

## **PART 4: UNDERLYING CAUSES OF THE CRITICAL POLICE FAILURES**

In Volume II, Part 3, I analyzed the patterns of errors evident in the missing women investigations and concluded that these patterns resulted in seven critical and systemic police failures that contributed to the delay in resolving this case.

I conclude that serial killers will continue to win the day as long as we continue to ignore past lessons. In conducting this Inquiry, I have been struck time and again by the ways in which the errors in the missing and murdered women investigations mirror the errors in other serial killer cases. How do we stop making the same mistakes, stop re-enacting the same systemic failures? In my view, this can only be achieved if the underlying causes of the police failures are examined and solutions developed that can be fully implemented.

It is not enough to establish what went wrong in the investigations and how these overall failures were exhibited at various points in the investigations. It is equally crucial to ask the question why they occurred.

Participants and witnesses have proposed seven explanations for the failed missing women investigations:

- I. Discrimination in the form of systemic institutional bias and political/public indifference;
- II. A want of leadership in the supervision and management of the investigations;
- III. Limited and outdated policing systems, approaches and standards;
- IV. Fragmentation of policing in the Lower Mainland;
- V. Inadequate resources;
- VI. Police culture and people problems;
- VII. An alleged conspiracy.

I analyze each of these explanations and draw conclusions as to whether they contributed to the police failings. My conclusions in this section are particularly critical because they lay the foundation for the recommendations for change that I am mandated to make under my Terms of Reference.

### **Part 4A: Discrimination, Systemic Institutional Bias, and Political and Public Indifference**

That critical police failures in the missing women investigations resulted from discriminatory policing or systemic institutional bias is highly contested. It is an issue with an absolute division between the non-police participants and the police in this Inquiry. Counsel for the Families, Aboriginal Interests, and DTES Interests made systemic bias the central thrust of their cross-examinations and closing submissions. Counsel for the VPD, the RCMP and the Vancouver Police Union, as well as most of the individual police officers with independent counsel, utterly rejected these

arguments, emphasizing the lack of evidence necessary to substantiate these serious claims.

### ***The challenge***

It is essential to my mandate to pose and respond to the question: Did these women receive the same protection of the police and the law that all members of society would expect? The public deserves an answer to this question. I acknowledge that it is a difficult issue that defies straightforward analysis and simple conclusions.

The central issue I must resolve is whether, on the evidentiary record before the Commission, the police took adequate steps to carry out the missing women investigations and to prevent further victimization, taking into consideration the precarious situation of the victim group – street-involved women from the DTES community. I have taken open-minded, thoughtful and dispassionate consideration of this issue, as I have to all issues in this report.

In addressing this challenging issue, I apply the framework for understanding discrimination and systemic bias in policing developed in Volume I and I review the positions taken by the Participants.

I conclude that systemic bias against the women who went missing from the DTES contributed to the critical police failures in the missing women investigations. I am quick to distinguish my finding from a legal finding of discrimination, which exceeds my authority as Commissioner of a public inquiry. Bias is an unreasonable departure from the police commitment to providing equitable services to all members of the community. The systemic bias operating in the missing women investigations was a manifestation of the broader patterns of systemic discrimination within Canadian society and was reinforced by the political and public indifference to the plight of marginalized female victims.

### ***No finding of overt bias or widespread institutional bias***

The Commission process was not designed to inquire into individual discriminatory conduct or the existence of a general culture of sexism and racism within the police agencies. I accept, in principle, that both individual intentional discrimination by police officers and a culture of sexism and racism within a policing institution could have a detrimental impact on a particular investigation. However, I make no findings in this regard. My mandated focus is on the factors that contributed to the patterns of errors in the decision-making and conduct related directly to the investigations.

I find that, as a whole, the officers involved in the investigations were conscientious and fair-minded people who would not consciously disfavour the interests of a class of people in the investigation process.

I also conclude that there is no evidence of widespread institutional bias in the VPD or the RMCP.

***Use of demeaning or derogatory language***

The submissions made on behalf of the Families and DTES Interests cite numerous examples in the evidence of demeaning or derogatory language used by individual police officers in the course of their duties. Counsel for the VPD, the RCMP and the individual police officers went to great lengths to either challenge the reliability of this evidence and/or to question the extent to which use of language is proof of bias.

Debates about whether specific terms such as “hooker” are or were derogatory do not advance an understanding of these issues. The larger concern, in my view, is that it was and is wrong to refer to the missing women as a category, even the more neutral “sex trade worker” or “STW” that is found throughout the files. This undifferentiated and categorical thinking about people is a red flag; when categories are used to label victims, it is demeaning.

The missing and murdered women were not “hookers” or “STWs”: they were women, they were persons, they were human beings. They were complex individuals who, like everyone, had talents and problems, hopes and disappointments, aspirations and fears. They enjoyed a web of personal relationships and were members of their community.

While I would not make a finding of bias on the basis of use of demeaning language alone, it sets the foundation for an inquiry into whether stereotypes about women engaged in the sex trade influenced decision-making and conduct within the missing women investigations.

***A finding of systemic bias does not mean that the police did not care about the women***

It is important to underscore that a finding of systemic bias should not in any way be taken to mean that the police did not care about the women. They clearly cared, and many worked diligently over a long period of time to catch the perpetrator. Systemic bias means that some aspects of the policing decisions and strategies reflect pervasive stereotypes about this group within our community.

***Systemic bias is closely tied to public and political indifference***

Sir Robert Peel coined the phrase: “the police are the public and the public is the police.” I keep this phrase at the forefront of my analysis. The police failures in this case mirror the general public and political indifference to the missing women.

While the police have a legal duty to overcome systemic biases and ensure equal protection of the law, they cannot do it alone. The lack of prioritization of the missing women investigations never became a matter of public importance. At some level, we all share the responsibility for the unchecked tragedy of the failed missing women investigations.

### **Conclusion**

The police did not consciously decide to under-investigate the missing women or to deny protection to women in the DTES, but the effect of the policing strategies employed resulted in exactly those outcomes. Ultimately, many assumptions made by the police worked against the interests of the women and allowed the violence to continue, despite the valiant efforts of the individual members of the investigative teams.

I conclude that there was systemic bias in the police response to the missing women investigations. In particular, I find that systemic bias:

- Allowed faulty stereotyping of street-involved women in the DTES to negatively impact missing women investigations;
- Resulted in the failure to take the lives of the women into account in the policing strategies, particularly in failing to recognize the duty to protect an endangered segment of our community; and
- Contributed to a failure to prioritize and effectively investigate the missing women cases.

### **Part 4B: A Want of Leadership: Supervision and Management Issues**

One of the pervasive underlying causes of the critical police failures in the missing women investigations was the lack of an institutional champion. I use the phrase a “want” of leadership, to emphasize the point: the investigations cried out for leadership; leadership was wanting. While I also employ the phrase “lack of leadership” because it flows more easily, it doesn’t have the same power. The problem was so pervasive it was not merely a question of adequacy; there was an *absence of leadership*.

No senior manager at the VPD, RCMP E Division Major Crime Section, Coquitlam RCMP, or Provincial Unsolved Homicide Unit [PUHU] took on this leadership role and asserted ongoing responsibility for the case. Various members of the investigative teams championed the case at different times to the best of their abilities, within the hierarchy of their policing agencies. I single out the dedication of Det. Cst. Shenher, Sgt. Field, Det. Insp. Rossmo, Cpl. Connor, Staff Sgt. Davidson, Det. Chernoff and Det. Lepine in this regard. Arguably, Sgt. Adam, in his position as Team Commander of Project Evenhanded was assigned the role of champion, but he was unable to fully assert leadership given that an important aspect of the investigation remained under the jurisdiction of the VPD and Coquitlam RCMP.

### ***Thematic analysis of evidence***

My analysis begins with definitions of senior management, responsibility and accountability in the police context and a summary of the evidence on perceptions of the role of senior managers within the missing women investigations. I then review the evidence concerning the want of leadership on this file under seven major findings:

- I. Failure to recognize and take ownership of the problem;
- II. Passive management style;
- III. Lack of communication between investigators and senior managers;
- IV. Failure on the part of management to keep informed;
- V. Absence of supervisors at critical times;
- VI. Lack of oversight and direction by senior managers;
- VII. Overall lack of engagement and commitment by VPD's Senior Management Team.

### ***Conclusions***

The missing women investigations suffered from a want of leadership. This lack of oversight resulted in investigations without sufficient direction, staffing or resources. Ineffective leadership affected all phases of the investigation: from the delays in confirming women missing, to the breakdown of the initial Pickton investigation, to the delay in setting up a JFO, to the misguided operational plan for Project Evenhanded.

Witnesses provided me with a range of explanations for the want of leadership. I conclude that the pattern of disengaged leadership was due to a combination of lack of interest and understanding. Early opinions that this was a low priority issue as the women were merely missing were stubbornly persistent, reinforced by the outdated belief of "no body, no crime." This led to a disinterest in newer analytical approaches, such as Det. Insp. Rossmo's statistical analysis. There was also a lack of political pressure. Leadership required someone in a senior position to go out on a limb, but everyone chose to play it safe. All of these things meant that there was no champion for the missing women when one was needed and richly deserved.

### **Part 4C: Limited and Outdated Policing Systems, Approaches and Standards**

The missing women investigations were severely hampered by limited and outdated policing systems and approaches, and by the lack of clear standards. Both the LePard and Evans reports discuss these issues in great detail, and the police participants see these problems as providing the central explanations for the failures in the missing women investigations.

In my view, five limitations in policing systems and approaches contributed to the failed missing women investigations:

- I. Inadequate missing person policies and practices;
- II. The unacceptably slow adoption of MCM systems;

- III. A parochial and silo-based approach to policing;
- IV. Failure to develop and apply policing standards;
- V. Poor or non-existent integration of community-based policing principles in the approaches taken to the investigations.

### ***Inadequate missing persons policy and practices***

There was no provincial standard for missing person investigations during the terms of reference, and this deficit has yet to be addressed by provincial authorities. Both the VPD and the Government of Canada accept the fact that their missing person policies were deficient in this regard from 1997 to 2002, although both agencies have taken major steps to clarify standards applicable within their agencies in the intervening decade.

Notwithstanding the lack of detailed standards, the Government of Canada's closing submissions highlight the uniformity in approach taken by RCMP detachments in missing person cases based on RCMP E Division policy. I accept that the RCMP missing person policies were reasonable; although, as I have concluded earlier, this policy was not followed systematically in all of the missing women cases reported to RCMP detachments.

The VPD fully admits that the systemic problems in the MPU caused many serious problems within the missing women investigations. As I noted at the end of Part 3A, the systemic problems within the VPD MPU were fully documented in an audit completed by Retired Insp. Schouten in 2004. The *Schouten Report* found that there was an overall lack of resources, lack of adequate training and oversight provided to the VPD MPU. It concluded that there was generally little active investigation on files not cleared within the first 48 hours and that the investigative steps taken were not consistently documented. The report also identified a need to develop clear guidelines to determine when a suspicious missing incident becomes a homicide investigation. All of these systemic deficiencies compromised the VPD MPU's ability to effectively carry out its mandate to investigate missing person reports and properly assess their level of risk. All of the recommendations from the *Schouten Report* were implemented by the VPD within two years.

I agree that the lack of established policies within the MPU on issues such as investigative steps to be taken, the threshold for determining foul play, and inter-agency cooperation and investigation enabled the exercise of unstructured discretion in investigative decision-making and enabled a level of inaction that was wholly unacceptable.

The systemic problems extended well beyond the VPD MPU. The investigations were also severely circumscribed by a lack of systematic means of sharing information about missing persons between policing agencies. There was no oversight mechanism to look for anomalous patterns of missing people, especially when they crossed jurisdictions. A provincial standard is required to address these systemic inadequacies.

***Unacceptably slow adoption of MCM systems***

It is trite to say that the police failure to follow MCM principles was caused by the fact that neither the VPD nor the RCMP had formally adopted and put into place MCM systems. I am mindful of the time required to fully implement such a major shift in policing practices, especially bearing in mind the training requirements and the need to develop the required support systems. At the same time, provincial authorities and senior management at the VPD and the RCMP were aware of the *Bernardo Review* and its implications for major cases that had multi-jurisdictional aspects, such as the missing women investigations. The police forces cannot use the unacceptable delay in developing MCM standards as an excuse for its failures. At a minimum, a full MCM system could have been implemented for the missing women and Pickton investigations, as it was by the VPD for the Home Invasion Task Force in 1999. My finding in this regard is especially important given that British Columbia still does not have provincial MCM standards or a common province-wide ECM system.

***Failure to develop and apply policing standards***

We have been slow, in British Columbia, to adopt formal provincial policing standards. There were no standards for MCM or missing persons during the terms of reference and they still do not exist today. I conclude that the lack of standards contributed to unacceptable disparities in the individual missing women investigations and to the lack of accountability that plagued the investigations in an overarching sense. Without standards, there is no barometer for measuring performance and lack thereof. For example, the lack of a standard for an automatic review of a stalled file contributed to the failure of internal accountability mechanisms.

***A parochial and silo-based approach to policing***

The VPD and RCMP made the classic mistake found in many serial murder investigations: being parochial and not involving all of the agencies that needed to be involved. The silo effect was also evident in the missing women investigations. A significant lack of communication between sections within the VPD and the RCMP caused compartmentalized thinking and a lack of flow of ideas, knowledge and strategies. This silo-based approach meant that the potential contribution of criminal profilers, geographic profilers and patrol officers were not effectively integrated into the investigations.

***Poor or non-existent integration of community-based policing principles***

In 1994, in my capacity as Commissioner of the Inquiry into Policing in British Columbia, I recommended the shift to community-based policing. Community-based policing means real community involvement by the police in a partnership with the community. I am extremely disappointed to find that community-basing policing principles were completely ignored

in the missing women investigations. The police utterly failed to take the problem-solving orientation and the proactive rather than reactive approach, which are both key to true community policing models. The missing women investigations demonstrate, yet again, the inherent limitations of the traditional model of policing focused on “catching the bad guy.” I saw no attempts at any stage of the missing women investigations, the Coquitlam RCMP Pickton investigation, or in Project Evenhanded, to develop collaborative partnerships between the police and the public.

Integrating a community-based approach into the missing women investigations was the best, and perhaps the only, strategy available to the police to protect potential victims and to catch Pickton. In my view, the Vancouver Police Board could have played a more active role in correcting the VPD’s failure to integrate a community-based policing approach. This role is very much in keeping with the Board’s responsibility to set broad policy direction rather than influence actions at the operational level.

#### **Part 4D: Fragmentation of Policing**

The critical police failure to address cross-jurisdictional issues and ineffective co-ordination between police forces and agencies is directly attributable to the fragmentation of policing in the Lower Mainland and the inadequacy of structures to overcome this fragmentation. The failure to take all necessary measures required by multi-jurisdictional crime resulted in serious communication failures, linkage blindness, uncoordinated parallel investigations, and lack of sharing of key evidence. These failures also contributed to the low prioritization of the missing women and Pickton investigations, and the investigations’ inadequate resources allocation.

The VPD frames the systemic policing issues related to inter-jurisdictional problems in this way:

- The patchwork policing in the Metro Vancouver area, which can inhibit communication regarding important investigations and prevent the appropriate setting of priorities;
- The absence of a structural trigger for JFOs; and
- The lack of formal communication forums to discuss investigations that bear upon multiple jurisdictions.

I adopt this three-pronged characterization as a helpful description of the three main causal factors that inhibited an effective multi-jurisdictional approach to the missing women investigations.

#### ***Patchwork policing***

Criminal activity will always operate across jurisdictional boundaries; the more jurisdictional boundaries there are in a geographically contained area, the more complex the policing structure will be due to an increase in the number of separate police forces. The greater the complexity, the more the map of the police force resembles a patchwork. This is directly



related to the greater challenge of cooperation, and concomitant increased chances of inter-jurisdictional failures. Greater Vancouver has the most complex policing structure of any metropolitan area in Canada.

I conclude that the fragmentation of policing was one of the primary reasons why the police failed to prioritize the investigation of Pickton and to pursue that investigation until he was either ruled out or confirmed as a suspect in the murder of one or more of the missing women. In a more rational, less fragmented police structure, priority setting would have been carried out across the whole of Greater Vancouver.

### ***Absence of a structural trigger for a JFO***

In Part 3F, I concluded that a JFO should have been established by the summer of 1999, at the latest, with an awareness of the need for some level of cooperation crystallizing by September 1998. I attribute the delay in forming the JFO to the absence of a formal mechanism or established protocols to assist in the formation of an operation like the JFO for the missing women or other major cross-jurisdictional investigations. The long delay in establishing the JFO was caused because it required the consent of both the VPD and the RCMP. I found no evidence that the RCMP came to the table willingly.

### ***Lack of formal inter-jurisdictional communication forums***

It would be natural to assume that the patchwork of policing in Greater Vancouver would have led to the development of strong forums for inter-jurisdictional communication, but this was not the case during the terms of reference. The lack of institutionalized mechanisms meant that informal channels of communication had to be created and maintained, which in turn relied upon the predisposition and temperament of individual senior managers. This ad hoc approach proved to be woefully inadequate, leading to inconsistent and erratic communication and a lack of co-ordination in the investigations.

### **Part 4E: Inadequate Resources**

Most of the Participants addressed the issues of inadequate resources as an underlying cause of the critical police failures in the missing women investigations. I distinguish between the two main perspectives on this issue. One perspective is that policing resources are finite and the availability of resources was particularly constrained during the terms of reference. This scarcity of resources was a direct and leading cause of the problems in the investigations. The other perspective is that under-resourcing of the investigations was not due to a lack of resources, but rather the failure of the responsible police officers to ensure that an appropriate share of scarce resources was devoted to the missing women investigations.

I agree that there was a critical lack of resourcing for the missing women investigations, but I do not see this as an independent causal factor for the failures. I conclude that under-resourcing is a concrete visible manifestation of the under-prioritization of the missing women cases. This under-prioritization was the result of three other main explanatory factors already discussed: institutional bias, a want of leadership, and fragmentation of policing in Greater Vancouver.

***Resources were tight***

There is no doubt that policing resources were tight during the terms of reference. I was inundated by evidence on this point and highlight some of the main points regarding the resources available to RCMP E Division, the Coquitlam Detachment and VPD at that time.

***Investigative steps not taken due to insufficient resources***

There is some evidence that specific requests for resources were denied and that, as a result, some identified investigative steps could not be taken. It is uncontested that the VPD MPU did not have anywhere close to adequate resources to deal with the huge increase in unresolved missing person reports (an unusual situation given that the majority of missing person reports are typically resolved quickly). The Missing Women Review Team's repeated requests for additional resources went unanswered for the most part. The Coquitlam RCMP investigation of Pickton was also constrained.

***Resources could be accessed***

The record also reflects how quickly resources could be made available in response to some demands. A number of examples show that some requests prompted resource allocation. Accessing funds was not impossible, but resources were not equitably or systematically awarded.

***Senior manager views that investigations were adequately resourced***

There is a wide chasm between the views of the investigators on their lack of access to resources and the perspective of senior management. Most of the senior managers told the Commission that despite the general context of tight resources, resources could be found when necessary. The erroneous view from the top was that there were no additional investigative steps to be taken.

***Under-prioritization was key***

Resources were not made available because of the lack of priority assigned to the missing women and Pickton investigations by the VPD and the RCMP. Requests from the most involved investigators and their supervisors were largely ignored or received only partially in response. The case was

simply not compelling enough to shift management's perception about its importance.

It was a vicious circle since the situation of inadequate resources encouraged the status quo. Investigators were unable to advance the missing women and Pickton investigations to the point of a needed breakthrough that would furnish a strong case for additional resources.

#### **Part 4F: Police Culture and 'People Problems'**

Police culture and people problems are also posited as negatively impacting the outcome of the missing women investigations. By "people problems," I mean interpersonal issues, lack of fit of an officer for a position, and other personnel level issues.

Submissions were made by various Participants concerning the impact of police rank structure and institutional culture and, more specifically, the issue of sexism and racism in police culture, personnel issues, and lack of training. There is no question that police culture and personnel issues shaped the missing women investigations to some degree. I conclude that while some of these factors contributed to critical police failures in the missing women investigations, they were less of a factor in comparison with the central factors identified earlier.

##### ***Police structure and culture***

Every institution has a unique organization culture comprised of the customs, rituals and values shared by the members of an organization that have to be accepted by new members. Organizational culture influences all aspects of an institutional life, particularly decision-making, and shapes the interactions of members and between members and outsiders.

##### ***Rank structure and hierarchy***

The rigid rank structure within the VPD resulted in blocked information channels in some circumstances: important information was not passed up the chain because one person decided that it was unnecessary or the message was diluted as it was passed up the chain. There was also a lack of communication from the top down. The decision-making culture was very much "top down" and not collaborative; consensus decision-making was not part of the structure. There were no opportunities for reconsideration of a decision.

There is some evidence that the rank-based chain of command issues also influenced the Coquitlam RCMP investigation of Pickton. Dissenting views were not brought forward. However, there is some evidence of a collaborative approach to decision-making at the Coquitlam Detachment.

One striking aspect of the RCMP culture was the strong reluctance to ask another police force for help.

***Discriminatory attitudes: sexism, misogyny and homophobia***

My Terms of Reference did not extend to a full consideration of whether sexism or racism was pervasive within the cultures of the VPD or the RCMP. I recognize that this is a live issue that we, as a community, cannot ignore. I also recognize that institutionalized bias, sexism and racism have an impact both on the individuals working within the organization, the work that they do, and the way in which they relate to others – which, in the case of the police, includes the victims, witnesses and accused. The Commission received contradictory evidence on these issues, which I briefly summarize in my report.

***Lack of training***

Evidence before the Commission shows there was a lack of training in MCM principles, information management systems, and missing person investigations for both officers and civilian members. There was little or no training available on missing person investigations and access to MCM training was highly restricted during the terms of reference. Lack of training clearly contributed to the critical police failures in these areas. There is some question as to the degree of specialized training required, given the similarities in the police skills required for different types of cases.

There was conflicting evidence concerning the availability and sufficiency of cultural sensitive training with respect to Aboriginal peoples. Earlier in this report, I came to the conclusion that one of the investigative failures was the disregard for developing and implementing an Aboriginal-specific strategy in the missing women investigations. Similarly, the lack of awareness about women in the DTES restricted the investigators', supervisors' and senior managers' understanding of the dynamics in the community and in the case. Inadequate and inconsistent cultural and social context training contributed to these patterns of errors.

***Personality conflicts and specific personnel issues***

Several personality conflicts and personnel issues affected the dynamics of the investigation. I am wary of directly linking police failures to these individual occurrences, but I cannot ignore the fact that they had some impact on investigative outcomes. As noted in the section on the failure of internal accountability systems, I am particularly concerned about the lack of effective systems for dealing with the problematic behaviour of Sandra Cameron, and the apparent failure of Det. Cst. Fell and Det. Cst. Wolthers to be team players. The fact that these issues were allowed to go unchecked for extended periods affected the team dynamics at the MPU and within the MWRT, which in turn distracted from the central work of the unit and the

team. Thus the underling cause of the failures is not the people problems per se, but lack of effective systems and leadership to deal with them.

**Part 4G: Unsupported Allegations of Conspiracy and Cover-up**

In his opening and closing statements and at numerous times during the course of the hearings, Mr. Ward, Counsel for the Families, made allegations of a conspiracy and a cover-up on the part of the police. Obviously the allegations are serious. Mr. Ward was repeatedly pressed to produce evidence of a police cover-up or whitewash, but was unable to do so.

I conclude that these allegations are completely unsupported and unsubstantiated by any evidence and there is no air of reality to them, even as a theory. I am not even clear on what theory Mr. Ward is purporting to advance. I am sympathetic with the VPD's submissions that Mr. Ward's position is ludicrous, flippant, unsupported by evidence and unprofessional. His comments are reckless. I do not entertain highly speculative and harmful allegations that are unsupported by evidence or a rational theory.