Mackie – testified at the hearing.¹

¹ As I am referring to events that happened during the RCMP investigations that took place between 2012-2014, I will refer to the RCMP officers by the rank they held at that time, and not by their rank or employment status at the time of the hearing. Many had retired from the RCMP by the time of the hearing, while others had been promoted to higher ranks.

Constable Hanley's evidence was provided in writing only, with her direct evidence being provided in the form of affidavits, and her cross-examination having occurred in writing to accommodate a medical issue. The Tribunal also received an affidavit from Constable Cox, although she did not otherwise participate in the hearing at all due to a medical issue. Staff Sergeant Parks, who oversaw the GIS that Corporal Mackie and Constables Hanley and Cox worked in, also submitted an affidavit and was cross-examined in writing due to a medical issue. Inspector Haring, who was the Operations Officer for the North District, based in Prince George, testified at the hearing.

[30] Of the RCMP witnesses who either conducted or had direct oversight of the investigations, only Corporal Mackie is still a serving member of the RCMP. All were testifying about investigations that had occurred a decade before. The RCMP witnesses often did not recall details about the investigations independent from the RCMP's files which were admitted as evidence and referred to in extensive detail in both the examination-in-chief and cross-examination of its witnesses. The RCMP's files include Occurrence Reports, Briefing Notes, emails, both typed and handwritten officers' notes, recordings and transcripts, and other documents relating to the investigations, which were made at the time of the investigations.

[31] For the Complainants and their witnesses, the subject matter of the police investigations was deeply personal and uncomfortable, both because it required them to discuss their childhood abuse, but also because they were required to interact with the police, whom they all testified about having a fear or mistrust of as Indigenous people who had grown up along what is known as the Highway of Tears in northern BC.

[32] Assessments of witness credibility are often important to the Tribunal's adjudicative function, especially in cases where the majority of the evidence presented comes from witness testimony. In such cases, the Tribunal may have to determine who to believe. In determining the weight to be given to testimonial evidence, the Tribunal must assess the witnesses' credibility and reliability. Credibility refers to the veracity of witness testimony, while reliability is concerned with the accuracy of witness testimony as assessed based on

their ability to observe, recall, and recount the events in issue (*R v HC*, 2009 ONCA 56 at para 41). A witness who is found to be unreliable cannot give credible evidence, although a credible witness, who is endeavouring to tell the truth, may still inadvertently give unreliable evidence (*R v Morrissey*, (1995) 22 OR (3d) 514 at 526, 1995 CanLII 3498 (ON CA)). I found all of the witnesses who testified before the Tribunal to be credible. I did not doubt that any witness was endeavouring to tell the truth in their testimony before the Tribunal, even if their memories of certain events were taxed given the time that had elapsed since the events they were testifying about had occurred – 10 years since the police investigation and over 50 years since the abuse at school.

[33] The RCMP's documentary file was created at the time of the investigations that are the subject of the inquiry before the Tribunal. This tends to increase reliability. Where specific details about the RCMP's investigations were recorded in the RCMP's written files and there are divergences between the RCMP's contemporaneous written investigation files and the testimony of the witnesses, I prefer the documentary evidence. I note that Ms. Robinson, as a journalist, kept excellent records of what she was doing at the relevant time and collected many written statements from people who had attended Immaculata and Prince George College in the 1960s and 1970s. The RCMP obtained many of these statements during the course of its investigations and more were admitted as evidence before the Tribunal. The Tribunal also admitted statements made by some of the Complainants and their witnesses to the Commission at the time it was investigating the human rights complaint.

[34] The Tribunal heard from 38 witnesses over the course of a 44-day hearing and received hundreds of exhibits totalling tens of thousands of pages. The Complainants called 25 witnesses, about 15 of whom had participated as criminal complainants in the RCMP's investigations that are at issue in this complaint or who had given statements to Ms. Robinson but did not speak to the RCMP. The Complainants also called three expert witnesses, one in relation to their proposed public interest remedy. The Complainants asked the Tribunal to direct the RCMP in BC to collaborate with an Indigenous-led organization like the BC First Nations Justice Council to create a team to provide abuse investigation services in Indigenous communities. The Complainants called three witnesses from the BC First Nations Justice Council to testify about this proposed public interest remedy as well.

[35] The job of the Tribunal is to consider and weigh the evidence presented at hearing and to make findings of fact within the legal framework established by the CHRA. In this case, due to the conclusion I have reached with respect to the discrimination being limited to only certain parts of the investigations that affected a limited number of people, I am setting out the facts relating mainly to my decision, and not every piece of evidence and testimony I received during the hearing. For example, I need not set out the evidence adduced by the Attorney General of BC, because it was permitted to participate as an Interested Person in this matter and most of its evidence and submissions relate to the public interest remedy sought by Complainants.

[36] As I do not agree to order this public interest remedy, I need not consider the evidence relating to this remedy in this decision. For the same reason, I am only considering the expert evidence of Dr. David Milward and Dr. Lori Haskell in my analysis of the evidence, and not the additional expert witness called in relation to this public interest remedy, Dr. Elizabeth Comack. All three were qualified as experts and I find that they discharged their duty to the Tribunal professionally and impartially.

[37] Events leading up to and surrounding the investigations are important, as they establish the context in which the RCMP's investigations were taking place. I set out this evidence first because it provides background information relevant to the evidence given by the Complainants and their witnesses relating to the investigations. Then, I provide the evidence of the Complainants and their witnesses that is relevant to the investigations at issue in this complaint.

A. Contextual evidence relating to the RCMP's investigations

[38] In 2011, Ms. Robinson, who is an author and journalist, published an article on the Danish Play the Game website about A.B. called "Sins of Omission". Her article pointed out that A.B. had left information out of his biography relating to his time at Immaculata school in Burns Lake. Jacob Beaton, who was a witness at the hearing, read the article in March of 2012 and contacted Ms. Robinson, suggesting she speak to people who had attended Immaculata school.

[39] Ms. Robinson took his advice and contacted the Burns Lake Band Office and told them she was a reporter looking into A.B., who had taught at Immaculata. She was put in touch with several people who wanted to talk about their experiences with A.B. as their gym teacher and she was able to interview around nine people by telephone prior to going to Burns Lake on April 21, 2012. When she went to Burns Lake she interviewed many more people in-person about abuse they had experienced at Immaculata by teachers, nuns, priests and other school staff although, as a sports journalist, the focus of the article she was working on was A.B. Prior to publishing her article in the Georgia Straight Newspaper on or about September 26, 2012, she had interviewed 22 First Nations people, eight of whom provided statutory declarations (referred to as “affidavits” by the witnesses and in this decision) about A.B.’s abuse at Immaculata school, including Beverley Abraham. The affidavits were provided to the Georgia Straight. Ms. Abraham had told Ms. Robinson that, when she was feeling strong enough, she would report A.B.’s abuse to the police.

[40] Ms. Robinson notified A.B. about the story she was writing and she received email responses from his lawyer Marvin Storrow threatening to sue her.

[41] On July 11, 2012 Ms. Abraham attended at the Burns Lake RCMP detachment to report that she had been sexually abused by A.B. when she was a student at Immaculata school. She had returned to live in Burns Lake and had to walk past the former Immaculata school to get to town, which brought back memories of A.B.’s abuse. This is why she decided to report the abuse to the police. She had also seen A.B. on the news in and around 2009-2010, as had a number of other former Immaculata students.

[42] Although Ms. Abraham’s initial police interview was conducted by Constable Larsen from the Burns Lake RCMP detachment, the investigation was transferred almost immediately to the North District GIS, which was better resourced and made up of more experienced investigators, of which Corporal Mackie was the lead investigator.

[43] As the provincial police force in BC (called “E” Division), the RCMP operates in four districts that serve the province. North District is responsible for a very large geographical area of BC, consisting of over 70% of the province. There are 37 detachments in the North District and the North District GIS provides investigative assistance to all of those

detachments as needed. The GIS assists with investigations that are too large in scope for detachments to conduct on their own or that require more experienced investigators. There are four North District GIS offices: in Prince George, Terrace, Williams Lake and Fort Saint John. In 2012, the reporting structure was that the Constables in each office would report to the Corporal in the office, who would report to the Staff Sergeant in Prince George (Parks), who would in turn report to the Inspector/Operations Officer for the North District (Haring). It was the job of the Corporal to conduct and supervise the investigations undertaken by the GIS office.

[44] In the case of the Prince George office, this meant that Corporal Mackie oversaw the investigations conducted by Constables Cox and Hanley, while also undertaking his own investigations. Staff Sergeant Parks oversaw all four GIS offices in the North District and also provided guidance and advice to the 37 detachment commanders within the North District on their serious criminal investigations. The evidence before the Tribunal was that all of officers Mackie, Cox and Hanley were conducting several investigations at the time they were undertaking the investigations at issue before the Tribunal.

[45] Sergeant Parks' evidence was that, to become a GIS investigator, an RCMP officer must be a senior investigator with extensive investigative experience conducting serious criminal investigations. Corporal Mackie's evidence was that he is Métis and grew up in a community in Saskatchewan with a large Indigenous population. By 2012 he had twelve years of experience as an RCMP officer, working mainly in northern BC and the Yukon. He had extensive training in interviewing and investigative techniques, including with respect to interviewing children and people who had experienced trauma. As of 2012, he had conducted many investigations, encompassing large-scale investigations and sexual assaults, including several historical sexual assaults involving Indigenous victims. Corporal Mackie testified that, in those historical investigations, all but one had resulted in him recommending charges to Crown Counsel. In BC, criminal charges are laid by Crown Counsel, not by the police.

[46] Ms. Robinson testified that Ms. Abraham told her she had reported the abuse to the RCMP in July of 2012. Corporal Mackie had reached out to Ms. Robinson in August of 2012 to tell her he was conducting an investigation into the allegations made by Ms. Abraham.

He was made aware of the affidavits that had been obtained from Ms. Abraham and others as part of Ms. Robinson's reporting for the Georgia Straight and he asked her for copies. Ms. Robinson put him in touch with her editor at the Georgia Straight and Corporal Mackie was asked to obtain a production order, which is a judicial authorization, to obtain the affidavits. Ms. Robinson testified that Canadian journalists must abide by certain standards and that she did not work for the police and was not collecting information for them, but for her own journalistic purposes. Corporal Mackie's evidence was that he was in the process of obtaining the production order when the affidavits were ultimately sent to him by the Georgia Straight editor in October of 2012.

[47] Immediately after Ms. Robinson's Georgia Straight article was released on or about September 26, 2012, A.B. held a press conference denying the allegations of abuse and suggesting that Ms. Robinson had a personal "vendetta" against him. He also stated that he had been made aware of allegations of physical abuse against him a couple of years earlier and that he had been advised that, for a payment, they could be made to go away. He said he reported this alleged extortion attempt to the police at the time. At the end of November, 2012, A.B. sued Ms. Robinson and the Georgia Straight for defamation in the BC Supreme Court. There was significant media attention around Ms. Robinson's article.

[48] Also, after the Georgia Straight article was released, several more people asked to speak to Ms. Robinson to tell her about abuse they had experienced by A.B., both at Immaculata school in Burns Lake and at Prince George College. Although neither of these schools was part of Canada's federally-funded residential school system, and both Indigenous and non-Indigenous children attended these schools, which were operated by the Prince George Catholic diocese, Prince George College had residences where students from across northern BC, many of whom were Indigenous, lived during the school year. Ms. Robinson spoke to people and documented their stories of abuse through the fall and winter following the release of her article. She testified that she wanted to continue telling the story as it evolved, describing it as "organic."

[49] In speaking to people who contacted her about their experiences of abuse, Ms. Robinson had heard an allegation about girls from remote villages being abused by A.B. in the dorms or hostels where they stayed at Prince George College. She asked Corporal

Mackie in October of 2012 if he had gone to the remote villages and communities in northern BC to speak to people. However, she did not tell him why she was asking or tell him about the other allegations of abuse she had been receiving. She said Corporal Mackie suggested to her that if people wished to make reports, they could contact him. Ms. Robinson also testified that she never advised anyone she interviewed to report the abuse to the police.

[50] During this time, Corporal Mackie was investigating Ms. Abraham's allegations of sexual abuse by A.B. He spoke to many people she had identified who she thought could corroborate her allegations, although none of them were able to do so. This included friends and family members. Many of the people Corporal Mackie spoke to during his investigation of Ms. Abraham's allegations reported having been physically abused at Immaculata themselves, by A.B. and other school staff.

[51] Corporal Mackie provided testimony about why historical sexual assault cases can be challenging, saying that most often there is no physical evidence, so the police are relying on times, dates and corroborating evidence to try to substantiate the claim. Several versions of the RCMP's Operations Manual (OM) relating to sexual assault investigations were admitted as evidence, from the time of the investigation to the time of the hearing, which set out guidelines and suggestions for officers conducting such investigations. Other sections of the OM were also admitted relating to interviewing suspects and witnesses and to judicial processes.

[52] By the time Ms. Robinson filed her Response to A.B.'s civil claim on January 21, 2013, she had spoken to approximately 20 more people (in addition to those she had spoken to prior to publishing her article in September, 2012), although not all wanted to speak on the record. Ms. Robinson testified that, in her Response to A.B.'s civil claim, there were references to approximately 34 people who either alleged abuse themselves or had witnessed A.B. abusing someone else, although not all of them were named.

[53] Although Corporal Mackie had been planning to conclude his investigation into Ms. Abraham's allegations in January of 2013 by not recommending that charges be laid, he was directed by his superior officers to continue the investigation by speaking to the people

named in Ms. Robinson's Response to A.B.'s civil claim. As such, the investigation into Ms. Abraham's allegations continued.

[54] Corporal Mackie's Concluding Report from May of 2013 states that he had tried to interview the people named in Ms. Robinson's Response to A.B.'s civil claim, but most had declined due to Ms. Robinson's court proceeding. As he did not obtain further evidence to corroborate Ms. Abraham's allegations against A.B., Corporal Mackie was again prepared to conclude his investigation when Inspector Haring decided to ask that his investigation undergo an independent review by RCMP officers from "K" Division (Alberta). This review took place in July of 2013 and the K Division officers, who read Ms. Robinson's Response to A.B.'s civil claim, as well as Corporal Mackie's investigation file and media reports about the case, made 28 recommendations to further the investigation. While some of these recommendations related to Ms. Abraham's allegations against A.B., most related to separate allegations made by witnesses who had been interviewed as part of Corporal Mackie's investigation of Ms. Abraham's allegations or who were mentioned in Ms. Robinson's Response to A.B.'s civil action.

[55] Based on the K Division recommendations, it was decided that Corporal Mackie would continue investigating Ms. Abraham's sexual abuse allegations, and that a spinoff investigation would be conducted by Constables Hanley and Cox into allegations of abuse at Immaculata school. Corporal Mackie supervised the spinoff investigation and Constables Cox and Hanley interviewed several more people about their experiences at Immaculata. These additional 21 names had mainly come from Ms. Robinson's Response to A.B.'s civil claim.

[56] Corporal Mackie concluded his investigation into Ms. Abraham's allegations of sexual abuse in November of 2013, ultimately concluding that no charges should be recommended to Crown counsel due to a lack of corroboration of Ms. Abraham's allegations as well as inconsistencies in her evidence and past credibility issues.

[57] As previously indicated, the decision about whether to lay criminal charges in BC is made by the provincial Crown Counsel, not by the police. The role of the police is to investigate and decide whether there are reasonable and probable grounds to believe an

offence was committed. If the police believe there are reasonable and probable grounds, they will forward a Report to Crown Counsel (RTCC) recommending that a charge be laid. Crown Counsel then reviews the RTCC to determine whether there is a substantial likelihood of conviction and if prosecution is in the public interest.

[58] The spinoff investigation was concluded in May of 2014 and did not recommend that charges be laid on the basis that all of the interviewees' memories were taxed for recall with respect to any one particular instance of abuse that could be substantiated. In her Concluding Report, Constable Hanley stated that most of the people they interviewed described "systemic corporal punishments that were commonplace (and legally permitted) in the schools during the 1960s / 1970s". Corporal Hanley did indicate that, while several people they interviewed had described abuse that exceeded reasonable punishment at the time, all of the witnesses' recollections were missing details for time, place, identity of a suspect or victim, or any corroborating events that could overcome these deficiencies.

[59] Ms. Robinson sued A.B. for defamation in January of 2014 and A.B. dropped his defamation lawsuit against her in March of 2015. Ms. Robinson's lawsuit was heard and, in September of 2015 it was dismissed by the BC Supreme Court. Corporal Mackie had been called as a witness by A.B. at the trial of Ms. Robinson's defamation claim, to testify about his criminal investigation into Ms. Abraham's allegations. Following the defamation trial, Ms. Robinson received from her lawyer some of the RCMP's file that had been disclosed as part of Corporal Mackie's evidence.

[60] Based upon the information she received about the RCMP's investigation from her defamation case, including Corporal Mackie's testimony at the trial, Ms. Robinson sent a letter of complaint to the federal Public Safety Minister at the time, Ralph Goodale, dated March 11, 2016. She says in her letter to the Minister that her complaint was about both Corporal Mackie's evidence at her trial and about the way in which he followed up on the K Division recommendations. She alleged that Corporal Mackie had made serious misrepresentations in his investigation reports and in his testimony at the BC Supreme Court trial. She mentions in her letter that, although Chief Wilf Adam was interviewed by the Canadian Press following her Georgia Straight article, Corporal Mackie did not follow up

with him. She also talks about how Corporal Mackie's evidence at her defamation trial against A.B. helped influence an incorrect decision by the Judge in that case.

[61] Many of Ms. Robinson's allegations in her complaint to Minister Goodale were also raised by the Complainants in the human rights complaint before the Tribunal, including that the RCMP had repeated incorrect information about Ms. Robinson that it had obtained from A.B., and that the RCMP did not follow up on all of the K Division recommendations or interview Chief Wilf Adam.

[62] Ms. Robinson's letter to Minister Goodale ended up being sent to the RCMP to look into as a public complaint, and Sergeant Nicole Noonan of the RCMP's Professional Standards Unit in BC investigated the complaint and prepared a report. The report considered whether Corporal Mackie had neglected his duties by not properly investigating allegations against A.B. and whether he had misrepresented evidence during Ms. Robinson's defamation trial. Sergeant Noonan's report sets out Ms. Robinson's complaints about the inadequacy of Corporal Mackie's investigation, many of which are the same as the allegations of discrimination before the Tribunal, including: the fact that Corporal Mackie did not obtain production orders for the affidavits in the possession of the Georgia Straight; that he did not obtain class lists from the diocese; that he did not follow the K Division recommendation to question A.B. again and to ask him to take a polygraph; that he did not question or look into A.B.'s contention that Ms. Robinson had a vendetta against him; that Corporal Mackie believed Ms. Robinson had convinced people to report abuse by A.B., including Ms. Abraham; that Corporal Mackie did not investigate allegations of abuse at Prince George College; that he did not investigate A.B.'s allegations of extortion as recommended by K Division; that Corporal Mackie corresponded and met with A.B.'s lawyer during the investigation; that there were incorrect allegations about Ms. Robinson in various RCMP Briefing Notes; that Corporal Mackie interviewed Ms. Abraham's mother who does not speak English and has dementia; and, that Corporal Mackie told Ms. Robinson that people from the communities could call him if they wanted to report abuse.

[63] Sergeant Noonan made several conclusions in her investigation report into Ms. Robinson's allegations against Corporal Mackie, including that his exclusive task was to investigate Ms. Abraham's allegations of historical sexual assaults by A.B., not to investigate

general allegations of abuse in schools or an allegation of extortion made by A.B, and that his investigation into Ms. Abraham's allegations was comprehensive.

[64] On February 8, 2018, Chief Superintendent Lesley Bain wrote to Ms. Robinson to communicate that she had reviewed Sergeant Noonan's report and concluded that Corporal Mackie did not neglect his duty, as she was satisfied that he had conducted a systemic, thorough and well documented investigation. She also concluded that he had not misrepresented evidence about his investigation at Ms. Robinson's defamation trial.

[65] Ms. Robinson then requested that the Civilian Review and Complaints Commission for the RCMP (CRCC) review Chief Superintendent Bain's decision in respect of her complaint about Corporal Mackie. On May 9, 2019, the CRCC issued its decision with respect to Ms. Robinson's complaint, finding that Corporal Mackie's investigation was reasonably thorough and that there were no perceptible misrepresentations offered in his testimony in Ms. Robinson's defamation trial. The CRCC says that "the reasonableness of Corporal Mackie's investigation, however, does not, and should not, be conflated with the expectation of a specific outcome such as recommending charges. His investigation and the RCMP's decision not to recommend charges based on the results of the investigation were reasonable in the circumstances." The CRCC made an additional note that it had undertaken a considerable number of reviews of RCMP investigations related to northern BC and found that Corporal Mackie's investigation "was notably thorough and professional" and "exceeded the reasonableness standards by which the Commission assesses RCMP members." It also found Sergeant Noonan's review of Corporal Mackie's decision to be "exemplary" among the many public complaint investigations it has reviewed.

[66] Ms. Robinson testified before the Tribunal that the BC Supreme Court's decision in her defamation trial led to a decision by the Complainants to make a human rights complaint to the Commission on January 12, 2017. She said she brought the Court's decision back to Burns Lake and went through it with people who had made statements on her behalf in her defamation case and they decided, because Corporal Mackie had been called as a witness by A.B. to testify about the criminal investigation, that they would file a human rights complaint because they felt he had misrepresented what had happened to them at the trial.

[67] Ms. Robinson testified before the Tribunal that, when the human rights complaint was filed, she had not shared anyone's statements of abuse with the RCMP, nor had she shared the RCMP investigation file documents with the Complainants or anyone else who had reported abuse to her. She became a non-legal representative for the Complainants in their human rights matter in 2018, along with Ronnie West, who also testified at the hearing. The Complainants called Ms. Robinson as a witness to present extensive evidence at the hearing about her involvement with events related to this case, as set out in this decision.

[68] I have included information about events that were happening before, during and after the RCMP investigations conducted by officers Mackie, Hanley and Cox, because it provides useful context with respect to the investigations that are the subject of this human rights complaint. It is important to understand that the investigations did not occur in a vacuum. The RCMP witnesses who provided evidence at the hearing noted that the investigations were complex and were complicated in part due to the manner in which the allegations of abuse were being identified to the police and because of the media coverage surrounding Ms. Robinson's reporting of abuse by A.B. and then the media coverage and legal proceedings that ensued between A.B. and Ms. Robinson, into which the RCMP and its investigation were drawn.

B. Evidence relating to the Complainants and their witnesses

(i) The Complainants

(a) Maurice Joseph

[69] Mr. Joseph is a member of the Lake Babine Nation. He was one of the eight people who swore an affidavit at Ms. Robinson's request when she came to Burns Lake in May of 2012, and that was provided to the Georgia Straight, the publication for which Ms. Robinson was writing her article. Mr. Joseph's affidavit is dated May 17, 2012 and sets out the abuse he experienced by A.B. at Immaculata school.

[70] Mr. Joseph testified that he wanted to report the abuse he had suffered and witnessed at Immaculata school to the RCMP, including that he had been slapped on the

head, kicked in the butt, strapped on his hands and hit with a hockey stick in the lower back by A.B., which caused bruises. He also witnessed other students being hit by A.B. He testified that he also experienced abuse from other staff at Immaculata school, including being hit with willow branches. He said that he and his brother Paul Joseph were forced to attend Immaculata against their will and against the wishes of their parents. They had also been sent to Lejac residential school before attending Immaculata.

[71] Corporal Mackie received a copy of Mr. Joseph's affidavit on October 18, 2012 from the Georgia Straight's editor and he interviewed Mr. Joseph on October 25, 2012 as part of his investigation into Ms. Abraham's allegations against A.B. Corporal Mackie's notes say that Mr. Joseph confirmed he had been in Ms. Abraham's class and that she is his cousin and that he said he does not know anything about her situation at the school or with A.B. and did not know why Ms. Abraham was bringing up sexual abuse all of a sudden. He told Corporal Mackie about being hit by all of the teachers at Immaculata and that one of the nuns was the worst. He said A.B. would kick them and smack them on the butt with hockey sticks and pull their ears. Mr. Joseph told Corporal Mackie that he had met with Ms. Robinson in Burns Lake but did not know why she was there or why she was involved, and that he had been called to a lawyer's office to sign an affidavit but did not know that it would go to Ms. Robinson. He did not have a copy of the affidavit himself and did not know that it would be given to the police.

[72] On October 8, 2013 Constables Hanley and Cox interviewed Mr. Joseph as part of the spinoff investigation and recorded the statement. They asked him about the years he went to Immaculata and he talked at length about his experiences there and mentioned his brother Paul being picked on and abused by A.B. as well. His interview lasted around 20 minutes and he did most of the talking, largely unprompted.

[73] He testified that he was not asked any more questions by the officers beyond what is in the recording. He testified that the RCMP asked him if he wanted to go for counselling and he told them he did not want counselling.

[74] He said the RCMP did not get back to him about the information he provided to them or to tell him no charges were going to be laid because they had determined that the abuse

he had experienced was, in their view, acceptable treatment for the time period. This made him feel badly because he felt they were not doing anything about what he told them. He did acknowledge that all of the officers who interviewed him had given him their cards with their contact information.

[75] Mr. Joseph testified that he came forward with his allegations of abuse at Immaculata because, “We need something to be done for us because we’ve been treated the way we weren’t supposed to be treated. We come to school to learn, not to be abused.”

[76] Mr. Joseph testified that he believed the RCMP did not do anything with the information he provided to them, that they did not do an investigation. He said he had not reported the abuse to the RCMP prior to this investigation, because he believes they do not listen or investigate crimes reported by Native people, saying “police are not doing anything for us.”

[77] He testified that he thinks the abuse he reported should be re-investigated by someone other than the RCMP.

(b) Richard Perry

[78] Mr. Perry is a member of the Lake Babine Nation and a Hereditary Chief. He was one of the eight people who swore an affidavit for Ms. Robinson in May of 2012. This was received by Constable Mackie from the Georgia Straight editor on October 18, 2012. Corporal Mackie’s notes say he made some efforts to meet with Mr. Perry in October of 2012 but did not connect with him then.

[79] Mr. Perry testified that, when he went to Immaculata, he was not good at reading and was hit on the head a lot and that they were made to read the Bible and if they did not read it correctly they were hit and called demons for speaking their Carrier language. He said he was hit with a leather strap and a meter stick and that A.B. used a stick to trip him and others when they were running. He said A.B. hit them on the head with basketballs and brought them to the boiler room for strappings because they spoke their own language. He said that his father and grandparents went to the RCMP about the abuse at Immaculata school but it continued so they removed him from school when he was 10 years old.

[80] In his interview with the RCMP as part of the spinoff investigation in October of 2013, Mr. Perry told Constables Hanley and Cox that he had been hit with a ruler with a spike in it on his head and hands. He showed the officers his scars and, while they noted the scars on his hands, they said the one on his head was “not noticed”. The Tribunal and counsel for all parties did view the scar on Mr. Perry’s head. During his interview with Constables Hanley and Cox, Mr. Perry described his gym teacher as a “muscle guy” who kicked children in the bum and pulled them by their hair, but he was not asked by the officers if he knew the gym teacher’s name. When asked this question during the hearing he stated, “I think A.B., he’s the only one.”

[81] He testified that Constables Hanley and Cox did not provide a referral for counselling or any other resources despite the traumatic abuse he described.

[82] In the Concluding Report for the spinoff investigation, the RCMP decided that, while the scars “resulting from being strapped with a nail in the strap exceeded reasonable punishment at the time”, Mr. Perry’s “statement lacked detail, such as the suspect name for the specific assault resulting in the injury, therefore no criminal charges are being recommended”. However, he was not advised of this or about next steps or the outcome of the investigation.

[83] Mr. Perry testified that he did not approach the RCMP himself as an adult to report the childhood abuse as “nobody cares about Natives” and that the RCMP only cares about putting Natives in jail.

(c) Cathy Woodgate

[84] Ms. Woodgate died prior to the hearing. She was a member of the Lake Babine Nation. Ms. Woodgate’s affidavit that she provided at Ms. Robinson’s request, sworn on May 2, 2012, was admitted as evidence and Corporal Mackie was cross-examined about his interview with her at the Burns Lake Detachment on October 24, 2012.

[85] Ms. Woodgate’s May 2, 2012 affidavit was about physical abuse she experienced by A.B. in gym class at Immaculata, and states that he hit her with a yardstick on the legs, and that he threw basketballs at the students, and she would always get hurt.

[86] Corporal Mackie testified that, after he received the affidavits from the Georgia Straight, he called Ms. Woodgate to ask her to meet with him when he was in Burns Lake as part of his investigation into Ms. Abraham's allegations. His notes from the interview in October of 2012 say that Ms. Woodgate declined to have her interview recorded as she just wanted to talk about her affidavit. She told him that every teacher at Immaculata was abusive and it was not a good place to be and she described the abuse by A.B., who was her gym teacher. She said that she had health problems, which made physical activity hard for her and she would be running at the back of the pack in gym and A.B. would come up behind her and hit her with a yard stick on the legs to get her going. She said she knew Ms. Abraham but did not know anything about her situation.

[87] Ms. Woodgate did an interview with a Commission investigator after filing the human rights complaint, and told her she thought the RCMP would come and question her about her allegations but nobody came around, and that she did not think the RCMP would take her abuse allegations seriously, which is why she did not go to them about the abuse before she gave a statement to Ms. Robinson. She said she was not offered support about the abuse she disclosed to the RCMP or provided with information or any follow up about the investigation.

[88] Her name was not included in the K Division's list of witnesses whose abuse allegations should be investigated, although she was named in Ms. Robinson's Response to A.B.'s civil action.

(d) Dorothy Williams

[89] Ms. Williams is a member of the Lake Babine Nation. She testified that she was told by her sister Emma Williams, who is also a Complainant, that Ms. Robinson was interviewing people who went to Immaculata school. Dorothy Williams provided a statement to Ms. Robinson in November of 2012. An excerpt of her statement was included in Ms. Robinson's Response to A.B.'s civil action, which was obtained by Corporal Mackie on January 25, 2013. Her statement said that A.B. disciplined students by throwing basketballs

at them hard enough to knock them to the ground and that he grabbed Dorothy's arm so hard while dragging her to the office that he left finger marks.

[90] Although her name was mentioned in Ms. Robinson's Response to A.B.'s civil action, her name was not included in K Division's list of witnesses whose abuse allegations should be investigated and she was not contacted by the RCMP.

[91] Ms. Williams testified that she thought by giving Ms. Robinson her statement, "our voices would be heard" and people would understand what they went through as children. She said did not go to the RCMP herself with her allegations, as she "was too scared, always felt fear of the cops, their intimidation, their mannerisms towards Natives ... I felt they were racist towards us ... didn't want to listen to us ... I just had fear of the cops." She testified that, when she gave Ms. Robinson her statement she did not think the police would approach her about it, although she hoped they would. She also testified that she did not know that Ms. Robinson would use her statement in her Response to A.B.'s civil claim.

(e) Emma Williams

[92] Emma Williams died prior to the hearing. She was a member of the Lake Babine Nation. Ms. Williams gave a statement to Ms. Robinson on October 31, 2012, which Ms. Robinson read during her testimony. Ms. Williams' statement said she remembered A.B. as her teacher at Immaculata hitting her on her calves either with a whistle rope or a pointer stick because she could not keep up in gym class and that A.B. grabbed her and her friend Ann Tom (also a Complainant) by the ear and took them to the principal's office where Sister Marcel had the strap waiting for them, even though they had done nothing wrong.

[93] Emma Williams was mentioned in Ms. Robinson's Response to A.B.'s civil action. Ms. Williams told the RCMP officer who reached out to her on April 11, 2013 that she would talk to the police, but she wanted to wait for more information from Ms. Robinson.

[94] The K Division review recommended a recorded statement be obtained from Emma Williams. Constables Hanley and Cox followed up with her more than once and their notes indicate that she was reluctant to speak to them as she had given a statement to her lawyer and wanted them to refer to that. Their notes say they explained that the police have their

own evidence gathering process and, on October 9, 2013 Ms. Williams agreed to speak to them. Constable Hanley's notes say she referred to an incident when she walked into a bathroom and found A.B. and Sister Marcel dragging a student by the hair on the ground and that she referred to hearing a lot of yelling and screaming in the school. She went on to say that she does not enjoy talking about the school and would consider giving her statement to police and would call them back if she decided to.

[95] In the Concluding Report, Constable Hanley wrote that Emma Williams "did not provide any victim or witness information to support or discredit any abuses at Immaculata School."

[96] The RCMP witnesses confirmed they did not provide Ms. Williams with resources about counselling nor did they update her on the outcome of the investigation.

(f) Ann Tom

[97] Ms. Tom died prior to the hearing. She was a member of the Lake Babine Nation. Ms. Tom gave a statement to Ms. Robinson on November 8, 2012 which was excerpted in Ms. Robinson's Response to A.B.'s civil action, obtained by Corporal Mackie on January 25, 2013.

[98] Ms. Tom's statement said in part that A.B. would strike the slow runners in gym class at Immaculata. This included Ms. Tom and her friend Emma Williams, who were struck on their calves with a meter stick or gym whistle. He disciplined students by throwing a basketball at them, slapping them on the back of the head or kicking them on the bum. Ms. Tom's statement, read by Ms. Robinson at the hearing, states that, "My spine is really bad because this is where [A.B.] hit me – a lot." He also hit her on the knees and hips and especially her head.

[99] The RCMP's file indicates that, on April 18, 2013, Constable Cox spoke with Ms. Tom about her time at Immaculata and Ms. Tom immediately stated she did not want to speak to the police, saying "No comment."

[100] Ms. Tom spoke to an investigator with the Commission and told her that she chose not to go to the RCMP to make a statement about the abuse she experienced and witnessed because of a longstanding distrust and fear of them.

(ii) Complainants' Witnesses

(a) Beverly Abraham

[101] Ms. Abraham is an Indigenous woman. She was one of the eight people who had sworn an affidavit in May of 2012 at Ms. Robinson's request, in which she described some of the abuse she experienced. On July 11, 2012 she reported to the RCMP that she had been abused by A.B. while she attended Immaculata school. On that date, she met with Constable Larsen at the Burns Lake Detachment and described being sexually and physically assaulted by A.B. The interview was recorded. During two breaks in the interview when Constable Larsen left the room, Ms. Abraham was crying and pounding the table.

[102] Constable Larsen asked Ms. Abraham several times if she would agree to do a polygraph. She testified that being offered a polygraph was insulting and upsetting, saying it made her feel that as an Indigenous woman she was not respected the way that she should have been and that she felt disbelieved after the interview.

[103] After the interview, Constable Larsen referred Ms. Abraham to victim services but she testified this was of no assistance because the worker did not have time for her.

[104] After her meeting with Constable Larsen, the file was transferred to the North District GIS and Corporal Mackie contacted Ms. Abraham to arrange a meeting at the Burns Lake detachment on July 26, 2012. When she did not attend, he and Constable Cox attended at her house without calling her first. They spoke to her without recording the conversation.

[105] She next saw Corporal Mackie on November 6, 2012 when he attended her home alone to take an audio recorded statement. During that interview she told him she felt afraid of him and he responded that he was not there to harm her. She testified that after the interview she felt that he did not really take her seriously. She did not believe he followed up

with any of the people she named who she thought could help corroborate her version of events.

[106] The RCMP's file shows that Corporal Mackie made efforts to speak to everyone Ms. Abraham mentioned to him, but some people did not want to be involved. Ms. Abraham was upset that Corporal Mackie had interviewed her elderly mother who suffered from dementia and did not speak English and neither she nor any of her family members were asked permission or notified that the RCMP were interviewing her.

[107] Ms. Abraham said long periods of time went by where she was not updated about the investigation.

[108] On December 5, 2013, Corporal Mackie called Ms. Abraham to obtain her address so he could send her a letter to advise her that the investigation was complete and no charges were going to be laid against A.B. She testified that she felt very dissatisfied with the investigation, that it made her feel low, ashamed, and dirty to have told the RCMP about her abuse only to be told there were no grounds to recommend charges.

(b) Ruby Adam

[109] Ms. Adam is a member of the Lake Babine Nation. She was one of the eight people who provided an Affidavit at Ms. Robinson's request in May of 2012, which Corporal Mackie received on October 18, 2012. On October 24, 2012, he attended at the Lake Babine Band Office where Ms. Adam worked without calling her first to interview her as part of his investigation into Ms. Abraham's allegations. She testified that it was uncomfortable having him come to her workplace, that she thought he was going to listen to what they went through at Immaculata and then she never heard from him after that. She said she was trying to tell him what she experienced in school, about the abuse, and he said he had experienced the same thing.

[110] Her affidavit said she was not abused by A.B. but she witnessed him hitting other students and she was strapped by the nuns. She testified that she was trying to tell Corporal Mackie about her experience but he kept interrupting, so she quit talking. Corporal Mackie's notes say that Ms. Adam declined to be tape recorded and indicate that they spoke for 30

minutes, and Ms. Adam testified she does not remember him asking if he could record their conversation.

[111] Ms. Adam said she was not offered support regarding the abuse she disclosed nor was she provided with any follow up about the investigation. She testified about her level of trust of the RCMP, saying “I just don’t like the way we were treated when we were young, and I didn’t want to associate with them at all.”

(c) Pius Charlie

[112] Mr. Charlie is an Elder with the Ts’il Kaz Koh First Nation. He was one of the eight people who provided an affidavit at Ms. Robinson’s request in May of 2012. Corporal Mackie received it on October 18, 2012, and he visited Mr. Charlie on October 24, 2012 as part of his investigation into Ms. Abraham’s complaint.

[113] Mr. Charlie’s affidavit said he remembered A.B. throwing basketballs at the kids at Immaculata and hitting them with a meter stick and that the nuns were very hard on the Native children. He said they were fed what looked like dog biscuits and they were made to brush their teeth with salt water. During school detentions the nuns made students stand with their backs to the wall for hours and students had to sweep up around their desks on their hands and knees using their hands as the broom and dustpan.

[114] Corporal Mackie’s notes from their meeting say that Mr. Charlie reported that there was a lot of physical abuse by the nuns at the school, that they gave kids the strap and that the boiler room was where they were taken for punishment. At the hearing Mr. Charlie testified that A.B. gave the strap too but said he did not tell this to the RCMP at the time because he was surprised by them showing up at his place.

[115] Mr. Charlie testified that he was not offered support about the abuse he disclosed and was not provided follow up about the investigation. He said he had not gone to the RCMP to report his abuse before this as “we couldn’t trust the RCMP” because they “like to put Natives in jail and be rough on Natives.” He said that his level of trust in the RCMP has not changed up to the date of his testimony. He testified that it is traumatic to open up this event again and would like to just continue with his life.

(d) Matilda Sam

[116] Ms. Robinson took a statement from Ms. Sam in April of 2012 and an excerpt from this statement was used in her Response to A.B.'s civil action, which Corporal Mackie received on January 25, 2013. The excerpt from Ms. Sam's statement said if she was late for gym class at Immaculata, her teacher A.B. would use a pointer stick or thick strap and would strap her and other students, and that he took her to the boiler room and strapped her there.

[117] When Constable Cox visited Ms. Sam on January 29, 2013, she said she wanted to wait to speak with Ms. Robinson before talking to the RCMP. On October 9, 2013, Constable Hanley returned to speak to Ms. Sam and her notes say that Ms. Sam "found the topic too stressful for her health". She testified that she was not offered counseling services by the RCMP or notified about the outcome of the investigation even though she did not speak to the RCMP about the abuse she experienced. Regarding her level of trust of the RCMP, she testified that she hears lots of stories so does not really trust them.

(e) Millie Michell

[118] Ms. Michell is Ms. Abraham's sister. She was mentioned in Ms. Abraham's affidavit, which says Ms. Abraham remembered that A.B. had strapped Ms. Michell's hands so hard when they were students at Immaculata that they blistered. Ms. Michell testified that this was true. Ms. Abraham told this to Constable Larsen on July 11, 2012. She mentioned Ms. Michell to Corporal Mackie as well but told him she would not likely speak to the police.

[119] After several attempts to contact her by phone over many months, Corporal Mackie went to Ms. Michell's workplace in Vancouver on October 2, 2013 to interview her, as it had been one of the K Division's recommendations that he find her and speak to her. Ms. Michell declined to do a taped interview with Corporal Mackie. She testified that, when he showed up at her workplace she felt "ambushed" and embarrassed in front of her colleagues, and would have preferred that the RCMP had sent her a letter if they needed to speak with her.

[120] Ms. Michell testified that, although Ms. Abraham had told her about being abused at school, she felt it was not her story to tell, that it was not up to her to say anything and that she felt it was clear that Corporal Mackie was on a fishing expedition and she was not going to talk to the police. She testified she did not care what he was there for, she would not speak to the police without counsel.

[121] Ms. Michell testified that the abuse she experienced at school as a child made her feel ashamed. She testified that she would not have considered going to the RCMP about the abuse she experienced at Immaculata, saying “the police have not done very well by my people – they are not trusted so why would I trust them? Why would I even talk to them? I mean, even if it had nothing to do with being against the law, I would not feel comfortable talking to the police without counsel.”

(f) Ronnie Matthew West

[122] Mr. West is Cathy Woodgate’s brother and a Hereditary Chief. He is a non-legal representative of the Complainants, along with Ms. Robinson.

[123] He was one of the eight people who provided an affidavit to the Georgia Straight in May of 2012 at Ms. Robinson’s request, which Corporal Mackie received in October of 2012. Although he had not experienced abuse at Immaculata school himself, his affidavit said his sister Cathy Woodgate had complained to their parents about the abuse she was receiving from A.B. and that he thought his parents kept Cathy and their sister Nancy (who has also passed away) home from school often because of A.B.’s physical and verbal abuse. Mr. West also said in his affidavit that he saw A.B. abusing someone I will refer to in this decision as D.M., as D.M. did not testify at the hearing. D.M. had commenced a civil claim against A.B. for sexual abuse.

[124] The RCMP interviewed a different Ronnie West in error, who happened to be Ms. Abraham’s brother and he provided compromising information about Ms. Abraham.

[125] Mr. West was never interviewed by the RCMP. He was interviewed by the Commission’s investigator and asked her “why would I go to [the RCMP] when it is their job to investigate? They are supposed to come to me.”

[126] Mr. West testified that he mistrusts the police because of the way they have treated First Nations people. He said there seems to be a law for white people and a law for Indigenous people, who are never taken seriously.

(g) Paul Joseph

[127] Paul Joseph is the brother of Maurice Joseph. Maurice refers to Paul in his affidavit that was provided to the Georgia Straight at Ms. Robinson's request. The Georgia Straight article quoted Paul as saying that, when he was a student at Immaculata, A.B. punched him in the back of the head and he went flying and was unconscious for 15 minutes. He was crying and everyone was too afraid to help him. He said that A.B. also hit him on the back of the head with a hockey stick. After this he did not want to go to school because he was afraid of what A.B. would do to him.

[128] Mr. Joseph was mentioned in Ms. Robinson's Response to A.B.'s civil action, although he was not included in K Division's list of witnesses whose abuse allegations should be investigated and so was not interviewed by the RCMP as part of its spinoff investigation. He testified that he did not report his allegations to the police because they do not care about Indigenous people and they would not listen to him.

(h) Wilf Adam

[129] Mr. Adam is the former Chief of the Lake Babine Nation in Burns Lake. On September 28, 2012 he was interviewed by a reporter with the Canadian Press and told them that as a student at Immaculata and Prince George College he witnessed, and was a victim of, abuse by A.B., including kicking and slapping. The Complainants introduced a copy of an online article from the Guelph Mercury Tribune, an Ontario newspaper, which includes Mr. Adam's allegation about A.B. Although this story was published, the RCMP did not contact him.

[130] Mr. Adam testified that the RCMP also did not contact him to let him know that they would be in the community speaking with Band members, although Corporal Mackie's October 20, 2012 Occurrence Report says that he had asked the Burns Lake Staff Sergeant

to let Chief Adam know he would be in the community speaking to members of the First Nation.

(i) Roddy Joseph

[131] Mr. Joseph died prior to the hearing. He had told Ms. Robinson in November of 2012 that A.B. threw a large medicine ball at his face and knocked out a tooth when he was a student at Prince George College. Part of this statement was included in Ms. Robinson's Response to A.B.'s civil action, obtained by Corporal Mackie on January 25, 2013.

[132] The RCMP contacted Mr. Joseph on February 27, 2014 as part of the spinoff investigation and their notes say that he was "unsure" if he wanted to speak to them. He said he would think about it and would get back to them about an interview. The RCMP notes say that, on March 30, 2014 they concluded he was not interested.

(j) Audrey George

[133] Ms. George was too ill to testify at the hearing but she swore an affidavit that the statement she gave to Ms. Robinson on January 17, 2013 was true. Ms. Robinson's Response to A.B.'s civil action included an excerpt from Ms. George's statement. Her statement said there was an equipment room down a narrow hall near the gym at Prince George College and A.B. told her to go into the equipment room to put the basketballs away. She said he followed her into the small dark room and blocked her way out, reached down and tried to grope her by the crotch, and held her for a minute. As she pushed passed him and was running out the door he grabbed her butt and ripped her shorts.

[134] On January 10, 2014, an RCMP officer from Takla Landing met with Ms. George at the request of Constable Hanley. The officer's General Occurrence Report, entered as evidence, says that when he spoke with her, she told him that she wanted nothing to do with what was going on and agreed to provide a statement to that effect. The officer then took a recorded statement in which he asked the questions provided to him about whether she had attended Immaculata. She said she had not, and that she attended St. Mary's in Hazelton and Prince George College.

[135] Constable Hanley's Occurrence Report says that Ms. George's name had surfaced in a court document as a former student of the Burns Lake school and that several students who attended Prince George College had been misnamed as also attending Immaculata school.

(k) Peter Mueller

[136] Mr. Mueller testified that he is a First Nations person, having received his status in 1985 and that he is Shuswap from the mid Cariboo. Mr. Mueller gave Ms. Robinson a statement on October 7, 2012 about A.B. sexually abusing First Nations girls at Prince George College, which he said he learned about because nice girls were being expelled from school and he wondered why.

[137] Ms. Robinson included an excerpt from his statement in her Response to A.B.'s civil action which said that A.B. had banged Mr. Mueller's head against the door and threw him down a flight of metal stairs. The statement says A.B. later found Mr. Mueller in the shower room and threw him against the wall, then grabbed him by the throat and lifted him at least two feet off the ground.

[138] Mr. Mueller said in his testimony that his statement to Ms. Robinson was true and he added that one time A.B. grabbed him, threw him against the wall and choked him. He said A.B. was so enraged he said, "You f'ing little black bastard. If I could kill you and get away with it, they'd never find your body and nobody will ever know where you went."

[139] The RCMP contacted Mr. Mueller on October 9, 2013 as part of the spinoff investigation, and their notes say he knew A.B. from Prince George, that he had never attended Immaculata, and that he attended Prince George College for two years, 1971 and 1972.

[140] As the focus of the spinoff investigation was on students' experiences at Immaculata, no further statement was taken from Mr. Mueller. Mr. Mueller testified that he tried to talk to the officers about A.B. but they did not want to talk about it because it did not relate to Immaculata. He said they basically "shrugged off" what he was trying to tell them about

abuse at Prince George College. The RCMP did not offer to connect him to counselling or let him know how the investigation unfolded.

[141] When asked if the RCMP ever contacted him again Mr. Mueller testified that a Sergeant at his local detachment contacted him and said if he wanted to talk to him about anything he knew about A.B. that he should do so but, because of what he had already been through with the RCMP and what he had learned, he was really disheartened about whether anything was going to come of it, so he did not contact the Sergeant. He testified it was rumoured that A.B. would make anybody pay for doing anything against him, that he is a powerful man and he will come after you, and that Native people have little hope that anything is ever going to be done anyway.

(l) Frank Alec

[142] Wet'suwet'en Hereditary Chief Woos was one of the first people to give a statement to Ms. Robinson in April of 2012 before she arrived in Burns Lake but he later requested it be confidential because he was dealing with traumatic memories of Lejac residential school.

[143] He decided to testify at the hearing about the abuse he experienced at Immaculata by A.B., which included being kicked in the bum and thumped on the head, and said the abuse occurred because the students were First Nations. He said he did not report any of the abuse to the RCMP, explaining that he had negative experiences with the RCMP as a child and as a current land defender against natural gas pipelines on Wet'suwet'en traditional land.

(m) Elsie Tom

[144] Ms. Tom is a member of the Wet'suwet'en First Nation. She contacted Ms. Robinson in November of 2013 through the Lake Babine court worker and gave her a statement that she confirmed in her testimony was true. She said when she was at Immaculata school she did not want to go outside so she would run into the gym and hide under the stage. One time she heard someone coming so she peeked around the curtain and saw A.B. She said she crawled into a little opening by the stairway and went way to the back under the stage

and hid there because she was scared he was coming to get her. He was under the stage with a young First Nations girl who was crying. Even though she was way in the dark Ms. Tom could see motions and heard moaning.

[145] She also testified that she did not report what she saw to the police because she did not trust them.

VII. ANALYSIS

A. Do the Complainants have one or more characteristics protected from discrimination under section 3 of the CHRA?

[146] The Complainants are Indigenous peoples. They belong to the Lake Babine Nation, as do many of the witnesses who gave evidence at the hearing and who provided statements to Ms. Robinson. Some belong to other First Nations near Burns Lake and other parts of northern BC. The Complainants have alleged discrimination on the basis of their race and their ethnic or national origin. The Respondent agrees that the Indigeneity of each Complainant is a protected characteristic under section 3(1) of the CHRA.

[147] Race and national or ethnic origin have all been accepted as prohibited grounds in cases before the Tribunal involving First Nations and other Indigenous peoples (see *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 [FNCFCSC 2016] at paras 23 and 395).

[148] I accept that the Complainants have established, on a balance of probabilities, that they and their witnesses, as Indigenous people, have one or more characteristics protected from discrimination under section 3 of the CHRA, including their race and their ethnic or national origin.

B. Did the RCMP deny the Complainants a service or treat them in an adverse differential manner in the provision of a service customarily available to the general public?

[149] A threshold issue raised by the RCMP is whether it was providing a service within the meaning of section 5 of the CHRA when the alleged adverse treatment occurred. The RCMP says that the discretionary decisions that comprise police investigations are not made during the provision of a service. The RCMP argues that, therefore, the Tribunal lacks jurisdiction to consider this complaint and so it should be dismissed. The Complainants and Commission disagree. They assert broader adverse treatment within a range of police activity, which they say amounted to discrimination in the provision of a service under section 5 of the CHRA.

Legal Framework

[150] The parties generally agree that the test the Tribunal must follow to determine whether a respondent is offering a service to the public pursuant to section 5 of the CHRA was set out by the Supreme Court of Canada in *Gould v Yukon Order of Pioneers*, 1996 CanLII 231 (SCC) [*Gould*] and elaborated upon further by the Federal Court of Appeal in *Watkin v Canada (Attorney General)*, 2008 FCA 170 [*Watkin*]. The Supreme Court in *Gould*, which was considering a section of the *Yukon Human Rights Act* that is similar to section 5 of the CHRA, set out a two-step analysis.

[151] The first step is to determine what constitutes the "service". The Federal Court of Appeal in *Watkin*, which considered section 5 of the CHRA, elaborated on the first step of the *Gould* test, at paragraph 31:

[T]he first step to be performed in applying section 5 is to determine whether the actions complained of are "services" In this respect, "services" within the meaning of section 5 contemplate something of benefit being "held out" as services and "offered" to the public

[152] After determining what the alleged "service" is, the second step "requires a determination of whether the service creates a public relationship between the service provider and the service user" (*Gould* per La Forest J. at para 68).

[153] The Court of Appeal in *Watkin* further explained that, in conducting an analysis of whether a service was being provided by a respondent when alleged adverse treatment occurred, “[r]egard must be had to the particular actions which are said to give rise to the alleged discrimination in order to determine if they are ‘services’” (citing *Gould* at paras 16 and 60).

What Activity is the Tribunal Considering in its “Service” Analysis?

[154] The parties disagree about the adverse treatment in issue, the source of the adverse treatment and, consequently, how to characterize the service at issue.

[155] To focus the analysis of the service in issue, I must first clarify the adverse treatment that is the subject of the Tribunal’s inquiry and its source (see *Watkin* at para 33, citing *Gould* at para 60). This approach was endorsed in *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 [*Matson/Andrews*] at para 62, in which the Supreme Court affirmed that Parliament and the *Indian Act* were the source of the adverse differentiation that occurred in that case, not the officer processing applications for Indian status according to non-discretionary, statutory criteria.

[156] Once clarified, the source of any adverse treatment can be evaluated for whether the RCMP was providing a service when the adverse treatment occurred. As such, it is important to consider the alleged adverse treatment carefully and define what RCMP activities the parties have put in issue as the supposed sources of any adverse treatment before evaluating whether, in carrying out those activities, the RCMP offered a benefit to a public, in a public relationship.

What is the adverse treatment alleged?

[157] The Complainants say that the RCMP’s traditional investigative methods failed to meet their needs as Indigenous crime complainants who wanted to report the abuse they experienced as children to the RCMP. The Complainants say that these traditional investigative methods, carried out with biased attitudes, and the failure to modify these methods to accommodate for Indigenous peoples’ cultural needs resulted in adverse differential treatment of the Complainants and their witnesses. They note that it is not the

“decisions” made by the RCMP during the criminal investigations or the outcomes of the investigations that are at issue, but rather the methods and attitudes involved.

[158] The Complainants set out in their Closing Submissions examples of the allegedly discriminatory investigation methods and biased conduct that were described in their Statement of Particulars and, in their view, are supported by the evidence called at the hearing:

- Inadequate or incomplete investigations carried out with discriminatory attitudes and/or conduct;
- Production orders not obtained for class lists or teacher employment information or to obtain affidavits regarding alleged abuse;
- Failure to contact all individuals who made public statements;
- Failure to offer support to victims reporting abuse;
- No follow up on information provided by witnesses;
- Failure to report back to witnesses about the outcome of the investigation;
- No investigation of allegations of abuse from Prince George College;
- Assumption that complainants were duped by a journalist into fabricating allegations, or were susceptible to undue influence;
- Requiring complainants of abuse to initiate contact with the RCMP despite their known distrust of the RCMP;
- Dismissing allegations of childhood physical abuse as justified correction under section 43 of the *Criminal Code* without basis.

[159] The RCMP takes a narrow view of the adverse treatment at issue, saying the complaint is only about the RCMP’s decisions when investigating Ms. Abraham’s complaint that A.B. sexually assaulted her as a child. The Complainants say their complaint relates to the RCMP’s treatment of them and its handling of their allegations after they were brought to the RCMP’s attention. This includes the RCMP’s investigation, or lack thereof, into allegations of childhood abuse at Immaculata school and Prince George College, as brought to light by the six Complainants and many others, including several of their witnesses. They say in their Closing Submissions that the investigations at issue commenced with a complaint from Ms. Abraham on July 11, 2012 and concluded on May 14, 2014. This includes the spinoff investigation into broader allegations of abuse at Immaculata school made by several other former students.

[160] The Complainants correctly note that they raised the issue of the RCMP mischaracterizing their claim as being limited to its investigation of Ms. Abraham's allegations prior to the hearing of this matter, in their Reply to the Respondent's Statement of Particulars. The Tribunal has already agreed in one of its rulings in this matter that the scope of the complaint referred by the Commission for an inquiry by the Tribunal is broader than whether Corporal Mackie's investigation of Ms. Abraham's complaint was discriminatory (*Woodgate et al. v RCMP*, 2023 CHRT 9 at paras 29-36). Subsequent to this ruling, the RCMP indicated it would object to the testimony of 13 of the Complainant's 24 witnesses and, in a March 17, 2023 letter responding to this objection, I referred to my previous ruling and stated as follows:

The RCMP appears to have overlooked the Tribunal's conclusions in its Ruling on the admissibility of Dr. Milward's evidence regarding the scope of the complaint set out in the Statements of Particulars [SOP] of the Complainants and Commission. The RCMP cannot use a letter objecting to proposed witnesses to try to narrow the scope of the complaint at this late date. If the RCMP chooses to respond only to its narrow view of what the complaint is about, it does so at its own risk, but it has had notice of the Complainants' allegations set out in their SOP for nearly 3 years.

[161] As I have previously stated, this human rights complaint is not just about the RCMP's investigation of Ms. Abraham's allegations. It is also about the RCMP's treatment of the Complainants and its investigation, or lack thereof, into the allegations of historical abuse made by former students of Immaculata school and Prince George College. Both the Complainants and the RCMP called extensive evidence regarding these issues.

[162] The adverse treatment in issue is therefore the Complainants' allegation that the RCMP's investigative methods and biased conduct harmed them when they and other witnesses brought their allegations of abuse at Immaculata and Prince George College to the RCMP. They describe specific shortcomings of the investigation that they say flowed from the RCMP's methods and biased attitudes and effectively denied them the access to the RCMP that other victims of crime have. Contrary to the RCMP's submissions, these allegations were not limited to specific investigative decisions made by the RCMP.

[163] Furthermore, while there are only six Complainants in this matter, the Tribunal understands the Complainants are arguing that they and other witnesses relevant to the

investigations experienced systemic discrimination. The Tribunal further understands that the complaint is about the RCMP's response to all of their allegations of abuse, which included abuse at Immaculata mainly, but also Prince George College. As such, the Tribunal can consider the evidence of other witnesses relating to these aspects of the allegations.

[164] With the alleged adverse treatment established, I can now consider what the source of this adverse treatment was and whether that source was a service provided by the RCMP.

What is the source of the alleged adverse treatment?

[165] In this case, unlike cases such as *Matson/Andrews*, there is no suggestion that the alleged adverse treatment emanates from outside the named Respondent, the RCMP. The parties' descriptions of the adverse treatment do, however, describe their sources differently. The RCMP says the source of the alleged adverse treatment is core investigative decisions that are protected by police independence. The Complainants say they are not attacking police independence or the outcome of the RCMP's investigations. Rather, the Complainants describe the overall service from which the adverse treatment is said to derive in this complaint as "a citizen's access to the criminal justice system through police services." Expressed as an activity carried out by the RCMP, I take this to mean the RCMP's methods, policies and practices that provide those wishing to report a crime with access to the RCMP's investigations.

[166] Considering all of the Complainants' allegations of adverse treatment and submissions as a whole, I interpret their position on "access" to include the RCMP's methods for conducting investigations and its implementation of these methods in their case, including decisions that led to what the Complainants assert were inadequate and incomplete investigations. For example, the decisions to limit the scope of the investigations, to end the investigations, or not to seek certain information. That said, the Complainants do not include the RCMP's decision not to recommend a criminal charge.

[167] The Commission approaches the service in issue at the most general level, stating simply that "policing services provided by the RCMP are services as contemplated under s.5 of the CHRA".

[168] The RCMP submits that, while some police actions may constitute a “service” pursuant to section 5 of the CHRA, this complaint targets the actions and decisions taken during a criminal investigation, such as which leads to pursue, which witnesses to interview and the interview techniques to use, how evidence is to be evaluated, as well as whether to refer charges to Crown Counsel. The RCMP describes these actions as “core law enforcement functions” that are performed by police officers when conducting a criminal investigation and that none of these aspects of police investigative discretion bear any of the hallmarks of a service. The RCMP argues that police independence should imply that “decisions” made by police during criminal investigations are not a service.

[169] Having considered the adverse treatment in issue, my view is that the Commission’s characterization of the service at issue as policing generally is too broad in the context of this complaint, even though it articulates in its Reply Submissions that criminal investigations are part of the service that the police offer to the public as a whole. This case is about the RCMP’s treatment of the Complainants and their witnesses and its investigation, or lack thereof, into the allegations of historical abuse made by former students of Immaculata school and Prince George College. There is no need to engage in an analysis of whether all aspects of policing are a service under the CHRA, when that is not at issue in this complaint.

[170] On the other hand, the RCMP’s characterization of the alleged service as being discretionary decision-making in police investigations is too narrow to capture the essence of the complaint and the breadth of adverse treatment alleged. A key aspect of the alleged adverse treatment is the allegation that the RCMP’s conduct and methods, prior to drawing conclusions, adversely affected the Complainants. The Complainants say their access to the RCMP’s officers conducting investigations, and the work they do, was impeded by the RCMP’s traditional investigative methods, which they say fail to serve Indigenous crime complainants. They say this impaired access begins prior to any investigative decision being made. Additionally, the RCMP’s position would require the Tribunal to parse out aspects of a criminal investigation that the RCMP argues are not services under the CHRA, including certain decisions it makes during criminal investigations (such as who to interview, what

interview techniques to use, which leads to pursue, how to evaluate evidence, and whether to recommend charges).

[171] The RCMP does not want the Tribunal reviewing decisions that it considers to be solely in the purview of police discretion. But trying to separate certain decisions or actions from the investigation as a whole to determine whether they constitute a service to the public risks losing the full picture of what this complaint is about. A criminal investigation is greater than the sum of its individual decisions. Indeed, most of the actions undertaken by the police are the result of a decision that was made by someone. The same can be said for the majority of activities that have been considered as services under the CHRA and other human rights legislation, especially those offered or delivered by governments.

[172] The Federal Court of Appeal in *Watkin* said the Tribunal must consider the “particular actions which are said to give rise to the alleged discrimination in order to determine if they are ‘services’” (at para 33, referencing *Gould* at paras 16 and 60). I do not understand this to mean that the Tribunal must break down the impugned activity into an overly particularized list of each and every activity or decision that was made in this case. This, along with service descriptions that are so vague that they defy analysis, is not conducive to sound decision-making that is consistent with the CHRA and the guiding principles set out in the applicable case law.

[173] I am of the view that the particular actions that gave rise to the alleged discrimination in this case – and which encompass the investigatory methods and alleged biased conduct and attitudes of the RCMP - took place within the RCMP’s investigations of allegations of criminal activity. I accept the Complainants’ position that the complaint is about the way in which the RCMP carried out its investigations, not the outcome of these investigations. I conclude that the scope of the activity that the Tribunal must evaluate for whether it is a “service” under section 5 of the CHRA is the RCMP’s investigation of criminal allegations. This includes how RCMP officers treated the Complainants and witnesses, the RCMP’s investigative methods and any policies or practices guiding those methods, and how those methods were implemented in the Complainants’ case up to but not including the decision not to recommend a charge against A.B. or anyone else. The decision not to lay a charge

was not included in the alleged adverse treatment and was not put in issue by the Complainants.

(i) What benefit or assistance is being held out by the RCMP?

[174] To reiterate, the test for “service” under section 5 of the CHRA has two steps (*FNCFCSC 2016* at paras 30-31, referring to *Gould* at para 68). First, the Tribunal must determine the “benefit” or “assistance” being held out by the Respondent; second, the Tribunal must determine if a “public relationship” exists between the Respondent and those who receive the benefit or assistance (*FNCFCSC 2016* at para 30, referring to *Watkin* at para 31 and *Gould* at para 55).

[175] Starting with the first step, to determine the “benefit” or “assistance” that is said to be held out by the Respondent, regard must once again be had to the particular actions that are said to give rise to the alleged discrimination (*Watkin* at para 33). The Tribunal has stated that, when engaging in this first step of the service analysis, “it may be useful to inquire whether the benefit or assistance is the essential nature of the activity” (*FNCFCSC 2016* at para 30; *Canada (Canadian Human Rights Commission) v Pankiw*, 2010 FC 555 [*Pankiw*] at para 42).

[176] The Complainants argue that it would be difficult to dispute that victims of crime benefit by being able to access criminal justice, as all Canadians are entitled to the protection of the law. The Complainants state that, as the RCMP makes policies and/or processes to provide this protection, any RCMP policies and practices that govern the treatment of Indigenous crime complainants provide both a benefit and assistance to those members of the public. They submit that police policies, or a lack thereof, regarding the treatment of Indigenous survivors of abuse, can be considered a “service customarily available to the public” for the purpose of a systemic discrimination claim (relying on *Crockford v British Columbia (Attorney General)*, 2006 BCCA 360 [*Crockford*] at para 82). In *Crockford*, the BC Court of Appeal concluded that a decision to lay a criminal charge was protected by prosecutorial immunity but ordered the BC Human Rights Tribunal to redetermine whether

an interministerial policy made and implemented by the Attorney General could be a service (among other issues, see paras 66-72).

[177] The Commission submits that the RCMP is offering policing services to Burns Lake as a benefit to the community. The Commission says that, in the present case, the Complainants sought a benefit only the RCMP could provide, being the conduct of a fair and non-discriminatory investigation that would validate their worth as members of the community, and ensure their allegations were properly evaluated so that criminal charges could be laid if warranted by the evidence.

[178] The Commission further says that the benefits of policing, including the conduct of criminal investigations, are widespread, including ensuring community safety, protecting the public from dangerous individuals, instilling respect and confidence in the rule of law, and maintaining peace and order in Canada. Overarching all of these benefits is the public's interest in the RCMP carrying out policing duties, including criminal investigations, as Canadians expect that they can call on the police to file criminal complaints that will be investigated. The Commission says that, moreover, the RCMP holds these various policing activities out to the public as a service.

[179] I agree with the Complainants that it would be difficult to dispute that victims of crime benefit by being able to access criminal justice by reporting allegations to the RCMP. Ultimately, the RCMP does not even dispute that it provides a benefit through its criminal investigations, although it describes the benefit and the intended recipients differently. In its closing submissions the RCMP states that it investigates crimes for the benefit of society as a whole and not for individual members of the public such as victims or witnesses, which is an argument I consider in more detail in the next part of the "service" analysis, regarding the existence of a "public relationship".

[180] From Ms. Abraham's perspective, she presented herself to the RCMP in Burns Lake, seeking "something of benefit" to her: access to criminal justice through the investigation of her allegations. The Complainants and some of their witnesses testified that they were seeking the same benefit from the RCMP when they reported the abuse that they or their friends or relatives had experienced when they were children.

[181] The evidence before the Tribunal supports the conclusion that the Complainants and some of their witnesses were seeking a benefit and assistance from the RCMP when they reported the historical abuse of children at Immaculata and Prince George College. The RCMP was the only organization that could provide them with the benefit or assistance they were seeking: lawful, competent treatment when reporting criminal allegations and when investigating those allegations. This is the essential nature of the RCMP's activity that is in issue regardless of the outcome of the investigation.

[182] I accept that, in receiving and investigating criminal allegations, the RCMP provides this benefit to those who bring forward these allegations. I further accept that policies and practices that guide those actions provide a benefit to people who report crimes. The provision of these benefits is the alleged "service" at issue in this complaint. In the next section I consider whether the RCMP offers these benefits to a "public" within a "public relationship", as required by section 5 of the CHRA.

(ii) Does the alleged service create a public relationship between the service provider and the service user?

[183] Having determined what the alleged service is, the second step of the analysis "requires a determination of whether the service creates a public relationship between the service provider and the service user" (*Gould* per La Forest J. at para 68). In other words, does the RCMP offer the identified benefits of criminal investigations to a "public" in a "public relationship"?

[184] Section 5 of the CHRA prohibits discrimination "in the provision of ... services... customarily available to the general public". In *Moore*, the Supreme Court of Canada was considering the analogous section of the BC human rights legislation, which states that it is discriminatory to deny someone a service that is "customarily available to the public" on a prohibited ground. The Supreme Court in *Moore* stated that this means "that if a service is ordinarily provided to the public, it must be available in a way that does not arbitrarily — or unjustifiably — exclude individuals by virtue of their membership in a protected group" (at para 26).

[185] The Tribunal in *FNCFCS* 2016 summarized what must be considered in determining whether a service is customarily provided to the general public:

[31] The next step requires a determination of whether the service creates a public relationship between the service provider and the service user. The fact that actions are undertaken by a public body for the public good is not determinative. In fact, no one factor is determinative. Rather, in ascertaining whether a service creates a public relationship, the Tribunal must examine all relevant factors in a contextual manner (see *Gould* per La Forest J. at para. 68; and, *Watkin* at paras. 32-33). As part of this determination, the Tribunal must decide what constitutes the “public” to which the service is being offered. A public is defined in relational as opposed to quantitative terms. That is, the public to which the service is being offered does not need to be the entire public. Rather, clients of a particular service could be a very large or very small segment of the “public” (see *University of British Columbia v. Berg*, 1993 CanLII 89 (SCC), [1993] 2 SCR 353 at pp. 374-388; and, *Gould* per La Forest J. at para. 68). A public relationship is created where this “public” is extended a “service” by the service provider (see *Gould* per La Forest J. at para. 55).

[186] Noting the “transitive connotation from the language employed by” the analogous provisions from throughout the country, Justice La Forest stated that, “it is not until the service, accommodation, facility, etc., passes from the service provider and has been held out to the public that it attracts the anti-discrimination prohibition” (*Gould* at para 55). Justice La Forest stressed that a determination under the service provision of human rights legislation should not be based on the nature of the service provider but upon the service being offered (para 55). This keeps the focus of the analysis on the service.

[187] The Federal Court of Appeal in *Watkin* concluded that not all government activities are services, but conceded that, “because government actions are generally taken for the benefit of the public, the ‘customarily available to the general public’ requirement in section 5 will usually be present in cases involving discrimination arising from government actions” (para 31).

[188] Other examples from the jurisprudence mentioned by the parties provide further insight into the meaning of “public relationship”. Examples of government actions that were not found to be “services” include law-making by Parliament (*Matson et al. v Indian Affairs Canada*, 2013 CHRT 13; affirmed in 2018 SCC 31) and the laying of a criminal charge by a prosecutor (*Crockford*). In each case the tribunal or court considered the activity in question

to be different in nature from the cases intended to be captured by the meaning of “service” under the human rights legislation involved.

Does the RCMP offer the identified benefits of criminal investigations to a “public” in a “public relationship”?

[189] The Complainants define the public to whom the benefits discussed above are offered by the RCMP in more than one way. They say that the service offered is citizens’ access to the criminal justice system, implying the “public” is citizens, or perhaps the general population. They also say that victims of crime receive a benefit by being able to access criminal justice. Lastly, they state that “any RCMP policies and practices that govern the treatment of Indigenous crime complainants provide a benefit and assistance to those members of the public”, and so a public relationship exists between the RCMP and Indigenous people (victims or otherwise) reporting any crime.

[190] The Commission argues that the public relationship aspect of the test is met because the RCMP has a detachment in Burns Lake and operates that detachment in accordance with the policing agreements it has with the province of BC. Relying on *Gould*, which confirmed that a public relationship is created when the particular ‘public’ is extended a ‘service’ by the service provider (per La Forest J. at para 55 and Iacobucci J. at paras 16-18), the Commission submits that the policing services of the RCMP are being offered to Burns Lake as a benefit to the community. It submits that the community of Burns Lake and the Complainants as part of that community fall under the definition of public for the purpose of the test.

[191] The Commission says the Canadian public routinely have face-to-face interactions, both voluntary and involuntary, with police, including the RCMP, which carry out a variety of functions, such as traffic stops, responding to 911 calls, arrests, and carrying out criminal investigations. The Commission says these types of police functions, which are all arguably part of core police functions, are the types of services the public expects and relies on police forces like the RCMP to carry out, which are done in the public interest. It argues that these types of ongoing public relationships, which are examples of the functions police carry out

everyday, fall within the meaning of a service under section 5 of the CHRA because they are the very type of public relationships for which human rights protections were created.

[192] The Commission says that the Tribunal itself has previously made findings about the conduct of the RCMP during a police investigation, which demonstrates that the Tribunal understands policing to be a service pursuant to section 5 of the CHRA (*Odiatu v RCMP*, 1990 CanLII 580 (CHRT); see also *Hum v RCMP*, 1986 CanLII 6484 (CHRT) at para 47).

[193] The Commission submits that there is a “plethora of case law from provincial human rights regimes which recognize that police forces provide services, including investigatory services, that are customarily available to the public”, which is also applicable to this case. Specifically, the Commission points out that the Human Rights Tribunal of Ontario (HRTO) has stated “it is trite law that in the provincial human rights regime that policing falls under a service within the meaning of the provincial human rights code” (*Mester v Niagara Regional Police Service*, 2017 HRTO 353 at para 36).

[194] The Commission further submits that, should the Tribunal determine that the RCMP’s conduct during criminal investigations does not constitute a service within the meaning of section 5, it would result in situations where, for example, individuals who are subjected to racial slurs or other forms of discrimination during a criminal investigation will no longer have human rights recourse through the CHRA. This, the Commission submits, would be a very serious result with far-reaching repercussions that should only be imposed if Parliament amends the CHRA or the *Royal Canadian Mounted Police Act*, R.S.C., 1985, c.R-10 [*RCMP Act*] to provide clear, explicit wording that compels such a conclusion.

[195] In analyzing the alleged service at issue here, the RCMP does not identify a “public” to which any benefit is offered by it because it submits that criminal investigations are carried out in the public interest, not for a particular “public” in the sense required by section 5 of the CHRA.

[196] The RCMP argues that criminal investigations conducted by police officers do not constitute a benefit held out to the public in a public relationship in the sense meant by *Gould* and the cases following it. It notes that the *Gould* analysis requires the Tribunal to determine whether the nature of the actions identified create the requisite relationship between the

Complainants and the RCMP by examining the relevant factors in a contextual manner. In this case, the RCMP says the context is its investigation of Ms. Abraham's complaint and so the analysis must have regard to the role of police in our society. The RCMP says that, when police officers are engaged in the core law enforcement function of conducting a criminal investigation they are serving the public as a whole and not any one individual (relying on *Smith v Ontario (Attorney General)*, 2019 ONCA 651 [*Smith*] at para 53). As such, discretionary decisions made by the police during a criminal investigation cannot reasonably constitute a "service" within the meaning of section 5.

[197] Its position is that the RCMP does not offer its decisions on who, what or how to investigate criminal allegations as a benefit to those bringing allegations to them, so no public relationship existed between the RCMP and the Complainants and other witnesses when the RCMP was investigating the allegations at issue in this case.

[198] The RCMP also argues that the discretionary decisions it makes during criminal investigations lack the transitive aspect required by the law, compared to the examples provided by the Federal Court of Appeal in *Watkin* of government actions that would be considered services under the CHRA. These include the issuing of an advance income tax ruling by the Canada Revenue Agency and the publication of weather and road conditions by Environment Canada. In such cases, the service or information passes from the service provider and is held out to the public.

[199] The RCMP says that the question of whether "core law enforcement functions" like discretionary decisions made during investigations are a service within the meaning of human rights legislation has received almost no analysis by either provincial or federal tribunals. It says the jurisprudence referred to by the Complainants and Commission is distinguishable from the facts of this case, deals with more transactional police activities, and does not analyze the service issue. It says that, instead, the cases it refers to dealing with police independence should apply.

[200] The RCMP says that police independence over discretionary decisions made while carrying out core law enforcement functions is well-established under Canadian law and that such independence rests on three pillars: (a) the police derive their authority from the law

itself, not from any delegation; (b) the police answer to the law alone and cannot be directed whom to investigate, how to investigate, or whether to lay charges; (c) independence enables the police to operate within the community and be responsive to its concerns and needs (*Smith* at paras 57-64).

[201] The RCMP notes that the Supreme Court of Canada has explained that police independence underpins the rule of law as one of the “fundamental and organizing principles of the Constitution” (*R v Campbell*, 1999 CanLII 676 (SCC) [*Campbell*] at para 18). It states that police and prosecutorial discretion are cornerstones of the criminal justice system and permeate the process from the initial investigation to the conclusion of a trial, and courts will generally not interfere with this discretion (*Ochapowace First Nation v Canada (Attorney General)* (F.C.), 2007 FC 920 [*Ochapowace*] at paras 40-42). It cites case law which states that police cannot be directed how to investigate or whether to bring charges (*Campbell* at para 33; *Ochapowace* at paras 45-46).

[202] The RCMP also relies on the specific findings in *Watkin* relating to enforcement activities to argue that the Tribunal does not have the jurisdiction to consider this complaint. It notes that, in *Watkin*, the Federal Court of Appeal found that Health Canada’s enforcement of the *Food and Drugs Act* was not a service within the meaning of section 5 of the CHRA, with the Court stating: “The actions in question are coercive measures intended to ensure compliance. The fact that these measures are undertaken in the public interest does not make them ‘services’” (at para 22). The Federal Court of Appeal determined that the enforcement actions in that case were not services, as they were not held out or offered to the public in any sense and were not the result of a process that takes place in the context of a public relationship (at para 31, relying on *Gould* at paras 55 and 16).

[203] In response to the RCMP’s argument that some of its discretionary decisions do not constitute the provision of a service under the CHRA because the police carry out those functions on behalf of all Canadians, the Complainants argue that every Canadian expects to receive the protection of the law and have it enforced by the police. They argue that, if police use discriminatory methods that deny access to investigations, whatever the outcome, to a class of Canadians, then those Canadians have been denied a service customarily available to the public and deserve to have that rectified.

[204] In its reply to the RCMP's submissions on *Watkin*, the Commission argues that, unlike in *Watkin*, in the present case there is a different qualitative relationship and a benefit at stake beyond the general public good. In *Watkin*, the complainant was a shareholder in a corporation that was the target of law enforcement sanctions whereas in this case, the Complainants are First Nations individuals who came forward to say they had been the victims of conduct deserving of criminal sanction. The Commission says the Complainants here have a very different relationship to the RCMP than the complainant in *Watkin* had to Health Canada.

[205] The Commission also says the present case is more akin to *Canada (Attorney General) v Davis*, 2013 FC 40, where the Federal Court, on judicial review, agreed with the Tribunal's conclusion that the enforcement activities undertaken by the CBSA were "services" because they were done in the context of a public relationship where an individual had come forward to the CBSA seeking a benefit only it could provide. The Commission says these comments from the Tribunal's decision in *Davis v Canada Border Services Agency*, 2011 CHRT 18 are noteworthy:

[24] Overarching the foregoing is a basic public interest in CBSA activities. Canadians depend on CBSA officers to facilitate entry to Canada of all legitimate travellers while at the same time screening out undesirables. **CBSA is perceived to be, and is expected to conduct itself, as an adjunct service to police services. Both services are involved in maintaining peace and order in Canada. There is a significant degree of similarity in their function.** [emphasis added]

[206] To the extent that the RCMP is arguing that *Watkin* stands for the premise that all enforcement actions taken by a respondent are not services, I respectfully disagree. The Federal Court of Appeal in *Watkin* was clear that it found the enforcement actions in issue *in that particular case* were not services within the meaning of section 5 of the CHRA (at para 31).

[207] In *Watkin*, a shareholder in a company that marketed and sold herbal products intended for human and animal consumption filed a complaint alleging that Health Canada gave preferential treatment to Asian and First Nations businesses by regulating their herbal remedies less rigorously than it regulated products sold by non-Asian and non-First Nations

vendors. The specific impugned activities at issue in that case included Health Canada's request that the complainant's company cease advertising and selling certain products, followed by its recall and subsequent seizure of the products in question.

[208] I agree with the Commission that the facts of *Watkin* distinguish the "service" question in that case from the present case. The relationship between the Complainants and the RCMP is also qualitatively different than that of the parties in *Watkin*.

[209] The actions of the RCMP in receiving the Complainants' allegations, interacting with them, and investigating the allegations of historical crimes against children, as reported by the Complainants and some of their witnesses, is clearly a different type of activity from enforcing the *Food and Drugs Act* against a company that was not acting in compliance with the legislation. The investigation conducted by the RCMP in this case could not similarly be described as "coercive measures intended to ensure compliance" (*Watkin* at para 22), even though it is a core law enforcement function. By investigating their allegations of abuse, the RCMP was not enforcing any law against the Complainants or their witnesses.

[210] Furthermore, the Complainants have asked the Tribunal to inquire into the RCMP's interactions with them, including its methods, policies and practices for conducting investigations into allegations made by Indigenous people, as opposed to the RCMP's decision whether to charge A.B. The Complainants here sought access to a procedure open to anyone – reporting an alleged crime – and fair treatment within the investigation that ensued. In contrast, the complainant in *Watkin* was a target of enforcement measures.

[211] With regard to the RCMP's argument that police independence means that criminal investigations are not a service to the public, I would note that conducting its investigations in compliance with the CHRA is not contrary to the three pillars of police independence.

[212] The RCMP's main concern is that the police answer to the law alone and cannot be directed whom to investigate, how to investigate, or whether to lay charges. The CHRA is part of "the law" to which the RCMP is answerable. In acting within these three pillars of police independence, the RCMP cannot and does not act with impunity and without oversight. Indeed, as the RCMP points out, its investigations are subject to review by the CRCC, which can consider issues of "bias" or "favouritism" on prohibited grounds of

discrimination under the CHRA. I do not agree that investigating allegations of abuse made by Indigenous crime complaints in a non-discriminatory manner is contrary to or interferes with police independence.

[213] I agree with the Complainants that the HRTO case of *Jakibchuk v Toronto Police Services Board*, 2024 HRTO 376, relied upon by the RCMP, is not compelling authority for the principle that police independence means police investigations are not subject to scrutiny under human rights legislation. In that case, the HRTO was dealing with a motion to add a remedy - an order compelling police to reopen a concluded investigation - not considering whether an investigation is a service. There was no analysis of whether the complainant was entitled to or denied a service of the kind alleged in this case.

[214] With regard to the RCMP's argument that tort law principles apply to the consideration of whether it is offering a service customarily available to the general public when investigating crime, there is simply no precedent for such an argument. No one is suggesting in this case that the RCMP owes a private duty of care to victims with regard to their investigations. As the RCMP points out, police owe a duty to the public to carry out impartial and competent criminal investigations. No one is disputing this. The issue is rather the RCMP's legal obligation to not discriminate when it conducts such investigations for the benefit of the public. If it fails to do so, it must be held accountable for its actions pursuant to the law. The Complainants are part of the general public to whom this duty is owed.

[215] Finally, I do not agree with the RCMP that the existence of the CRCC leads to the conclusion that police investigations are not services pursuant to section 5 of the CHRA. If anything, it shows that police investigations can be reviewed by an independent body, which can consider issues of discrimination. The fact that the CRCC reviewed one of the investigations at issue in this complaint (Corporal Mackie's investigation of Ms. Abraham's complaint against A.B.) does not mean the Tribunal cannot also review the RCMP's investigations using a human rights lens. The CRCC complaint was made by Ms. Robinson, not by the Complainants. The CRCC did not consider whether racial stereotypes were a factor in the decisions made in the investigation, even though this was alleged by Ms. Robinson, nor did it consider the CHRA.

Conclusion

[216] I agree with the Commission that a criminal investigation – i.e. when the RCMP receives from the public allegations of criminal activity, implements policies or practices and trains its staff around how to interact with the public in this setting, and investigates - is the type of service the public expects and relies on police forces like the RCMP to carry out in a non-discriminatory manner.

[217] In general, someone wishing to access such a service from the police would be a member of the general public who believes they have been the victim of a crime and who is seeking some form of criminal justice. In the context of this specific complaint, the criminal complainants are all Indigenous, but any member of the public can bring allegations of criminal activity to the RCMP (or relevant police force in a particular jurisdiction). In northern BC it is generally the local communities who receive the benefit, including Indigenous crime complainants, but the RCMP holds out the benefit of access to, and fair treatment during, investigations by its officers to all members of the general public.

[218] The Complainants in this case allege that they were seeking something of benefit to themselves and to other students of Immaculata and Prince George College at the time that A.B. taught there and who experienced or witnessed abuse as children: substantively equal treatment when reporting alleged crimes and interacting with the RCMP during the investigations, so that the investigation of these alleged historical crimes against Indigenous children could be properly evaluated. The RCMP's policies and practices around the receipt and investigation of such allegations are a benefit to those reporting criminal allegations. It offers this service to any member of the public wishing to report criminal allegations. The principle of police independence does not prevent these interactions from taking place in a public relationship. It was in this context that the Complainants and their witnesses came in contact with RCMP officers from Burns Lake and Prince George and the events that ensued took place in the context of a public relationship, as contemplated by the CHRA, *Gould* and *Watkin*.

[219] I find that the requirement at paragraph 31 of *Watkin* that “something of benefit” be “‘held out’ as services” and “offered to the public” has clearly been satisfied based on the record of this case.

[220] The service at issue in this analysis is receiving and investigating criminal allegations, including policies and practices that guide RCMP interactions with members of the public and excluding recommendations to charge. The RCMP is the service provider and is, in fact, the only organization that can provide this service in this particular case, given the location of the parties, which is within the RCMP’s jurisdiction as the provincial police force in BC. The Indigenous crime complainants in northern BC who were seeking the benefit of a proper investigation of their allegations of abuse are members of the general public to whom the RCMP offers this service. The RCMP extends or holds out this service to the public, which establishes the requisite public relationship between them.

(iii) Were the Complainants treated in an adverse differential manner when being provided a service or were they denied a service?

[221] In this section, I determine, in accordance with the second part of the *prima facie* test, whether the Complainants have proven on a balance of probabilities that the RCMP’s investigations had an adverse differential impact on them and their witnesses or that the RCMP denied them this service.

RCMP conduct that the Complainants say constituted adverse differential treatment or a denial of service

[222] The Complainants’ general view is that the RCMP’s investigations were inadequate and that they were treated unfavourably by the RCMP in the course of its investigations. In their Closing Submissions, the Complainants submit that the evidence called at the hearing supports the assertions made in their Statement of Particulars that the RCMP’s traditional investigative methods failed to meet the needs of the Indigenous victims of abuse and were executed with biased attitudes. They also submit that the RCMP failed in its obligation to modify its traditional practices to meet Indigenous peoples’ cultural needs, an obligation arising from the known distrust of the RCMP by Indigenous peoples. They say the case also

demonstrates how the RCMP's bias in favour of a powerful non-Indigenous individual served to exacerbate the inadequacy of the investigation.

[223] Examples of the RCMP's traditional investigative methods that allegedly resulted in adverse treatment or harm to the Indigenous crime complainants include: the failure to obtain production orders for records from the diocese and affidavits from the Georgia Straight; failing to expeditiously contact all individuals who had provided affidavits or statements to Ms. Robinson or made public statements; failing to offer supports to most of the victims who reported abuse; failing to report back to individuals who were interviewed about the outcome of the investigation; and, failing to follow up on information provided by those who made statements, including allegations of abuse at Prince George College.

[224] The Complainants also say requiring Indigenous crime complainants to initiate contact with the RCMP despite their known distrust of the police was an example of the RCMP's failure to modify its traditional investigative practices to meet their cultural needs.

[225] In addition to the above examples of adverse treatment, the Complainants say that the RCMP demonstrated discrimination against them and their witnesses through its attitude toward Ms. Robinson by speculating that she had manipulated Indigenous people to report childhood abuse. They also say that dismissing allegations of childhood physical abuse as justified correction by teachers pursuant to section 43 of the *Criminal Code* was incorrect and based on bias against Indigenous students.

[226] The Complainants say that the deficiencies in the RCMP's investigative methods resulted in adverse impacts on the Indigenous crime complainants, many of whom felt disbelieved and dehumanized, believing that what they reported was not important.

[227] The Commission submits that it is clear that the investigations fell below the standard of a normal investigation.

[228] The RCMP's position is that the Tribunal may only consider evidence related to the six Complainants and, if the complaint is substantiated, then only the Complainants would be entitled to compensation. However, it has been clear from the outset of this complaint that the Complainants allege systemic discrimination, both in the sense that the RCMP's

policies or practices create barriers for a protected group of individuals and that the alleged discrimination affected more than one individual (and in this case, more than the six named Complainants). I acknowledged this in a Ruling agreeing to admit Dr. Milward's expert evidence (see *Woodgate et al v RCMP*, 2023 CHRT 9 at paras 16-18).

[229] In addition, the Complainants have been clear since filing their Statement of Particulars that they are seeking public interest remedies and personal remedies for every Indigenous person who was abused while attending Immaculata school or Prince George College. The Complainants argue that the Tribunal should look at the alleged unfavourable treatment experienced by all of the witnesses, not just the Complainants.

[230] The RCMP called its own evidence that relates to the systemic aspects of the Complainants' case, including the public interest remedies sought by the Complainants. The Tribunal agreed to allow the Complainants to reopen their case and call further evidence relating to this public interest remedy and agreed to allow the Attorney General of BC to be added as an interested party in relation to this public interest remedy, well into the hearing of the evidence. Contrary to its submissions, the RCMP investigations at issue in this complaint are not "limited to the experience of six individuals".

[231] The Tribunal agrees that it should consider all of the evidence before it related to the alleged discrimination against the Complainants and their witnesses. I do not agree that to do so is unfair or prejudicial to the RCMP, as it had many years notice that this was the Complainants' position and it had the opportunity to respond to all of the allegations of discrimination throughout this inquiry. I deal with the issue of who compensation should be awarded to in the Remedies section.

[232] Relying on the examples or "themes" of discrimination set out in the Complainants' Statement of Particulars, which they submit are substantiated by the evidence, I consider whether the following conduct by the RCMP resulted in adverse treatment or harm to the Complainants and their witnesses or to a denial of service.

(a) RCMP's conduct that resulted in not all victims or potential victims of abuse being contacted by the RCMP

[233] Several of the Complainants' allegations of discrimination relate to their view that the RCMP's investigative methods resulted in certain information not being obtained and victims or witnesses of abuse not being contacted as part of the investigations. Specifically, they allege that the RCMP did not expeditiously contact all individuals who provided statements to Ms. Robinson or to the media, that it did not obtain production orders to acquire records from Ms. Robinson or from the diocese relating to its schools in northern BC, and that it required Indigenous crime complainants to initiate contact with the RCMP despite their known distrust of the RCMP.

[234] The Complainants say many witnesses were never interviewed or lengthy delays elapsed before they were interviewed. They say the evidence supports their assertion of adverse treatment or harm by the RCMP in relation to these allegations.

[235] Dorothy Williams testified that, although she had provided a statement to Ms. Robinson in November of 2012, and an excerpt of this statement was included in Ms. Robinson's Response to A.B.'s civil action, which the RCMP obtained in January of 2013, she was never contacted by the RCMP. She said that, while she did not know what Ms. Robinson would do with her statement, she hoped that, when the allegations of abuse at Immaculata became public, the RCMP would find her and other former students, but that she did not go to the RCMP herself with her allegations as she was fearful of the police and felt they were racist towards Indigenous people. In the Complainants' Reply to Final Submissions, they submit that Dorothy Williams "believed the lack of police investigation into the abuse she suffered was related to her race and it caused her great disappointment. That together with her inability to access the criminal justice system were adverse impacts she suffered."

[236] In addition to Ms. Williams, the Complainants say there were two other witnesses who were never contacted or interviewed even though the RCMP had their names via statements provided to Ms. Robinson and obtained by the RCMP, and the RCMP could easily have found them: Ronnie Matthew West and Paul Joseph.

[237] As noted in the Facts section above, Ronnie Matthew West is the brother of Cathy Woodgate and he provided an affidavit to the Georgia Straight in May of 2012, which was obtained by the RCMP in October of 2012. The RCMP mistakenly interviewed a different Ronnie West, who was actually Ms. Abraham's brother. Ronnie Matthew West's evidence was that, even though he had given Ms. Robinson an affidavit about abuse that he was aware of at Immaculata school, he did not reach out to the RCMP when they were investigating, saying it was their job to come to him. He told the Commission's investigator that, because he had given his affidavit to Ms. Robinson, he understood it would be provided to the police to follow up on. He expressed distrust of the RCMP and the justice system for the way it treats Indigenous people. The Complainants submit that, because Mr. West was not interviewed by the RCMP, it did not receive potentially valuable witness information about the abuse of his sisters and D.M. The implied adverse treatment or harm to Mr. West is that he was ignored or not heard by the RCMP with respect to information he had about abuse of students at Immaculata, even though he did not experience any abuse himself. There is a further implication of harm to Ms. Woodgate and to D.M., in that Mr. West's information relating to their abuse at Immaculata was not considered by the RCMP.

[238] Although D.M.'s name was included in the K Division review (he was referenced in Ms. Robinson's Response to A.B.'s civil action), the RCMP did not speak to him as part of the spinoff investigation. In a file summary report prepared by Constable Hanley about the spinoff investigation, she indicated that D.M. was not contacted as part of this investigation because he had filed his own civil action against A.B. at the time. D.M. did not provide evidence at the hearing, although his statement to Ms. Robinson was read into the record.

[239] Ms. Woodgate was interviewed by Corporal Mackie in October of 2012. At the time Corporal Mackie was investigating Ms. Abraham's allegations and Ms. Woodgate did not have information relating to that. She spoke to him about the information in her affidavit instead. Her name was not transferred to the spinoff investigation. She told the Commission's investigator that she did not think that the abuse she reported was taken seriously by the RCMP. The implied adverse treatment or harm to Ms. Woodgate is that she was ignored or not heard by the RCMP with respect to the abuse she experienced at Immaculata.

[240] Paul Joseph also testified at the hearing. He is the brother of Maurice Joseph. Paul Joseph was referred to in the affidavit of his brother Maurice that was provided to Ms. Robinson in May of 2012 and obtained by the RCMP in October of 2012. Paul Joseph was also quoted in Ms. Robinson's September 2012 Georgia Straight article about the abuse he experienced from A.B. He is also mentioned in Ms. Robinson's Response to A.B.'s civil action but was not included in the K Division list of people to be interviewed so he was not included in the spinoff investigation. The Complainants suggest that, because Corporal Mackie read the Georgia Straight article, he should have interviewed Paul Joseph. Mr. Joseph testified that he believes the RCMP do not care about Indigenous people and would not listen to him, which is why he did not report the abuse to them. The implied adverse treatment or harm to Paul Joseph is that he was ignored or not heard by the RCMP with respect to the abuse he experienced at Immaculata.

[241] Also, Wilf Adam, who is the former Chief of the Lake Babine Nation, had given an interview to the Canadian Press in September of 2012 about the abuse he experienced and witnessed by A.B. at both Immaculata school and Prince George College. He described A.B. as being more brutal than other teachers. The Complainants say that, despite his comments in a nationwide story, the RCMP did not interview him. Like other witnesses at the hearing, former Chief Adam testified that Indigenous people in northern BC are not served adequately by the RCMP as victims of crime, both in relation to the allegations of abuse by A.B. and also with regard to missing and murdered Indigenous women and girls, but are over-policed in other areas, for example, in relation to pipeline protests. The implied adverse treatment or harm to Mr. Adam is that he was ignored or not heard by the RCMP with respect to information he had about abuse of students at Immaculata and Prince George College, including himself.

[242] Related to the allegation that the RCMP did not reach out to certain people who could easily be identified through publicly available sources such as the media or Ms. Robinson's Response to A.B.'s civil action (or, in Mr. West's case, his affidavit that was obtained by the RCMP in October of 2012) is the allegation that the RCMP did not obtain production orders for diocese files containing class lists, hostel lists and information about teachers and the years they taught at various Catholic schools in northern BC. The Complainants say in their

Statement of Particulars that such information would have significantly improved the RCMP's information about the time period of the abuse, which was so long ago.

[243] The Complainants allege that, without the benefit of teachers' records of employment from the diocese, Corporal Mackie relied on incorrect information as part of his investigation into Ms. Abraham's allegations. They say that Corporal Mackie was told by someone who worked at the diocese that one of Ms. Abraham's alleged abusers, who I will refer to as "D.J.", was not a teacher at Immaculata at the time that Ms. Abraham attended.

[244] Related to the above allegations, the Complainants suggest that the RCMP should not have required Indigenous crime complainants to initiate contact with the RCMP but instead should have reached out to individuals who were former students at Immaculata or Prince George College and possibly other diocese schools by using class lists or other information obtained via production order, or based on their statements made in affidavits provided at Ms. Robinson's request for the Georgia Straight, or through publicly available statements to the media, or Ms. Robinson's Response to A.B.'s civil action. They say that this was an obligation on the RCMP's part to modify its traditional investigative methods to take into account the known distrust of the RCMP by the Indigenous community.

[245] The Complainants state in their Statement of Particulars that the result of requiring crime complainants to initiate contact with the RCMP was that many Indigenous individuals who experienced abuse as students at Immaculata, Prince George College or other diocese schools did not have an opportunity to access justice for the harm they suffered.

[246] The evidence before the Tribunal does not show that the RCMP *requires* Indigenous people or anyone else to initiate contact with the RCMP in order for a criminal investigation to be commenced. Staff Sergeant Baldinger's evidence was that there are various ways in which a criminal investigation may be initiated by the police, including by attending at a detachment to report a crime, calling 911, or through a witness account where the victim has not come forward yet. Corporal Mackie agreed that the police can learn about alleged crimes through publicly available information such as the media and through information filed in civil court and may follow up on these allegations, which was done in this case.

[247] With regard to the allegation that the RCMP required the Indigenous crime complainants in this case to initiate contact with the RCMP despite their known distrust of the RCMP, there is little evidence before the Tribunal that this occurred in this case.

[248] The evidence shows that, of the nearly 40 witnesses spoken to by the RCMP in relation to these investigations, only one person reported abuse by initiating contact with the RCMP: Ms. Abraham. While Ms. Woodgate attended at the Burns Lake detachment to speak to Corporal Mackie, she was contacted by him because he had obtained her affidavit from the Georgia Straight. All of the other witnesses who were spoken to were contacted by the RCMP and their names had been brought to the RCMP's attention in various ways: by Ms. Abraham in the course of investigating her allegations of abuse; through the affidavits obtained from the Georgia Straight; and through Ms. Robinson's Response to A.B.'s civil action which was obtained by Corporal Mackie as part of his investigation and was also reviewed by K Division in conducting its review of Corporal Mackie's investigation.

[249] The evidence shows that the RCMP did reach out to most of those who were named publicly by Ms. Robinson through her Georgia Straight article and her Response to A.B.'s civil action. Corporal Mackie tried to follow up with everyone Ms. Abraham named, even if some did not want to speak to the police for various reasons. The RCMP's investigation file shows that Constables Hanley and Cox made efforts to track down people they could not easily find, by reaching out to other detachments for assistance in locating and sometimes interviewing people. The RCMP file also shows the extensive efforts they made to locate and take a statement from someone who had had a stroke and was in hospital, speaking with the medical staff and an Indigenous liaison worker at the hospital to ensure they heard his story.

[250] The Complainants called expert evidence from Dr. David Milgard about the historical distrust of the RCMP by Indigenous people, including in Northern BC, and I accept that evidence, which reflected the evidence I heard from the witnesses at the hearing who testified about their own fear and distrust and resentment of the RCMP. The evidence before the Tribunal was also that most of these same witnesses had willingly spoken to the RCMP about the abuse they experienced when they were contacted by them or that they expected

the RCMP to reach out to them because it was their job to investigate allegations of abuse of children.

[251] It does appear that certain people were missed in K Division's review, including Dorothy Williams, Paul Joseph, Wilf Adam and Ronnie Matthew West. Paul Joseph was mentioned in his brother Maurice's affidavit as well as Ms. Robinson's Georgia Straight article and Response to A.B.'s civil action, and Wilf Adam was quoted in a publicly available media article where he discussed abuse at Immaculata. Corporal Mackie's evidence was that he did review Ronnie Matthew West's affidavit and, both because he was investigating Ms. Abraham's allegations of abuse and Mr. West indicated he had not experienced abuse himself, he did not follow up with him. Also, Ms. Woodgate's name was not transferred to the spinoff investigation after she spoke to Corporal Mackie in October of 2012 and, although his name was listed in the K Division review, D.M. was not spoken to by the RCMP.

[252] In addition to these witnesses not being contacted or followed up with as part of the RCMP's investigations, the Complainants suggest in their Statement of Particulars that the RCMP should have reached out to all former students of Immaculata, Prince George College and other diocese schools by using class lists, publicly available witness statements, and by following up with individuals named by witnesses. They say in their Statement of Particulars that the result of requiring complainants to initiate contact with the RCMP was that many Indigenous individuals who experienced abuse as students at Immaculata, Prince George College or other diocese schools did not have an opportunity to access justice for the harm they suffered. The implication here is that there are many unidentified people who experienced harm by not being included in the RCMP's investigation, not only at Immaculata and Prince George College, but also at other schools that were operated by the Prince George diocese in the 1960s and 1970s. However, no evidence was provided about abuse at other schools besides Immaculata and Prince George College. Nor was there evidence that there were other students of Immaculata or Prince George College who wanted the RCMP to interview them about abuse but did not, aside from those named above. There was, however, evidence that the RCMP reached out to some people Ms. Robinson had spoken to and they did not want to speak to the officers, which was respected.

[253] The suggestion that the RCMP should have obtained class lists and reached out to other potential victims of abuse at schools in northern BC who had not already come forward to Ms. Robinson or the RCMP during this time relates to the Complainants' view that the scope of the RCMP's investigation should have been broadened. Ms. Robinson testified that, following the release of her article in the Georgia Straight in September of 2012, more people contacted her or the Georgia Straight with allegations of abuse by A.B. when they were at school. She said that, on October 15, 2012, she spoke to Corporal Mackie on the phone and asked him if he had gone to the remote communities and villages to speak to people about whether they had experienced abuse at school and he responded that they could call him if they wanted to tell their story. The RCMP file, entered into evidence, shows that the RCMP was of the view that, due to the widespread media coverage of the allegations of abuse by A.B., anyone who had experienced abuse would have known to reach out to the RCMP to report if they wanted to.

[254] The Complainants suggest in their Statement of Particulars that the RCMP's investigation should have looked more like an investigation conducted by the Calgary Police Service involving a hockey player who was abused by his coach. However, the former Calgary police officer called as a witness by the Complainants who had worked on that investigation testified that, in that case his investigation started with a complaint made to police by the victim and that it was centered around teams the victim had been on with the accused coach over the years. They did not seek out and contact every player who had been coached by the accused over the course of his career. This approach is supported by other evidence before the Tribunal.

[255] RCMP Staff Sergeant Baldinger testified that a trauma-informed approach to investigations allows a victim to come to the police to report when they are ready, not when it is convenient for the police or anyone else. He stressed the importance of relying on the person to make an informed decision before making a statement about a traumatizing event. Dr. Haskell's expert evidence in relation to conducting trauma-informed investigations, which I discuss in more detail in the next section, does not contradict this approach. Further evidence that supports a victim-centered approach to criminal investigations came from the RCMP's E Division Operations Manual document on Native Indian Residential School

(NIRS) Investigations, dated October 23, 2012. The document indicates that the NIRS Task Force was disbanded after investigations into all known allegations of abuse at residential schools in BC were concluded but provides guidance for detachment investigators investigating new allegations relating to residential schools. The document indicates that, in dealing with the “cross-cultural, multi generational abuse” present at residential schools, a Protocol was developed that defined such investigations as “victim driven” and incorporated terms that respected the wishes of victims to choose whether or not to participate in a criminal investigation. The Protocol limited the steps RCMP members could take when conducting residential school investigations. Features of the Protocol include taking a statement from any person wishing to provide one regardless of the merits of the allegation and not approaching any potential victims identified during the course of an investigation unless that person has initiated contact with the police. The Protocol also includes a requirement that a victim who wishes to make a disclosure in relation to a residential school would receive information about the availability of counseling and other victim support services offered through the IRSSS, with whom the NIRS Task Force worked closely. The IRSSS is the same organization that provided support services to witnesses and observers during the Tribunal’s hearing.

[256] The evidence before the Tribunal is that the NIRS Investigation Protocol was not used in the investigations at issue in this case because Immaculata was not a residential school. The document was introduced by the Complainants to show how the RCMP investigated allegations of abuse at residential schools, and to question why they did not proceed in a similar way with this investigation.

[257] Both the RCMP file and witness testimony shows that several people who had agreed to tell their story of abuse at school to the journalist Ms. Robinson because they wanted their stories to be heard, declined to speak to the police, and the police respected their choice not to talk to them. This included the Complainant Ann Tom. Pius Charlie’s evidence at the hearing was that it was traumatic to revisit the abuse from his childhood at Immaculata and the racism he experienced as a First Nations person in Burns Lake at the time and that he just wants to move on with his life and not revisit this traumatic time.

[258] I appreciate the Complainants' viewpoint may be that there are Indigenous people in northern BC who live in remote communities who may have experienced abuse but, due to their fear or mistrust of the police, they would not approach the police. However, there was simply no evidence about specific individuals or experiences provided to support this. The evidence of the Complainants' expert witnesses about mistrust of the RCMP leading to a reluctance to report crime and the witness testimony at the Tribunal do not provide sufficient connection to the RCMP investigations at issue in this case to support the required inference. As such, I cannot find that there was harm or adverse treatment or a denial of service to any unnamed or unidentified former students of these schools.

[259] The Tribunal must evaluate the harm or adverse treatment that resulted from the RCMP's conduct of its investigations or determine that there was a denial of the service of an investigation, and the Complainants have the burden of proving this on a balance of probabilities. The Complainants imply that they and their witnesses were harmed by the lack of further witness accounts which led to an incomplete or inadequate RCMP investigation with a limited scope due to the failure to obtain production orders and to reach out to people who did not come forward about abuse.

[260] However, the evidence does not support a finding that the Complainants or their witnesses were treated in an adverse differential manner or denied a service because the RCMP did not obtain the diocese files or class lists or proactively reach out to others who were not identified by Ms. Robinson or through its investigations. I appreciate their disappointment that the scope of the investigations was not broader, but I cannot find that the failure to broaden the investigations to include all students at every school A.B. may have taught at or every school run by the Prince George diocese constitutes adverse differential treatment or a denial of a service to the Complainants or their witnesses. To do so would require speculation that a broadening of the investigations would have resulted in more and better evidence that would somehow support their own allegations. It would be inappropriate for the Tribunal to speculate in this way when there is no evidence to make such an inference.

[261] The Complainants also allege that the RCMP should have obtained a production order for the eight affidavits that had been provided to the Georgia Straight when Ms.

Robinson was writing her story for the newspaper. The Complainants say no reason was apparent for the failure to obtain production orders other than lack of effort. I note, however, that these affidavits were obtained by Corporal Mackie from the Georgia Straight in October of 2012, within two months of learning about them and that his evidence was that he was in the process of applying for production orders from the court when he received them from the Georgia Straight. Corporal Mackie testified that, as Ms. Robinson would not provide the names of the people who had given her the affidavits, he asked her to have these people contact him so he could speak to them, until he was able to obtain the affidavits.

[262] While the Complainants suggest it took too long for Corporal Mackie to obtain the affidavits, the evidence shows that the RCMP did not consider the investigations to be urgent, given the number of years that had passed since the abuse had occurred. However, the evidence also shows that the investigations were a priority for the RCMP and that Corporal Mackie and later Constables Hanley and Cox were diligently engaged with the investigations, even though they were working on other investigations at the same time.

[263] While the Complainants suggest that the investigations were negatively affected by the fact that the affidavits given to the Georgia Straight were not received quickly enough and witnesses were not interviewed early enough in the investigations by the RCMP, the Tribunal was not presented with evidence of harm to the Complainants or their witnesses as a result of either this delay or the failure to actually obtain production orders for the affidavits.

[264] Finally, with respect to the allegation that Dorothy Williams, Ronnie Matthew West, Cathy Woodgate, Paul Joseph and Wilf Adam experienced adverse treatment by not being contacted by the RCMP as part of the spinoff investigation, while I appreciate that these individuals may have felt subjectively harmed by this, the Tribunal must also find there to be an objective basis in the evidence for a finding of adverse treatment by the RCMP. This is supported by Supreme Court of Canada jurisprudence relating to the *Charter of Rights and Freedoms*. For example, in *Law v Canada (Minister of Employment and Immigration)*, 1999 CanLII 675 (SCC), [1999] 1 SCR 497 [*Law*], the Supreme Court, relying on paragraph 56 of *Egan v Canada*, 1995 CanLII 98 (SCC), [1995] 2 S.C.R. 513 [*Egan*], stated that “the focus of the discrimination inquiry is both subjective and objective” (at para 59). The Supreme

Court in *Law* noted that the “objective component means that it is not sufficient, in order to ground a s. 15(1) claim, for a claimant simply to assert, without more, that his or her dignity has been adversely affected by a law” (at para 59). I accept that the same objective element must be present in cases argued under the CHRA.

[265] Ms. Woodgate had already reported her allegations of abuse to the RCMP when she spoke to Corporal Mackie. Corporal Mackie had contacted her as part of his investigation into Ms. Abraham’s complaint, but Ms. Woodgate wanted to talk to him about the affidavit she had provided to Ms. Robinson, relating to her own allegations of abuse at Immaculata. I accept that, for Ms. Woodgate, the harm came from either not hearing back from the RCMP as to what came of her reporting, or from Corporal Mackie not advising her that she could report her allegations of abuse separately from the investigation he was conducting into Ms. Abraham’s allegations of abuse. I address both of these issues later in the decision.

[266] Dorothy Williams, Ronnie Matthew West, Paul Joseph and Wilf Adam all agreed to speak to journalists about abuse they experienced or witnessed. While they may have hoped or expected the RCMP to reach out to them as a result of their statements to others, and their names may have been missed by the K Division Review, I cannot find on an objective basis that this was adverse treatment by the RCMP.

[267] The evidence before the Tribunal indicates that a victim-centered approach to investigating crime should respect one’s choice about whether to come forward to the police with criminal allegations. The RCMP’s NIRS Protocol, utilized for the investigation of abuse at residential schools in BC, says that the RCMP should not approach a potential victim identified during the course of an investigation unless that person has initiated contact with the police. In the present case, Dorothy Williams, Ronnie Matthew West, and Wilf Adam were not identified during the course of the investigation. Rather, they were named in a media article and/or a document filed in a civil action involving A.B. and Ms. Robinson.

[268] Dr. Haskell’s evidence about conducting trauma-informed investigations does not contradict the RCMP’s victim-centered approach to investigations. Her evidence was general, not addressing the specific allegations in this case and related mainly to how the police should treat people who have reported a crime to them. She testified about trauma-

informed investigative practices that help to put criminal complainants at ease during the investigation process. The evidence before the Tribunal is that the RCMP did conduct its interviews in a way that allowed those who wished to speak to them the opportunity to do so at that their own pace.

[269] The fact that some people were approached as part of the spinoff investigation, which arose in the unusual circumstances of this case where media reports and civil cases were happening in the background of the RCMP's investigation of Ms. Abraham's allegations, does not mean that the RCMP's failure to approach every person who had spoken to Ms. Robinson or to other journalists or who were named by others in affidavits provided to the Georgia Straight, amounts to adverse treatment or denial of a service. Such a conclusion would put the RCMP in the unreasonable position of having to intuit who might want to speak to them, when the trauma-informed, victim-centered approach is to respect the agency of victims to speak with the police or not.

[270] With respect to D.M., while I noted above that he was not interviewed as part of the RCMP's spinoff investigation, despite a recommendation by K Division to do so, because he had a civil action against A.B. in BC Supreme Court, the Tribunal did not receive evidence from D.M. that he wanted to be contacted by the RCMP as part of its investigation or that its failure to do so had an adverse impact on him. As such, I decline to find that he was treated adversely by the RCMP.

[271] Ultimately, if anyone who experienced abuse wishes to report it to the RCMP, including those who were not approached by the RCMP during its investigations in 2012-2014, they can do so at any time, and should expect to be treated in a trauma-informed and culturally respectful way. If they require accommodations to be able to access this service from the RCMP as Indigenous people, they can of course request these.

[272] Finally, with regard to the allegation that, during the investigation of Ms. Abraham's allegations of abuse at Immaculata, the RCMP did not obtain diocese records confirming whether and when D.J. taught at the school, Corporal Mackie's evidence was that he believed he had been given the correct information by the person who worked at the diocese and who had presumably checked the records to provide him with this information, since his

notes say the person told him that, if D.J. had been in Burns Lake they should have a record of it and according to their records, someone with the same name worked in Prince George at the relevant time. Even if the information from the diocese was not correct, I do not find that failing to question the information he received from the diocese worker who said they had checked their records and not taking further steps to obtain the records through a judicial order amounts to adverse treatment of Ms. Abraham by the RCMP.

[273] With the exception of my comments relating to Cathy Woodgate, the Complainants have not proven on a balance of probabilities that the allegations set out in this section amount to adverse treatment or denial of a service by the RCMP.

(b) No offer of support or investigation updates to those who reported abuse to the RCMP

[274] In their Closing Submissions, the Complainants state that the RCMP's interaction with Indigenous witnesses often lacked basic investigation components such as offering them support or resources to assist witnesses with the abuse they reported or following up with witnesses regarding the outcome of their reports.

[275] Several witnesses testified that they were not offered support regarding the abuse they had disclosed to the RCMP, including Ruby Adam and Pius Charlie. Richard Perry, who had told the officers about being hit with a ruler with a spike in it and showed them scars from this, had also not been referred to any support relating to his disclosure of abuse. Corporal Mackie agreed he did not refer Cathy Woodgate to victim services when he interviewed her about the childhood abuse she experienced at Immaculata.

[276] Maurice Joseph testified that the RCMP asked him if he wanted to go for counselling and he said he did not. Ms. Abraham was referred to victim services. None of the Complainants or their witnesses testified that they wanted to be offered counselling by the RCMP.

[277] The evidence before the Tribunal is that, outside of the NIRS Investigation Protocol, the RCMP does not offer counselling to anyone they interview, but that they do offer access to victim services, which is delivered by the province, and there is legislation in BC requiring

that this be offered in some circumstances. There is some police discretion involved in the decision to refer someone to victim services.

[278] Several witnesses testified that they were also not provided with an update by the RCMP about the progress or outcome of the investigation into their allegations of abuse, including Maurice Joseph, Richard Perry, Ruby Adam and Pius Charlie. The evidence shows that Cathy Woodgate and Emma Williams were also not updated on the progress of the investigation into their abuse allegations.

[279] The RCMP witnesses agreed that the only person provided with an update about the outcome of the investigation was Ms. Abraham. Corporal Mackie spoke to her on the phone to explain why no charges were being recommended, and he sent her a letter advising her of this.

[280] The Complainants say that, because the RCMP officers did not report back to the individuals they interviewed to provide them with information about the outcome of the investigation, this left those who reported their abuse to the police in the dark about whether or not the investigation was complete, what the outcome was, and the reasons for the outcome.

[281] The evidence from the witnesses before the Tribunal is that they came forward to Ms. Robinson with their abuse allegations because they wanted something done about the way they and their classmates had been treated at school. They testified about mistrust of the RCMP as being a reason most had not reported the abuse to the RCMP independently.

[282] Dr. Milward gave expert testimony about historical and ongoing distrust of the RCMP by Indigenous peoples, stating that, leading up to 2012 in northern BC, Indigenous people had developed a negative social memory of the RCMP. Dr. Milward said this was based on not only the RCMP's historical role as agents of colonialism, but also more current issues such as missing and murdered Indigenous women and girls in the region and issues of abuse of Indigenous people, especially women, by the RCMP as reported by Human Rights Watch in its report called *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia*. Dr. Milward's report states that, in addition to negative social memory, Indigenous people in northern BC leading

up to 2012 would have experienced a loss of confidence in the RCMP, meaning they would not have felt confident that the RCMP would take their complaints seriously when reporting their own victimization. His report states that the RCMP would have been aware of the negative view that Indigenous people in northern BC held for them.

[283] The Tribunal heard evidence of this distrust of the RCMP at the hearing, including from Wilf Adam who questioned why there were so many RCMP officers dedicated to protecting pipelines in the region, while girls and women continued to go missing and be murdered in the area of the Highway of Tears. All of the Indigenous witnesses who testified at the hearing gave evidence about some level of distrust or fear of the RCMP, stemming from particular incidents from their childhoods or adult lives or a general belief that the RCMP is racist towards Indigenous people.

[284] In addition to Dr. Milward, the Complainants called expert evidence from Dr. Haskell who was qualified as an expert in the area of clinical psychology, specializing in the neurobiology of trauma and its impacts, including on individuals and vulnerable communities, and in the dynamics of revictimization. She was also qualified as an expert in trauma-informed approaches to mental health service delivery and legal responses. Dr. Haskell opined that, when police investigations are conducted poorly or dismissed without follow up in a situation where the complainant has a background of abuse, it causes psychological and emotional harm such as despair, hopelessness, anger and betrayal and that it impacts one's likelihood of going to the police with further criminal allegations because of the fear of being harmed or doubted or dismissed.

[285] The Tribunal heard evidence of this, for example from Peter Mueller. He testified that, although he was offered the opportunity to report his abuse at Prince George College to a Sergeant at his local detachment following his meeting with Constables Hanley and Cox in which they stopped the interview when he said he did not attend Immaculata, he did not bother because of the way he had been treated in the spinoff investigation.

[286] Sargeant Parks' evidence was that the RCMP did not announce publicly the conclusion of the investigations because doing so could dissuade someone from coming

forward. He said it is always a possibility that new information may come forward that could reopen the investigation.

[287] It appears to the Tribunal that, despite the way in which the spinoff investigation arose, each of the people interviewed by Constables Hanley and Cox as part of that investigation should have been considered as reporting crimes committed against them, even if they did not do so in the more traditional way of directly contacting the police. The same is true for Ms. Woodgate, Ms. Adam and Mr. Charlie, who reported their own abuse when they were interviewed by Corporal Mackie as part of his investigation into Ms. Abraham's allegations. As such, it also seems that they should have been entitled to know the outcome of the investigation into their own allegations, although not about the allegations made by others.

[288] There was little if any evidence that those interviewed by the police wanted to be offered access to victim services or counselling, or evidence of harm or adverse treatment from the RCMP's failure to do so. Dr. Haskell's evidence relating to police investigations into reports of childhood sexual abuse made by Indigenous people is that there are barriers to disclosure of such abuse, whether contemporary or historical, such as shame, fear of reprisal and mistrust of the police and that such disclosure may be even more difficult when the abuse was perpetrated by an authority figure like a teacher. Her report says that these barriers are compounded and exacerbated for Indigenous people for a variety of reasons such as colonialism and the resulting mistrust in authorities. As a result of this mistrust of the police, she says that it is important that the police respond appropriately to such reports of abuse, which is why a trauma-informed approach is important for receiving reports of child sexual abuse and conducting effective and skilled investigations into such reports. Her focus is not on offering counseling but on ensuring the person reporting the abuse is put at ease by having the investigator develop rapport with the witness, be patient and empathetic, and not rush or interrupt the witness, as this allows the witness to disclose the central details of the abuse. She says that, in order to maintain trust and participation, police should ensure victims remain informed of the status of their investigation and any final outcomes.

[289] The Tribunal's review of the police file, including recorded interviews, shows that all of the investigators did try to build rapport with the witnesses they were interviewing, that

they asked open-ended questions, and they allowed the witnesses to provide full answers without being rushed or interrupted. Although Ruby Adam testified that her recollection of her interview with Corporal Mackie was that he interrupted her and so she stopped talking, the police file, created at the time of the interview, indicates that she spoke to him for 30 minutes about her own allegations of abuse at Immaculata, and various other matters. For those who chose to report their abuse to the RCMP, the evidence shows that they did so willingly and often at length. I accept that Peter Mueller did not have the opportunity to do so because he indicated that he did not attend Immaculata, and I discuss this further below.

[290] Where the RCMP fell short with respect to the crime complainants they interviewed was in its failure to follow up with them. The Tribunal heard testimony from many witnesses who believed the RCMP had not conducted any investigation into their allegations of abuse, when the RCMP's file shows that this is not true. The RCMP did in fact engage in a lengthy investigation of the allegations of many people. The fact that they did not tell these people what their conclusion was, based on their evaluation of the evidence they received from them, clearly resulted in the belief that their allegations of abuse were not taken seriously. I find that there is evidence of harm or adverse treatment resulting from the RCMP's failure to follow up with Maurice Joseph, Richard Perry, and Emma Williams, who were all interviewed as part of the spinoff investigation, to let them know why charges were not being recommended in relation to the abuse they reported. I accept that this constituted adverse differential treatment in the course of the investigation.

[291] With regard to Ruby Adam, Pius Charlie and Cathy Woodgate, they were all interviewed by Corporal Mackie as part of his investigation into Ms. Abraham's allegations but, in doing so, they reported their own allegations of abuse at Immaculata. For them, the harm or adverse treatment came from one or both of the following: the RCMP's failure to follow up with them to let them know why charges were not being recommended in relation to the abuse they reported; or, Corporal Mackie's failure to tell them that, while he was speaking to them as part of his investigation into Ms. Abraham's allegations, they could each report their own allegations of abuse separately to the RCMP. This second aspect is similar to the harm I find in relation to Peter Mueller in the next section.

(c) RCMP did not follow up on information relating to other alleged abusers or abuse at Prince George College

Other alleged abusers

[292] The Complainants say in their Statement of Particulars that allegations of abuse committed by individuals other than A.B. were not pursued, and allegations of abuse at Prince George College were not investigated.

[293] With regard to the allegation that the RCMP failed to follow up on allegations of abuse engaged in by others aside from A.B., I note that Ms. Abraham had mentioned being sexually abused by two other male staff at Immaculata school, D.J. and “Brother John”. I have already concluded above that I do not accept that Ms. Abraham experienced harm or adverse treatment by the RCMP as a result of Corporal Mackie not verifying the information he received from the diocese by way of a judicial order, when he had been told by the diocese worker that their records indicated D.J. did not teach in Burns Lake.

[294] With regard to Brother John, Ms. Abraham had told Corporal Mackie that she did not know his last name or what his job was at Immaculata, and that she believed he was deceased. While Corporal Mackie’s failure to look further into who this person was as recommended by the K Division review is referred to in the Complainants’ Statement of Particulars, they make no reference to it in their Closing Submissions and refer to no evidence of harm alleged by Ms. Abraham with respect to this failure to investigate further who this individual was. In light of this, I do not conclude that Corporal Mackie’s failure to look further into who Brother John was as recommended by K Division resulted in harm or adverse treatment to Ms. Abraham.

[295] With regard to the spinoff investigation, again while this allegation is not pursued by the Complainants in their Closing Submissions, I note that the RCMP’s evidence was that the investigators were considering other alleged abusers named by the complainants, in addition to A.B. There is documentation in the RCMP’s file stating that the investigation conducted by Constables Hanley and Cox was not limited to allegations of abuse by any one individual at Immaculata, as they wanted to obtain information about all of the school’s staff including teachers, nuns and priests. The Concluding Report for the spinoff

investigation states that few students were able to recall the names of the nuns who worked at Immaculata although some were named. The evidence also shows that the complainants reported that a number of the alleged abusers were deceased.

[296] The evidence before the Tribunal is that the allegations of abuse by others besides A.B. were considered in both investigations. However, the investigators concluded that the information provided to them by the witnesses they interviewed about their experiences of abuse was insufficient to recommend criminal charges.

[297] The conclusion of the investigators in the spinoff investigation was that all of the interviewees were taxed for memory recall, as the abuse had occurred over 40 years before, “so the exactitude of any one particular instance was impossible for them to describe to meet the threshold for criminal charges. Their recollections were void of details for time, place, identity of suspect, and any corroborating events that could possibly overcome these deficiencies.” Constable Hanley’s Concluding Report further states that the “events recounted by those interviewed were largely reminiscent in nature and lacked one or more sufficient details including offence times, suspect identification or a victim in order to substantiate a criminal charge today.” Corporal Mackie similarly concluded that, based upon inconsistencies in Ms. Abraham’s statements, lack of corroboration and credibility issues, the threshold to recommend charges was not met.

[298] The Complainants did not provide evidence of harm or adverse treatment related to any failure on the part of the RCMP to look into other abusers aside from A.B. in the spinoff investigation and, as such I make no finding of harm or adverse treatment in this regard.

Allegations related to Prince George College

[299] It is clear, however, that while the officers were not limiting their investigation to allegations of abuse by A.B. only, they were limiting it to allegations of abuse at Immaculata school.

[300] The Tribunal received evidence from Peter Mueller, who had given a statement to Ms. Robinson in October of 2012 and who had been interviewed as part of the spinoff investigation. The Complainants say that, despite having knowledge that he was alleging

serious physical abuse by A.B., as well as alleging that A.B. had sexually abused girls at Prince George College, with some even becoming pregnant and having to leave school, when he advised the RCMP that he did not attend Immaculata, they stopped the interview because the focus of the investigation was on students' experiences at Immaculata school. I note that the RCMP officers were working from a list of names and there is no indication that they had read his statement to Ms. Robinson and so were aware of the nature of the abuse he alleged or where it took place. However, he was not able to tell them about it because their investigation was limited to abuse at Immaculata and he had not attended that school.

[301] Mr. Mueller also testified that a Sergeant at the local detachment spoke to him sometime later and told him if he wanted to talk about anything he knew about A.B., he could do so, but he declined because he was disheartened by his experience in the spinoff investigation.

[302] The Tribunal also heard that Roddy Joseph, who died in March of 2021, had told Ms. Robinson in November of 2012 that A.B. had thrown a large medicine ball at his face when he was a student at Prince George College and knocked out a tooth. Part of his statement was included in Ms. Robinson's Response to A.B.'s civil claim, which Corporal Mackie had obtained in January of 2013. While the RCMP did try to speak to him, they initially located the wrong Roddy Joseph. They eventually found the correct person and he said he was unsure of whether he wanted to speak to the RCMP but would follow up with them if he decided to. The RCMP eventually concluded he was not interested in speaking to them.

[303] In addition, Audrey George was too ill to testify at the hearing but swore an affidavit saying the statement she had given to Ms. Robinson in January of 2013 was true and this was admitted into evidence. Her statement said that, when A.B. was her gym teacher at Prince George College, he had grabbed her crotch and, as she ran away from him, he ripped her shorts. The RCMP did meet with Ms. George to take a statement but their notes say that she advised that she wanted nothing to do with what was going on.

[304] In her cross-examination, Constable Hanley was asked why the scope of the spinoff investigation was limited to students at Immaculata when some of the students they were

tasked to interview had alleged abuse at Prince George College. Constable Hanley prefaced her answer to this question by saying that it is difficult to explain what was not known in 2012 without the advantage of hindsight. She said the investigation did not unfold in the usual manner, and that it was very challenging. She described a typical investigation as starting with a complaint or an event that narrows in focus as the investigational path moves along. However, this particular case did not follow that path and the expectations kept growing and so, in order to define the scope of the investigation more clearly, the decision was made to create a framework for the investigation in which they would interview the 21 people identified by K Division from Ms. Robinson's Response to A.B.'s civil claim, who they believed had attended Immaculata school. In her Concluding Report for the spinoff investigation, Constable Hanley stated that she "has observed a trend of witnesses identified as former students of Immaculata School who attended PG College (of which A.B. was a previous teacher) but who in fact did not attend Immaculata."

[305] I note that the K Division recommendations, where the list of names for the spinoff investigation came from, do not mention that some of the abuse occurred at Prince George College and up to this point the investigation had been focussed on Immaculata only.

[306] However, Staff Sergeant Baldinger testified that if, during an interview with a witness regarding a crime, that witness discloses having been a victim themselves, the proper way to proceed is to thank them for disclosing, say we will continue talking about the original investigation first, then strike a separate investigation for the new allegation. This was not done in this case and no reasonable explanation was provided by the RCMP as to why it did not further investigate allegations of abuse at Prince George College.

[307] As I noted above, Corporal Mackie similarly failed to tell Cathy Woodgate, Pius Charlie and Ruby Adam that he was investigating Ms. Abraham's allegations but that they could report their own allegations to the RCMP separately.

[308] I accept that Mr. Mueller experienced harm or a denial of service as a result of the RCMP's failure to continue the interview with him when he said he attended Prince George College, or to not advise him that he could separately report the abuse he had experienced there. The harm or adverse treatment was in not having his allegations of abuse at Prince

George College considered by police investigators, as well as the impact this had on him of not wanting to speak to the police about his experience of abuse at Prince George College when approached by a Sergeant later on, as it had created a sense of distrust in him of the RCMP.

[309] I do not find any adverse treatment by the RCMP in relation to Roddy Joseph, as the RCMP respected his decision not to speak to them at the time, which is consistent with a victim-centered approach. Nor do I find adverse treatment in relation to Audrey George, who told the police she wanted nothing to do with what was going on. While she agreed to answer the questions posed by the officer, and confirmed she did not attend Immaculata, there is no evidence to indicate she wanted to pursue allegations of abuse at Prince George College with the RCMP. She provided no such evidence to the Tribunal through her affidavit, which was only entered to confirm that the statement she made to Ms. Robinson was true. I do not accept the Complainants' assertion that, as soon as she stated that she had attended Prince George College, the interview ended, suggesting she was denied the opportunity to report her abuse. The RCMP records show that she did not want to be involved in the police investigation and this was respected.

(d) The Application of section 43 of the Criminal Code

[310] The Complainants say that, in dismissing the allegations of childhood physical abuse reported to it by many individuals, the RCMP relied on section 43 of the *Criminal Code*, which until 1973, allowed physical force by teachers if it was justified by way of correction of the student. The Complainants say that the RCMP's reliance on or interpretation of that provision was based on bias and the incorrect assumption that the students receiving physical force had behaved in a way justifying correction. They say the RCMP's position was not supported by evidence given, or available, to it, since the former students' reports often described the use of physical force by teachers for no reason other than the students' race.

[311] For example, Mr. Perry testified that he and other children would be hit on the head with basketballs and were taken to the boiler room for strapping because they spoke their

own language and knew little English. Others were targeted for being slow, as Ms. Woodgate says she was in her affidavit, only learning as an adult that she had actually been born with muscular dystrophy. Ann Tom's statement to Ms. Robinson also said that A.B. would strike the slower runners like her and Emma Williams.

[312] The Complainants say this physical force was not for 'correction' of the students and therefore was not justified under section 43. Further, they say that in many cases the amount of physical force described should have been viewed as excessive regardless of the reason. They argue that the RCMP's misinterpretation of section 43 was based on discrimination and dehumanization of Indigenous children.

[313] I understand that the Complainants disagree with the RCMP's statement in the Concluding Report for the spinoff file that "the majority of the persons interviewed discussed a variety of systemic corporal punishments that were commonplace (and legally permitted) in the schools during the 1960s / 1970s." I note, however, that Constable Hanley, in her Concluding Report, does not accept that all of the physical punishment inflicted on the former students was acceptable corporal punishment at the time. She writes that, "despite the fact that corporal punishment was permitted in the schools (in BC until 1973) several students recounted instances of assault and abuse by the staff at the school over and above corporal punishment." She also mentions that "a consistent theme emerged which included students not being allowed to speak their native language and being strapped or punished if they did." However, the ultimate conclusion was that all of the interviewees, not just those who they concluded had experienced criminal assaults, had some issue with their recall of events that had occurred more than 40 years before, and so none described a particular instance of abuse that would support a criminal charge recommendation because their recollections were lacking details such as time, place, identity of a suspect or victim, and "any corroborating events that could possibly overcome these deficiencies."

[314] The Complainants note that, even though Constable Hanley was the lead investigator of the spinoff investigation, in her written testimony at the hearing, she could not explain her understanding of section 43 of the *Criminal Code* as it was in 1969 and 1970, nor how she had applied that provision to the case when interviewing witnesses.

[315] The RCMP's investigation file does not have a record of how the investigators came to that conclusion. It does not include the section of the *Criminal Code* that was in effect at the time. However, Sergeant Parks' evidence was that the North District GIS maintains an electronic system with the *Criminal Code* as it existed over time, including in the 1960s and 1970s. He stated that the investigators reviewed the relevant provisions of the *Criminal Code* as it existed at the time that the allegations are said to have taken place and that it would only have been necessary for the investigators to include the relevant provisions in the investigation file if they were recommending charges to Crown Counsel.

[316] I do not find that the absence of explanation or lack of inclusion of the relevant section of the *Criminal Code* in the file amounts to harm or adverse treatment of the Complainants or to a denial of service.

[317] While the Complainants may be disappointed that no charges were recommended under this section of the *Criminal Code* as it existed at the relevant time, and experience this as harm or adverse treatment or denial of a service, such a decision by the RCMP is not the subject of this inquiry. I appreciate that the Complainants and their witnesses felt that their experiences of abuse at school were not taken seriously by the RCMP through its interpretation of section 43. However, the evidence before the Tribunal does not support such a conclusion.

(e) Other adverse conduct related to the investigations

[318] Throughout their Closing Submissions and Statement of Particulars, the Complainants mention other conduct that they suggest was unfavourable in relation to the investigations. Most of the alleged conduct relates to the Complainants' view that the RCMP's investigation was not thorough enough in that the officers did not take every step they could have during the investigation, or to conduct that they suggest could create a barrier when investigating crimes reported by Indigenous people.

[319] The Complainants' allegations include: that the police would show up at people's homes or workplaces to interview them without letting them know in advance, sometimes in uniform; that the police officers did not ask clarifying questions during interviews; that the

RCMP did not ask people about the statements or affidavits they had given to Ms. Robinson when they were being interviewed; and, that the boiler room was not mentioned in Concluding Reports as a consistent place where abuse had occurred at the school. In their Reply to Final Submissions, the Complainants add that Mr. Perry was negatively impacted by his interaction with Constable Hanley because she did not accommodate the fact that he did not read or write and did not speak English well and they allege that Corporal Mackie did not accommodate Ms. Woodgate's muscular dystrophy when he interviewed her at the detachment.

[320] For the most part, the Complainants did not present evidence of harm or adverse treatment in relation to these allegations, although I deal with each allegation separately.

[321] I will state at the outset, however, that the allegation that Corporal Mackie did not accommodate Ms. Woodgate's muscular dystrophy when he interviewed her is not the subject of this inquiry. Not only is there no evidence to support such an allegation, but this complaint was not made on the basis of the prohibited ground of disability and so this allegation will not be considered further.

[322] With regard to the allegation that the police would show up at people's homes or workplaces without letting them know in advance, I note that the Tribunal heard evidence from Millie Michell and Ruby Adam that they did not appreciate Corporal Mackie coming to their workplaces to speak to them without notice. Ruby Adam testified that she was really uncomfortable with Corporal Mackie coming to her workplace at the Band office. Ms. Michell testified that she felt ambushed when he showed up at her workplace in Vancouver and embarrassed in front of her colleagues. She said she would have preferred that he send her a letter if he wanted to speak to her.

[323] Neither Ms. Adam nor Ms. Michell indicated that Corporal Mackie showed up to their workplaces in his police uniform and Corporal Mackie's evidence was that the GIS officers dressed in plain clothes and drove unmarked police vehicles.

[324] The evidence shows that, if they had a telephone number for a witness, the RCMP would try to call them first, but not everyone had a phone. The officers made an effort to speak to as many people as possible when they were in and around Burns Lake and

sometimes made several attempts and left messages with family members in order to try to ensure they spoke to everyone they needed to.

[325] With regard to Ms. Adam, she had provided an affidavit to Ms. Robinson and the Georgia Straight in May of 2012 which said that she witnessed A.B. hit students with a ball but that she had not been abused by him, although she had been strapped by the nuns at Immaculata. When Corporal Mackie showed up at her workplace, Ms. Adam agreed to speak to him in a private office for 30 minutes about a variety of things. Corporal Mackie's notes say that she declined to go on tape because she was not sure how she felt about everything. Ms. Adam testified that she did not remember him asking to record the conversation and that she tried to tell Corporal Mackie about how she had been strapped by the nuns at Immaculata, but that she felt like he did not want to listen to what they went through at Immaculata, as he said he had experienced the same thing at school.

[326] While I accept that part of Ms. Adam's discomfort or dissatisfaction with speaking to Corporal Mackie came from being at work and him not calling first, the larger issue for her was that she did not feel he took her allegations seriously. She testified that she was unhappy with the experience as a whole, feeling like she had not been heard and she testified that he did not follow up with her again afterward, which I have already accepted resulted in adverse treatment or harm to Ms. Adam and several Complainants and witnesses. When I view the evidence as a whole, including Corporal Mackie's notes which indicate that Ms. Adam spoke to him about a variety of subjects for 30 minutes, including her own allegations of abuse at Immaculata, and that Ms. Abraham had tried to tell Ms. Adam her story but that Ms. Adam tuned it out because she runs from things, I do not accept that the Complainants have established harm or adverse treatment in relation to Corporal Mackie showing up at Ms. Adam's workplace unannounced.

[327] With regard to Ms. Michell's concern that Corporal Mackie showed up at her workplace in Vancouver and that she would have preferred receiving a letter from him first, Corporal Mackie's evidence was that he had been trying to reach Ms. Michell by phone and through Ms. Abraham for several months before going to her office in Vancouver, because Ms. Abraham had consistently mentioned her since her first interview with the RCMP. He was aware from Ms. Abraham that Ms. Michell was unlikely to want to speak to the police

at all. However, K Division recommended that he do so. Corporal Mackie wanted to speak to Ms. Michell to try to corroborate Ms. Abraham's allegations. Ms. Michell did not agree to speak to him about this. She testified that, although Ms. Abraham had told her about her abuse at school, it was not up to her to say anything about what happened to Ms. Abraham, that it was her story, and she believed the police were on a fishing expedition.

[328] I do not find that, on an objective basis, Ms. Michell was treated adversely or harmed by Corporal Mackie attending at her workplace without calling first. He had been trying to reach her as a potential witness in her sister's investigation for some time, and she did agree to speak with him when he got there in a private area away from her coworkers, although she declined to provide much information and declined to be interviewed on tape.

[329] The Complainants take issue with many aspects of the spinoff investigation, which was led by Constable Hanley. They say that she should have asked Mr. Perry clarifying questions about who his gym teacher was and about the dates he had been abused while at school. In cross-examination, Corporal Mackie agreed that Constables Hanley and Cox should have been looking for clarification from Mr. Perry. Mr. Perry did not testify about harm he experienced as a result of the police officers not asking clarifying questions, but he did feel that they had not taken his story seriously or done anything about what he told them. I accept the harm in his case came from the lack of follow up by the RCMP to tell him the outcome of the investigation, as discussed above.

[330] Also, with regard to the allegation in the Complainants' Reply to Final Submissions that Mr. Perry was "negatively impacted by his interaction with" Constable Hanley because she did not address or accommodate the fact that he did not read or write and did not speak English well when she interviewed him, I do not agree that the evidence before the Tribunal supports this assertion. He was not asked by counsel if he wanted or needed an interpreter when he spoke to Constables Hanley and Cox in October of 2013 and he did not testify about being negatively impacted by his interaction with them. Nor was the fact that he could not read or write relevant to his interview with the police. He testified that he believed there was an interpreter present when he spoke to the police, although the recording does not support this. Generally, his recollection of that interview was not very accurate. The recording from the police interview with Mr. Perry and the transcript of the recording show

that Mr. Perry spoke to the police officers, largely unprompted, in English for a lengthy period of time.

[331] The Complainants say that, despite the 28 recommendations from K Division directing that various witnesses' statements provided in affidavits or in Ms. Robinson's Response to A.B.'s civil claim be clarified or expanded upon, Constable Hanley failed to do so and admitted she had not read any of the affidavits or the Response to Civil Claim and did not remember if she even read the 28 recommendations. The Complainants did not provide evidence of harm or adverse treatment they experienced as a result of the RCMP not referring to their previous statements to a journalist in the course of the police investigation.

[332] The RCMP's investigation file shows that Constables Hanley and Cox did, in fact, make efforts to interview the people named in K Division's recommendations, which was the source of the spinoff investigation about allegations of abuse at Immaculata school. Some were deceased, some did not want to speak to the police, and some had gone to Prince George College. The RCMP did not speak to two people who had civil matters against A.B., D.M. and someone I will refer to as "G.W." because she did not participate at the hearing. G.W. had already indicated to the RCMP that her lawyer told her not to speak to the police. Constable Hanley's Concluding Report states that D.M. had forwarded his own civil claim against A.B. and "no contact was initiated by" Constables Hanley or Cox. I have already concluded that the Tribunal did not receive evidence of harm or adverse treatment towards D.M. as a result of the RCMP not contacting him as part of the spinoff investigation.

[333] With regard to the Complainants' allegation that it was discriminatory that the RCMP did not mention the boiler room in Concluding Reports as a consistent place where abuse had occurred at the school, there was no evidence presented that this caused harm or adverse treatment to anyone or resulted in a denial of service. Also, the boiler room is mentioned in various police interview notes, and Constable Hanley does mention abuse that occurred in the "furnace room" at Immaculata.

[334] In terms of the criticisms that the officers' notes or Concluding Reports did not include every single element or detail that the Complainants thought should be included, the

Complainants have the benefit of hindsight and the ability to go through the investigation step by step and point out what they perceive to be errors in an investigation that was being conducted in real time ten years prior to the hearing. Sometimes the RCMP officers agreed, in hindsight, that they could have done a better job or done something differently or asked an additional question. However, there was no evidence before the Tribunal that would lead me to conclude that the police are obligated to investigate complaints indefinitely or that they should be held to a standard of perfection when conducting a criminal investigation.

[335] The Complainants also allege that superior officers like Sergeant Parks and Corporal Mackie did not review all of the audio or video statements of every witness that the officers they were supervising had taken, but rather relied on their summaries and views of the evidence gathered instead of forming their own opinions about it. I note that the Complainants questioned Sergeant Parks and Corporal Mackie about this, in relation to both files, but presented no evidence of harm or adverse treatment as a result of this practice.

[336] The RCMP's evidence in this case was that officers Parks and Mackie trusted the investigating officers, who had experience with conducting complex and historical investigations as members of the GIS. I was not presented with any evidence that would lead me to conclude that their approach as supervising officers was incorrect. I do not find that the Complainants have proven on a balance of probabilities that the failure of a superior officer to review or double check every piece of evidence gathered by the investigators in a large-scale investigation such as those at issue in this matter constitutes unfavourable treatment or a denial of service.

[337] The Complainants suggest that the evidence of some of the RCMP officers about their understanding of the historic distrust of the RCMP by Indigenous people or their evidence about having unconscious bias towards Indigenous people or not being aware of the term "intergenerational trauma" or having received training in these areas supports their argument that the investigations were discriminatory. Such testimony on its own is not evidence of harm or adverse treatment towards the Complainants or their witnesses. The focus of the discrimination analysis is on the harm or adverse treatment or denial of service experienced by the Complainants and their witnesses.

[338] The Tribunal's job is to determine whether, in providing the service of receiving and investigating allegations of criminal activity, the RCMP treated the Complainants and their witnesses in an adverse differential manner or denied them this service altogether. I do not conclude that the Complainants have proven on a balance of probabilities that they experienced harm or adverse treatment or a denial of service in relation to the allegations in this section, with the exception of my previous conclusion regarding the failure to provide witnesses with an update on the investigation.

(f) Allegations relating specifically to the investigation of Ms. Abraham's claims of abuse

[339] The Complainants make several allegations of adverse treatment that relate to the investigation of Ms. Abraham's report of abuse at Immaculata. This investigation was mainly conducted by Corporal Mackie, although the initial interview took place at the Burns Lake detachment with Constable Larsen.

[340] Starting with Constable Larsen's interview of Ms. Abraham at the Burns Lake detachment, the Complainants note that he wore his uniform and did not turn off his radio while speaking with Ms. Abraham. Also, he left the interview room twice during the interview, during which Ms. Abraham became very distraught and was crying and pounding the table and Constable Larsen only became aware of this when he reviewed the video prior to testifying. At the end of the interview, he suggested that Ms. Abraham take a polygraph. Two days after the interview he prepared a summary of Ms. Abraham's statement and left out some details of the physical abuse she described, such as being slammed down by A.B.'s foot on her back while she was doing push-ups and being pushed while she was running. He also left out that she was afraid of A.B.

[341] Ms. Abraham testified that being offered a polygraph was insulting and upsetting to her. She said it made her feel that, as an Indigenous woman she was not respected the way she should have been. She said that, after that interview, she felt disbelieved and like the RCMP did not care.

[342] Constable Larsen's evidence was that he offered the polygraph because he felt Ms. Abraham's statement was unique in that she talked about how the abuse had impacted her life, the fact that she had read A.B.'s book, and that her description of the sexual assault was very brief and her timeline was unclear and he felt there were credibility issues. He did not have a lot of experience at that time as an investigator, having only been a general duty RCMP officer for about two and a half years at that point. He acknowledged that he had little knowledge of using a polygraph and that he should not have offered that. He agreed he could have treated Ms. Abraham with more compassion and respect and used a trauma-informed approach.

[343] I note that, with respect to conducting trauma-informed investigations, Staff Sergeant Baldinger testified that this approach became more prevalent in RCMP investigations starting in around 2016, and the RCMP's Sexual Assault Investigations Best Practice Guide, created by the Contract and Indigenous Policing, National Criminal Operations and the Sexual Assault Review Team, which includes sections on the neurobiology of trauma and trauma-informed investigation practices, was published after 2016. I note that Dr. Haskell also testified that she has done training with the RCMP in northern BC on how to conduct trauma-informed investigations, although she did not indicate the date of this training.

[344] I accept that Constable Larsen's offer or suggestion, several times, that Ms. Abraham take a polygraph test was objectively harmful or constituted adverse treatment as it made her feel like she was not believed. Constable Larsen and other officers testified that this was not commonly offered to victims reporting a crime. Corporal Mackie did not similarly ask Ms. Abraham to take a polygraph test when he took over the investigation, even when he felt there were issues with her credibility.

[345] With respect to other aspects of the initial interview with Constable Larsen, I do not find that these amount to adverse treatment or harm. Ms. Abraham did not provide any evidence at the hearing about whether him wearing his uniform, keeping his radio on or not acknowledging her fear of A.B. was harmful to her or had an adverse impact on her. There is no evidence that Constable Larsen knew that Ms. Abraham became upset and was crying when he was out of the room, so I do not find this to be adverse treatment.

[346] Reporting sexual and physical abuse to a police officer is an inherently difficult and uncomfortable thing to do. Constable Larsen's ultimate job and the reason Ms. Abraham went to the detachment was to take her statement, which he did. Up to the point that Constable Larsen asked her to take a polygraph, Ms. Abraham gave a lengthy and comprehensive statement about abuse that she had suffered at Immaculata.

[347] Constable Larsen also referred Ms. Abraham to victim services afterwards. Ms. Abraham's views or experiences with victim services are not the subject of this complaint, as this service is not offered by the RCMP, which is the Respondent in this matter. In terms of her feeling that she was not believed by Constable Larsen, while I appreciate that the offer of the polygraph was harmful and led her to feel this way, the evidence shows that the RCMP took her complaint very seriously.

[348] The evidence before the Tribunal was that, after Constable Larsen's initial interview with Ms. Abraham, the investigation of her complaint was transferred to the GIS for the North District, which was better resourced than the Burns Lake detachment, and the spinoff investigation was also conducted by the GIS officers. Staff Sergeant Baldinger testified that the GIS is a specialized investigation unit, with more expertise than would exist at the detachment level. They are utilized for more complex investigations, such as murders, multi-victim crimes and high-profile crimes. The RCMP's evidence was that the requirements for becoming a member of the GIS include an above-average understanding of investigative interviewing, writing and obtaining search warrants, and dealing with disclosure.

[349] With respect to Corporal Mackie's involvement in Ms. Abraham's complaint, the Complainants identify many issues with his investigation, including that he showed up at her home without calling first and, when he first met with Ms. Abraham, he asked her questions about her allegations without using a tape recorder. Also, when he did tape record an interview with her, his handwritten notes of the interview were not identical to the recorded interview. Corporal Mackie also interviewed Ms. Abraham's 88-year-old mother in a nursing home and had an Elder who knew her provide translation, which upset Ms. Abraham. The Complainants suggest Corporal Mackie should have gotten permission from Ms. Abraham's family before interviewing their mother, because she also had dementia. They say he also did not do anything to assist Ms. Abraham with her fear of A.B.

[350] Corporal Mackie's first meeting with Ms. Abraham occurred in July of 2012, when he and Constable Cox attended at Ms. Abraham's home because she had not shown up for her appointment with them at the detachment. The evidence shows that they introduced themselves at the door and she invited them in and agreed to speak with them. Regarding the allegation that Corporal Mackie did not record his first conversation with Ms. Abraham, the Complainants' suggestion is that he did not accurately record what Ms. Abraham told him in his handwritten notes and he was not following proper evidence gathering practices by not recording the interview. Ms. Abraham testified that she disagreed with many of Corporal Mackie's notes from the unrecorded interview that took place at her home in July of 2012, although her memory of that interview 10 years prior was not reliable and her objections were mainly that she did not think she would have said some of what was written down by the officers.

[351] Corporal Mackie's evidence was that he did not feel it was necessary to record the conversation with Ms. Abraham, as this was an introductory meeting, although she provided further information about people she thought could corroborate her story. The Complainants' witness who had been a member of the Calgary Police Service testified that he did not record every conversation he had with the complainant in his high-profile sexual assault case.

[352] There were two recorded interviews done with Ms. Abraham, one by Constable Larsen and one by Corporal Mackie. The Complainants did not prove on a balance of probabilities that not recording every conversation with Ms. Abraham or with any of the other witnesses who declined to be recorded constituted unfavourable treatment or a denial of service. There was no objective harm alleged in relation to this practice, aside from their general view that the investigation was not appropriately thorough, which is not substantiated by the evidence.

[353] One of the names Ms. Abraham provided during this first meeting with Corporal Mackie was her mother's and, after their meeting with Ms. Abraham, the officers went to meet with Ms. Abraham's mother at the care facility where she lived in Burns Lake. Corporal Mackie's evidence was that he was interviewing the people that Ms. Abraham identified to him who might be able to corroborate her story of abuse at Immaculata. She had indicated

to them that she told her mother about the sexual abuse and so they went to verify this. Ms. Abraham testified that she felt the police were not taking her allegations seriously and were not speaking to people she told them about who could corroborate her story, but they did speak to nearly all of the people she named. Some refused to speak to the police or did not call them back, like her friend Marie.

[354] Ultimately, Ms. Abraham's mother did not verify her information. Corporal Mackie's evidence was that, although Ms. Abraham's mother had dementia, he had determined with the assistance of the Elder who provided translation, who knew her, that she was having a good day and understood who they were and their questions. The evidence Corporal Mackie received from Ms. Abraham's mother was only part of the overall evidence gathered in his investigation of Ms. Abraham's allegations. While I appreciate that Ms. Abraham did not like that the police spoke to her mother, the Complainants have not proven on a balance of probabilities that Corporal Mackie's interview with her mother constituted adverse treatment or denial of a service.

[355] The Complainants say that, during his meeting with Ms. Abraham at her home in November of 2012, where he took a recorded statement, Corporal Mackie did not address the fear she expressed of A.B. The record shows that Corporal Mackie established that she had not been threatened by A.B. and that he spoke with victim services on more than one occasion to find out if they were following up with Ms. Abraham.

[356] The Complainants also say that Corporal Mackie did not keep in frequent enough contact with Ms. Abraham. The evidence shows that Ms. Abraham moved and changed her phone number and did not provide updated information to the RCMP. However, it also shows that Corporal Mackie was able to find her and provide her with updates several times throughout the investigation. While I accept that Ms. Abraham felt she was not provided with frequent enough updates, I do not find that the number of updates provided in the midst of this large and dynamic investigation constitutes adverse treatment.

[357] Finally, the Complainants say Corporal Mackie made conclusions without documented evidence to substantiate them, such as believing the victim services worker's view that Ms. Abraham had adopted details of allegations made against D.J. by others when

saying she had been sexually abused by him. The Complainants say this relates to the allegation that Corporal Mackie did not obtain production orders for the diocese to confirm that D.J. taught at Immaculata when Ms. Abraham was there, as he had relied on incorrect verbal information from someone who worked at the diocese who said D.J. had taught in Prince George, but not Burns Lake. I have already concluded that Ms. Abraham did not experience adverse treatment by the RCMP as a result of the diocese providing possibly incorrect information.

[358] The RCMP spoke to many people during the investigation into Ms. Abraham's complaint. Corporal Mackie said he sometimes followed up with the victim services worker to make sure Ms. Abraham was receiving service from her. He said that he believed the information provided to him by the victim services worker about Ms. Abraham possibly mixing up D.J. and A.B. because he felt she had no reason to lie to him. At the time he received this information from the victim services worker, which turned out to be incorrect although he did not know this, he was already under the impression that D.J. did not teach in Burns Lake, which was also likely incorrect information provided by the diocese. While conclusions were made with regard to Ms. Abraham's allegations as a result of this information, I do not find that the RCMP accepting and relying on information from other sources it believed to be credible amounts to adverse treatment against Ms. Abraham. The RCMP is entitled to rely on information it receives from many sources in the course of its investigation and to assess the totality of the evidence when deciding how to proceed with an investigation.

[359] Ms. Abraham did not provide any evidence about the impact on her of Corporal Mackie's reliance on the victim services worker's comments about Ms. Abraham possibly confusing D.J. with A.B. Aside from Constable Larsen's repeated requests that she take a polygraph test, I do not find that the evidence supports a finding of adverse treatment towards Ms. Abraham in the course of her investigation.

(g) Allegation that the RCMP investigations were influenced by two non-Indigenous people

[360] The Complainants say the RCMP discriminated against them through its attitude toward the journalist, Ms. Robinson, who received the original complainants' statements of abuse, and by favouring A.B. because he was a well-known white man who led an organization that had contracted with the RCMP to provide security.

RCMP's views of Ms. Robinson's involvement in the investigations

[361] In their Statement of Particulars, the Complainants say that, by speculating that Ms. Robinson, who is not Indigenous, manipulated the Indigenous people who reported childhood abuse or duped them into fabricating allegations, the RCMP failed to credit the complainants with the ability to tell the truth. They say that, by viewing approximately 47 witnesses as susceptible to undue influence by a journalist, the RCMP portrayed the complainants as less than human, without their own free will and intelligence.

[362] The Complainants say the evidence of this is in the RCMP's investigation file. For example, in his Concluding Report, Corporal Mackie says that Ms. Robinson "had" Ms. Abraham come forward with her allegations. In cross-examining Corporal Mackie, the Complainants suggested that this meant Ms. Robinson had forced or coerced Ms. Abraham into coming forward. He stated he meant she had assisted her. I accept that Ms. Abraham made the decision to report the abuse to the RCMP on her own.

[363] The Complainants say that Corporal Mackie obtained all of his information about Ms. Robinson from A.B.'s lawyer and public relations person. For example, he stated in his Concluding Report that he had learned that Ms. Robinson had a longstanding dispute with A.B. dating back to 2009, but he did not investigate these claims made by A.B.'s team. He did not interview Ms. Robinson about this.

[364] Also, a Briefing Note sent to the Commissioner of the RCMP shortly after Ms. Abraham spoke to Constable Larsen in Burns Lake states that Ms. Robinson had authored articles on the internet that were highly critical of A.B. including his period teaching at Catholic schools in northern BC, thus linking him to the residential school history and First Nations in the area. A further Briefing Note sent to the Commissioner of the RCMP after Ms. Robinson's article was released in the Georgia Straight and following A.B.'s subsequent press conference states that A.B. had singled Ms. Robinson out as having a personal

vendetta against him. Ms. Robinson testified that she does not have a personal vendetta against A.B.

[365] In their Closing Submissions, the Complainants state that Corporal Mackie's April 12, 2013 email to A.B.'s lawyer, in which he stated that Ms. Abraham's sexual abuse allegations were brought forward through Ms. Robinson, was shared with the media by A.B. They say this strengthened the RCMP's and A.B.'s narrative that First Nations people were gullible and easily influenced by someone with a "vendetta" against A.B.

[366] The implied harm to the Complainants and their witnesses with respect to the allegation that the RCMP believed Ms. Robinson was responsible for bringing forward their claims of abuse is that they were perceived by the RCMP as not acting of their own free will with regard to reporting their experiences of abuse as children and, by extension, that they were not being truthful.

[367] The evidence before the Tribunal does not support a finding that the investigation carried out by the RCMP was undertaken with a view that the Indigenous people they interviewed were gullible or lacked free will. The RCMP did not ask most of the witnesses they interviewed questions about Ms. Robinson's involvement, aside from sometimes referring to a statement they had given to her.

[368] Nor does the evidence support the contention that the RCMP disbelieved the Complainants or their witnesses because they felt Ms. Robinson had manipulated them into reporting their childhood abuse. While the RCMP's statements about Ms. Robinson in its Briefing Notes were not necessarily correct, the evidence was that these Briefing Notes were prepared to notify senior management about the existence of a high-profile investigation, and not to direct the investigators on how to carry out the investigation. Sergeant Parks' evidence was that Briefing Notes are used as a means of sharing information and reporting "up the chain of command" and that they have no investigative value and are not used to provide orders or instructions to investigators. Corporal Mackie's evidence was that, while he was sent the Briefing Notes to place in the file, he sometimes did not even read them, he just filed them.

[369] Although some information may have come from the investigators, the Briefing Notes were not prepared by anyone directly involved in the investigation and much of the information about Ms. Robinson and about A.B. came from these more senior members who did not conduct or direct the investigations. While the Briefing Notes stated concerns about the potential embarrassment that a finding that the allegations against A.B. were substantiated might cause to various organizations and governments, I do not conclude that these statements resulted in unfavourable treatment with respect to the investigation itself, or a denial of the service of a thorough and impartial investigation. Nor does the evidence support a finding that this information led the investigators to conclude that the Indigenous complainants were gullible or untruthful or had been unduly influenced or duped by Ms. Robinson.

[370] I note, as an observation, that if the purpose of the Briefing Notes is to report up the chain of command, it seems unnecessary to send to members of the investigation team any new or extraneous information about the parties or those adjacent to the investigation that has not been gathered as part of the investigation. This may avoid perceptions of bias and allegations that those higher up the chain of command not directly involved in the investigation were trying influence an investigation. I do not conclude, however, that the evidence leads to a finding that the investigators were influenced by these Briefing Notes.

[371] The evidence before the Tribunal shows that the RCMP was concerned with ensuring the investigation was completed in a thorough manner such that the investigators were directed to expand the scope of their investigation in a way that was not typical, in order to ensure that those complainants who had been referred to in Ms. Robinson's Response to A.B.'s civil action were interviewed, even though the investigation to that point had been looking into Ms. Abraham's allegations of sexual abuse. This direction came from Inspector Haring after Corporal Mackie had submitted his first Concluding Report.

[372] After Corporal Mackie prepared his second Concluding Report, Inspector Haring asked K Division to do an independent review of the investigation. The purpose of the review was to ensure that it was conducted in a thorough manner. As a result of the K Division's recommendations, the spinoff investigation was commenced.

[373] Many things were happening in the background to the investigations themselves, which were being conducted by Corporal Mackie and Constables Hanley and Cox. There is a comment in an Occurrence Report prepared by Sergeant Parks in August of 2013, following the K Division review of Corporal Mackie's investigation, that states that "events around the subject [A.B.] continue to play out in the B.C. media and Civil Courts" that "conflict and thwart greatly with the efforts to criminally investigate 42 year old allegations of events that allegedly occurred in Burns Lake school." When cross-examined about this statement, Sergeant Parks says that he was referring to a number of civil lawsuits that had been filed against A.B. at the time and that were given as a reason by some people for declining to speak to the RCMP investigators.

[374] This is supported by Corporal Mackie's amended Concluding Report from June 3, 2013, in which he says that, after receiving a copy of Ms. Robinson's Response to A.B.'s civil claim in January of 2013, in which she mentions a number of people who were alleged to have suffered some sort of abuse at the hands of A.B., Corporal Mackie and Constable Cox had contacted as many people as possible who were named in the civil response, over the previous couple of months. Corporal Mackie indicates that many of these people, including Emma Williams, Matilda Sam, Ann Tom and G.W. would not speak to the police. Some of them were waiting to hear from Ms. Robinson or a lawyer, and one was told by her lawyer not to speak to the police because of her civil matter.

[375] Despite this background context of lawsuits and media coverage, the investigators continued to interview many people about the abuse they experienced at school and evaluated the evidence as they were required to do. At the conclusion of his August 2013 Occurrence Report, Sergeant Parks goes on to direct Corporal Mackie to deploy himself and Constables Hanley and Cox to complete the appropriate investigation as per the K Division review recommendations as soon as possible. The Tribunal heard that Corporal Mackie continued to investigate Ms. Abraham's allegations, while Constables Hanley and Cox conducted the spinoff investigation.

[376] Corporal Mackie's final Concluding Report in November of 2013 states that he had spent considerable time trying to corroborate Ms. Abraham's statements to police, which had some inconsistencies, but that he had had no success in doing so. The reasons for not

recommending charges to Crown counsel were the inconsistencies in Ms. Abraham's statements, lack of corroboration, and credibility issues, so the threshold to recommend charges was not met.

[377] The only mention of Ms. Robinson in the Concluding Reports relates to background information and to the statements she had taken from various witnesses and her Response to A.B.'s civil claim, which were sources of information about witnesses for the investigations. Corporal Mackie does incorrectly state that Ms. Robinson "had" Ms. Abraham come forward with her allegations of sexual abuse against A.B. but ultimately there is no evidence that this misstatement and the statement in the Concluding Reports that Ms. Robinson had a longstanding dispute with A.B. had an impact on the investigations themselves or their outcomes. Ultimately the investigators' views about Ms. Robinson, whether they were correct or not, did not matter, because their focus was on the Indigenous complainants. The summary of the evidence collected and the evaluation of that evidence in Corporal Mackie's Concluding Reports does not rely on Ms. Robinson's involvement (including how Ms. Abraham came to report the abuse), but rather on Ms. Abraham's own evidence and that of others who were interviewed to see if they could help to support her version of events.

[378] The conclusions in the Concluding Reports for both investigations do not reflect a view that Ms. Robinson had manipulated or encouraged the complainants to make up the abuse or that she had any influence on what they said to the RCMP. Nor does the evidence support the contention that the investigators themselves failed to believe witnesses because they had previously been interviewed by Ms. Robinson or for any other reason. In fact, their investigation did include interviews with many of the people that Ms. Robinson had spoken to and her Response to A.B.'s civil action informed the RCMP about further individuals to contact about abuse at Immaculata. While the decision not to recommend charges is not an issue before the Tribunal, I note that the issue of whether the police believe someone's story is not the standard for recommending charges. Staff Sergeant Baldinger and others testified that the police must look at the totality of the circumstances in the evidence they have gathered to determine whether there are reasonable and probable grounds to recommend

a charge. I saw no evidence that the investigators disbelieved that the Indigenous complainants experienced abuse at school when they were children.

[379] While the RCMP may not have relied on the statements the Complainants and their witnesses gave to Ms. Robinson as part of their interviews with these witnesses, the Tribunal received no evidence that it was improper for the police to speak to each witness to hear their own independent recollection of the abuse in their own words, without being referred to previous statements they had made to a journalist. The RCMP could not be certain what questions Ms. Robinson had asked when she obtained the statements, and they gave evidence about the importance of not asking leading questions or suggesting answers in their interviews.

[380] There was no evidence before the Tribunal that there was collusion amongst the Indigenous people who made statements to Ms. Robinson or to the RCMP about the abuse they experienced at Immaculata, or that they had made up these experiences at Ms. Robinson's request or suggestion. Wilf Adam and Jacob Beaton testified that there were rumours circulating in the community for years about abuse that occurred at Immaculata.

[381] While the RCMP's counsel did ask the Complainants and their witnesses at the hearing about whether they had seen a poster in advance of a community meeting with Ms. Robinson, most of the witnesses testified that they had not seen a poster and they all said they did not collude with one another or with Ms. Robinson to put forward their experiences of abuse by A.B. All of the witnesses said they came forward voluntarily to tell Ms. Robinson about their experiences of abuse.

[382] Ultimately the RCMP's narrative or belief about Ms. Robinson's relationship with A.B. is irrelevant to the present case as it did not appear to adversely affect the investigations. Any harm to Ms. Robinson in the RCMP's characterizations of her is not the Complainants' issue. Ms. Robinson is not a party to this proceeding.

[383] The Complainants have not proven on a balance of probabilities that the RCMP's investigation was influenced by speculation or belief that Ms. Robinson had manipulated the Indigenous crime complainants or duped them into fabricating allegations of abuse, or that the RCMP believed the Complainants and their witnesses were susceptible to undue

influence or incapable of telling the truth. I do not find that the Complainants or their witnesses experienced adverse treatment or harm or were denied a service on the basis of the RCMP's views about Ms. Robinson's involvement with the complainants or the RCMP's investigations.

Perception that the RCMP favoured A.B.

[384] The Complainants allege that the RCMP favoured A.B. because he was a well-known white man and several senior members of the RCMP had held high-level security positions at an event directed by A.B. They say that Briefing Notes and email communications from senior officers demonstrate preferential treatment of A.B. because they influenced Corporal Mackie's investigation, which was not normal in a criminal investigation. The Complainants say the best example of this influence is the direction from senior officers that Corporal Mackie continue to investigate the "extortion allegation" raised by A.B. long after he was satisfied that this allegation was unrelated to the main investigation he was conducting. The Complainants say this direction shows that the RCMP was considering that A.B. may be a victim and they were asking the same officer who was investigating him as a suspect to investigate a possible crime against him.

[385] The Complainants also point to Briefing Notes which were prepared early in the investigation by RCMP members other than Corporal Mackie. The first Briefing Note was drafted on July 13, 2012, two days after Ms. Abraham reported her abuse at the Burns Lake detachment. The Briefing Note, which drew from information provided by the Staff Sergeant of the Burns Lake detachment, was then amended and added to by others higher in the chain of command, including Superintendent Paul Richards, who was located at the RCMP's E Division headquarters. Superintendent Richards did not testify, but the email chain entered as evidence shows that he was sending the Briefing Note on behalf of Assistant Commissioner Randy Beck, who reported to the Commissioner of the RCMP in Ottawa. Superintendent Richards' draft Briefing Note added background information about A.B., including that he was a well known Canadian and refers to awards he had received. The Briefing Note states that, if the allegations are substantiated, the case could "be an embarrassment at a number of levels of government, [...] corporations, and other

organizations” that A.B. had been affiliated with. The draft also includes the statement that Ms. Robinson had authored articles on the internet highly critical of A.B.

[386] As previously indicated, the evidence at the hearing was that Briefing Notes were ways to provide information up the chain of command, including to the Commissioner in some cases, and that they did not constitute direction of investigations. As I stated above, while I do not find this to have happened in this particular case, when Briefing Notes with information about parties that has not yet been gathered in the course of an investigation are shared with the investigating officers early in the investigation, this could create the possibility for the investigators to be influenced by these comments. At the very least, the RCMP should be aware of the perception of inappropriately influencing an investigation in cases like this. Again, I do not conclude that the evidence in this case supports such a contention of influencing the investigation.

[387] Regardless of the information that was being shared from the BC RCMP headquarters to the Commissioner of the RCMP about a high-profile case, even if that information could be perceived to show bias towards the subject of the investigation, the evidence shows that, at the North District level where the investigation was occurring, Inspector Haring took the investigation of Ms. Abraham’s complaint seriously, emailing Corporal Mackie on July 13, 2012 to provide him with the a copy of the Briefing Note that had been provided to the Commissioner and telling him that it had garnered a significant amount of attention, stating: “My expectation is that a complete and timely investigation will be completed on this with regular updates.” Again, I accept Corporal Mackie’s evidence that he was focussed on investigating Ms. Abraham’s allegations and was not influenced by the information about A.B. expressed in the Briefing Notes.

[388] Upon receiving Corporal Mackie’s first Concluding Report, Inspector Haring sent him back to continue investigating by speaking to people named in Ms. Robinson’s Response to A.B.’s civil claim and, upon receiving his second Concluding Report, Inspector Haring requested a file review be completed by K Division. The focus of the review was to complete a comprehensive independent review of the investigation to ensure that it was conducted in a thorough manner encompassing Ms. Abraham’s allegations, the alleged extortion attempt, and the information alleged in the civil claim.

[389] The Complainants take issue with the fact that Corporal Mackie did not follow the K Division recommendations to take a statement and polygraph from A.B. and to further investigate the extortion allegation, but they also take issue with the direction from senior officers that Corporal Mackie continue to investigate the extortion allegation.

[390] Corporal Mackie's evidence was that A.B. had refused to provide a statement in relation to the investigation. He also indicated that, as he had determined early in the investigation that the extortion allegation did not involve Ms. Abraham or Ms. Robinson, he did not need to look any further into this because it was not relevant to his investigation of Ms. Abraham's sexual abuse allegations. While A.B. and his lawyer may have wanted to pursue this narrative and their views about Ms. Robinson in their discussions with Corporal Mackie, there is no evidence that this influenced his investigation of Ms. Abraham's allegations.

[391] One of the aspects of Corporal Mackie's investigation that the Complainants most take issue with was his early and frequent contact with A.B., mainly through his lawyer Mr. Storrow. They say that Corporal Mackie reached out to A.B. by September 6, 2012, early in his investigation, and he travelled on September 21, 2012 to meet with him, although A.B. ended up not being present for this meeting. During this meeting with A.B.'s lawyer Corporal Mackie told him about the allegations made by Ms. Abraham. In cross-examination he agreed that he had never before in a sexual assault investigation talked to the lawyer of an accused person and told them about the allegations before taking a statement. Corporal Mackie testified that there are cases, however, where an investigator would reach out to an accused person early in an investigation, and that not every investigation is conducted in exactly the same way.

[392] I accept the RCMP's position that a suspect or accused person has a different relationship to the police than the witnesses alleging a criminal offence, by virtue of their protections under the *Canadian Charter of Rights and Freedoms*. Corporal Mackie testified that A.B. had declined to make a statement to him about the matters under investigation so he did not feel the need to ask him yet again to do so or to ask him to take a polygraph.

[393] The Commission suggests that the investigation lacked impartiality because A.B. and his lawyer dictated how the RCMP would be conducting the investigation, since Corporal Mackie talked to Mr. Storrow several times.

[394] The evidence does not support the assertion that Corporal Mackie took any direction from A.B. or his lawyer in terms of how to conduct the investigation. Nor does it support the assertion that the investigators took direction from or were influenced by senior members of the RCMP who were concerned about A.B.'s status and the aftermath if A.B. were charged. The basis of both Corporal Mackie's investigation and the spinoff investigation was the evidence that the officers were gathering from the witnesses they were speaking to. Their ultimate determination about whether to recommend charges was based on their evaluation of the evidence gathered from these witnesses. They did not require any information from the suspect to conduct this analysis of the evidence they had gathered, especially in light of the fact that he had declined to make a statement about the matters under investigation.

[395] Finally, the Complainants say that Corporal Mackie's Concluding Reports contained information that he did not verify, such as the suggestion that Ms. Robinson had a longstanding dispute with A.B. or the years that A.B. said he taught in Burns Lake and Prince George. While the evidence shows that the tension between Ms. Robinson and A.B. that arose due to A.B.'s reaction to her Georgia Straight article was happening in the background of the investigation and found its way into the Briefing Notes or comments made by supervisors and upper management in the RCMP, it does not show that it affected the investigation itself. There is no evidence that the comment in the Concluding Reports that Ms. Robinson had a longstanding dispute with A.B. had any impact on the conduct of the investigation, in terms of gathering and evaluating evidence from the Indigenous witnesses. Neither Corporal Mackie's investigation nor the spinoff investigation was about Ms. Robinson or her relationship with A.B.

[396] With regard to verifying the years A.B. had taught at these schools, the RCMP investigators accepted the reports of the witnesses that he had been their teacher during the time period of the reported abuse. There is no harm alleged to the Complainants as a result of this allegation and I do not find adverse treatment on this basis.

[397] I do not agree that the Complainants have proven on a balance of probabilities that they were treated in an adverse differential manner or denied a service because of how the RCMP treated A.B. during these investigations. The evidence does not support a finding that the RCMP investigation lacked impartiality because of Corporal Mackie's interactions with A.B. and his counsel. I cannot conclude that the RCMP's investigation of Ms. Abraham's allegations or the spinoff investigation were influenced by A.B. or that the investigators were taking any direction from A.B. or his lawyer or from senior members of the RCMP not involved in the investigation. The focus of officers Mackie, Hanley and Cox in their investigations was to collect and evaluate the evidence from the witnesses to determine if criminal charges could be laid. The Briefing Notes were for reporting information up the chain of command, not to direct the investigations. There is no evidence that the extortion allegation affected the RCMP's conduct of the investigations or that it was a factor in the RCMP's decision not to recommend charges to Crown Counsel.

(h) Conduct that occurred outside of the RCMP investigations

[398] The Complainants take issue with the way the RCMP dealt with a complaint filed by Ms. Robinson about Corporal Mackie's conduct that was investigated by Sergeant Noonan of the professional standards unit. Ms. Robinson's complaint, dated March 11, 2016, was actually sent to Public Safety Minister Ralph Goodale and she asked that it not be investigated by the RCMP. However, the Minister's office forwarded the complaint to the RCMP and it was investigated by Sergeant Noonan, who prepared a report that was reviewed by Superintendent Lesley Bain. Superintendent Bain decided that Corporal Mackie did not neglect his duty, as she was satisfied that he had conducted a systemic, thorough and well documented investigation. She also concluded that he had not misrepresented evidence about his investigation at Ms. Robinson's defamation trial.

[399] As she was unhappy with the decision made with respect to her complaint by Superintendent Bain, who it is alleged was in a conflict of interest as a decision maker since she had worked in the North District around the time of the investigations at issue in this complaint, Ms. Robinson then filed a complaint to the CRCC, which did not uphold her complaint about the investigation. As indicated in the Facts section, many of the same

allegations about the investigation were made by Ms. Robinson in these processes as the Complainants have made before the Tribunal.

[400] I do not view Sergeant Noonan's investigation or Superintendent Bain's decision or the CRCC decision, all of which dealt with Ms. Robinson's complaints about Corporal Mackie, to be part of the service aspect of the complaint filed by the Complainants that the Tribunal is inquiring into, which relates to the RCMP's receipt and investigation of allegations of abuse made by Indigenous crime complainants. As such, I will not consider whether these processes constituted unfavourable treatment or a denial of service.

Conclusion – Adverse Differential Treatment or Denial of a Service

[401] The Complainants assert that the above conduct by the RCMP constitutes adverse differential treatment or denial of a service. They state that they suffered an adverse impact by being disbelieved, dehumanized and discarded as unworthy of proper police investigation services. They submit that, perhaps the greatest adverse impact was the denial to have their experiences considered within the framework of the legal system and applicable criminal law. The Tribunal is not considering allegations about the outcome of the investigations but rather about the RCMP's methods and conduct which the Complainants say affected their access to the RCMP's service of receiving and investigating allegations of criminal activity.

[402] I have found the adverse treatment or denial of service to be limited to: the failure of the RCMP to continue the interview with Peter Mueller when he said he attended Prince George College, or to advise him that he could separately report the abuse he had experienced there; Constable Larsen's offer or suggestion to Ms. Abraham, multiple times, that she take a polygraph test; and, the RCMP's failure to report back to, Maurice Joseph, Richard Perry, and Emma Williams to provide them with the outcome of the investigation into their own allegations of abuse. In addition, with regard to Ruby Adam, Pius Charlie and Cathy Woodgate, the RCMP's failure to report back to them with the outcome of the investigation into their own allegations of abuse and/or the failure to advise them that they could report abuse they had experienced at Immaculata separate from Ms. Abraham's investigation amounted to adverse treatment or denial of a service.

[403] The evidence before the Tribunal does not support a finding that the Complainants or their witnesses experienced other adverse treatment or a denial of service as alleged, nor does the evidence support a finding that they were dehumanized or discarded as unworthy of a proper investigation.

[404] Nor does the evidence support the Commission's contention that the investigations fell below the standard of a "normal" police investigation. While it is clear that the spinoff investigation in particular did not arise in a typical fashion for an RCMP investigation, the evidence shows that the RCMP acted in a thorough and diligent manner in relation to both investigations.

C. Were the prohibited grounds a factor in the adverse treatment or denial?

[405] In the previous section, I accepted that some of the RCMP's conduct during its investigations, including the spinoff investigation, constituted adverse differential treatment in the provision of a service or a denial of the service being offered.

[406] Now, at the third stage of the *prima facie* test, I must determine whether the Complainants have proven on a balance of probabilities that their race or ethnic or national origin was a factor in the unfavourable treatment or denial of service.

Parties' positions about the prohibited grounds being a factor in the adverse treatment or denial of service

[407] The Complainants argue that the evidence shows that the RCMP's traditional investigative methods failed to meet the needs of Indigenous victims of abuse and were executed with biased attitudes during the investigation that commenced with a complaint from Ms. Abraham on July 11, 2012 and concluded on May 14, 2014. The Complainants assert that the discrimination revealed in this case is systemic in the RCMP. They say that the RCMP's treatment of them and their allegations of abuse left them feeling dehumanized and denied their dignity, and that these effects were exacerbated by past experiences of abuse and the history of maltreatment of Indigenous communities, including intergenerational trauma.

[408] Furthermore, they argue that the evidence shows that the RCMP failed to modify its traditional practices to meet their specific Indigenous cultural needs, an obligation arising from the known distrust of the RCMP by Indigenous peoples.

[409] The Complainants say the case also demonstrates how bias in favour of a powerful non-Indigenous individual, in this case A.B., serves to exacerbate the discrimination against Indigenous peoples. However, I have found that the Complainants did not provide sufficient evidence of this alleged adverse treatment to conclude it occurred.

[410] They further state that an investigation without discrimination or biased attitudes about Indigenous people would not make assumptions that a journalist could influence dozens of Indigenous people into fabricating their own stories of abuse. Nor would it accept the information from a prominent person and his “team” without any verification, over the information provided by Indigenous complainants and witnesses. They say a non-discriminatory investigation would have involved a careful assessment of the applicable law and policies to ensure allegations of abuse were not dismissed as corporal punishment, a conclusion that can only be based on the false presumption that the abuse against Indigenous children reported by the complainants and witnesses was permissible at the time. However, I have found that these allegations of adverse treatment were not established in the evidence by the Complainants.

[411] The Commission is supportive of the Complainants’ arguments and submits that there are two lenses through which the Tribunal can analyse the evidence before it and that, when looked at through both, it is clear that the RCMP’s conduct resulted in the Complainants experiencing adverse treatment or a disadvantage because they are Indigenous.

[412] First, the Commission says that the evidence shows that the Complainants’ Indigenous identity was a factor, either consciously or subconsciously, in the RCMP’s investigation and conduct towards them. It submits that the evidence demonstrates a significant difference in how the RCMP conducted itself when dealing with the person of interest, A.B., versus the way in which it conducted itself with the Indigenous victims.

[413] The Commission says the RCMP failed to provide any compelling explanation as to why there was a difference in treatment between the criminal complainants and the person they had accused of abusing them. The Commission submits that, when the RCMP's treatment of A.B. in the investigation is contrasted with the conduct of the RCMP towards the Complainants and witnesses during the investigation process, it is more than likely there was adverse differential treatment of the Complainants and that their identities as Indigenous people were a factor in that adverse treatment.

[414] The Commission suggests that stereotypes about Indigenous people and the RCMP's biased attitudes towards them caused deficiencies in the execution of its investigations. It notes that the Supreme Court of Canada has held that "Indigenous people are the target of hurtful biases, stereotypes, and assumptions, including stereotypes about credibility, worthiness, and criminal propensity, to name just a few" (*R v Barton*, 2019 SCC 33 at para 199). It says this is further echoed in volume 5 of the Truth and Reconciliation Commission of Canada Report when discussing Indigenous groups in BC and the difficulties faced when investigating historical abuse allegations.

[415] The Commission argues that, because the RCMP did not provide a persuasive non-discriminatory explanation that would account for these departures from expected practices, it is reasonable to conclude that it is more likely that the way the RCMP investigated the allegations was based on stereotypes. In other words, the Tribunal should draw an inference that discrimination was a factor in the treatment of the Indigenous victims throughout the investigation process.

[416] Secondly, the Commission argues that the evidence shows that the impact of the RCMP's actions produced a discriminatory result. It argues that, since the RCMP is aware of the longstanding tenuous relationship between itself and Indigenous people, when conducting its investigations, it should have known that the Complainants would have different needs during the investigations and so should have taken proactive steps to ensure those needs were met.

[417] The Commission points out that in *Eldridge v. British Columbia (Attorney General)*, 1997 CanLII 327 (SCC) [*Eldridge*], a case decided under the *Canadian Charter of Rights*

and Freedoms, the Supreme Court of Canada stated that it is a widely held principle that discrimination can occur if there is a failure to take positive steps to ensure that disadvantaged groups benefit equally from services offered to the general public. It also notes that the Tribunal has taken judicial notice that “the existence of prejudice against visible minorities, which includes First Nations, is a well-known and indisputable social fact” (*Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v Public Safety Canada*, 2022 CHRT 4 at para 307, upheld on judicial review by the Federal Court in 2023 FC 267, affirmed by the Federal Court of Appeal in 2025 FCA 24). The Commission also refers to the expert evidence of Dr. Milward which referred extensively to the historical and ongoing relationship between Indigenous people and the RCMP.

[418] The Commission argues that the evidence from the Complainants and their witnesses is clear that, as Indigenous people alleging historical abuse, they needed accommodation as they went through the RCMP’s investigation process. The Commission says that having RCMP officers show up at their homes or offices in uniform was concerning to some of the witnesses and they all testified about their distrust of the RCMP.

[419] The Commission submits that, despite knowing how painful it was to talk about their childhood abuse, the RCMP did not attempt to change its investigation strategy to accommodate the needs of the Complainants and their witnesses. The Commission argues that the RCMP failed to take positive steps to ensure that the Indigenous complainants benefited equally from services offered to the general public and that this has resulted in discrimination against them.

[420] The Commission submits that, while not committed openly and with intent, there is in this case the subtle scent of discrimination. It argues that, when examining the totality of the evidence it is obvious that it is more than likely that the Complainants’ Indigenous identity was a factor in the adverse impacts they experienced as a result of the manner in which the RCMP carried out its investigations.

[421] The RCMP argues that the Complainants have not proven on a balance of probabilities that there is a link between any adverse impact they may have experienced in their interactions with the RCMP during its investigation and their race or national or ethnic

origin. It argues that the Complainants cannot rely solely on the expert evidence of Dr. Milward to establish this link, as his evidence was disconnected from the particular facts of the case. It says that social science evidence without a grounding in the facts of the case cannot establish an adverse effect. The RCMP submits that, to draw the necessary linkage between adverse effect and a prohibited ground of discrimination, the social context evidence must tangibly relate to the impugned decision or conduct (relying on *Bombardier* at paras 88-89).

[422] The RCMP cautions that the historical experiences of Indigenous persons with the RCMP – a history that it acknowledges – cannot, without more, establish that the investigation imposed a distinction based on race or national or ethnic origin. It says that the discretionary steps and decisions taken by the officers in the investigation and their decision not to recommend to Crown Counsel that criminal charges be laid were reasonable. The RCMP submits that the Complainants did not lead expert evidence on police investigations to impugn these decisions.

[423] The RCMP argues that the evidence establishes that it was aware of and took proactive steps to address the historical mistrust of police by Indigenous peoples. It notes that all three of the investigating officers had policed in Indigenous communities throughout their careers, particularly in northern BC and they understood the sensitivity of the subject matter, the importance of relationship building between the RCMP and Indigenous communities, that they were culturally aware, conducted interviews in a trauma-informed and victim-centered way, and were respectful of the needs of Indigenous witnesses throughout their investigation.

Analysis

[424] My conclusion in the previous section is that most of the Complainants' and Commission's allegations about unfavourable treatment or denial of service in relation to the RCMP's investigations are unsubstantiated.

[425] I concluded that the Complainants did not provide sufficient evidence of the adverse treatment they and the Commission allege, in terms of the RCMP treating A.B. differently

from the Indigenous witnesses in the investigations or in terms of the allegation that the RCMP assumed the Indigenous crime complainants were manipulated by Ms. Robinson.

[426] I have concluded that certain discrete actions within these investigations, which I accept were lengthy and complex and arose in an unusual manner for a police investigation, constituted adverse treatment by the RCMP.

[427] I have accepted that Mr. Mueller was denied the service of having his allegations of abuse at Prince George College - that he both experienced and witnessed - investigated by the RCMP. This occurred when the officers ended the interview with him when he said he did not attend Immaculata and did not advise him that he could separately report the abuse he had experienced at Prince George College that he was trying to tell them about. He had agreed to speak to the RCMP about the abuse he experienced and witnessed as a child and he was left feeling ignored and disrespected when the RCMP stopped the interview because he had not attended Immaculata. The RCMP could and should have done a better job explaining the nature of the investigation they were conducting to Mr. Mueller, especially in light of the childhood abuse he was reporting, and offered him the opportunity to report his own abuse at Prince George College separately. Mr. Mueller said his experience in the spinoff investigation influenced his decision not to speak to the Sergeant who approached him later about reporting what he knew about abuse by A.B.

[428] Again, while there were other people interviewed by the RCMP during the spinoff investigation who attended Prince George College, I did not receive evidence about the situations of these others or whether they wanted their allegations investigated by the RCMP. As I concluded earlier, Ms. George told the police officer who met with her that she did not want to be involved. Roddy Joseph similarly did not want to speak to the officers when they approached him as part of the spinoff investigation. As such, my finding in relation to this allegation is limited to Mr. Mueller.

[429] In its Closing Submissions, the RCMP says its investigatory decisions regarding Prince George College cannot amount to an adverse impact on the six Complainants because none of them attended that school. This is based on the RCMP's argument that the scope of the complaint is limited to the six individual Complainants, all of whom attended

Immaculata, and that the allegations brought on behalf of any other witnesses are beyond its scope. This argument is somewhat at odds with its other argument that this complaint is only about Ms. Abraham's investigation, since Ms. Abraham is not a Complainant. In any event, I have already concluded that the Tribunal may consider all of the evidence before it related to the Complainants and their witnesses, in determining whether discrimination occurred in relation to the RCMP's investigations.

[430] With regard to Constable Larsen's offer or suggestion to Ms. Abraham that she take a polygraph test at the end of her first interview, Constable Larsen testified he had offered this because of some of the information Ms. Abraham had provided during her interview that he considered unusual and that he felt might impact the possibility of obtaining charge approval from Crown Counsel. For example, she said she had turned to alcohol and drugs to deal with what she had experienced and she said she had read A.B.'s book. Constable Larsen said he also felt the lack of detail and some inconsistencies in her description of the sexual assaults could impact her credibility. He testified that he was "desperate" to build some credibility in her statement and "get rid of some of the issues that we were having with it" and that he thought doing a polygraph could assist with the issues he identified. He said he was not asking her to do a polygraph because he did not believe her, and he did not ask her because she was Indigenous, but because there were issues with the statement she had provided and he thought doing a polygraph could assist with mitigating some of these issues.

[431] The recording and transcript from Ms. Abraham's statement with Constable Larsen indicates that he explained why he was asking if she would consider taking a polygraph, due to the historical nature of what she was reporting and because A.B.'s defence might suggest she was accusing him because he was a high-profile person. Ms. Abraham questioned why she would need a polygraph when she was telling the truth and said she would just tell the truth in court as well. She said she would only take a polygraph if A.B.'s lawyer asked her to, but that she would not volunteer to take one. She told Constable Larsen that she knew about the legal system and that a polygraph could be harmful to someone in court, and that she knew a lot of people who had gone to jail because they failed a polygraph test. Constable Larsen persisted in asking her several more times about taking a polygraph.

[432] Constable Larsen testified that he did not know much about polygraphs at that time as he was a fairly junior police officer. He also agreed that he could have been more respectful and trauma-informed with Ms. Abraham during the interview. The evidence from the police witnesses was that it is not very common to ask a victim reporting sexual assault to take a polygraph. Indeed, this was never offered to Ms. Abraham again during the course of the investigation into her allegations, once the investigation was transferred to the more experienced GIS.

[433] While I understand that Constable Larsen did not intend to discriminate against Ms. Abraham by asking her to take a polygraph, the Tribunal's analysis of *prima facie* discrimination is concerned with the discriminatory effects of conduct rather than the intention to discriminate (see *Bombardier* at para 49; referring to *Peel Law Assn v Pieters*, 2013 ONCA 396 at para 59). The Tribunal must consider the effects of the impugned action on the particular person and how the action affects the person based on their protected ground(s). I accept Ms. Abraham's evidence that being asked to take a polygraph was harmful to her as it made her feel that, as an Indigenous woman reporting sexual abuse to the police, she was not believed.

[434] Finally, with regard to the RCMP's failure to report back to Ruby Adam, Pius Charlie, Maurice Joseph, Richard Perry, Cathy Woodgate and Emma Williams, all of whom were interviewed by the police about their allegations of abuse, to provide them with information about the outcome of the investigation, the RCMP's evidence is that the investigation was challenging and unusual, as it did not arise in the way most investigations do, with a complaint or an event marked in time. Corporal Mackie said he was interviewing people as part of his investigation into Ms. Abraham's allegations, and this included Ms. Adam, Mr. Charlie and Ms. Woodgate, who disclosed their own abuse at Immaculata when he interviewed them. Constable Hanley said the spinoff investigation was about abuse at Immaculata school generally and it arose from the K Division recommendations. Mr. Joseph, Mr. Perry and Emma Williams were interviewed as part of the spinoff investigation. However, none of the RCMP witnesses could provide a reasonable explanation for why the people they interviewed who reported being abused as children had not been told the results of the investigation into their allegations.

[435] In its Closing Submissions, the RCMP says that Mr. Perry and Maurice Joseph did not receive updates about the investigation because, although they spoke to the RCMP, they did not file a criminal complaint like Ms. Abraham did, and they also did not ask for follow up from the RCMP. It does not mention the other witnesses who were in the same situation, because its Closing Submissions focus only on the six Complainants. However, I accept that Emma Williams and Cathy Woodgate, who are also Complainants, were approached by the RCMP and they did tell the officers about abuse they had experienced, even if they did not give recorded statements. Ruby Adams and Pius Charlie, while not Complainants, both testified before the Tribunal about being interviewed by the RCMP in relation to abuse they experienced and that they did not receive an update about what the RCMP did with the information they provided.

[436] I do not accept the RCMP's position that the only person who reported a crime or filed a complaint to the RCMP in this case was Ms. Abraham, by virtue of the fact that she attended at a detachment. I accept that each Indigenous person who spoke to the RCMP about their own allegations of abuse as children were reporting to the police what happened to them, even if this is not the traditional way crime is reported. And I find that the RCMP accepted that people were reporting crimes to them in this case, even if they did not do so in a traditional way. The RCMP's own evidence supports a finding that it investigates crimes that it becomes aware of in various ways, not only through someone calling or attending at a detachment. The RCMP decided, based on the number of reports they were receiving about abuse at Immaculata in the course of Corporal Mackie's investigation of Ms. Abraham's allegations, to request the K Division review and to conduct the spinoff investigation into these allegations. Simply because the investigation arose in an unusual manner is not an acceptable reason to not treat those who were interviewed with the respect they deserved as Indigenous people taking the uncomfortable step of reporting child abuse to the police, who they already distrusted and possibly feared. The evidence supports a finding that it was this distrust and fear of the RCMP that the witnesses testified about, which led to them not reaching out proactively to independently report their allegations of abuse to the RCMP, or not following up with the RCMP on their own after speaking with them.

[437] The RCMP says its decision to only update Ms. Abraham on the status of her investigation relates to the fact that she reported her abuse to the RCMP in the traditional way, and flows from its duty to investigate crime in the public interest, as opposed to on behalf of individuals. Relying on evidence given by officers Haring and Baldinger, neither of whom conducted the investigations at issue (although Inspector Haring had oversight of the officers conducting the investigations), it says that, during an investigation, officers work to collect evidence that will establish reasonable and probable grounds. When interviewing a witness, the officer's goal is to collect a "pure version" statement which captures the witness' most accurate and uncontaminated recollection. It says that providing updates about the investigation to non-complainant witnesses might affect their recollection or contaminate the evidence of other witnesses, which would impede the investigation. The RCMP also says that privacy interests restrict the officers' ability to update non-complainants and that disclosing information about the investigation, including the identity of the complainant and suspect, would not respect those individuals' privacy. The RCMP says updates to non-complainants would have to be limited to saying that an investigation is ongoing, which would serve no practical purpose. It says that, therefore, the officers' decision to update only Ms. Abraham flowed from their duty to investigate crime in the public interest and the privacy interests related to a criminal investigation.

[438] The RCMP's explanation for why the witnesses interviewed in the spinoff investigation and Ms. Woodgate, Mr. Charlie and Ms. Adam were not updated on the outcome of their reporting of their allegations of abuse is not supported by the evidence. It is clear that the spinoff investigation was about investigating allegations of abuse at Immaculata school, not Ms. Abraham's allegations. The spinoff investigation continued after Ms. Abraham's investigation was already concluded and she was not provided with an update about the spinoff investigation. No one was. Once Constable Hanley concluded the spinoff investigation by determining there were no grounds to recommend charges, the RCMP would not have been in a position to communicate that the investigation was ongoing, as it was not. Even if the investigation might possibly be reopened someday as Sergeant Parks stated, this not a compelling reason to not inform complainants about the outcome of the investigation into their own allegations of abuse. Doing so once the investigation was concluded would not have interfered with its duty to investigate crime in the public interest.

The Complainants and their witnesses at the hearing wanted to know what the RCMP had determined with regard to their own allegations of abuse, including Ms. Woodgate, Mr. Charlie and Ms. Adam, who were not included in the spinoff investigation but who had disclosed to Corporal Mackie allegations of abuse they experienced as children at Immaculata.

[439] If Corporal Mackie's view was that Ms. Woodgate, Mr. Charlie and Ms. Adam were only witnesses interviewed to see if they could corroborate Ms. Abraham's allegations, and not people who were reporting their own allegations of crime to him, then he should have told them this and explained how they could report their own allegations separate from Ms. Abraham's, in the same manner that Mr. Mueller should have been told how to report separately.

[440] Ms. Woodgate, Mr. Charlie, Ms. Adam and Mr. Mueller were all Indigenous crime complainants who believed they were reporting childhood abuse to the RCMP. If they were not doing so in the traditional way the RCMP accepted complaints of crime, then the officers should have told them that and explained how they could report their own allegations of abuse to the RCMP, separate from their involvement in the RCMP's investigations into either Ms. Abraham's complaint (in the case of Mr. Charlie, Ms. Adam and Ms. Woodgate) or abuse at Immaculata (in the case of Mr. Mueller).

[441] For Maurice Joseph, Richard Perry and Emma Williams, who were asked to tell the RCMP about the abuse they experienced as children in the spinoff investigation, neither privacy interests nor investigating in the public interest amount to a valid reason for failing to update them. I appreciate that not being provided with information about the outcome of the investigation left these witnesses feeling like they were not believed or respected in the process. They wanted to know that what they had told the police had been considered in the context of the RCMP's criminal investigation but they did not receive such confirmation.

[442] At this third stage of the *prima facie* test, the Tribunal must conclude that the Complainants and their witnesses have proven on a balance of probabilities that there is a connection between their prohibited grounds of discrimination, in this case their race or national or ethnic origin (i.e. their Indigeneity) and the adverse treatment or denial of a

service. In other words, they must show that the prohibited ground of discrimination was at least a factor in the adverse treatment or denial. A causal connection is not required, nor must the prohibited ground be the sole reason for the actions in issue for a complaint to succeed (*FNCFCSC 2016* at para 25, referring to *Holden v. Canadian National Railway Co.*, (1991) 1990 CanLII 12529 (FCA) at para 7; and, *Bombardier* at paras 44-52).

[443] The Complainants and Commission advance the position that the Complainants and their witnesses experienced adverse impact discrimination, which occurs when a seemingly neutral practice has a disproportionate impact on members of a group protected on the basis of a prohibited ground of discrimination under section 3 of the CHRA. Such adverse impact discrimination violates the norm of substantive equality. In discussing the concept of substantive equality, the Tribunal in *FNCFCSC 2016* stated:

[399] The purpose of the *CHRA* is to give effect to the principle of equality. That “all individuals should have **an opportunity equal with other individuals** to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society” (*CHRA* at s. 2, **emphasis added**). The equality jurisprudence under section 15 of the *Charter* informs the content of the *CHRA*’s equality statement (see *Caring Society FCA [Canada (Attorney General) v Canadian Human Rights Commission*, 2013 FCA 75] at para. 19). In this regard, the Supreme Court has consistently held that equality is not necessarily about treating everyone the same. As mentioned above, “identical treatment may frequently produce serious inequality” (*Andrews [Andrews v Law Society of British Columbia*, 1989 CanLII 2 (SCC)] at p. 164).

[400] As articulated in *Vriend v. Alberta*, 1998 CanLII 816 (SCC), [1998] 1 SCR 493 at para. 69, “[i]t is easy to say that everyone who is just like “us” is entitled to equality [...] it is more difficult to say that those who are “different” from us in some way should have the same equality rights that we enjoy”. In other words, true equality and the accommodation of differences, what is termed ‘substantive equality’, will frequently require the making of distinctions (see *Andrews* at pp. 168-169). That is, in some cases “discrimination can accrue from a failure to take positive steps to ensure that disadvantaged groups benefit equally from services offered to the general public” (see *Eldridge* at para. 78).

[444] The Tribunal in *FNCFCSC 2016* concluded that, in providing a benefit to Indigenous people, the government was obliged to ensure that its involvement in the provision of a service “does not perpetuate the historical disadvantages endured by” Indigenous peoples,

stating, “If AANDC’s conduct widens the gap between First Nations and the rest of Canadian society rather than narrowing it, then it is discriminatory” (at para 403, relying on *Eldridge* at para 73).

[445] To determine whether there has been discrimination in a substantive sense, the Tribunal’s analysis must take “into account the full social, political and legal context of the claim” (see *Law* at para 30). As the Tribunal stated in *FNCFCSC 2016*, for Indigenous people in Canada, “this context includes a legacy of stereotyping and prejudice through colonialism, displacement and residential schools” (at para 402).

[446] I accept that, in the present case, the RCMP undertook a large and complex investigation of allegations of historical abuse involving many people. However, the actions or inactions that I have concluded amount to adverse treatment or a denial of a service in this case occurred in the context of allegations of abuse made by Indigenous people in northern BC.

[447] While there are certainly other groups in Canada who hold negative views of, and distrust for, the police based on their history and experiences, Indigenous peoples in Canada are unique in terms of their distinct historical relationship with the RCMP, which stretches from the role played by the RCMP’s predecessor in establishing colonial policies to the present day. Therefore, while it is possible that the actions or inactions by the RCMP in this case - not advising someone they could report their allegations separately, repeatedly suggesting someone reporting sexual assault take a polygraph, and not providing an update on the investigation into reported abuse – would have an adverse impact on a non-Indigenous person, it is the particular circumstances of the Complainants and their witnesses as Indigenous people that resulted in them experiencing the RCMP’s actions in a disproportionately harmful way.

[448] The evidence before the Tribunal from all of the Indigenous witnesses was that there was distrust and sometimes fear of the police that had been present in their lives since they were children, sometimes because they had seen their parents treated unfavourably by the police, or they had been treated badly themselves, or because their parents had gone to the police to complain about a crime against them or their children and nothing had been done.

Some of the Complainants and their witnesses had also attended the Lejac residential school nearby and associated the RCMP with truant officers who returned children to these places of confinement and abuse. The more current experiences with the RCMP for some of the witnesses related to mistreatment of family members by the RCMP, the perception that nothing was being done about missing and murdered Indigenous women and girls in the area, and the RCMP's involvement in providing security for pipeline workers on Indigenous people's traditional territory. The evidence shows that, as a result of these negative interactions and beliefs about the RCMP, the Indigenous witnesses did not expect that the RCMP would take them or their complaints seriously, and these actions that I have found to constitute adverse treatment or denial of a service reinforced these beliefs or expectations.

[449] Peter Mueller testified that, after his experience with the officers not wanting to hear his allegations about abuse at Prince George College, he did not want to go through the stress and anxiety of speaking to the RCMP again when he thought nothing would come of it anyway. Cathy Woodgate told the Commission's investigator that she did not think the RCMP took her abuse allegations seriously as she did not hear from them again after reporting her allegations to Corporal Mackie. Mr. Perry and Mr. Joseph testified about their belief that the RCMP had not done an investigation into their allegations of abuse and that the RCMP does not care about Indigenous people. Mr. Charlie testified that his level of distrust of the RCMP has not changed from the time Corporal Mackie came to his house to interview him to the date that he testified at the hearing. Ms. Adam testified that she did not feel like she was listened to by Corporal Mackie and that she did not trust the RCMP. Ms. Abraham testified that being offered a polygraph was insulting and upsetting, saying it made her feel that as an Indigenous woman she was not respected the way that she should have been and that she felt disbelieved after the interview with Constable Larsen.

[450] The evidence of the Indigenous witnesses about their view of the RCMP was supported by the evidence of the expert witnesses. Dr. Milward's report sets out many reported examples of appalling treatment of Indigenous people, especially women, in northern BC by RCMP officers and concludes that, leading up to 2012, Indigenous people in northern BC had a negative social memory of the RCMP. Dr. Milward did note that social

memory can be localized and can be changed over time, and he describes examples in his report of places this has happened, where Indigenous communities have developed good relationships with the RCMP, thus likely changing their social memory of the RCMP from negative to positive. Dr. Milward says negative social memory can result in a loss of confidence in the RCMP in northern BC, including a lack of confidence that the RCMP will treat Indigenous people fairly as suspects or that they will be taken seriously when they report their own victimization (evidence of which was given by Indigenous witnesses at the hearing). Dr. Milward also says that, when the police do not take Indigenous people's allegations seriously, this can produce secondary victimization, which can have noticeable and tangible effects on people's health and wellbeing and lead to disillusionment with the police and a loss of trust. The Tribunal heard evidence from the Indigenous witnesses of their disillusionment with, and lack of trust in, the RCMP.

[451] Dr. Milward's report concludes that the RCMP would have been aware of the negative views of Indigenous people in the North District leading up to 2012. He states that the RCMP has a history of keeping track of its reputation with Indigenous peoples and sometimes adjusting its practices or commencing new initiatives or policies in response. In addition to apologizing for its role in the residential school system, the RCMP commissioned the LeBeuf Report, entered as evidence and referred to by the parties in this matter, for the purpose of assisting the process of reconciliation with Indigenous peoples. Dr. Milward also indicates that it has been suggested that the Civilian Review and Complaints Commission for the RCMP was created to respond to the Human Rights Watch report called *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia*, which was issued in 2013.

[452] I note that the RCMP acknowledges in its Closing Submissions, without giving specific examples, that throughout its history, it has taken actions that have eroded the trust of Canada's Indigenous peoples and caused generational harm and that it has been working to rebuild trust and establish respectful relationships with Indigenous peoples. The RCMP called several witnesses to provide evidence about its various initiatives in this regard. Both Dr. Milward and the RCMP's witnesses mentioned the RCMP's Sexual Assault Review and Victim Support Action Plan and the Sexual Assault Review Team, which have been made

part of the RCMP's platform of reconciliation with Indigenous peoples, as examples of efforts the RCMP has made to improve its relationship with Indigenous people across the country.

[453] Dr. Haskell's expert report says that, in addition to challenges that all victims and survivors of sexual abuse experience in disclosing their abuse to the police, Indigenous peoples face additional complicating factors such as colonialism and the resulting mistrust in authorities. She says: "Disclosures can either be discouraged or facilitated by the receptivity and skill of the person receiving the disclosure or report. This is especially true of the importance of appropriate police responses to reports of abuse and assaults. In fact, the reaction of the person to whom a disclosure is made may impact whether and when future disclosures are made and may also impact on the severity of psychological symptoms victims might experience across their lifespan".

[454] Dr. Haskell says this is one of the most compelling reasons why a trauma-informed approach is critically important for receiving reports of child sexual abuse and for conducting effective and skilled investigations into these reports. She notes that, if such an investigation is not done in a trauma-informed way, some victims may feel despair that they endured the stress and discomfort of being interviewed about these past painful events only to be disappointed and in some cases not believed. As indicated above, Dr. Haskell highlights the importance of ensuring Indigenous victims of abuse remain informed of the status of their investigation and any final outcomes.

[455] I accept that not all or even most of the Indigenous crime complainants were reporting sexual abuse that occurred at school. I also accept that the RCMP investigators did, for the most part, conduct interviews with the witnesses in a respectful way, that they built rapport, and that the witnesses who agreed to speak to them shared details of the abuse they experienced and were permitted to do so without interruption, as recommended by Dr. Haskell.

[456] I also accept that the RCMP, in conducting both Ms. Abraham's investigation and the spinoff investigation, acted diligently in reaching out to many witnesses. Constables Hanley and Cox did reach out to everyone listed in the K Division recommendations as part of the spinoff investigation, except for D.M., who had his own civil action against A.B. in court.

Some people had passed away and some declined to speak to the police for various reasons, which was their right and the officers properly respected the wishes of those they approached, which is in line with a victim-centered, trauma-informed approach. The same is true for Ms. Abraham's investigation. Corporal Mackie spoke to, or attempted to speak to, everyone Ms. Abraham named, as well as most of the people who provided an affidavit to the Georgia Straight and to those named in the K Division recommendations. While the Complainants may disagree with his decision not to reach out to A.B. again, I accept that police officers must exercise their discretion when conducting investigations and Corporal Mackie explained why he did not follow the recommendation. I do not find he acted in a discriminatory manner in exercising his discretion within the investigation in this manner.

[457] The RCMP officers from the North District GIS were conducting an investigation that, aside from Ms. Abraham's allegations, arose in a somewhat unusual fashion and that was growing ever larger, in the midst of several civil actions that were related and significant media attention. Even so, the RCMP was aware of the fact that the people reporting historical childhood abuse were Indigenous and that their complaints of abuse arose from Catholic schools in northern BC. They also ought to have been aware of the factors that led to a negative social memory of the RCMP by Indigenous people in northern BC and ensured that, in all aspects of the investigation, they were treating the Indigenous people who had come forward with allegations of abuse as children in a culturally safe and respectful manner. The RCMP ought to have taken its history and relationship with the Indigenous people in the region into greater account when conducting these investigations, in order to ensure substantive equality to the Indigenous crime complainants.

[458] As the RCMP was or ought to have been aware of the negative history and views held by Indigenous people in this area toward the RCMP, and due to this history of mistrust, I accept that not being permitted to report the abuse they experienced or being told how to do so separately, not being updated about the outcome of the investigation into abuse they had reported, and being asked repeatedly to take a polygraph after disclosing details of childhood sexual abuse by a teacher, had a differential or disproportionate impact on Peter Mueller, Ruby Adam, Pius Charlie, Cathy Woodgate, Richard Perry, Maurice Joseph, Emma Williams and Beverly Abraham, due to their Indigeneity, their history, and their negative

beliefs associated with the RCMP. As a result of this adverse treatment, their distrust of the RCMP was further entrenched, thus perpetuating the cycle of fear and distrust of the RCMP by Indigenous people and the historical disadvantages suffered by Indigenous peoples in relation to the RCMP.

[459] I find that the Complainants have established on a balance of probabilities that these particular actions or inactions by the RCMP amounted to discrimination against these individuals in that their Indigeneity was at least a factor in the adverse impacts or denial of service they experienced.

Conclusion – Prima Facie Discrimination Established

[460] The Complainants have proven on a balance of probabilities, that the following conduct amounts to *prima facie* discrimination:

- (i) by not advising Peter Mueller that he could separately report his abuse at Prince George College, the RCMP discriminated against him;
- (ii) by not providing Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Cathy Woodgate and Pius Charlie with an update on the outcome of the investigation into their allegations of abuse or, in the case of Ruby Adam, Cathy Woodgate and Pius Charlie, by not advising them that they could separately report their abuse at Immaculata when they were being interviewed as witnesses in Ms. Abraham's investigation, the RCMP discriminated against these named individuals;
- (iii) by asking her repeatedly to take a polygraph after she disclosed being sexually assaulted as a child, the RCMP discriminated against Beverly Abraham.

[461] I do not find that the Complainants have proven on a balance of probabilities that any of the other alleged adverse treatment or denial of a service by the RCMP amounts to *prima facie* discrimination.

D. Bona Fide Justification Not Established

[462] As stated above, only if the Complainants meet their onus of establishing a *prima facie* case of discrimination on a balance of probabilities will the Tribunal consider whether the Respondent has established on a balance of probabilities a statutory defence to the

discrimination, for example under section 15 of the CHRA. If the Respondent does not establish a defence under the CHRA, proof of the three elements of the *prima facie* test, on a balance of probabilities, will be sufficient for the Tribunal to find that section 5 of the CHRA has been violated (see *Bombardier* at para 64).

[463] Under section 15(1)(g) of the CHRA, a practice is not discriminatory pursuant to section 5 of the CHRA if an individual is denied a service or is a victim of any adverse differentiation and there is a *bona fide* justification for that denial or differentiation. In order to be considered to have a *bona fide* justification, section 15(2) of the CHRA requires the Respondent to prove on a balance of probabilities that accommodating the needs of an affected individual or class of individuals would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost.

[464] The RCMP argue that the considerations for undue hardship are non-exhaustive (relying on *McGill University Health Centre (Montreal General Hospital) v. Syndicat des employés de l'Hôpital général de Montréal*, 2007 SCC 4; *Petrovic v TST Overland Express*, 2021 CHRT 26; *Lock et al v Peters First Nation*, 2023 CHRT 55.) The RCMP also submits that the undue hardship principles are ill-suited to policing, where considerations of police independence, criminal law, and the rights set out in the *Charter of Rights and Freedoms* govern (making an analogy to *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at para 70 [*Hutterian Brethren*].) The Complainants briefly replied that *Hutterian Brethren* is distinguishable on its facts and the Commission did not reply to the RCMP's position on this point. I am prepared to accept that police independence, criminal laws, and the rights accorded to accused persons under the *Charter of Rights and Freedoms* are important considerations in a policing context and I am similarly prepared to consider the RCMP's submissions about undue hardship on matters beyond health, safety and cost for the purposes of this case.

[465] In order to show the discrimination was justified under this section, the Tribunal generally follows the three-step test established by the Supreme Court of Canada in *British Columbia (Superintendent of Motor Vehicles) v British Columbia (Council of Human Rights)*, 1999 CanLII 646 (SCC) [*Grismer*] at para 20. According to that test, the Respondent must prove on a balance of probabilities that:

- a) It adopted the discriminatory standard or practice for a purpose or goal that is rationally connected to the function being performed;
- b) It adopted the standard or practice in the good faith belief that it is necessary for the fulfillment of that purpose or goal; and
- c) The standard or practice is reasonably necessary to accomplish its purpose or goal in the sense that the respondent cannot accommodate persons with the characteristics of the complainant without incurring undue hardship.

[466] The RCMP has advanced an argument under section 15 of the CHRA. However, I note that this argument relates to the allegation by the Complainants that the entirety of the investigations at issue in this complaint were discriminatory, which I have not found.

[467] The RCMP argues that its conduct as a whole was justified under the CHRA. It says that the police officers in this case exercised their discretion in the investigation of Ms. Abraham's complaint for a purpose or goal rationally connected to the function being performed. It says that police conduct investigations in the public interest and, as such, are guided and constrained by the law, including the *RCMP Act*, *Police Act*, *Charter* and the common law. I do not dispute this.

[468] The RCMP says its officers conducted an 18-month long investigation which involved extensive efforts to engage with witnesses to obtain evidence and determine whether any criminal allegations were substantiated. The RCMP argues that the officers' investigative decisions in this case, including the decision to close the investigation, were reasonable exercises of discretion based on the evidence before them, and were rationally connected to the RCMP's mandate as a police force, including its duty to investigate in the public interest. I do not disagree with this. The evidence supports this assertion.

[469] The RCMP says the officers exercised their discretion in good faith. Based on the totality of the evidence collected during the 18-month long investigation, they determined that they did not have reasonable and probable grounds to believe that an offence had been committed. It says that to recommend charges without such grounds or to continue the investigation indefinitely would not be in the public interest. I take no issue with this. The decision to recommend charges is not before the Tribunal.

[470] The RCMP argues that its decision not to investigate any claims relating to Prince George College had a *bona fide* justification. It says it had not received criminal complaints or any evidence of criminal acts relating to this school. It also says there is no nexus between Prince George College and this complaint because none of the Complainants attended the school. I note that these explanations, offered by the RCMP under the heading of justifications, are the same arguments the RCMP made to rebut the Complainants' submissions on *prima facie* discrimination, which I considered above. I have already rejected the RCMP's argument that because the Complainants did not attend Prince George College there is no nexus to this case. I will not repeat my findings here.

[471] I also disagree with its assertion that it did not receive criminal complaints or evidence of criminal acts relating to Prince George College. Ms. Robinson's Response to A.B.'s civil action specifies that Mr. Mueller attended Prince George College, along with others named in her Response. The K Division review considered Ms. Robinson's Response to A.B.'s civil action and, although their recommendation to speak to Mr. Mueller does not mention Prince George College, it does say that he experienced abuse at school. Mr. Mueller testified that he mentioned that he attended Prince George College and tried to tell Constables Hanley and Cox about his experiences there but that they were not interested in his allegations because they were investigating abuse at Immaculata only.

[472] I have already concluded that the officers' failure to tell Mr. Mueller that he could report this abuse separately from their investigation into abuse at Immaculata was *prima facie* discriminatory. The issue here is whether this conduct by the RCMP was reasonably necessary to accomplish its purpose or goal, in the sense that it could not accommodate the Indigenous crime complainants without incurring undue hardship. I do not find that accommodating Mr. Mueller's desire to report his allegations of abuse at Prince George College would have amounted to undue hardship for the RCMP, for example by communicating to Mr. Mueller in a more culturally informed way about the nature of the investigation underway and how he could officially report his own allegations of abuse. If the officers did not have time to discuss his allegations at that time because they were busy with the Immaculata investigation, they could have set up a separate appointment to do so or directed him to a detachment wherever he happened to reside.

[473] The RCMP also says that its practice of apprising criminal complainants but not witnesses of the status of the investigations is rationally connected to its role as a police force and was adopted in good faith. It says that investigating crime requires corroborating evidence and that providing updates on the status of an investigation could contaminate the evidence and therefore frustrate the officers' ability to investigate crime. It says that such updates to witnesses could violate the privacy of criminal complainants and suspects. The RCMP also made these same arguments in the section above, when arguing that its conduct did not amount to *prima facie* discrimination.

[474] I accept that this explanation may apply with respect to certain investigations, for example to Ms. Abraham's investigation, where the RCMP would not be expected to update witnesses they were speaking to when they were trying to corroborate her allegations of sexual abuse, about the outcome of Ms. Abraham's investigation. The only person who should have been updated in relation to that investigation was Ms. Abraham, and this occurred.

[475] With regard to Ms. Woodgate, Ms. Adam and Mr. Charlie, who were being interviewed by Corporal Mackie in relation to Ms. Abraham's allegations but, in the course of doing so, reported their own allegations of abuse at Immaculata, the same principle applies here as it does to Mr. Mueller's situation. As Staff Sergeant Baldinger testified, the officer could have thanked them for their evidence, advised them of the particular investigation he was conducting, and explained to them how they could officially report their own allegations of abuse. Doing so would not have amounted to undue hardship for the RCMP, and would avoid the issues it has raised in relation to contaminating evidence and violating the privacy of other complainants by updating witnesses about the outcome of someone else's criminal investigation.

[476] With respect to the spinoff investigation, where each person they spoke to should have been considered as reporting allegations of criminal abuse they experienced as children, the RCMP's argument does not make sense. There was no need to tell each complainant about the outcome of its determination with respect to other complainants, but they should have been told what the RCMP had determined with regard to their own allegations. The RCMP presented no evidence that doing so would have resulted in undue

hardship to a large organization with many resources, even if the updates occurred when the RCMP had the time to reach out to the complainants they had spoken to. Doing so would not have required a great deal of resources. The officers had reached out to these people either in person or by telephone already and following up with them again was a reasonable expectation, once the investigation was complete. Each person need only have been updated with respect to their own allegations, not everyone else's, so the concerns about privacy or contaminating evidence are not applicable.

[477] The RCMP further argues that imposing a different mandate or intervening in the exercise of police independence and discretion in the conduct of investigations would give rise to an undue hardship on the RCMP because it would contravene the requirements of the *RCMP Act*, *Police Act*, and the common law. Also, it says the ability of police officers to carry out their duty to enforce the law and investigate crime on behalf of society would be frustrated, and officers' impartiality would be compromised and their ability to investigate other crime would be hindered. I am not clear on what different mandate the RCMP is referring to in its submissions, but none of the actions or inactions that I have found to constitute discrimination in relation to these investigations relates to imposing a different mandate on the RCMP, nor do they touch on the exercise of police independence in conducting investigations. Within a criminal investigation, the RCMP is still required to act in a non-discriminatory manner when dealing with crime complainants such as the Complainants and their witnesses.

[478] The RCMP says that imposing a different standard whereby RCMP officers are required to pursue investigations against their discretion would be unproductive and an inefficient use of the RCMP's time and resources. It says that investigations could continue in perpetuity, with no clear end point and the cost to the RCMP of such expansive investigations would be significant and detract from their ability to conduct other criminal investigations, including those involving Indigenous individuals and communities. None of the actions or inactions that I have found to constitute discrimination in relation to these investigations would impose a standard whereby officers are required to pursue investigations against their discretion or indefinitely. Rather, they largely relate to providing

people with information relating to investigations such as how to make an official complaint and what came of their complaints that had been made to the RCMP.

[479] The only other instance of discrimination that I have found in relation to these investigations, in addition to not updating complainants about the outcome of the investigation and not telling them that they could make a complaint, relates to Constable Larsen's decision to ask Ms. Abraham repeatedly to take a polygraph. While I accept that RCMP officers have discretion to conduct investigations as they see fit based on the circumstances before them, and that there are various techniques that can be utilized in trying to obtain the truth as part of their investigations, the evidence before the Tribunal is that the offer of the polygraph in this particular situation was not really appropriate, even by Constable Larsen's own admission. I understand that this was a discretionary decision he made as an investigator who was confronted with allegations that he felt were not very strong and that he was making the suggestion in the good faith belief that doing a polygraph could strengthen Ms. Abraham's evidence. However, the evidence is clear that his repeated questioning about this had a disproportionate impact on Ms. Abraham as an Indigenous woman who was reporting childhood sexual abuse to the police for the first time and these repeated requests made her feel that she was not believed. This set an unfortunate tone for Ms. Abraham for the rest of the investigation.

[480] The RCMP further argues that imposing a different standard would create an undue hardship by exposing the officers to civil claims in tort because the law recognizes a duty of care towards suspects in a criminal investigation. If officers were required to continue an investigation despite the absence of evidence to support a criminal charge, they could be liable for a claim of negligent investigation. This argument is not persuasive as the discrimination I have found in this case involved actions the RCMP could have taken that would not have unduly prolonged the investigation. Investigating claims of abuse against A.B. and others was precisely what these investigations were about.

[481] The RCMP has provided no more than bald assertions that acting in ways to avoid the *prima facie* discrimination I have found in this case would amount to undue hardship considering health, safety or cost or that it would contravene the *RCMP Act*, *Police Act*, *Charter of Rights and Freedoms* or common law, nor that the ability of police officers to carry

out their duty to enforce the law and investigate crime on behalf of society would be frustrated, nor that officers' impartiality would be compromised, nor that their ability to investigate other crime would be hindered.

[482] Accommodating the Indigenous crime complainants by ensuring they were told that they could report allegations of abuse, be given an update about the outcome of the investigation into their allegations of abuse, and not be repeatedly offered a polygraph would not have interfered with the RCMP's duty to conduct its investigations in the public interest.

I find that the RCMP has not established a *bona fide* justification for any of the discriminatory practices I have found with respect to this complaint. As such, I find that the RCMP discriminated against Peter Mueller, Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Pius Charlie, Cathy Woodgate and Beverly Abraham contrary to section 5 of the CHRA, as set out in the previous section.

VIII. REMEDIES

[483] The Complainants are seeking both personal and public interest remedies.

(a) Personal Remedies

[484] The Complainants seek the following personal remedies:

- (i) pursuant to section 53(2)(b) of the CHRA, that a new investigation be conducted in a manner that is in accordance with the public interest remedy they seek under section 16 of the CHRA ("investigation team");
- (ii) pursuant to section 53(2)(e) of the CHRA, compensation for pain and suffering which includes the psychological and emotional harm they experienced as a result of being disbelieved, dehumanized and deprived of access to justice in the amount of \$20,000 for any Indigenous individual (or estate) who was abused while attending Immaculata or Prince George College;
- (iii) pursuant to section 53(3) of the CHRA, compensation for the RCMP's willful or reckless discrimination, given that the RCMP was well aware that Indigenous peoples in northern BC and elsewhere distrusted the RCMP, yet did nothing to ameliorate it or accommodate their needs, in the amount of \$20,000 for any

Indigenous individual (or estate) who was abused while attending Immaculata or Prince George College;

(iv) pursuant to section 53(2)(d) of the CHRA, compensation for individuals who incurred expenses as outlined in appendix B of the Complainants' Statement of Particulars;

(v) pursuant to section 53(4) of the CHRA, interest on the compensation ordered.

(i) New investigation

[485] I decline to order a new investigation of the Complainants' and their witnesses' allegations by either the RCMP or the investigation team that the Complainants ask the Tribunal to order. Therefore, I need not consider the submissions made with respect to the Tribunal's authority to order a new investigation.

[486] The discrimination I have found based on the evidence before me does not justify the ordering of a new investigation.

[487] I have found that the investigations conducted by the RCMP were thorough and that they acted diligently in seeking out and interviewing many complainants and witnesses. While I appreciate that the Complainants and their witnesses are unhappy with the outcome of the investigations, the decision whether to recommend a charge is not before the Tribunal.

(ii) Damages for pain and suffering

[488] Section 53(2)(e) of the CHRA states that if, at the conclusion of the inquiry, the member finds that the complaint is substantiated, the member may make an order against the person found to be have engaged in the discriminatory practice and may, if they deem it appropriate, order that "the person compensate the victim, by an amount not exceeding twenty thousand dollars, for any pain and suffering that the victim experienced as a result of the discriminatory practice."

[489] Damages for pain and suffering are meant to compensate victims of discrimination, to the extent possible, for the harm and the hardship they have endured as a result of the discrimination, including any injury to their dignity (*Young v Via Rail Canada Inc.*, 2023 CHRT 25 [*Young*] at para 308). The Tribunal has stated many times that the maximum

award of \$20,000 tends to be reserved for the most blatant or egregious discrimination (*Young* at para 307). There must also be a causal connection between the damages claimed and the discriminatory practice (*Chopra v Canada (Attorney General)*, 2007 FCA 268 at para 32).

[490] The RCMP argues that the Tribunal can only award compensation to the six named Complainants. They object to the Complainants' request that compensation be paid to any Indigenous individual (or estate) who was abused while attending Immaculata or Prince George College, suggesting this would amount to an expansion of the complaint after both the referral of the complaint to the Tribunal by the Commission and, more egregiously, after the evidence was heard. The RCMP notes that the Supreme Court of Canada has cautioned that the Tribunal is "an adjudicator of the particular claim that is before it, not a Royal Commission" (*Moore* at para 64). Further, "the remedy must flow from the claim" (*Moore* at para 64).

[491] The Respondent disagrees with the Commission's suggestion that this case is comparable to *FNCFCSC 2016* in which the Tribunal determined that payments can be ordered, in appropriate circumstances, in respect of an identifiable class of victims who are not complainants. It says that, in that case, the Tribunal found it could identify absent "victims", whereas in this case no such conclusions can be drawn about the non-complainants for whom damages are sought. The RCMP suggests that, even if the claim were directed at the RCMP, determining whether such individuals are "victims" would necessitate the Tribunal making findings of fact that cannot be extrapolated from the present complaint, namely that an individual was abused while attending Immaculata or Prince George College, that they brought a criminal complaint to the RCMP based on such abuse, and that they were subjected to discrimination as alleged by the Complainants.

[492] Section 53(2)(e) provides authority to order compensation for a "victim" of the discriminatory practice identified by the Tribunal. The CHRA also provides that a complainant may bring a complaint on behalf of another person (ss.40(1) and 40(2)). The complaint brought by the Complainants alleged discriminatory practices during the RCMP's investigations which included conduct toward non-Complainants who were linked in various ways to the investigations. I accept that the Tribunal can award compensation in this case

to victims whom the evidence shows were impacted by the specific discriminatory practices I have found. This includes those who brought allegations of abuse related to Prince George College or Immaculata. As found above, this includes the following Complainants and witnesses who provided evidence in the Tribunal's inquiry into this complaint: Peter Mueller, Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Pius Charlie, Cathy Woodgate and Beverly Abraham. I have concluded on the evidence before me that the discriminatory practices I identified in the investigations in issue in this inquiry involved adverse treatment or denial of a service to these individuals. They are victims of the discriminatory practices I have found.

[493] However, I deny the Complainants' request for personal remedies for "any Indigenous individual (or estate) who was abused while attending Immaculata or Prince George College." An order to that effect would not flow from the discriminatory practices found. The Tribunal did not hold an inquiry into historical abuse against Indigenous children at schools in northern BC, but rather an inquiry into the RCMP's receipt of and investigation into specific allegations regarding Immaculata and Prince George College. The Complainants say their allegation of systemic discrimination supports the broad personal remedies they seek. The evidence and submissions before the Tribunal do not support a finding of adverse treatment or a denial of a service in a systemic way for any Indigenous individual, so far unidentified, who was abused while attending Immaculata or Prince George College. The Tribunal has authority to remedy only the specific discriminatory practices established in the evidence that is put before it.

[494] The Tribunal has accepted that, in awarding damages for pain and suffering, it is appropriate to consider both the objective seriousness of the conduct and the effect on the particular applicant who experienced the discrimination (*Christoforou v John Grant Haulage Ltd.*, 2021 CHRT 15 [*Christoforou*] at para 104, relying on *Arunachalam v Best Buy Canada*, 2010 HRTO 1880 at para 52, and *Sanford v Koop*, 2005 HRTO 53 at para 35).

[495] In terms of the objective seriousness of the conduct, I have considered the nature of the discrimination faced by Peter Mueller, who felt disrespected and ignored by the RCMP when the officers did not consider his complaint about abuse at Prince George College or tell him to report the abuse separately from their Immaculata investigation. Ruby Adam,

Richard Perry, Maurice Joseph, Emma Williams, Cathy Woodgate and Pius Charlie were also left feeling disrespected and ignored by the RCMP when they were not updated about the outcome of the investigation into their allegations of abuse (or, in the case of Ms. Adam, Mr. Charlie and Ms. Woodgate, not told to report their abuse separately from Ms. Abraham's investigation). Finally, Ms. Abraham felt disbelieved and disrespected by Constable Larsen when he repeatedly asked her to take a polygraph after reporting her allegations of sexual abuse. I accept that this affected her dignity as an Indigenous woman reporting sexual abuse by a teacher when she was a child.

[496] When considering the effect on all of these individuals, I have also considered their social context or vulnerability (*Torres v Royalty Kitchenware Ltd.*, 1982 CanLII 4886 (ON HRT); *Gichuru v Law Society of British Columbia (No. 2)*, 2011 BCHRT 185 at para 260 (aff'd 2014 BCCA 396)). In this case, their vulnerability arises from their status as Indigenous people from northern BC with reported negative social memory of the RCMP that has led them to distrust the RCMP. The discriminatory conduct by the RCMP in this case has led to this distrust being reinforced, and a loss of confidence that the RCMP will take them seriously as crime complainants.

[497] In *André v Matimekush-Lac John Nation Innu*, 2021 CHRT 8 [André] where the Tribunal awarded \$17,000 for pain and suffering, the complainant submitted medical documents and psychologists' reports that included diagnoses of adjustment disorder, generalized anxiety and post-traumatic stress disorder. The reports substantiated the effects of the discrimination and harassment on her life. Ms. André's symptoms included distress, sadness, recurring fatigue, loss of appetite, insomnia, hopelessness and even suicidal thoughts (at paras 177-178).

[498] While the Complainants were not required to provide medical documentation to support their claims for damages for pain and suffering, the Tribunal received little evidence regarding the impact of the discrimination on them, aside from their evidence about distrust of the RCMP, which pre-existed but was further reinforced by the discrimination. I note that the Complainants' evidence about the impact of the RCMP's actions or inactions on them related to the entire complaint before the Tribunal, which included their view about the outcome of the investigation, including that charges were not laid, which was not being

considered by the Tribunal, and their belief that the RCMP had not investigated complaints of abuse at Immaculata at all, which was disproven at the hearing. While I appreciate that the Complainants and their witnesses have experienced stress related to the abuse they experienced as students, as well as the stress of the publicity surrounding their abuse in the media and Ms. Robinson's court cases, as well as this human rights complaint process and hearing and associated delays, the Tribunal can only consider the actions or inactions of the RCMP that I have found to constitute discrimination, when determining compensation for pain and suffering.

[499] When I consider the limited instances of discrimination that I have found based on the evidence before me and the impact this has had on these individuals, I am of the view that \$5,000 for pain and suffering for each of Peter Mueller, Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Pius Charlie, Cathy Woodgate and Beverly Abraham is appropriate.

(iii) Special compensation for wilful or reckless discrimination

[500] The Tribunal may also award up to \$20,000 if it determines that the Respondent engaged in the discriminatory practice wilfully or recklessly (section 53(3)) of the CHRA).

[501] The Federal Court has interpreted subsection 53(3) as a "punitive provision intended to provide a deterrent and discourage those who deliberately discriminate" (*Canada (Attorney General) v Johnstone*, 2013 FC 113 [*Johnstone*] at para 155, aff'd 2014 FCA 110). Willfulness requires a finding that "the discriminatory act and the infringement of the person's rights under the Act is intentional", whereas recklessness usually involves "acts that disregard or show indifference for the consequences such that the conduct is done wantonly or heedlessly" (*Johnstone* at para 155).

[502] When deciding whether or not to award special compensation, the Tribunal is to analyze the Respondent's actions, not the effects of those actions on the victim(s) (*Beattie and Bangloy v Indigenous and Northern Affairs Canada*, 2019 CHRT 45 at paragraph 210, aff'd 2021 FCA 245).

[503] I do not find that the RCMP's discriminatory actions were intentional and do not conclude they acted wilfully. However, I do find that their actions were reckless in that they did not consider the effect that their actions or inactions would have on the Indigenous crime complainants. I find that, as RCMP officers investigating allegations of abuse made by Indigenous people, failing to update them on the outcome of the investigation, failing to tell them how to report their allegations of abuse, and repeatedly asking them to take a polygraph after disclosing childhood sexual abuse amounted to clear disregard for the effect of their behaviour on the Indigenous crime complainants they were dealing with.

[504] I am of the view that, in the unusual circumstances surrounding the investigations that were being conducted by the RCMP in this case, \$2,500 for wilful and reckless discrimination for each of Peter Mueller, Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Pius Charlie, Cathy Woodgate and Beverly Abraham is appropriate.

(iv) Expenses

[505] Pursuant to section 53(2)(d) of the CHRA, the Complainants seek compensation for individuals who incurred expenses as outlined in Appendix B of the Complainants' Statement of Particulars. These costs include transportation, accommodation and meals for Ms. Robinson, as a non-legal representative of the Complainants, to travel from her home in Ontario to Vancouver and Burns Lake to meet with the Complainants about the RCMP investigation and the human rights complaint, starting in 2015, as well as mileage for Ronnie Matthew West, as a non-legal representative of the Complainants, and Dorothy Williams and Richard Perry as Complainants, to travel from their homes in northern BC to meet with the Complainants about the RCMP investigation and human rights complaint, starting in 2015.

[506] The RCMP argues that the Complainants' claim for expenses amounts to a claim for costs incurred in the preparation and prosecution of this complaint, whereas section 53(2)(d) provides only that the Tribunal may order expenses incurred by a victim as a result of the discriminatory practice. The RCMP says the Complainants have presented no evidence to

link the claimed expenses to any conduct of the RCMP, nor have they provided any documentation to support these amounts.

[507] I agree with the RCMP. All of these travel-related costs start in 2015, well after the RCMP investigation ended. The Complainants have not shown a link between the claimed travel costs for these individuals and the discrimination I have found in this case.

[508] I decline to award the expenses as requested.

(v) Interest

[509] The CHRA empowers the Tribunal to award interest on the compensation it orders. The Tribunal's compensation order "may include an award of interest at a rate and for a period that the member or panel considers appropriate" (s.53(4) CHRA). Rule 46 of the *Canadian Human Rights Tribunal Rules of Procedure*, SOR/2021-137 [Rules] further clarifies the type of interest that may be ordered: "Interest awarded ... must be simple interest that is equivalent to the bank rate established by the Bank of Canada and must accrue from the day on which the discriminatory practice occurred until the day on which the award of compensation is paid." Interest is calculated on a yearly basis using the Bank of Canada rate (monthly series) (*Starr et al v Stevens*, 2024 CHRT 127 at para 144).

[510] Any order of interest is discretionary and the Tribunal may establish a start date and point of cessation with respect to an interest award (see *Peters v United Parcel Service Canada Ltd. and Gordon*, 2025 CHRT 2 at para 157). Although the Tribunal's Rules state that the interest is to accrue from the day on which the discriminatory practice occurred, I note that the Tribunal may vary or dispense with compliance with a Rule if doing so achieves the purpose of securing the informal, expeditious and fair determination of the inquiry on its merits (Rule 8). The discrimination that I have found to have occurred in this case happened between 2012 and 2014. However, the human rights complaint was not filed by the Complainants until January of 2017, and the complaint was not referred to the Tribunal by the Commission until February of 2020. While the Tribunal is not aware of the circumstances which led to the complaint being filed so long after the RCMP investigations took place or what occurred at the Commission stage, I am of the view that a fair and reasonable start

date for the interest on the monetary amounts in this case is the date the complaint was referred to the Tribunal, being February 6, 2020.

[511] In the circumstances of this case, I order simple interest at the average annual bank rate established by the Bank of Canada. The interest on the the pain and suffering and wilful and reckless awards, which amounts to \$7,500 in respect of each of the following people shall run from February 6, 2020 until the date on which compensation is paid by the RCMP: Peter Mueller, Ruby Adam, Richard Perry, Maurice Joseph, Emma Williams, Pius Charlie, Cathy Woodgate and Beverly Abraham.

(b) Public Interest Remedies

[512] Pursuant to section 53(2)(a)(i) of the CHRA, the Complainants seek an order that the RCMP cease its discriminatory investigative practices and correct or prevent the same practices from occurring in the future by adopting a special program, plan or arrangement as referred to in subsection 16(1) of the CHRA. The Complainants submit that the special program under subsection 16(1) should direct the RCMP in BC to collaborate with an Indigenous-led organization such as the BC First Nations Justice Council to create a team to provide abuse investigation services in Indigenous communities with components similar to the investigation team described in paragraph 92 of the Complainants' Statement of Particulars.

[513] The Complainants submit that the order under 53(2)(b) of the CHRA for the provision of a new investigation (which I have declined to award) should be directed by an Indigenous-led organization with a team of investigators that may include an RCMP officer that is chosen and trained by the Indigenous-led organization, with the following suggested components of the investigation team:

- a. At least one member of the local Indigenous community;
- b. A member that speaks the local Indigenous language;
- c. A recognized Elder from the Indigenous community;
- d. A member trained and experienced in abuse and sexual abuse investigations;
- e. A member trained and experienced in mental health and trauma and able to provide referrals for counseling;

- f. A member recognized as a spiritual advisor;
- g. A member trained and experienced in archive / historical research; and
- h. A member familiar with the Final Report of the Truth and Reconciliation Commission and the legacy of residential and day schools.

[514] The Complainants say that the special program should recognize and affirm Article 34 of the United Nations Declaration on the Rights of Indigenous Peoples, pursuant to BC's *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44.

[515] Further, the Complainants say there should be a transfer of funds from the RCMP's investigation services branch to Indigenous communities in order to facilitate and ensure the development and implementation of the special program.

[516] Finally, the Complainants ask the Tribunal to retain jurisdiction to assist in the development and implementation of the special program.

[517] The Tribunal received evidence about this proposed public interest remedy from an expert witness, Dr. Comack, and from the BC First Nations Justice Council.

[518] The Commission's position is supportive of this remedy as sought by the Complainants.

[519] The Respondent's position is that these proposed public interest orders lie beyond the Tribunal's jurisdiction for three reasons. First, provincial and local policing fall within BC's constitutional authority for the administration of justice. Second, neither the RCMP nor the Tribunal can create an entity independent of the RCMP and the Tribunal cannot allocate public funds to an external body. Third, the Tribunal does not have jurisdiction over the conduct of law enforcement operations, which are to remain independent of the executive.

[520] Without taking a position on the merits of the complaint, the Attorney General of BC also provided Closing Submissions with respect to this public interest remedy, in which it cautions the Tribunal against making an order that would affect the Province's exclusive constitutional jurisdiction over the administration of justice in BC. The Province adds that it is taking strides respecting policing reform in BC, and the Tribunal heard evidence from its witnesses about this. It says the process is ongoing and significant progress is being made. It notes that the issues raised by the Complainants in their proposed public interest remedies

are important and that they ought not to be addressed by means of an order based on the preliminary proposals provided by the Complainants but by allowing the Province's progress to continue, carefully and in consultation and cooperation with Indigenous peoples in BC, which the Tribunal heard had included the BC First Nations Justice Council.

[521] It is a well-recognized principle that, "orders of a remedial nature must be linked or have a nexus to the lis or subject-matter of the complaint substantiated by the tribunal: the 'four corners of the complaint' or 'the real subject matter'. The remedy must be commensurate with the breach. The orders also must be reasonable and the remedial discretion exercised in light of the evidence presented" (*Hughes v. Elections Canada*, 2010 CHRT 4 at para 50, see also *Grant v Manitoba Telecom Services Inc.*, 2012 CHRT 10 at para 111).

[522] The Complainants' proposed public interest remedies are very broad and are directed at their position that the RCMP's investigation and its investigative methods, discriminate against Indigenous people. In light of my finding with respect to the discrimination in this matter being limited to discrete aspects of the RCMP's investigations, and not the entirety of the investigations, I decline to award such broad public interest remedies.

[523] I do not find that there is a nexus between the discrimination that I have found with respect to the RCMP's investigations and the public interest remedies sought by the Complainants.

[524] In its Closing Submissions, the Commission refers to the public interest remedies it was seeking, as set out at paragraph 71 of its Statement of Particulars, stating that the majority of these recommendations would be subsumed within the broader remedies proposed by the Complainants, which the Commission endorses.

[525] As I have rejected the Complainants' public interest remedies, I return to the Commission's Statement of Particulars, which sets out certain proposed public interest remedies that I feel address the nature of the discrimination present in this case. While I decline to order all of the proposed public interest remedies, I do consider that to prevent recurrences of the discrimination found in this case, a review of policies guiding RCMP

investigators is warranted. While the discriminatory practices found were more limited than what the Complainants sought, they nevertheless link to the complex history of RCMP-Indigenous interactions, the deep social mistrust expressed by the Complainants and lay witnesses and described by the expert witness Dr. Milward. Eliminating the recurrence of the kinds of adverse impacts found requires policy guidance and shifts in culture, indicating that an order directed to the policy level is required to prevent further, similar occurrences that perpetuate harm and mistrust.

[526] I order as follows:

That the RCMP review all policies, practices, procedures and training related to Indigenous crime complainants, witnesses and others connected to investigations of allegations of historical abuse involving Indigenous peoples to ensure service delivery that is trauma-informed and culturally appropriate and report to the Commission on the outcome of this review within one year of the date of this decision.

[527] As I decline to order the Complainants' requested public interest remedy, I also decline to retain jurisdiction over this complaint, with the exception of ruling on the Complainants' request for costs relating to the RCMP's conduct in the course of the Tribunal's proceedings, as set out in their Closing Submissions. In order to not delay the release of the decision on the merits, I will issue my ruling on costs separately from this decision.

IX. ORDER

[528] The Tribunal orders the RCMP to:

- (i) Within 90 days of the date of this decision, pay the amount of \$7,500 for damage for pain and suffering and wilful and reckless discrimination to each of the following people, plus interest from the date of February 6, 2020 until the date on which compensation is paid:
 - Peter Mueller
 - Pius Charlie
 - Beverly Abraham
 - Ruby Adam

- Richard Perry
- Maurice Joseph
- The Estate of Emma Williams
- The Estate of Cathy Woodgate

(ii) The interest must be calculated as simple interest that is equivalent to the bank rate established by the Bank of Canada.

(iii) Review all of its policies, practices, procedures and training related to Indigenous crime complainants, witnesses and others connected to investigations of allegations of historical abuse involving Indigenous peoples to ensure service delivery that is trauma-informed and culturally appropriate and report to the Commission on the outcome of this review within one year of the date of this decision.

X. CONCLUSION

[529] I accept that the Complainants and their witnesses experienced abuse when they were children, by teachers and nuns and priests and other adults who worked at Immaculata School and Prince George College. I accept that they distrust the police for a variety of reasons both historical and modern. I accept that the Complainants' experience of the RCMP's investigation into their allegations of abuse as children resulted in them feeling disrespected and that they were not listened to or believed. While the findings I have made in this decision are made under the *Canadian Human Rights Act*, this inquiry has made clear that mistrust and a lack of cultural safety continue to be barriers to Indigenous people in northern BC accessing police services. I heard evidence that there is a desire and some movement to change the relationship between the RCMP and Indigenous people in this region and urge the RCMP to make continued efforts to shift the negative social memory Indigenous people in the region hold for the RCMP to a positive one.

Signed by

Colleen Harrington
Tribunal Member

Ottawa, Ontario
March 2, 2026

Canadian Human Rights Tribunal

Parties of Record

File No.: T2459/1620

Style of Cause: Woodgate et al. v RCMP

Decision of the Tribunal Dated: March 2, 2026

Date and Place of Hearing: May 1-11, 2023 in-person in Burns Lake, British Columbia

By Zoom Videoconference:

May 23-26, 2023

May 31-June 1, 2023

June 13-16, 19, 20, 22 and 28, 2023

September 19-22, 2023

October 11,12, 2023

November 14,16,17,24, 2023

Dec.18-22, 2023

January 29-31, 2024

February 2,6,7, 2024

Appearances:

Karen Bellehumeur and Angeline Bellehumeur, for the Complainants

Christine Singh and Jonathan Bujreau, for the Canadian Human Rights Commission

Whitney Dunn, Mitchell Taylor KC, Charles Barnes, Kyle Hunter, Kirat Khalsa, Nima Omid, Jennifer Rogers, Zahida Shawkat, and Coco Wiens-Paris, for the Respondent