

Ms. Michelaine Lahaie
 Civilian Review and Complaints Commission
 for the RCMP
 P.O. Box 1722, Station “B”
 Ottawa, Ontario
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Dear Ms. Lahaie:

I have completed my review of the Commission’s interim report with respect to the Chairperson-Initiated Complaint and Public Interest Investigation into the conduct of RCMP members during an interaction in Kinngait, Nunavut on June 1, 2020, file number, PC- 2020-1663.

Please find enclosed my response to the report pursuant to section 45.72(1), of the *Royal Canadian Mounted Police Act*.

Complainant CRCC File number HRMIS incident number		PII – CRCC
Dates	Interim Report received	June 22, 2022
	Relevant Material received	July 15, 2022
	Commissioner’s Response	December 15, 2022

I acknowledge receipt of the Commission’s interim report with respect to the Chairperson-Initiated Complaint and Public Interest Investigation into the conduct of RCMP members during an interaction in Kinngait, Nunavut on June 1, 2020.

I have completed a review of this matter with respect to the decisions and recommendations set out in the Commission’s interim report. For ease of reference, my decisions are summarized in the right side of the tables below.

FINDINGS	
<u>Finding 1:</u> 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.	Agree
<u>Finding 2:</u> It was reasonable for Constable Keeling and the other RCMP members to conduct the arrest of A.B. quickly.	Agree
<u>Finding 3:</u> 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.	Agree
<u>Finding 4:</u> 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	Agree

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.	Agree
Finding 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.	Agree
Finding 7: : A. B. was not meaningfully informed of his right to consult legal and was not provided with the opportunity to consult legal counsel when sober at the detachment.	Agree
Finding 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.	Agree
Finding 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.	Agree
Finding 10: For the safety of all parties, it was reasonable to have a number of RCMP members participating in the search.	Agree
Finding 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.	Agree
Finding 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.	Agree
Finding 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.	Agree
Finding 14: The lack of space for prisoners created an unsafe environment for detainees, RCMP members, and detachment staff.	Agree
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..	Agree
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.	Agree
Finding 17: It was unreasonable for the eyewash decontamination bottle to be left empty and to be located in an impractical location.	Agree
Finding 18: It was unreasonable for the sink in cell #3 to be left in a non-functional state, apparently for as long as two years.	Agree

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.	Do Not Agree
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I respectfully disagree with the Commission’s conclusion. In my view, this opinion does not take into account the information known to the members at the time nor does it give appropriate consideration to the options that were available to them. Put another way, this conclusion can only be reached with the benefit of hindsight.

Intoxicated individuals are routinely incarcerated together at RCMP cells throughout Canada, the vast majority of the time without incident. The subject members were not aware of any history of assault between A.B. and J.J. prior to June 1, 2020. Constable Keeling indicated in his statement that “[t]here was no indication of any problems between [J.J.] and [A.B.]”¹ Under these circumstances, it is difficult to conclude that it was reasonably foreseeable that J.J. would assault A.B. in the manner that he did.

Even if the Kinngait Detachment had ten cells as recommended by the Commission instead of four, on a busy night, more than one person could be placed in a cell, particularly if youths and females are in custody. Whenever individuals are incarcerated together there is always potential for physical violence whether they are intoxicated or not. Intoxication or drug use are factors which are always taken into account, along with other factors, in order to make the most appropriate decision at the time, while mitigating as much as possible any risk of assault. In my view, there is insufficient evidence to conclude that it was foreseeable that A.B. would be assaulted by J.J.

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 as a result of the lack of space for prisoners.	Agree
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.	Agree
Finding 22: It was unreasonable to leave the cell floor covered with various bodily fluids for more than ten hours.	Agree
Finding 23: It was unreasonable for the RCMP to understaff the Kinngait Detachment by more than half of the number of police officers needed.	Agree in Part

While at first blush it would seem that it was unreasonable for Kinngait not to be staffed to the level of 10 members which the RCMP statistics indicated were required, as the Commission is aware, resourcing is largely dependent on provincial or territorial partners. Unlike the staffing of

¹ Paragraph 33.

municipal police departments, which generally involve only the police service and the municipal council, the RCMP must involve various government departments (Public Safety and Treasury Board) and Ministers along with Territorial Ministers and government entities in its staffing requests. The final decision as to increasing resources, in particular increased personnel, rests with provincial or territorial governments.

The relevant material provides an overview of the efforts made by the RCMP “V” Division to secure additional resources for the division. In a business case prepared by the Nunavut Department of Justice (DOJ) seeking 16 additional police officers for 2022-2022 to 2025-2026 fiscal years, the DOJ set out some of the history of attempts to provide adequate RCMP resourcing to the Territory.

The business case indicated that Nunavut leads the country with a violent crime severity index over three (3) times the national average. Statistics demonstrate that Nunavut has the highest rates of family violence, sexual assault and sexual violations against children in Canada.

The DOJ’s business case states that

- in 2012-2013, V Division completed an Annual Reference Level Update (ARLU) submission which sought eight (8) regular member positions. The positions were to be deployed to eight different detachments. No positions were approved.
- in 2013-2014, V Division sought 11 regular member positions. No positions were approved.
- in 2014-2015, the Commanding Officer was informed by the Justice Minister that a holistic overview of policing needs, needed to be provided. The RCMP embarked on the Police Resourcing Methodology Study (PRM) for all communities, reviewed existing statistical information, conducted client surveys and prepared 14 business cases to clearly articulate the rationale for additional resources. The submission sought twenty-six (26) regular member positions and three (3) civilian member positions to be allocated to the detachments and units in most need. No increase to the establishment was granted.
- in 2015-2016, V Division secured an increase in funding equating to \$1.8 million in an effort to stabilize resources and fill regular member vacancies in the Division. There was also a commitment by the Government of Nunavut to focus on Human Resources in 2016-2017.
- in 2016-2017, an additional seven business cases were submitted to the Government of Nunavut with the RCMP’s Territorial Police Service Five Year Plan. A GN commitment to fund nine (9) additional regular positions was received. Unfortunately, increases in all budget areas due to uncontrolled costs and inflation have made this reallocation non viable.

in 2017-2018, a business case was submitted to the Government of Nunavut with the RCMP's Territorial Police Service MYPPF (5 Year Plan) for an additional 35 regular member positions including twenty-eight (28) going to front line uniformed policing, seven (7) going to police support units. None of these front line policing resources were funded.

- in 2018/19, the GN announced funding for the three (3) RM's for the Territorial Special Victims Unit.

in 2019/20, a business case was submitted seeking additional 12 front line Regular Member resources. This business case was approved, in part, resulting in the GN's commitment to fund six (6) additional front line Regular Member positions for 2021/22, along with approval to support three (3) additional front line Regular Member positions in 2022/23 and three (3) front line Regular Member positions in 2023/24.

- in 2020/21, a business case was submitted seeking an additional 12 frontline Regular Member resources over a five-year period. In June 2022, the GN announced funding for three (3) members.

The relevant material contains expressions of concerns by members of "V" Division's senior management team with respect to the difficult circumstances members of the Kinngait Detachment are required to endure. In 2021, three members and their families had to be moved from Kinngait to Iqaluit because of concerns for their safety and wellbeing after having been threatened by members of the community.

It is also clear from the relevant material that members in Iqaluit did not want to take turns in providing relief to Kinngait. Also, despite national staffing actions for promotional opportunities at the rank of Sergeant and Corporal, these positions could not be staffed in the traditional manner. Promotions by exception were granted for both positions at Kinngait. Kinngait has proven to be an unattractive posting based on feedback from the division's proactive recruiting efforts to attract RCMP members to the community.

V Division had been keeping DOJ apprised of the situation and the concerns the Senior Management Team had for the employees working in the community. Attempts were made to mitigate the cost and not increase resources to Kinngait by exploring options with the Iqaluit Detachment, however, without the Iqaluit Detachment members volunteering to hub with Kinngait, the hubbing model with Iqaluit Detachment was not going to occur.

I should note that, at times, the Kinngait Detachment was staffed with more members than authorized. "V" Division had been maintaining Kinngait at eight (8) members, though the detachment was only funded for six (6). In fact, at times, the detachment has been maintained at 9-10 members in order to ensure sufficient resources in the community to respond to the number of high-risk calls the members were attending to. These extra resources were relief members from southern detachments or reservists.

In my view, the RCMP took reasonable and diligent steps over at least the last decade to ensure the proper staffing of its detachments, including Kinngait. In fact, at times, Kinngait was overstaffed. However, by June 1st, 2020, the resources at Kinngait had dwindled to a complement of four members without an administrative assistant, forcing the Sergeant to carry out non-operational administrative tasks normally performed by a public servant. Arguably, the RCMP could have taken steps other than to submit business cases to ensure that Kinngait was appropriately staffed. However, given the funding structure of the RCMP, the limited resources of the Nunavut Territorial Government and the dearth of members prepared to serve in such a remote and at times, unsafe, location, the RCMP's options to ensure that Kinngait was adequately staffed were limited.

I agree with this finding, in part, in that while the staffing of a busy detachment by less than half the number of members authorized is on its face unreasonable. The RCMP, nonetheless, took reasonable steps to avoid this situation from occurring.

<u>Finding 24:</u> 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.	Agree
<u>Finding 25:</u> 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.	Agree
<u>Finding 26:</u> The RCMP members promptly sought medical assistance for A.B. after he was assaulted.	Agree
<u>Finding 27:</u> 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.	Agree
<u>Finding 28:</u> 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.	Agree
<u>Finding 29:</u> 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.	Agree
<u>Finding 30:</u> 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.	Agree
<u>Finding 31:</u> The guard and the RCMP members should have attempted to provide first aid to A. B., if this could be done safely.	Agree
<u>Finding 32:</u> 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	Agree

<p>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: 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>Agree in Part</p>

The National Claims Policy Center (NCPC) provided input that is applicable to the Commission’s finding. In its response, the NCPC stated that they did not support the need for policies but were in agreement with the usefulness for some form of training.

The policy center stated that they have sufficient tools which provide guidance with respect to how to fairly deal with claims against the RCMP. A national policy instrument titled the National Practice Standards (NPS) is in place at the RCMP. This instrument was developed for, and is available to, claims analysts across the country 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 (DFSA) provides delegated managers information and direction on authorities for claims and *ex gratia* payments (first approved in July 2021, and revised in February 2022).

The National Claims Policy Centre believes that these two documents, combined with the TB *Directive on Payments* and *Guide to Claims* provides adequate national level policy direction. That being said, the NPS does not currently address the specifics of communications or negotiations with potentially vulnerable members of the public. The national policy centre will seek to amend the NPS to provide increased awareness and guidance on the subject of communications and negotiations with vulnerable individuals.

In my view, the NCPC’s position is reasonable in that any change in policy would likely just mirror the direction provided by the claims tools currently in use. I note that the professionalism and competence of the North West Claims, Litigation and Advisory Services was demonstrated in this case, where as indicated by the Commission, A.B. was advised, several times, by a claims manager to seek out independent legal advice prior to accepting any form of settlement.

However, while the NCPC does not share the Commission’s view that there is a lack of policy specific to the RCMP, given the resources they have at their disposal, I will nonetheless direct that the NCPC amend the National Practice Standards document to include guidance on the subject of communications and negotiations with vulnerable individuals. I agree that this is a positive

commitment and I support this aspect of the Commission’s finding with respect to national practices.

<p>Finding 34: 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 their employees about how to handle claims.</p>	<p>Do Not Agree</p>
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For the reasons provided in my comment to Finding No. 33, I do not agree with the Commission’s finding.

<p>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.</p>	<p>Agree</p>
<p>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.</p>	<p>Do Not Agree</p>

As indicated in my responses to Recommendation No. 11 and Finding No. 23, the RCMP has tried, over the years, to ensure that Kinngait Detachment, along with detachments in Nunavut as a whole were adequately resourced. However, the request for more resources was often not granted by the bodies authorized to do so.

It should be noted from the outset that a fully staffed and equipped workforce is the desired state for all RCMP Detachments in Nunavut to ensure business continuity, member wellness and consistent quality service delivery, which is responsive to the communities served by the RCMP.

That being said, maintaining adequate staffing is contingent on both the RCMP and the Government of Nunavut and can only be actualized in partnership. Aside from the requirement to effectively manage current resources, the RCMP has the ongoing responsibility to accurately capture, report and provide recommendations and rationale to the territorial government regarding its evolving resourcing needs. The Government of Nunavut must then consider and balance their obligations to the territory in decision-making surrounding the potential financial and or infrastructure commitments required to meet the RCMP’s resourcing recommendations.

The challenges of adequately resourcing detachments in the north are certainly not new. These challenges were recognized by the Brown Task Force on Governance and Cultural Changes in the

RCMP ². At page 23 of the Report, the Task Force comments on the difficulties in staffing of detachments in the Yukon and Northwest Territories and Nunavut:

Staffing isolated and northern posts presents a particular problem, with most being in danger of being seriously understaffed in the near future. In addition to the physical challenge of these locations, separation from families and loved ones makes it difficult for the RCMP to attract members and employees to those locations. Those members who bring families with them to these posts face other challenges in assisting their families to adapt to the remote environment. In many cases, these environments are so rugged that other professionals, such as nurses and teachers, will not locate there unless RCMP personnel are on site. However, the policies affecting these northern postings seem designed to discourage rather than encourage people to take on these challenges. Housing allowances, vacation allowances and other incentives are being eroded. The impression that one gets is of an unsympathetic Treasury Board, treating the RCMP like any other federal department, without regard to the fact that the challenges (and living conditions) appear to be much more demanding, unique and urgent.

The relevant material indicates that the Kinngait Detachment was understaffed due to lack of funding from the Government of Nunavut and members being transferred out for safety reasons, as their families had been threatened and their safety and wellbeing could not be ensured. 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. I can assure the Commission that detachment resourcing decisions were informed solely by the case loads of the members, availability of funding from our contracting partners, the availability of volunteer members who are prepared to work at Kinngait, as well as logistical challenges. In no way were race or ethnicity factors in the resourcing decisions for Kinngait Detachment or any other detachment in “V” Division.

I agree that, on June 1, 2020, Kinngait was not adequately resourced for the reasons indicated, but disagree that the resourcing level is indicative of systemic discrimination or that systemic discrimination played any role in the resourcing of the Kinngait Detachment.

RECOMMENDATIONS	
<u>Recommendation 1</u> : The RCMP should develop and implement policy and training with regard to the use of police vehicles while pursuing suspects who are on foot.	Not Supported

² Canada, Task Force on Governance and Cultural Change in the RCMP, *Rebuilding the Trust* (Government of Canada: 2007) (Chair: David A. Brown, Q.C.) https://www.publicsafety.gc.ca/cnt/cntrng-crm/tsk-frc-rcmp-grc/_fl/archive-tsk-frc-rpt-eng.pdf.

It was the conclusion both reached by the Ottawa Police Services, in their investigation and by the Conduct Authority, in the Code of Conduct proceedings, that the collision between Constable Keeling’s police vehicle’s door and A.B. was a result of Constable Keeling stopping his vehicle in close proximity to A.B. and the vehicle then sliding a few inches forward because of the ice under the wheels. It is clear from all of the circumstances that the collision with the police car door was a result of an error in judgment rather than a lack of training or policy provisions. This type of incident, where a suspect on foot comes into contact with any part of a police vehicle, is an extremely rare occurrence that is not amenable to being remedied by policy provisions. In my view, additional policy would be of limited utility given that members are aware of the possible deleterious effects of stopping their vehicles too closely to someone who is on foot. I will say more about the need for policy in this regard in my response to Recommendation No. 2.

<p>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.</p>	<p>Supported</p>
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The NPCD consulted with the policy centre to obtain its views on the Commission’s recommendation. The policy center considered the recommendation largely on the basis that additional policy would be of little benefit to members noting that laws already exist that govern the safe operation of a motor vehicle by members and that policy does not exist for the purpose of duplicating law. The road conditions as seen in the video of the collision between Constable Keeling’s vehicle and A.B., or otherwise found in Kinngait, are not conditions exclusive to Nunavut, or to only “northern regions.” Similar conditions can be found in every division in Canada. In the policy centre’s view, the RCMP does not provide policy to members that instruct on the basic tenets of safely operating a motor vehicle (such as, for example, directing the use of windshield-wipers in rain, headlights when it is dark, refraining from sharp turns while on reduced-friction substrates like ice or gravel, etc.); as the Commission noted in paragraph 113 of its report, there is already existing law that governs the safe operation of a motor vehicle, even for peace/police officers who are performing their duties. I agree with the policy centre’s view on the matter.

The policy centre also noted that the RCMP Cadet Training Program already includes training specific to off-road and gravel-road driving: irregularities on these roadways are included in that curriculum, and are something that one would expect from such road conditions. Every RCMP member is required to complete this training in order to graduate from Depot.

While I support the Commissions’ recommendation because it was given consideration, I am in agreement with the policy centre that a policy amendment and additional training would not address an employee’s error in judgment. I believe that the training and guidance already in place is sufficient and that any individual lapse in judgment is better addressed by the supervisor directly with an employee.

Recommendation 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.	Supported
Recommendation 4: The Kinngait detachment should be expanded to increase cell space up to ten cells.	Supported in Part

The NPCD reached out to “V” Division to obtain their view on this recommendation. “V” Division conducted a Cell Capacity Options Analysis published July 4, 2022, of the cell room needs of Kinngait Detachment. There were six (6) options examined with respect to cell expansion. After weighing the pros and cons of the various options, “V” Division concluded that Kinngait Detachment be completely replaced and the new detachment building have eight (8) cells. The determination of the number of cells was based on recent division detention statistics.

As indicated in my response to Recommendation No. 9, the Kinngait Detachment will be replaced in its entirety and the detachment will have eight cells.

Recommendation 5: Constable Keeling and Sergeant Gill should receive operational guidance regarding the importance of decontaminating prisoners.	Supported
Recommendation 6: The sinks and toilets in the Kinngait detachment cells should be repaired and maintained in accordance with RCMP policy.	Supported
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.	Supported
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.	Supported
Recommendation 9: The RCMP should consider completely replacing the Kinngait Detachment building.	Supported
Recommendation 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.	Supported
Recommendation 11: The RCMP should ensure adequate staffing of all its detachments, including the Kinngait Detachment.	Supported
Recommendation 12: The RCMP should fully implement the recommendations in the RCMP’s Independent Officer Review Concluding Report related to guard practices and training.	Supported
Recommendation 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.	Supported
Recommendation 14: Constable Sturge, Constable Cholette, Constable Smith,	Supported

and Sergeant Gill should receive operational guidance regarding the importance of clearly documenting and communicating information about a prisoner's necessary medical treatment.	
Recommendation 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.	Supported
Recommendation 16: The RCMP should develop policies at the national, divisional and unit levels, as necessary, to govern the handling of claims against the Crown and <i>ex gratia</i> payments.	Not Supported

As indicated in my response to Findings Nos. 33 & 34, I do not support the Commission's recommendation since it does not fit the circumstances.

Recommendation 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.	Not Supported
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The Commission's recommendation is similar to Recommendation No. 16. Given my response to Findings Nos. 33 & 34, I do not support the Commission's recommendation.

Recommendation 18: Training should be developed and implemented for employees responsible for handling claims.	Supported
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The National Claims Policy Center (NCPC) provided input that is applicable to the Commission's finding. In its response, the NCPC stated that they did not support the need for policies but were in agreement with the usefulness for some form of training.

I can advise the Commission that litigation training sessions commenced in 2022 for RCMP claims analysts and claims managers. Training is planned to be recurring, and expanded to include numerous topics. 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.

The NPCD is working with divisional claims units across the country, and in consultation with the Legal Service Unit to establish standardized wording for public communications related to claims. The legal training sessions have happened and are now 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 members of the public. This section of NPS will be prepared and finalized in consultation with RCMP Legal Services Unit.

<p>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.</p>	<p>Not Supported</p>
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It is my understanding, from reading the Commission’s analysis and application of the *Moore* framework, that it does not have sufficient statistical and contextual information to determine whether a *prima facie* case of discrimination is made out in this matter.

For this reason, the Commission has asked the RCMP to delve deeper in the matter and suggested that the RCMP conduct a comparative analysis of its detachments, with a focus on resource allotment.

While I acknowledge the Commission’s concerns in the matter, respectfully, for the reasons below, I disagree that the RCMP should conduct such an analysis.

Firstly, there are no divisions that are similar enough to the situation in V Division to make a comparison to other detachments outside “V” Division viable. “V” Division is the only Division in which every location including the HQ for the Division is accessible only by air travel. To give perspective, to fly to Iqaluit, it is a three (3) hour flight on a commercial 737, the equivalent of flying from Ottawa or Toronto to Florida. Nunavut has three (3) time zones, and travel from Iqaluit to the western communities in Nunavut is similar to traveling from Montreal to Edmonton. Upon arrival in the Territory capital, in order to get to the communities in the far west from the capital city, one must travel to Yellowknife, over night then fly the following day to the community (ies) by turbo prop (ATR airplane) for most, if not all locations. This reality is simply non-existent in other Divisions and directly impacts resourcing capacity.

In addition, Nunavut is faced with housing shortages across the Territory. The RCMP faces enormous challenges in securing housing due to the remoteness of the communities. Even in Iqaluit, the capital and largest city in Nunavut, there are noted barriers in obtaining the land necessary to build additional housing for members. “V” Division’s Administration and Personnel Officer advises that no other Territory or Province faces similar housing shortages to that of Nunavut. If housing for members is not available, then it is not possible to increase personnel at the detachments. For the supplies to build a house, the supplies are required to arrive by ship, and that is only possible when the ice is open. The average community receives only two (2) shipments of supplies, known as a sealift or a barge order in a year. To air lift the supplies is possible but cost prohibitive.

As the Commission may appreciate, logistical issues that are not a concern for southern detachments are at the forefront of factors that are a hindrance to staffing detachments like Kinngait. Another example of such challenges is that members must purchase groceries and other supplies up to a year ahead of time as supplies are brought in by ship twice a year. Repair and maintenance of Force housing, vehicles and detachment buildings is extremely expensive and not often carried out in a timely manner due to a lack of tradespersons and/or replacement parts.

Secondly, even if a viable comparative analysis could be conducted, I do not think it appropriate for the RCMP to carry it out. In order for the analysis to be transparent, fair, and free of any bias, it would be more appropriate for the Commission to determine its methodology and select the comparator detachments. The RCMP, of course, would be willing to assist the Commission in its analysis by supplying any relevant financial or human resource information it has in its possession for the identified detachment(s). In my view, given the Commission’s conclusion that “there is a real possibility that systemic discrimination is at play” the Commission’s final conclusion in this regard should be based on evidence obtained through its own investigative processes, with assistance from the RCMP as required.

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.	Supported
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My response in this matter has met the six-month service standard agreed to in our Memorandum of Understanding.

I look forward to receiving your final report on this matter.

Kindest regards,

Brenda Lucki
Commissioner