



**CIVILIAN REVIEW AND COMPLAINTS COMMISSION
FOR THE ROYAL CANADIAN MOUNTED POLICE**

COMMISSION'S FINAL REPORT

**CHAIRPERSON-INITIATED COMPLAINT AND PUBLIC INTEREST INVESTIGATION
INTO THE CONDUCT OF RCMP MEMBERS DURING AN INTERACTION IN
KINNGAIT, NUNAVUT ON JUNE 1, 2020**

Royal Canadian Mounted Police Act
Section 45.76(3)

February 28, 2023

Complainant

Chairperson of the Civilian Review and
Complaints Commission for the Royal
Canadian Mounted Police

COMMISSION'S FINAL REPORT AFTER COMMISSIONER'S RESPONSE

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INTRODUCTION

[1] In June 2020, the Commission reviewed a video recording showing an RCMP vehicle being driven in the direction of a man. The video recording then shows the driver-side door of the vehicle opening, hitting the man and knocking him down. The RCMP member who drove the vehicle, and several other members, then use force to arrest the man.

[2] The Commission received additional information indicating that, after the man was placed in a cell at the RCMP detachment, another detainee assaulted him. The man suffered injuries and was airlifted to Iqaluit for treatment.

[3] On August 18, 2020, the Chairperson of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (“the Commission”) filed a Chairperson-initiated complaint into the conduct of the RCMP members involved in the incident, which occurred in Kinngait, Nunavut. The Chairperson determined that it was in the public interest for the Commission to conduct the investigation into the complaint, pursuant to section 45.66(1) of the *Royal Canadian Mounted Police Act* (RCMP Act).

[4] Following its investigation, the Commission made 36 findings and 20 recommendations in an Interim Public Interest Investigation (PII) Report (Schedule 1), which it provided to the RCMP on June 22, 2022.

[5] In its interim report, the Commission found that the incident did not occur as might have initially appeared from reviewing the video recording. The Commission found no evidence that the RCMP members intended to strike the man with the RCMP vehicle door. The RCMP members had reasonable grounds to arrest the man, there were reasons why they needed to act quickly, and the force they used to conduct the arrest was reasonable. However, the Commission found that it was unsafe and unreasonable to drive the RCMP vehicle in such close proximity to the man, particularly in light of the road conditions.

[6] The Commission identified issues of significant concern with the manner in which the man was treated once he was taken into custody. The man, who was significantly intoxicated, had to be stripped of his wet clothing and was left in a cell in his underwear. Due to the insufficient number of cells and the large number of detainees, the RCMP members had to place another detainee in the same cell as the man. The other detainee was known to be violent, had just been pepper-sprayed during his arrest, and was intoxicated and agitated. Shortly after being placed in the cell, he severely assaulted the man, punching, kicking and stomping him. As no RCMP members were at the detachment, the guard waited for over a minute as the man received forceful blows

to the face while lying on the ground before the RCMP members arrived and removed the other detainee.

[7] The man, who was seriously injured and still in his underwear, was then left for over ten hours in a cell covered in blood, water and various bodily fluids. It took one hour and forty-five minutes before the man could obtain any medical attention. A first nurse was unable to complete an assessment, and it was deemed unsafe to transport the man due to his intoxicated state. Sixteen hours then elapsed before the man was taken to the health centre for a medical assessment. Following this assessment, the man was sent by medevac flight to Iqaluit, where he was treated for his injuries.

[8] The Commission found that gross under-resourcing was the main factor explaining how this series of events could happen. While there were some failures by individual RCMP members, as well as some deficiencies in training, supervision, and compliance with policies, the Commission observed that, for the most part, the RCMP members made considerable efforts to manage a nearly impossible workload within constraints that created unsafe situations. Despite their efforts, they could not fully mitigate the impact of the lack of resources.

[9] The state of the Kinngait Detachment was also of great concern. Not only was there a lack of space for detainees, which created an unsafe environment, but there were significant deficiencies in the physical state of the building, which created health and safety risks for detainees and RCMP personnel. An example of this was observed when the detainee who had been pepper-sprayed ended up attempting to wash his eyes with toilet water because there was no running water in the cell's sink, and there was no refilled eyewash bottle available. The state of the building also made it difficult and unsafe for RCMP members to bring detainees into the detachment. The Commission found that it was unreasonable for the detachment to be in this condition.

[10] Overall, the Commission observed that under-resourcing was a factor in every aspect of what happened to the man on that June 2020 night. From the start, the impact of under-staffing resulted in the RCMP members working overtime and in insufficient numbers to address the large number of incidents and volatile situations that night. This, in turn, resulted in the members approaching the man in a hurried manner with the RCMP vehicle. The lack of cells, equipment and sufficient training for the detachment guard all contributed to the man being placed in a dangerous position that resulted in a serious assault on his person while in cells. This also contributed to a failure to pass on critical information about the medical attention he needed. Resource constraints were also at play in the timing and nature of the medical care available when the RCMP members did seek it.

[11] The Commission found that the level of under-resourcing observed was such that it raised concern about possible systemic discrimination, as such a lack of basic services is not typically observed. The Commission found no evidence that the individual RCMP members engaged in any discriminatory conduct.

[12] The Commission recommended further study of the systemic discrimination issue but, most importantly, immediate action to address the resources issues. The Commission also recommended various measures to address the state of the detachment. Where specific issues were identified with the RCMP members' conduct, the Commission made recommendations for operational guidance and training.

[13] On December 14, 2022, the RCMP Commissioner provided her response (Schedule 2) to the Commission's interim report.

[14] The RCMP Commissioner was in substantial agreement with most of the Commission's findings and recommendations regarding the man's case, with certain limited exceptions.

[15] The RCMP Commissioner also acknowledged many of the broader issues identified in the Commission's interim report. In response to the Commission's numerous findings about the woeful state of the Kinngait Detachment, the RCMP Commissioner agreed to completely replace the Kinngait Detachment building. A new detachment with more cells will be established.

[16] The RCMP Commissioner also acknowledged that the Kinngait Detachment was under-resourced, and detailed extensive steps taken by the RCMP to seek to address the insufficient staffing. Although the RCMP Commissioner argued that the RCMP had taken reasonable steps to try to address the issue, she also recognized that the under-staffing persisted despite these steps. Most importantly, the RCMP Commissioner agreed to enter into immediate discussions with the Government of Nunavut and other partners to ensure that sufficient resourcing and funding is provided to the RCMP's Nunavut detachments.

[17] This case has shown that the situation in Kinngait is quite dire. There is no doubt that much work will be required by a number of actors to even begin to address the serious issues observed. However, the Commission is heartened by the RCMP Commissioner's focus on implementing solutions, and by the RCMP's willingness to take action to address some of the issues.

PROCESS

[18] During the course of its investigation, the Commission analyzed a significant amount of documentation, photographs, and video and audio recordings. The relevant materials obtained from the RCMP, combined with the evidence gathered by the Commission, amounted to approximately 146 gigabytes of electronic material (about 8,850 separate electronic files). These included materials gathered during other investigations about the events, including a criminal investigation conducted by the Ottawa Police Service.

[19] The Commission interviewed the 22-year-old man who was involved in the incident in question, identified in the Commission's interim and final reports as A. B., as well as a number of civilian witnesses.

[20] Most of the RCMP members who were the subjects of the complaint refused to provide information to the Commission. The Commission determined that it had sufficient evidence to make findings and recommendations about the matter, but noted that, by refusing to participate in the Commission's investigation, the subject members essentially deprived themselves of an opportunity to explain their actions. Constable Michael (Dan) Keeling, the driver of the RCMP vehicle, did provide a written statement and answers to follow up questions.

FACTUAL BACKGROUND

[21] The RCMP detachment in Kinngait received an unusually high number of calls for service on the night of June 1, 2020. There were 37 calls, including 27 calls that were received between 4:30 p.m. on June 1, and 3:56 a.m. on June 2.

[22] A. B. had been at his father's residence that night when a dispute occurred between them, causing a neighbour to call the RCMP. A. B.'s father had removed A. B. from the residence and A. B. walked away. The neighbour gave police the wrong address and thus the responding RCMP members attended the incorrect house. At around the same time, police were responding to a call about another disturbance in which a man who may have been armed had left a residence, and his whereabouts were unknown.

[23] RCMP members then observed a man, later identified as A. B., stumbling and shouting at someone; he appeared to be very intoxicated. Children nearby told Constable Keeling that the man was fighting people. A. B. was observed pointing aggressively at someone on an all-terrain vehicle. Constable Keeling drove an RCMP vehicle toward A. B. with the purpose of conducting an arrest. The vehicle's door, which had been opened by the RCMP member, struck A. B., knocking him to the ground. RCMP members then used force to arrest A. B., placed him in a police vehicle, and transported him to the RCMP detachment.

[24] At the detachment, A. B. was eventually housed in a cell with another inmate, J. J., who violently assaulted him. Medical care was provided by several nurses and A. B. was sent by air ambulance to Iqaluit for further evaluation. The RCMP later conducted settlement negotiations with A. B.

OVERVIEW OF THE COMMISSION'S INTERIM FINDINGS AND RECOMMENDATIONS

[25] In this report, the Commission provides an overview of its findings and recommendations. It should be noted that this is not meant as an exhaustive review or summary of all of the Commission's findings and recommendations. For a complete review of all the issues examined by the Commission, the 88-page Interim PII Report must be reviewed in its entirety.

[26] The RCMP's response to the Commission's findings and recommendations is also discussed in the following pages, particularly where commentary or information was provided in addition to agreeing with the findings and recommendations. The few cases where the RCMP disagreed with the Commission's findings and recommendations are also analyzed. A table of the Commission's final findings and recommendations is included at the end of this report.

The apprehension of A. B.

[27] In its interim report, the Commission found that it was reasonable for Constable Keeling to arrest A. B. for causing a disturbance. Constable Keeling had reasonable grounds to believe that A. B. had committed the offence, and it was reasonable for him to conclude that it was necessary to arrest A. B. to prevent him from continuing or repeating the offence.

[28] In light of the other calls for service and the potential risks associated with the situation, it was reasonable for the RCMP members to conduct the arrest of A. B. quickly. Further, given A. B.'s actively resistant and assaultive behaviour, it was necessary and reasonable for the RCMP members to use force during his arrest. The force employed was proportionate to A. B.'s behaviour. Although A. B. was being arrested for a minor offence, it was not a viable option for the RCMP members to let him go free, as his level of intoxication and conduct were such that he could pose a risk to others or himself if he was not stopped. Therefore, the use of force by the RCMP members was necessary in the broader context, as well as proportionate to the level of resistance encountered during the lawful arrest.

[29] The RCMP Commissioner agreed with these findings.

The conduct of the RCMP member driving the vehicle

[30] The Commission found that it was unreasonable for Constable Keeling to have driven his RCMP vehicle in such close proximity to A. B., which resulted in striking A. B. with the vehicle's door. However, the Commission also found that there was no evidence to suggest that Constable Keeling intentionally struck A. B. with the police vehicle's door; rather, the contact with A. B. was a result of the forward motion of the police vehicle as it lurched off the uneven road surface.

[31] Constable Keeling stated that he "had only wanted to park alongside [A. B.] and exit [his] police truck quick to take him into custody." Another one of the RCMP members involved, Constable Cholette, also stated that he "wanted to grab [A. B.] quick," and as a result had his hand on the door handle so he could jump out as soon as the vehicle stopped.

[32] A review of the video recording supports the conclusion that the RCMP vehicle slid on the icy road surface and then lurched forward as the left tire fell into a small trench. This forward motion caused the front driver-side door, which had been opened and was being held by Constable Keeling, to swing open more widely, striking A. B. and knocking him over. There is nothing to indicate that Constable Keeling intended to strike A. B. with the police vehicle's door.

[33] Although the Commission concluded that the RCMP members did need to arrest A. B. quickly, the Commission found that, in the circumstances, it was unreasonable for Constable Keeling to drive in such close proximity to A. B. This action meant that the slightest miscalculation or external factor, such as poor road conditions, could result in a collision, potentially causing serious bodily harm or death to A. B.

[34] A review of the video recording shows that, even prior to the vehicle slipping into the trench, Constable Keeling was driving the vehicle very close to A. B. The front-left tire of the vehicle appeared to be approximately two feet or less away from A. B. before the vehicle slipped off the roadway. It does not appear that Constable Keeling drove the vehicle at an excessive or unreasonable speed; however, it is apparent that being struck and potentially run over by a pickup truck, even at a relatively low speed, poses risks to a person.

[35] While the situation required rapid action, it was not urgent. Given the circumstances of the other calls, it was possible that A. B. was in possession of a weapon, but the police had no specific information to that effect and they did not observe A. B. with a weapon. The evidence did not indicate that Constable Keeling believed that A. B. was involved in the gun call police had received on that day. There were reasons to believe that A. B. might potentially attempt to harm others, but there was no one in his immediate vicinity at the time.

[36] Further, A. B. appeared to be grossly intoxicated to the point where he could barely stand. While he had been seen running very fast in the preceding minutes, there were five RCMP members in three police vehicles in the immediate vicinity, rendering any risk of flight more remote. The relatively minor offence for which A. B. was being apprehended would also make it difficult to justify taking significant risks during the apprehension.

[37] Poor road conditions were the proximate cause of the police vehicle door striking A. B. in this case. However, it is well-accepted and enshrined in law that drivers must operate their vehicles in accordance with road conditions, and modify their conduct accordingly. The Commission found that it was unsafe and unreasonable for Constable Keeling to have driven his police vehicle in such close proximity to A. B. on an icy road that was in poor condition.

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| Finding #3 | The evidence does not indicate that Constable Keeling intended to strike A. B. with the police vehicle's door. Rather, the available information indicates that this was an accident that occurred as a result of the police vehicle lurching forward on poor road conditions in a failed attempt to stop near A. B. |
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| Finding #4 | It was unsafe and unreasonable for Constable Keeling to have driven his police vehicle in such close proximity to A. B. on an icy road that was in poor condition. Constable Keeling’s risk assessment of the situation should have adequately taken into consideration the state of the roadway and all other relevant factors. |
| Finding #5 | The Commission is satisfied that adequate remedial measures have been taken with regard to Constable Keeling’s driving and that no further action is necessary. |
| Interim Recommendation #1 | The RCMP should develop and implement policy and training with regard to the use of police vehicles while pursuing suspects who are on foot. |
| Interim Recommendation #2 | The RCMP should consider developing and implementing specific policy and training with regard to driving on road conditions that are often encountered in northern regions. |

RCMP Commissioner’s Response

[38] The RCMP Commissioner agreed with the Commission’s findings about Constable Keeling’s conduct, but did not support the Commission’s recommendations for additional policy and training.

[39] The RCMP Commissioner stated that it was clear that the collision between the police vehicle door and A. B. was the result of an error in judgment on the part of Constable Keeling, rather than a lack of training or policy. She indicated that this type of incident is extremely rare and is not amenable to being remedied by policy provisions. As a result, she believed that additional policy on the use of police vehicles to pursue suspects who are on foot would be of limited utility, given that RCMP members are already aware of the deleterious effects of stopping their vehicle too closely to someone who is on foot.

[40] With regard to the recommendation for policy and training on the road conditions encountered in northern regions, the RCMP Commissioner stated that she had considered the matter as recommended,¹ but had concluded that an amendment to policy and additional training would not address an employee’s error in judgment, and

¹ Of note, the RCMP Commissioner stated she “supported” this recommendation, because the recommendation was that she consider implementing the policy and training, which she did. However, she did not support the substance of the recommendation.

that sufficient training and guidance is already in place. She expressed that any individual lapse in judgment is better addressed by the supervisor directly with an employee.

[41] The RCMP Commissioner explained that she consulted with the RCMP's policy centre, which advised that the RCMP does not provide policy to RCMP members that instructs on the basic tenets of safely operating a motor vehicle (such as directing the use of windshield wipers in rain or headlights when it is dark, and so on). The RCMP Commissioner stated that, as the Commission had noted in its interim report, there is already existing law governing the safe operation of a motor vehicle. The policy centre advised, and the RCMP Commissioner agreed, that policy does not exist for the purpose of duplicating law. The RCMP Commissioner also noted that the policy centre advised that the RCMP Cadet Training Program already includes training specific to off-road and gravel-road driving, which is mandatory for members to graduate.

Commission's Analysis of the RCMP Commissioner's Response

[42] In its interim report, the Commission had acknowledged that there are already laws in place concerning the safe operation of motor vehicles, and that these laws apply (with certain exceptions) to police officers in the course of their duties. Constable Keeling's individual actions with regard to operating his police vehicle were also discussed at length, and the Commission was satisfied that adequate remedial measures had been taken.

[43] Although the Commission agrees that policy is not meant to supplant existing law, and that training cannot avert every lapse in judgment by RCMP members, it continues to believe that specific training for the operation of motor vehicles on poor road conditions is appropriate. Furthermore, while the Commission acknowledges that poor road conditions can be found in all regions of Canada, the evidence gathered in this case indicated that there were specific concerns about the extremely poor conditions present in Kinngait. Numerous parties commented on the particular difficulties posed by the challenging terrain. It is also highlighted that many RCMP members working in Kinngait are relief members from detachments outside of the North, who may not be familiar with the particular challenges presented by the road conditions.

[44] With regard to driving in close proximity to persons, the Commission has dealt with other recent cases in which RCMP vehicles came into contact with persons during arrests. As such, the Commission considers this a topic that merits further consideration.

[45] While the RCMP Cadet Training Program already includes training specific to off-road and gravel-road driving, supplemental training for adverse conditions in certain locations could nonetheless be beneficial.

[46] Having reviewed the RCMP Commissioner's response, the Commission agrees that additional policy might not be the best means to address the issues observed in this case. The Commission will modify its recommendations as follows to focus on training.

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| Final Recommendation #1 | The RCMP should develop and implement training with regard to the use of police vehicles while pursuing suspects who are on foot and with regard to the special care necessary when driving in close proximity to pedestrians. |
| Final Recommendation #2 | The RCMP should continue to ensure that RCMP members undergo training with regard to driving in poor conditions, including off-road and gravel-road driving, and should provide supplemental training to RCMP members as necessary with regard to hazards posed by specific road conditions in certain areas, including northern regions. |

A. B.'s transport and arrival at the RCMP detachment

[47] The Commission found that the evidence was unclear as to whether Constable Keeling read A. B. his rights while in the police vehicle. The Commission further concluded that A. B. was not read or "re-read" his rights when he was sober, nor was he provided with the opportunity to contact legal counsel at any time during his eighteen-hour detention. The Commission made a finding and recommendation to address this issue.

[48] The Commission had some concerns about the search of A. B. at the RCMP detachment. The RCMP members removed A. B.'s clothes such that he was left wearing only his underwear. The RCMP members explained that they removed A. B.'s clothing because it was soaking wet. According to case law and RCMP policy, this constituted a strip search.

[49] The Commission found that, for safety reasons, it was reasonable to have a number of RCMP members participate in the search. Further, A. B.'s private areas were not exposed at any time. However, the Commission found that it was problematic to leave A. B. on the floor of the cell in his underwear, and that neither the RCMP members nor the detachment guard provided him with a blanket or gown. In the

circumstances, A. B. should have been provided with a blanket or gown, if this could be done safely, especially given that the reason for removing his clothes was for his own safety to avoid him becoming hypothermic. A. B. remained clad in only his underwear for almost eight hours after his arrest. The Commission recommended that the RCMP members receive operational guidance on this issue.

[50] The Commission found that the force used by the RCMP members to hold down A. B. during the search was generally minimal and necessary. Some more forceful manoeuvres to move A. B. and remove certain items of clothing were of more concern to the Commission. The Commission applied the guidance from courts in assessing these instances and found that the use of force was not unreasonable. Nonetheless, the Commission cautioned the RCMP members to use the minimum amount of force necessary in a given situation.

[51] The Commission found no information suggesting that A. B. had suffered any injuries as a result of the police vehicle incident or the search. It was reasonable for the RCMP members not to seek medical care for A. B. after his arrest, because there was nothing to indicate that he needed it.

[52] The RCMP Commissioner agreed with the Commission's findings and recommendation on these issues.

Assault on A. B. while in custody and conditions of detention in the cells

[53] There were serious capacity issues in the cells at the Kinngait RCMP Detachment when A. B. was brought in. The detachment had only four cells, which the evidence indicated was clearly insufficient and not compliant with applicable standards. In light of the significant increase in the number of prisoners being housed at the detachment over the previous two years, evidence before the Commission indicated that the detachment now required ten cells rather than four.

[54] That night, 15 persons were lodged in the cells at the Kinngait Detachment. One cell was used only for female prisoners, leaving the other three cells to house nine male prisoners. With the high volume of calls, the RCMP members had to make numerous difficult decisions to make room for incoming detainees. For example, one prisoner had to be relocated to the detachment interview room, while another was placed in the back seat of a police vehicle when RCMP members left to respond to calls. At least one prisoner was released while still intoxicated to make room for higher-risk prisoners. Contrary to RCMP policy, prisoners who suffered from mental health issues that could make them a danger to themselves or others were not housed on their own, due to capacity issues.

[55] Any of these situations could have resulted in safety concerns for the detainees or others. The Commission found that the lack of space for prisoners created an unsafe environment for detainees, RCMP members, and detachment staff.

[56] A. B. was initially lodged on his own in cell no. 3, where the removal of his clothing had just taken place. However, after he was placed in the cell, the RCMP received a call involving a domestic dispute in which a 35-year-old man (J. J.) was arrested for assault and breach of conditions. J. J. was severely intoxicated and very aggressive toward police. He had to be pepper-sprayed while he was transported to cells because he was being resistant and kicking toward Constable Keeling.

[57] The RCMP members were once again faced with the capacity challenges in the cells. At the time, cell no. 1 housed four men, which was too many for that cell; cell no. 2 had two men, one of whom was a “violent offender” who did not like J. J. and was always gearing up for a fight; and cell no. 4 housed two women. J. J. was placed into cell no. 3 with A. B.

[58] The detachment cell block is staffed by one guard, who is not an RCMP member. Neither the guard nor the RCMP member who arrested J. J. took steps to decontaminate J. J. after he had been pepper-sprayed. Once in the cell, J. J. was observed rubbing his eyes and making comments about his eyes. The video recording from the cell showed him trying to turn on the taps above the sink several times, and thereafter splashing water from the toilet bowl onto his face, which he did on numerous occasions over approximately twenty minutes. At one point, J. J. removed his shorts and underwear, and wiped his face with them.

[59] The evidence revealed that there had been no running water in the sink for cell no. 3 (among others) for a long time and that, despite this having been known to the RCMP for at least two years, the toilets and sinks had still not been replaced. The evidence also revealed that the detachment had an eyewash bottle to be used for decontamination, but it was empty, and it was located in the confined space of the guard’s washroom, which was not easily accessible.

[60] The Commission noted that this unacceptable situation raised serious health and safety concerns, and contributed to increasing the risk posed to A. B. by having him share a cell with J. J. The Commission made a number of recommendations to address the deficiencies observed.

[61] Approximately twenty minutes after being placed into cell no. 3, J. J. violently assaulted A. B. by punching, kicking, and stomping him in two separate incidents. This included numerous forceful blows to the face while A. B. was lying on the ground.

[62] Both A. B. and J. J. were highly intoxicated and were acting in unpredictable ways. In the minutes preceding the assault, A. B. could be observed constantly stumbling around the cell, sometimes bumping into J. J. A. B. eventually made a “roundhouse” punch at J. J., which set in motion the assault by J. J. in response.

[63] As per his training, the guard did not open the cell to intervene during the assault; he called RCMP members, who were out of the detachment responding to calls, to return for assistance. Less than two minutes later, RCMP members reached the cell and removed J. J. He was arrested for and charged with aggravated assault, and later found guilty.

[64] After the assault, A. B. was lying on his side, his face bloodied, as a significant amount of blood accumulated on the floor, mixing with water that had splashed out of the toilet bowl where J. J. had previously been washing his face.

[65] The Commission found that the present case was, unfortunately, an example of the serious risks that could be posed by the cell capacity issues. The RCMP members had considered the alternatives available to them and had determined that placing J. J. in cell no. 3 with A. B. was the “least worst” option. With very limited options, it is difficult to fault the RCMP members for making this decision. Nonetheless, housing J. J. with A. B. did create an environment in which a serious assault was committed.

[66] While the offender, J. J., must bear full responsibility for committing the criminal offence, the Commission found that it was reasonably foreseeable that placing J. J. and A. B. in the same cell could result in a negative outcome.

[67] The Commission made recommendations to address the significant cell capacity issues observed at the Kinngait Detachment.

[68] The Commission found that there were other significant deficiencies with the physical state of the Kinngait Detachment, posing health and safety risks. In some cases, the deficiencies had been identified years earlier and were still not addressed.

[69] The Commission made a number of recommendations to address the safety deficiencies observed. The Commission also referred to an Independent Officer Review (IOR) related to the physical state of the Kinngait Detachment. This review had been conducted by the RCMP after the events in this case, and had made numerous recommendations, which the Commission stated should be fully implemented.

[70] In light of the extent of the changes required, the Commission recommended that the RCMP consider completely replacing the Kinngait Detachment building.

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| Finding #14 | The lack of space for prisoners created an unsafe environment for detainees, RCMP members, and detachment staff. |
| Finding #15 | The fact that J. J. was not decontaminated prior to being placed in the cell was exacerbated by the lack of tap water in the cell due to a broken sink, leading to an unacceptable situation in which the prisoner repeatedly used water from the toilet bowl to relieve his discomfort. This raised serious health and safety concerns, and contributed to increasing the risk posed to A. B. by having him share a cell with J. J. |
| Finding #16 | In accordance with RCMP policy, J. J. should have been provided with water for decontamination, particularly when it was evident that he was in discomfort. |
| Finding #17 | It was unreasonable for the eyewash decontamination bottle to be left empty and to be located in an impractical location. |
| Finding #18 | It was unreasonable for the sink in cell no. 3 to be left in a non-functional state, apparently for as long as two years. |
| Finding #19 | It was reasonably foreseeable that placing J. J. and A. B. in the same cell could result in a negative outcome. Housing J. J. with A. B. did create an environment in which a serious assault was committed. |
| Finding #20 | The decision to place J. J. and A. B. in the same cell was a direct result of the lack of acceptable options available to the RCMP members due to the lack of space for prisoners. |

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| Finding #21 | There were significant deficiencies with the physical state of the Kinngait Detachment, posing health and safety risks. It was unreasonable for the detachment to be in this condition. The RCMP as an institution was responsible for keeping the detachment and the cell block in a condition that would not pose unacceptable health and safety risks for RCMP members and detainees. |
| Recommendation #4 | The Kinngait Detachment should be expanded to increase cell space up to ten cells. |
| Recommendation #5 | Constable Keeling and Sergeant Gill should receive operational guidance regarding the importance of decontaminating prisoners. |
| Recommendation #6 | The sinks and toilets in the Kinngait Detachment cells should be repaired and maintained in accordance with RCMP policy. |
| Recommendation #7 | The eye wash decontamination bottle in the Kinngait Detachment should be moved to an accessible location and be filled on a regular basis. |
| Recommendation #8 | The RCMP should fully implement the recommendations in the RCMP's Independent Officer Review Concluding Report related to the physical state of the Kinngait Detachment. |
| Recommendation #9 | The RCMP should consider completely replacing the Kinngait Detachment building. |

RCMP Commissioner's Response

[71] The RCMP Commissioner agreed with all of the Commission's findings, except the one noting that it was reasonably foreseeable that placing J. J. and A. B. in the same cell could result in a negative outcome and that this created an environment in which a serious assault was committed. The RCMP Commissioner believed that this conclusion could only have been reached with the benefit of hindsight, and that the finding did not give appropriate consideration to the options that were available to the RCMP members and the information known to them. The RCMP Commissioner noted that intoxicated individuals are routinely incarcerated together in RCMP cells across Canada, the vast majority of the time without incident. The RCMP members in this case were not aware of any history of assault between A. B. and J. J.

[72] The RCMP Commissioner added that, even if there had been ten cells in the Kinngait Detachment that night as recommended by the Commission, there might nonetheless have been a need to place more than one person per cell on a busy night. She noted that there is always a potential for violence in these circumstances, whether individuals are intoxicated or not. Intoxication and drug use are factors that are always taken into account to make the most appropriate decision and to mitigate the risk of assault as much as possible. The RCMP Commissioner expressed the view that, in the circumstances, there was insufficient evidence to conclude that the assault was reasonably foreseeable.

[73] The RCMP Commissioner supported all of the Commission's recommendations. With respect to the recommendation to expand the Kinngait Detachment and increase cell space up to ten cells, the RCMP Commissioner stated she supported it in part. She explained that the RCMP's "V" Division (Nunavut) was consulted and, in July 2022, conducted a Cell Capacity Options Analysis of the cell room needs of the detachment. After assessing different options, "V" Division concluded that the Kinngait Detachment should be completely replaced, and that the new detachment building should have eight cells.

[74] Therefore, the RCMP Commissioner supported the Commission's recommendation to consider replacing the Kinngait Detachment in its entirety. She stated that the new detachment will have eight cells.

Commission's Analysis of the RCMP Commissioner's Response

[75] First, the Commission welcomes the RCMP Commissioner's decision to replace the Kinngait Detachment entirely, and to have an increased number of cells at the new detachment. This decision addresses the Commission's numerous findings and recommendations about the woeful state of the Kinngait Detachment. The detachment fell below the RCMP's own standards and presented safety concerns for both RCMP staff and detainees. It is a significant step forward that decisive action will now be taken, especially since some of the deficiencies had been identified for a number of years.

[76] As discussed in the Commission's interim report, the lack of space for prisoners at the detachment led to a lack of acceptable options for the RCMP members. The decision to place J. J. and A. B. in the same cell was a direct result of this lack of options. While the Commission continues to find that a negative outcome was reasonably foreseeable when placing J. J. in the same cell with A. B., and that this decision created the environment in which the assault was committed, this finding does not take away from the recognition, expanded upon at length in the Commission's

interim report, of the difficult position in which the RCMP members were placed as a result of the lack of resources and lack of physical space.

[77] The Commission acknowledges that there was no history of conflict between A. B. and J. J. known to the RCMP members. However, the RCMP members were aware of the present condition of the men, who were extremely intoxicated and acting unpredictably, as well as of their history of aggression and physical altercations on the same night. In particular, J. J. had been arrested for a serious assault, and was so aggressive with the police that he had to be pepper-sprayed. He was described as resistant and foaming at the mouth. A. B.'s level of intoxication was also very high. He was unsteady on his feet, acting in unpredictable ways, and stumbling around the cell. For all these reasons, and despite its recognition that this happened as a result of the untenable position in which the RCMP members were placed, the Commission reiterates its finding about the foreseeability of the negative outcome and the environment created by putting the two men in the same cell.

Condition of A. B.'s cell after the assault

[78] The video recording from the cell block reveals that the floor of cell no. 3 remained covered in blood and water (and later, urine and vomit) from shortly after midnight (when the assault on A. B. took place) until 10:15 a.m., when A. B. was removed from the cell and RCMP members cleaned the floor. The Commission acknowledged that the RCMP members were almost constantly occupied with tasks that night, but noted the health and safety concerns of leaving the floor in that condition when a prisoner occupied the cell. The Commission found that it was unreasonable to leave the cell floor covered with various bodily fluids for more than ten hours.

[79] The Commission recommended that the RCMP members receive operational guidance about this issue. The RCMP Commissioner agreed with the Commission's finding and recommendation.

Actions of the cell block guard

[80] In its interim report, the Commission noted that, although the guard was earnest and appeared committed to doing the best job possible in challenging circumstances, there were numerous violations of RCMP policy in relation to record-keeping and other tasks performed by the guard, who was under the supervision of Sergeant Gill. Some of the deficiencies could have had significant negative consequences, such as the apparent failure to conduct physical checks and to check responsiveness of prisoners. The Commission found that Sergeant Gill provided inadequate supervision of the guard.

[81] The Commission also found that the training provided to the guard was inadequate. While it imparted a basic understanding of the roles and responsibilities of a guard, it did not adequately address RCMP policy requirements.

[82] The Commission made recommendations to address these issues, which the RCMP Commissioner agreed to implement.

[83] In terms of the response to the assault on A. B., the Commission noted that it would have been preferable if there had been at least one RCMP member present in the detachment, as was usually the case, so they could have provided an almost immediate emergency response. However, the Commission found that the RCMP members were obligated to respond to several calls that required prompt attention.

Medical care provided to A. B. following the incident in the cell

[84] The Commission found that the RCMP members did promptly seek a healthcare assessment for A. B. after he was assaulted. However, while waiting for the nurse (the only healthcare professional on call that night) to arrive, neither the guard nor the RCMP members attempted to provide any first aid to A. B. The Commission found that they should have attempted to do so, provided that this could be done safely.

[85] After the nurse's assessment could not be completed due to A. B.'s intoxication, it was reasonable for the RCMP members to rely on her opinion that A. B. could continue to be housed in cells until he was assessed at a later time.

[86] The Commission found that it was unreasonable for the RCMP members who were present during the nurse's visit not to have clearly passed along to the day shift RCMP members the recommended healthcare plan for A. B., and not to have documented the plan as required by RCMP policy. This lack of continuity of care could have resulted in a risk to the health of A. B.

[87] As it was, once a mental health nurse reiterated the need for a physical medical assessment the next day, the RCMP members promptly sought medical assistance for A. B. The nurse who worked at the health centre told the RCMP members to bring A. B. in after business hours ended, which the RCMP members did. The Commission found that, once the RCMP members were made aware of the need for a physical assessment of A. B., they took steps to have it carried out shortly after.

[88] The Commission also found that, although A. B.'s symptoms could have been a result of his extreme intoxication (and indeed this appears to have been the case, as no head injury was ultimately diagnosed), this could not have been known with any degree of certainty at the time he was in cells. The Commission recommended that the RCMP issue a bulletin to ensure that RCMP members were reminded of the importance of approaching potential head injuries to prisoners with the utmost seriousness and of seeking prompt healthcare assessments.

[89] The RCMP Commissioner agreed with the findings and recommendations made by the Commission about these issues.

Gross under-resourcing and possible systemic discrimination

[90] When the Commission interviewed the nurse who had assessed A. B. at the health centre (Nurse C), she shared her observations about the extent of under-resourcing of the RCMP in Kinngait. She stated:

I just really felt bad for the RCMP officers in general in that community. . . . And not just in this incident, all my entire time there. I have never felt so sorry for a group of individuals in my whole career, ever, as I did when I was in [Kinngait], as I did for those RCMP members . . . all of them.

[91] She explained that she has been in communities with far fewer calls for service and twice the number of RCMP members. She noted that there is historical generational trauma in the Kinngait community, and that there are reasons for the high level of violence. As an example of the impact of under-resourcing on the RCMP members, she noted that there is no way to properly or safely transport patients requiring medical care in Kinngait and that, as a result, the RCMP members are expected to transport patients to the health centre, without proper resources or training. She explained that, unlike in other communities, when patients or family called the health centre about a medical crisis, they were told to call the RCMP. She recalled seeing a patient being brought into the health centre by RCMP members with “no backboard, no stretcher, no anything, by their arms and legs, who are actively having a seizure.” Nurse C commented, “How is that – that’s not [acceptable] anywhere else in Canada. Why is it okay in the North, and why has it been okay up until this point?”

[92] These comments were consistent with the evidence gathered in this case, which pointed to a severe lack of resources in Kinngait, and a direct impact on RCMP operations as a result.

[93] One of the ways in which this under-resourcing was observed was in the clearly insufficient staffing of the Kinngait RCMP Detachment. By the RCMP's own figures, the Kinngait Detachment was understaffed by more than half of the number of police officers needed. There was also no Detachment Services Assistant, meaning that all of the administrative tasks fell to the Sergeant.

[94] On June 1, 2020, there were six RCMP members in the community, including three Constables who were relief members. This was more than the one Corporal/four Constables normally authorized for the detachment. Three RCMP members were assigned to work the night shift, but due to the high volume and seriousness of the calls, some of the day shift RCMP members had to be called back to duty to assist.

[95] As noted at the outset of this report, significant under-resourcing played a part at every stage of what happened to A. B. on June 1–2, 2020, and was the common thread explaining the events. From the under-staffing and large number of incidents requiring the RCMP members to approach A. B. in a hurried manner with their vehicle, and requiring them to be away from the detachment when A. B. was assaulted; to the lack of space, equipment, training, and running water in the cells creating a dangerous situation where A. B. was housed with a violent and intoxicated inmate who had not been decontaminated after being pepper-sprayed; to the failure to clean the cell, the failure to pass on critical information about the medical care plan, and the limited healthcare resources, which did not permit immediate visits to the detachment and required the RCMP members to wait until after business hours to bring A. B. to the health centre.

[96] Viewing the situation as a whole, the Commission reached the inescapable conclusion that the level of service being provided at the Kinngait Detachment was grossly inadequate.

[97] In her comments, Nurse C expressed concern that when mistakes are made, the focus often falls on individual RCMP members, as opposed to structural or systemic issues. She stated, "The Government of Nunavut really needs to take a look at the resources provided to the RCMP to provide appropriate policing. Something bad is going to happen when you don't have enough resources to work with."

[98] Something bad did happen in this case. In its interim report, the Commission noted that it was encouraging that the RCMP's own IOR had been able to identify many of the deficiencies with the condition and staffing of the detachment, but deplored that an incident like this one had to happen to prompt the review. The Commission observed

that things should not have needed to get to this point before the RCMP did something to address the situation.

[99] The Commission considered whether racial bias and/or discrimination played a role in the events investigated in this case. The Commission found no evidence indicating that the individual RCMP members' actions were influenced by racial bias or that any of the individual RCMP members were involved in discriminatory conduct toward A. B.

[100] However, the Commission found that the shocking level of under-resourcing observed in this case raised concerns about possible systemic discrimination. Residents of Canada are entitled to a reasonable level of service, regardless of where they reside, and this level of service is not being provided in Kinngait.

[101] The Commission noted that approximately 93% of Kinngait's residents are Inuit, including A. B. On the night of the events, A. B. experienced a number of adverse impacts from the under-resourcing. It is likely that other members of the community who interact with the RCMP do as well, in light of the gross inadequacies in staffing and physical resources revealed by the evidence.

[102] RCMP interactions with Inuit persons take place in the context of an often-fraught historical relationship in Nunavut and other regions of the Inuit homeland. This includes, among other things, the RCMP's role in carrying out government policies involving forcibly relocating Inuit persons to the High Arctic, the removal of Inuit children to residential schools, and the killing of sled dogs. More recently, there have been allegations of systemic problems and individual misconduct in the RCMP's policing of Nunavut communities, some of which have been the subject of reports by the Commission.

[103] In light of this context, the Commission found that further study is needed to ascertain the extent of the problem and to assess whether the under-resourcing is in fact discriminatory.

[104] The Commission also found that, regardless of any link to discrimination, immediate action is necessary to address the dire situation in Kinngait and any other Nunavut communities facing similar issues. The Commission noted that it understands that the RCMP does not have the unilateral capacity to act on the issue of resources. Therefore, the Commission recommended that the RCMP enter into immediate discussions with the appropriate government partners to ensure that sufficient resourcing and funding is provided to its Nunavut detachments.

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| Finding #23 | It was unreasonable for the RCMP to understaff the Kinngait Detachment by more than half of the number of police officers needed. |
| Finding #36 | The level of service being provided at the Kinngait Detachment was grossly inadequate. The level of under-resourcing observed is such that it raises concerns about possible systemic discrimination. |
| Finding #35 | There was no evidence indicating that the individual RCMP members' actions were influenced by racial bias or that any of the individual RCMP members were involved in discriminatory conduct towards A. B. |
| Recommendation #11 | The RCMP should ensure adequate staffing of all its detachments, including the Kinngait Detachment. |
| Interim Recommendation #19 | The RCMP should conduct a comparative analysis of the resourcing and funding levels for its detachments in Nunavut relative to its comparable detachments in other regions and communicate the results of this analysis to the Commission. |
| Recommendation #20 | The RCMP should enter into immediate discussions with the Government of Nunavut and other partners to ensure that sufficient resourcing and funding is provided to its Nunavut detachments so that an adequate level of service is provided at the Kinngait Detachment and in any other Nunavut detachments facing similar circumstances. |

RCMP Commissioner's Response

[105] The RCMP Commissioner agreed in part with the Commission's finding about the understaffing of the Kinngait Detachment (Finding #23). She recognized that the staffing of a busy detachment by less than half the number of members required is on its face unreasonable. However, she stated that the RCMP had taken reasonable steps to avoid this situation. She explained that resourcing is largely dependent on provincial or territorial partners. Unlike municipal police forces, the RCMP must involve various levels of government and departments when making staffing requests, and the final decision rests with the provincial or territorial government.

[106] The RCMP Commissioner provided a detailed account of the efforts made by “V” Division to secure additional resources over the past ten years. Despite the numerous business cases they presented requesting additional RCMP members in their Nunavut detachments, on several occasions no additional positions at all were approved. On other occasions, fewer positions than requested were approved. In one instance, additional funding was granted, but increases in all budget areas due to uncontrolled costs and inflation meant that the funds could not be used to fund additional positions.

[107] The RCMP Commissioner highlighted that members of “V” Division’s senior management teams had expressed concern about the “difficult circumstances members of the Kinngait Detachment are required to endure” and cited an instance where members had to be relocated due to safety concerns after receiving threats in the community. RCMP members in Iqaluit did not want to take turns providing relief to the Kinngait Detachment; thus, a “hubbing” model supplementing Kinngait members with Iqaluit-based members could not be put in place. The RCMP undertook national staffing actions for promotional opportunities in Kinngait, but the positions could not be filled in the traditional manner. The RCMP Commissioner stated that “Kinngait has proven to be an unattractive posting.”

[108] The RCMP Commissioner did indicate that, at times, the Kinngait Detachment was staffed with more RCMP members than authorized, but explained that these extra resources were relief members from southern detachments, or reservists.

[109] The RCMP Commissioner acknowledged that, despite the Division’s various efforts, by June 1, 2020, the resources at Kinngait had dwindled to four RCMP members (rather than the 10 required), and there was no administrative assistant, meaning a Sergeant had to perform administrative tasks.

[110] While she recognized that the RCMP could arguably have taken steps other than submitting business cases to ensure that the Kinngait Detachment was appropriately staffed, the RCMP Commissioner stated that the RCMP’s options were limited, given the funding structure of the RCMP, the limited resources of the Nunavut territorial government, and the dearth of RCMP members prepared to serve in such a remote and at times unsafe location.

[111] In response to the Commission’s finding about the concerns raised by the level of under-resourcing and the grossly inadequate level of service at the Kinngait Detachment (Finding #36), the RCMP Commissioner agreed that the detachment was not adequately resourced, but disagreed that the resourcing level was indicative of

systemic discrimination or that systemic discrimination played any role in the resourcing issues. The RCMP Commissioner stated that the Kinngait Detachment was understaffed due to lack of funding and the requirement to transfer personnel out of the community for safety reasons.

[112] The RCMP Commissioner referred to the RCMP's unsuccessful efforts to ensure that Nunavut detachments were adequately resourced. She indicated that having a fully staffed and equipped workforce in the "V" Division detachments can only be accomplished in partnership with the Government of Nunavut. She stated that the challenges of adequately resourcing detachments in the North are not new, referring to a 2007 report that had identified many persistent issues.

[113] As to the concern about potential systemic discrimination, the RCMP Commissioner wrote, "I understand that it is the effect of the adverse impact that is crucial in determining whether discrimination has occurred rather than whether discrimination was or was not intended." However, she stated that the resourcing decisions were informed solely by the caseloads of the RCMP members, the availability of funding, and the availability of volunteer members prepared to work in Kinngait, as well as logistical challenges. The RCMP Commissioner emphasized that "in no way were race or ethnicity factors in the resourcing decisions for [the] Kinngait Detachment of any other detachment in "V" Division."

[114] The RCMP Commissioner agreed with the Commission's finding about the lack of any evidence of racial bias on the part of the individual RCMP members (Finding #35).

[115] The RCMP Commissioner supported the recommendations to ensure adequate funding for all RCMP detachments and to enter into immediate discussions with the Government of Nunavut and other partners to ensure that sufficient resourcing is provided for Nunavut detachments (Recommendations #11 and #20).

[116] The RCMP Commissioner did not support the Commission's recommendation to conduct a comparative analysis of resourcing levels (Recommendation #19). While she acknowledged the Commission's concerns, she disagreed that the RCMP should conduct the analysis to assess whether a case of discrimination could be made out. The RCMP Commissioner explained that there are no divisions similar enough to the situation in "V" Division to be able to make a viable comparison between detachments. She noted that "V" Division has unique resource allocation challenges given its enormous size and dispersed communities. In addition, there is a significant housing shortage across the territory, which makes it very difficult for the RCMP to secure

housing for its members, in turn often making it impossible to increase personnel. She added that there are other logistical challenges unique to Nunavut that are a hindrance to staffing.

[117] The RCMP Commissioner expressed the view that, even if a viable comparative analysis could be conducted, it would be more appropriate for the Commission itself to conduct it in a transparent and fair manner, after selecting its methodology and comparator detachments. The RCMP Commissioner stated that this would ensure that any final conclusion about the existence of systemic discrimination is based on evidence obtained through the Commission's own investigative processes. The RCMP Commissioner offered the RCMP's assistance in providing relevant financial or human resources information.

Commission's Analysis of the RCMP Commissioner's Response

[118] The information provided by the RCMP Commissioner about the RCMP's unsuccessful efforts over the years to secure additional funding, and about the concerns expressed by "V" Division senior management, further demonstrate the seriousness of the under-resourcing issue at the Kinngait Detachment and more broadly in Nunavut. The significant impacts of the grossly inadequate level of service and resources have been detailed at length in the Commission's interim report.

[119] The Commission acknowledges the numerous challenges the RCMP is facing in addressing the situation. Further, as already clearly stated in its interim report, the Commission recognizes that the RCMP cannot address all of the issues alone. The Commission is encouraged that the RCMP Commissioner has not only acknowledged the problem, but has committed, in response to the Commission's recommendations, to ensuring adequate staffing for the Kinngait Detachment (and all detachments), and to entering into immediate discussions with the Government of Nunavut and other partners to ensure that sufficient resourcing and funding is provided to the RCMP's Nunavut detachments so that an adequate level of service can be provided to the people of Nunavut.

[120] The conditions and deficiencies identified in the Commission's interim report cried out for action. The Commission welcomes the RCMP Commissioner's commitment to take steps to address the situation, as well as the commitment to replace the Kinngait Detachment building. The Commission hopes these measures lead to real change on the ground, and to measurable progress toward the provision of adequate policing services in Kinngait and elsewhere in Nunavut.

[121] With respect to the possibility of systemic discrimination, the Commission acknowledges the difficulties in conducting the necessary studies about this matter, as detailed in the RCMP Commissioner’s response. While the Commission remains of the view that further study into this issue is warranted, the Commission notes that the focus should first be on taking the urgent action necessary to address the situation, which the RCMP has now agreed to do. Addressing the under-resourcing is the necessary and most important first step toward remedying any systemic discrimination that might be at its root.

[122] The Commission reiterates that residents of Canada are entitled to a reasonable level of service, regardless of where they reside. Social problems affecting communities in Nunavut and elsewhere in Canada are complex. The role of police in responding to the effects of social problems is also complex and sometimes controversial. However, there was nothing controversial about the clearly inadequate level of service observed in this case.

[123] The deficiencies noted by the Commission in this investigation rose to a level that, anecdotally, the Commission does not see in RCMP detachments in other regions. The Commission welcomes the RCMP’s willingness to work with the Commission in assessing the possibility of systemic discrimination and urges the RCMP to maintain statistics related to service needs and funding in its Nunavut detachments. For these reasons, the Commission will modify its Recommendation #19.

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| Final Recommendation #19 | Further study into possible systemic discrimination is warranted, and the RCMP should maintain statistics related to service requirements and funding in relation to its Nunavut detachments. The RCMP must ensure that adequate service delivery is provided to all residents of Canada irrespective of where they reside. |
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The actions taken by the RCMP in response to this matter

[124] The evidence before the Commission showed that, shortly after the events of June 1–2, 2020, internal discussions were underway at the RCMP about whether the incidents may result in legal claims against the RCMP. The decision was made to reach out to A. B. to see if the matter could be resolved informally without any lawsuit being filed; A. B. would be contacted to see if he would be willing to accept a financial settlement.

[125] To that end, the Regional Manager of the North West Claims, Litigation and Advisory Services Unit in “K” Division (Alberta) (which handles claims relating to persons in Nunavut) called A. B. on June 18, 2020. A. B. then called the manager back to further discuss the issue. Through these discussions, the manager offered A. B. a \$7,000 payment to settle the matter.

[126] When the manager first contacted him on behalf of the RCMP, A. B. was an in-patient at a mental healthcare centre. He had recently been the victim of the serious assault in cells, after having been hit by the door of a police vehicle, as recorded in the video that received considerable media attention. He had expressed suicidal ideation and was experiencing various personal challenges. Additionally, although A. B. does speak and understand English, it is not his first language.

[127] On its face, this situation raises concerns that a person in such a position may be vulnerable and could potentially be treated in an unfair manner, and/or lack capacity to make an informed decision about any proposed settlement.

[128] In this case, the Commission found that the manager told A. B. on numerous occasions to consult legal counsel before agreeing to any settlement, and did not seek to proceed without this step. There was no indication that A. B. was intimidated or coerced into accepting a settlement. Instead, he was an eager participant in the discussion, asking other individuals several times if he could place a call to the manager to further discuss the matter. Ultimately, A. B. obtained legal representation and his counsel was still in the process of negotiating a possible settlement on his behalf when the Commission interviewed A. B.

[129] The Commission noted that, despite the lack of concerns in this case, such matters should not be left solely to the good faith of the individuals involved. For this reason, the Commission sought to examine the applicable policies and procedures to ensure that appropriate safeguards are in place.

[130] In examining the applicable Treasury Board policies, the Commission was concerned that there were no national policies in place specific to the RCMP’s handling of claims, nor were there policies at the regional or divisional level. A previous national policy had apparently been cancelled and not yet replaced. Likewise, the North West Claims, Litigation and Advisory Services Unit did not have a policy governing its operations, nor was there a specific training program for its employees about how to handle claims. In light of the potential issues that could arise while negotiating with vulnerable individuals, the Commission found that additional policies and training were required.

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| <p>Finding #32</p> | <p>There is no information to suggest that A. B. was being intimidated or coerced into accepting a settlement. The manager who contacted him on behalf of the RCMP appeared to be following the Treasury Board Secretariat policies that govern the handling of claims against various government agencies, and repeatedly suggested that A. B. take the time to consult with a lawyer before further discussing any settlement.</p> |
| <p>Finding #33</p> | <p>Because there are concerns that a person in A. B.'s situation may be vulnerable and could potentially be treated in an unfair manner, and/or lack capacity to make an informed decision about any proposed settlement, safeguards need to be put in place through policies, practices and training.</p> |
| <p>Interim Finding #34</p> | <p>It is of concern to the Commission that there were no national, regional or divisional policies in place specific to the RCMP's handling of claims. It is also of concern that the North West Claims, Litigation and Advisory Services Unit did not have a policy governing its operations, nor was there a specific training program for its employees about how to handle claims.</p> |
| <p>Interim Recommendation #16</p> | <p>The RCMP should develop policies at the national, divisional and unit levels, as necessary, to govern the handling of claims against the Crown and ex gratia payments.</p> |
| <p>Recommendation #17</p> | <p>The policies on the handling of claims against the Crown should contain provisions to safeguard potentially vulnerable persons, including a requirement that persons obtain independent legal advice before signing a settlement agreement, or that they expressly waive this right. The policies should also include provisions to guide managers and analysts in ensuring that persons have the capacity to fully understand the process and the terms of the proposed settlement.</p> |
| <p>Recommendation #18</p> | <p>Training should be developed and implemented for employees responsible for handling claims.</p> |

RCMP Commissioner's Response

[131] The RCMP Commissioner agreed with the Commission's finding about the situation in this case, but disagreed in part with the findings about the lack of policies and the need to implement safeguards through policy and training (Findings #33 and #34).

[132] The RCMP Commissioner stated that the National Claims Policy Centre (NCPC) was consulted and did not support the need for policies, but were in agreement with the usefulness of some form of training. She noted that a national policy instrument, the National Practice Standards (NPS), is already in place at the RCMP. This instrument was developed for and is available to claims analysts, and it provides national direction and guidance for the management of claims. In addition to the NPS, the supporting notes to the RCMP Delegation of Financial Signing Authorities provides managers with information and direction about the handling of claims; this document was approved in July 2021 and revised in February 2022.

[133] The RCMP Commissioner explained that the NCPC believes that these documents, combined with the Treasury Board's *Directive on Payments* and its *Guide to Claims*, provide adequate policy direction. The RCMP Commissioner stated that she believed the NCPC's position was reasonable, as any change in policy would likely just mirror the direction provided by the claims tools currently in use. She noted that the professionalism and competence of the North West Claims, Litigation and Advisory Services personnel were demonstrated in this case.

[134] That said, the RCMP Commissioner stated that the NPS document does not currently address the specifics of communications or negotiations with potentially vulnerable members of the public. As such, the RCMP Commissioner agreed to direct that the NCPC amend the NPS document to include guidance on the subject of communications and negotiations with vulnerable individuals, which the NCPC had undertaken to do when they were consulted about this case. The RCMP Commissioner stated that this is a positive commitment, and therefore supported this aspect of the Commission's finding with respect to national practices.

[135] For the same reasons, the RCMP Commissioner did not support the Commission's recommendations about developing policies. She did support the recommendation about training, stating that litigation training sessions had commenced in 2022 for RCMP claims analysts and managers. She noted that this is planned to be recurring and will be expanded to include numerous topics. She stated that the training sessions will be amended to include a section on communicating and negotiating with

potentially vulnerable claimants and the increased risk associated with these particular claims.

[136] The RCMP Commissioner added that the RCMP is working to establish standardized wording for public communications related to claims. Legal training sessions are ongoing and, where possible, communications and negotiations with the public and specific populations are being discussed. Additionally, the NPS for claims analysts are being redrafted and will include some guidance on communications with the public.

Commission's Analysis of the RCMP Commissioner's Response

[137] The information provided in the RCMP Commissioner's response about the national policies that are in place to guide the work of claims analysts and managers addresses many of the concerns the Commission had in making these findings and recommendations. The Commission is heartened that the RCMP Commissioner has agreed to amend the NPS document to include guidance on the subject of communications and negotiations with vulnerable individuals, and welcomes the information provided about the training that has been commenced and will be expanded. Specifically, the Commission heralds the commitment that communications and negotiations with the public and specific populations will be discussed in RCMP training sessions.

[138] While the Commission welcomes the RCMP Commissioner's willingness to implement safeguards in the process, the Commission must also note that some of its findings and recommendations might not have been necessary if full disclosure had been provided at the outset. During the course of its investigation, the Commission had made repeated enquiries to the RCMP about the existence of relevant policies concerning the handling of claims, and was not made aware of policy documents such as the NPS and the supporting notes to the RCMP Delegation of Financial Signing Authorities.² For the Commission's investigations to be effective, full and timely disclosure from the RCMP is necessary, as required by the RCMP Act. The Commission will amend some of its findings and recommendations as follows to reflect the newly disclosed information.

² Although the notes were not in force at the time of the events under investigation in this case, they were in place when the Commission was still conducting its investigation and were clearly relevant to the Commission's recommendations.

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| <p>Final Finding #34</p> | <p>It is of concern that the North West Claims, Litigation and Advisory Services Unit did not have a training program for its employees about how to handle claims.</p> |
| <p>Final Recommendation #16</p> | <p>The RCMP should amend its policy instruments to provide increased awareness and guidance on the subject of communications and negotiations with vulnerable individuals with regard to the handling of claims against the Crown and ex gratia payments.</p> |

FINAL FINDINGS

- 1) There were reasonable grounds to believe that A. B. had committed the offence of causing a disturbance, and it was reasonable for Constable Keeling to arrest him for that offence.**
- 2) It was reasonable for Constable Keeling and the other RCMP members to conduct the arrest of A. B. quickly.**
- 3) The evidence does not indicate that Constable Keeling intended to strike A. B. with the police vehicle's door. Rather, the available information indicates that this was an accident that occurred as a result of the police vehicle lurching forward on poor road conditions in a failed attempt to stop near A. B.**
- 4) It was unsafe and unreasonable for Constable Keeling to have driven his police vehicle in such close proximity to A. B. on an icy road that was in poor condition. Constable Keeling's risk assessment of the situation should have adequately taken into consideration the state of the roadway and all other relevant factors.**
- 5) The Commission is satisfied that adequate remedial measures have been taken with regard to Constable Keeling's driving and that no further action is necessary.**
- 6) Given A. B.'s actively resistant and assaultive behaviour, it was necessary and reasonable for the RCMP members to use force during his arrest. The force employed by the RCMP members was proportionate to A. B.'s behaviour, and was reasonable in the circumstances.**
- 7) A. B. was not meaningfully informed of his right to consult legal counsel and was not provided with the opportunity to consult legal counsel when sober at the detachment.**
- 8) While acknowledging that the safety of prisoners and RCMP members is of the utmost importance, the Commission reiterates that strip searches must not be conducted as a matter of routine.**
- 9) In this case, it was reasonable, and in the best interests of the safety of A. B., for the RCMP members to remove A. B.'s wet clothing.**
- 10) For the safety of all parties, it was reasonable to have a number of RCMP members participating in the search.**

- 11) A. B. should have been provided with a blanket or gown, if this could be done safely, especially given that the reason for removing A. B.'s clothes was for his own safety to avoid him becoming hypothermic.**
- 12) Overall, the RCMP members' use of force during A. B.'s search was not unreasonable. Nonetheless, the Commission cautions the RCMP members to use the minimum amount of force necessary in a given situation.**
- 13) It was reasonable for the RCMP members not to seek medical care for A. B. after his arrest, because there was nothing to indicate that he was in need of medical care at that time.**
- 14) The lack of space for prisoners created an unsafe environment for detainees, RCMP members, and detachment staff.**
- 15) The fact that J. J. was not decontaminated prior to being placed in the cell was exacerbated by the lack of tap water in the cell due to a broken sink, leading to an unacceptable situation in which the prisoner repeatedly used water from the toilet bowl to relieve his discomfort. This raised serious health and safety concerns, and contributed to increasing the risk posed to A. B. by having him share a cell with J. J.**
- 16) In accordance with RCMP policy, J. J. should have been provided with water for decontamination, particularly when it was evident that he was in discomfort.**
- 17) It was unreasonable for the eyewash decontamination bottle to be left empty and to be located in an impractical location.**
- 18) It was unreasonable for the sink in cell no. 3 to be left in a non-functional state, apparently for as long as two years.**
- 19) It was reasonably foreseeable that placing J. J. and A. B. in the same cell could result in a negative outcome. Housing J. J. with A. B. did create an environment in which a serious assault was committed.**
- 20) The decision to place J. J. and A. B. in the same cell was a direct result of the lack of acceptable options available to the RCMP members as a result of the lack of space for prisoners.**

- 21) There were significant deficiencies with the physical state of the Kinngait Detachment, posing health and safety risks. It was unreasonable for the detachment to be in this condition. The RCMP as an institution was responsible for keeping the detachment and the cell block in a condition that would not pose unacceptable health and safety risks for RCMP members and detainees.**
- 22) It was unreasonable to leave the cell floor covered with various bodily fluids for more than ten hours.**
- 23) It was unreasonable for the RCMP to understaff the Kinngait Detachment by more than half of the number of police officers needed.**
- 24) Sergeant Gill provided inadequate supervision of the guard. Although the guard was earnest and appeared to be committed to doing the best job possible in challenging circumstances, it is apparent that there were numerous violations of RCMP policy in relation to record-keeping and other tasks performed by the guard.**
- 25) The training provided to the guard by the RCMP was inadequate. It appeared to impart a basic understanding of the roles and responsibilities of a guard, but did not adequately address RCMP policy requirements.**
- 26) The RCMP members promptly sought medical assistance for A. B. after he was assaulted.**
- 27) Given that A. B. was still acting in an unpredictable manner, it was reasonable for Sergeant Gill to decide to have the nurse attend the detachment instead of bringing A. B. to the health centre.**
- 28) It was reasonable for the RCMP members to rely on the opinion of Nurse A that A. B. could continue to be housed in cells until being assessed later.**
- 29) It was unreasonable for the RCMP members who were present during Nurse A's visit (Constable Sturge, Constable Cholette, Constable Smith, and Sergeant Gill) not to have clearly passed along the healthcare plan involving A. B. that had been recommended by Nurse A and agreed to by RCMP members and not to have documented this plan in the Prisoner Report. This lack of continuity of care could have resulted in a risk to the health of A. B.**
- 30) Once the RCMP members on duty the next day were made aware of the need for a physical assessment of A. B., they took steps to have the assessment carried out shortly after.**

- 31) The guard and the RCMP members should have attempted to provide first aid to A. B., if this could be done safely.**
- 32) There is no information to suggest that A. B. was being intimidated or coerced into accepting a settlement. The manager who contacted him on behalf of the RCMP appeared to be following the Treasury Board Secretariat policies that govern the handling of claims against various government agencies, and repeatedly suggested that A. B. take the time to consult with a lawyer before further discussing any settlement.**
- 33) Because there are concerns that a person in A. B.'s situation may be vulnerable and could potentially be treated in an unfair manner, and/or lack capacity to make an informed decision about any proposed settlement, safeguards need to be put in place through policies, practices and training.**
- 34) It is of concern that the North West Claims, Litigation and Advisory Services Unit did not have a training program for its employees about how to handle claims.**
- 35) There was no evidence indicating that the individual RCMP members' actions were influenced by racial bias or that any of the individual RCMP members were involved in discriminatory conduct towards A. B.**
- 36) The level of service being provided at the Kinngait Detachment was grossly inadequate. The level of under-resourcing observed is such that it raises concerns about possible systemic discrimination.**

FINAL RECOMMENDATIONS

- 1) The RCMP should develop and implement training with regard to the use of police vehicles while pursuing suspects who are on foot and with regard to the special care necessary when driving in close proximity to pedestrians.**
- 2) The RCMP should continue to ensure that RCMP members undergo training with regard to driving in poor conditions, including off-road and gravel-road driving, and should provide supplemental training to RCMP members as necessary with regard to hazards posed by specific road conditions in certain areas, including northern regions.**
- 3) The RCMP members involved in the search of A. B. (Constable Keeling, Constable Smith, Constable Cholette, and Sergeant Gill as their supervisor) should receive operational guidance regarding the provision of a blanket or gown to prisoners.**
- 4) The Kinngait Detachment should be expanded to increase cell space up to ten cells.**

- 5) **Constable Keeling and Sergeant Gill should receive operational guidance regarding the importance of decontaminating prisoners.**
- 6) **The sinks and toilets in the Kinngait Detachment cells should be repaired and maintained in accordance with RCMP policy.**
- 7) **The eye wash decontamination bottle in the Kinngait Detachment should be moved to an accessible location and be filled on a regular basis.**
- 8) **The RCMP should fully implement the recommendations in the RCMP's Independent Officer Review Concluding Report related to the physical state of the Kinngait Detachment.**
- 9) **The RCMP should consider completely replacing the Kinngait Detachment building.**
- 10) **All of the RCMP members present in the cell block that night (Constable Keeling, Constable Smith, Constable Cholette, Constable Sturge, and Sergeant Gill) should receive operational guidance regarding the importance of cleaning cells in a timely fashion.**
- 11) **The RCMP should ensure adequate staffing of all its detachments, including the Kinngait Detachment.**
- 12) **The RCMP should fully implement the recommendations in the RCMP's Independent Officer Review Concluding Report related to guard practices and training.**
- 13) **Sergeant Gill should receive operational guidance concerning the adequate supervision and training that he is required to provide to detachment guards in accordance with RCMP policy.**
- 14) **Constable Sturge, Constable Cholette, Constable Smith, and Sergeant Gill should receive operational guidance regarding the importance of clearly documenting and communicating information about a prisoner's necessary medical treatment.**
- 15) **The RCMP should issue a bulletin emphasizing that potential head injuries to prisoners must be approached with the utmost seriousness, that RCMP members should err on the side of caution in seeking prompt healthcare assessments in such situations, and that RCMP members must be cognizant that intoxication may mask the symptoms of an underlying head injury.**

- 16) The RCMP should amend its policy instruments to provide increased awareness and guidance on the subject of communications and negotiations with vulnerable individuals with regard to the handling of claims against the Crown and ex gratia payments.**
- 17) The policies on the handling of claims against the Crown should contain provisions to safeguard potentially vulnerable persons, including a requirement that persons obtain independent legal advice before signing a settlement agreement, or that they expressly waive this right. The policies should also include provisions to guide managers and analysts in ensuring that persons have the capacity to fully understand the process and the terms of the proposed settlement.**
- 18) Training should be developed and implemented for employees responsible for handling claims.**
- 19) Further study into possible systemic discrimination is warranted, and the RCMP should maintain statistics related to service requirements and funding in relation to its Nunavut detachments. The RCMP must ensure that adequate service delivery is provided to all residents of Canada irrespective of where they reside.**
- 20) The RCMP should enter into immediate discussions with the Government of Nunavut and other partners to ensure that sufficient resourcing and funding is provided to its Nunavut detachments so that an adequate level of service is provided at the Kinngait Detachment and in any other Nunavut detachments facing similar circumstances.**

Conclusion

[139] The Commission has finished its investigation of this complaint. Having considered the RCMP Commissioner's response, the Commission makes the final findings and recommendations in this final report and its public interest investigation is now complete.

Micheline Lahaie
Chairperson