



A Missed Opportunity: The Public Investigation into the Conduct of the RCMP in Matters Involving Nicole (Ryan) Doucet

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Abstract

On July 13, 2013, the Commission for Public Complaints released the *Report Following a Public Interest Investigation into the Conduct of RCMP Members in Nova Scotia in Respect to Matters Involving Nicole (Ryan) Doucet*. After interviewing all parties involved and reviewing 25 incidences involving Ms. Doucet and Mr. Ryan, the Acting Commissioner, Ian McPhail, concluded the RCMP's policy regarding violence in relationships "was followed at all times." According to *The Report*, the RCMP did not fail to protect Ms. Doucet. These conclusions, however, seem to be at odds with the evidence presented in *The Report*. After discussing coercive control and reviewing *R. v. Ryan*, the paper analyses the Commission's findings to argue that the evidence presented to the Commission clearly illustrates that police ignored Ms. Doucet's repeated pleas for help. The Commissioner missed a real opportunity to review current RCMP policies on domestic violence to bring them in line with current and on-going research on coercive control.

Keywords: domestic violence, coercive control, RCMP, investigation of police, violence against women

Résumé

Le 13 juillet 2013, la Commission des plaintes du public contre la GRC publiait le Rapport produit à la suite d'une enquête d'intérêt public sur la conduite de membres de la GRC en Nouvelle-Écosse en lien avec l'affaire concernant Nicole (Ryan) Doucet. Au terme d'entrevues menées auprès de toutes les parties en cause, et d'une étude de 25 incidents impliquant M^{me} Doucet et M. Ryan, le commissaire intérimaire, Ian McPhail, concluait que la politique de la GRC concernant la violence familiale « a été observée en tout temps ». D'après le Rapport, la GRC n'a pas failli dans son devoir de protéger M^{me} Doucet. Toutefois, cette conclusion semble être contraire aux faits présentés dans le Rapport. Ayant abordé la notion de contrôle coercitif et examiné l'affaire *R. c. Nicole (Ryan) Doucet*, cet article analyse les conclusions de la Commission et affirme qu'au contraire, l'information présentée à la Commission prouve clairement que la police a fait la sourde oreille aux demandes d'aide répétées de M^{me} Doucet, et que le commissaire a laissé passer une occasion en or de repenser les politiques de la GRC sur la violence familiale afin de les harmoniser avec les recherches actuelles et en cours sur le contrôle coercitif.

Mots clés : violence familiale, contrôle coercitif, GRC, enquête policière, violence contre les femmes

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Introduction

In July 2013, the Commission for Public Complaints issued the *Report Following a Public Interest Investigation into the Conduct of the RCMP Members in Nova Scotia in Respect to Matters Involving Nicole (Ryan) Doucet; Royal Canadian Mounted Police Act Subsection 45.43 (1)* (hereafter *The Report*). This report was initiated in the wake of the Supreme Court's decision in *R. v. Ryan*, a case in which an abused woman had been charged with conspiring to hire a hit man to kill her ex-spouse. Successfully arguing that she acted under duress, Ms. Doucet was acquitted at trial; the acquittal was upheld by the Nova Scotia Court of Appeal, only to be overturned by the Supreme Court of Canada. Nonetheless, the Court issued a stay of proceedings, asserting that Doucet had suffered enough and should not have to face another trial. In fact, the Court excoriated the RCMP, noting that while an expensive undercover sting operation had been used to catch Ms. Doucet in an illegal act, the police had done little to protect her from violence: "There is also a disquieting fact that, on the record before us, it seems that the authorities were much quicker to intervene to protect Mr. Ryan than they had been to respond to [Ms. Doucet's] request for help in dealing with his reign of terror over her."¹ *The Report* rejected such criticism and absolved the RCMP of any wrong-doing, concluding "the RCMP's policy regarding violence in relationships... was followed at all times."² Yet this conclusion belies events recounted in *The Report*, which clearly illustrate that the police ignored not only the fear that Nicole Doucet felt after years of abuse at the hands of her ex-spouse, but also her repeated pleas for help.

Analysis of *The Report* provides graphic evidence of the failure both of the RCMP itself and of the process of review of the RCMP. To begin, the Commission limited the scope of the investigation to the actions of individual officers and asserted it was not the role of the investigation to "determine whether or not there was violence in the relationship between Mr. Ryan and Ms. Doucet."³ But how could the Commission determine whether or not the response of the RCMP was appropriate without considering the wider question of abuse? This limitation effectively absolved the Commission of having to examine the efficacy of the rules and regulations that guided, and continue to guide, RCMP responses to domestic violence.⁴ Further, the Commissioner rejected Ms. Doucet and her lawyer's assertion that the police need greater training in how to deal with intimate partner violence and in recognizing the signs and symptoms of domestic abuse, instead finding that there were "no deficiencies or lack of knowledge."⁵ We disagree.

¹ *R. v. Ryan* [2013] 1 S.C.R. 14, at para. 35.

² Ian MacPhail, Interim Chair of the Commission for Public Complaints Against the RCMP, *Report Following a Public Interest Investigation into the Conduct of the RCMP Members of Nova Scotia in Respect to Matters Involving Nicole (Ryan) Doucet*, 41.

³ *Ibid.*, 23.

⁴ Recent recommendations for police action regarding responses to intimate partner violence also implicitly criticize the approach taken by the RCMP in this case: Canadian Association of Chiefs of Police (CACFP), *National Framework for Collaborative Police Action in Intimate Partner Violence*, March 2016.

⁵ MacPhail, *Report*, 27.

Our critique of *The Report* adds depth to previous understandings of official responses to intimate partner violence by looking at it through the lens of coercive control and provides graphic support for Elizabeth Sheehy's assertion that "we have yet to create consistent police responses to battered women who ask for intervention...[and] we also have no mechanisms of accountability for police and prosecutors who fail women."⁶ We argue *The Report*, in clearing the RCMP of any wrong-doing, not only invalidated Ms. Doucet's trauma and fear, but also rendered invisible the inherent and systemic sexism of police services.⁷ It missed an opportunity to revisit RCMP policies on, and responses to, intimate partner violence.⁸ Ultimately, *The Report*, as well as media reaction to it, reinforced negative stereotypes about abused women, producing a real danger that women who experience abuse will be discouraged from seeking help from the police.

In making this argument, this paper proceeds in four sections. First, we provide a brief overview of *R. v. Ryan* at all levels of court proceedings. Next, the process of investigation of complaints regarding the RCMP is outlined. This is followed by a discussion of coercive control, a constellation of behaviours through which some abusive men, often without using a great deal of daily violence, "interweave physical attacks with intimidation, isolation, and control."⁹ This is the context in which the Commission for Public Complaints should have, but did not, evaluate the response of the RCMP to domestic violence, and to Nicole Doucet specifically. In the final section, we analyze details of *The Report* to argue that, while the Commissioner exonerated the RCMP, he did so by accepting uncritically the evidence of RCMP officers and by ignoring extensive documentation of coercive control.

R. v. Ryan

On March 17, 2008, Nicole Doucet (then Ryan) was charged "with the offense of counselling the commission of an offense not committed" after attempting to hire a hit man to kill her abusive ex-spouse.¹⁰ The man she sought to hire was in fact an

⁶ We are, as Elizabeth Sheehy writes, "acutely aware" that because of our choice to write about this trial and the subsequent investigation of the RCMP, Nicole Doucet may experience further suffering. We believe that the public needs to know about the challenges she faced and the problems her case exposed. We apologize for any hurt she may experience and seek to treat her with the utmost dignity and respect: Elizabeth Sheehy, *Defending Battered Women on Trial: Lessons from the Transcripts* (Vancouver: University of British Columbia Press, 2014), 18. It is also for this reason that we refer to Nicole Doucet as Ms. Doucet throughout this article. She has legally changed her name, and does not wish to be associated with her former husband in any way. Even when describing events when she was known as Ms. Ryan, we use her preferred name.

⁷ Sheehy, *Defending Battered Women on Trial*, 315.

⁸ We echo the Legal Education and Action Fund and the Canadian Association of Elizabeth Fry Societies, joint intervenors in the case at the Supreme Court. *The Report*, they argued, "does not hold any hope for correcting these services." Canadian Association of Elizabeth Fry Societies, "Joint Statement Regarding the Report Following a Public Interest Investigation into the Conduct of the RCMP Members in Nova Scotia in Respect to Matters Involving Nicole (Ryan)/Doucet: www.caefs.ca/joint-statement-regarding-report-following-a-public-interest-investigation/. Accessed July 2013.

⁹ Evan Stark, *Coercive Control: The Entrapment of Women in Personal Life* (New York: Oxford Press, 2007), 5.

¹⁰ MacPhail, *Report Following a Public Interest Investigation*, 1.

undercover RCMP officer. She claimed that the RCMP had failed to provide her with the assistance she required in leaving her abusive spouse and in keeping herself, and her daughter, safe. At the initial trial, Farrar J. of the Nova Scotia Supreme Court, accepting Ms. Doucet was a battered woman and noting that Mr. Ryan had a long history of violence towards her and others, found she had acted under duress; the sole reason she had hired a hit man was because she reasonably believed “there was no safe avenue of escape other than have him [her husband] killed.”¹¹ Farrar J. considered evidence that included a 1996 conviction for an unprovoked assault, a 2007 conviction in a road rage incident, and the fact that Mr. Ryan had been required to undertake anger management training at his workplace, the Canadian Armed Forces. Farrar J. also heard evidence from a therapist who had worked with Ms. Doucet, who had thirty-seven years of experience, and who believed that she was at high risk of lethal violence.¹² The one person who could have rebutted these accusations was Mr. Ryan himself. He was “present in court on the first day and it was indicated that he was a potential Crown witness... However, he never gave evidence.”¹³ Farrar J. found that after she was repeatedly rebuffed by state authorities, Ms. Doucet’s response was reasonable “in the circumstances... including the history of Mr. Ryan’s violence towards others, his manipulative and controlling behaviour, his access to firearms, the threats which he made, and the lack of response by any persons in authority.”¹⁴ He also asserted that, despite the fact Ms. Doucet had a good job, custody of their child, and the ostensible support of friends, she was dissociated and in fear of annihilation when the undercover police officer contacted her. Moreover, he noted “it seems somewhat ironic the system which had failed to address the issues that Ms. Ryan had with her husband was only too eager to come to her aid and provide a solution when it could potentially result in her committing a criminal offense.”¹⁵ As one media commentator noted in the aftermath of the initial trial, “after having failed Nicole Ryan at every turn, the RCMP decided to mount an expensive, sophisticated sting operation, using an undercover officer to entrap a desperate, frightened woman into committing a crime for which she could be charged. Why? Unfortunately, that question won’t be addressed during the upcoming appeal.”¹⁶

The Nova Scotia Court of Appeal upheld the acquittal, acknowledging that while the defence of duress normally applies when one person, through threats, coerces a second person to do harm to a third person, the defence was nonetheless capable of extending to Ms. Doucet’s dilemma. The Court of Appeal noted it

¹¹ *R. v. Ryan* (2010) N.S.C.C., at para. 114.

¹² Canadian Association of Elizabeth Fry Societies, “Joint Statement.”

¹³ *R. v. Ryan* (2010), at para. 154.

¹⁴ *Ibid.*, at para. 155.

¹⁵ *Ibid.*, at para 157.

¹⁶ Stephen Kimber, “The teacher, the hit man, and the questions that remain,” *Halifax Metro*, May 28, 2010. Ironically, he later recanted these questions and concerns, on the basis of *The Report*: “since neither Mr. Ryan nor the RCMP were called to testify about Doucet’s allegations of spousal abuse and failure to act, how could so many courts mindlessly accept these allegations as proven facts?” Stephen Kimber, “The hit man, the sexual assaulter, the courts and justice,” *Halifax Metro*, July 15, 2013. For a critique of undercover stings, see: Jason MacLean and Frances Chapman, “Au Revoir, Monsieur Big? Confessions, Coercion, and the Courts,” *Criminal Reports* 23, no. 2 (2016).

was cruelly ironic that Ms. Doucet might have been able to plead self-defence had she killed her husband herself, but could not plead duress because she responded to the very same threat of annihilation by hiring another person to kill him when she felt she was too small, weak, and terrified to confront a man twice her size and with a history of violence and access to firearms.¹⁷ The Court of Appeal explained that in assessing what a reasonable person would do in the same circumstances, it was critical to understand the hypothetical reasonable person in this case was an abused woman.¹⁸

The Supreme Court of Canada, however, overturned the acquittal and found the Court of Appeal had incorrectly expanded “the common law of duress in order to fill a gap in the law of self-defence.”¹⁹ The Court nonetheless issued a stay of proceedings, refusing to order a re-trial, arguing Ms. Doucet (who by this time had legally changed her name) had suffered enough. Further, they signalled disapproval of the RCMP’s handling of Ms. Doucet’s repeated pleas for help, asserting it was “disquieting” that “the authorities were much quicker to intervene to protect Mr. Ryan than they had been to respond to her request for help in dealing with his reign of terror over her.”²⁰

Responses to the decision of the Supreme Court of Canada were highly polarized. A number of feminist commentators criticized the limitations of the decision and its doctrinal focus, while applauding that Nicole Doucet would not have to face the ordeal of a second trial. Sadly, however, anti-feminist backlash was also evident in public discourse, particularly in the reporting of the *National Post*. For example, Barbara Kay claimed “female allegations of domestic violence, even if unsupported by evidence” are uncritically accepted by courts and the public.²¹ Perhaps the most striking response to the Supreme Court’s decision, however, was the YouTube video posted by Michael Ryan, denying he had abused his wife, claiming Nicole was violent and mentally ill, and asserting her parents had caused all the problems between them.²² As Molly Dragiewicz illustrates in her study of the rhetoric of men’s rights groups, these are precisely the ways in which batterers “justify, excuse, deny and minimize their violence.”²³ Ryan also claimed his reputation had been permanently

¹⁷ *R. v. Ryan* [2011] N.S.J. No. 157, at para. 99.

¹⁸ *Ibid.*, at para. 121.

¹⁹ *R. v. Ryan* [2013] at para. 35.

²⁰ *Ibid.*, at para. 37.

²¹ Barbara Kay, “Innocent, by reason of gender,” *National Post*, July 3, 2013, A 12. The commentary in the *National Post* reflects what Florian Sauvageau, David Schneiderman and David Taras have described as the “glaring reality” that complicated legal stories are glossed over in the press in favour of more salacious, and better-selling, political arguments and that most commentators on Supreme Court of Canada cases have little to no legal background and often make mistakes in their descriptions of important legal issues: Florian Sauvageau, David Schneiderman and David Taras, *The Last Word: Media Coverage of the Supreme Court of Canada* (Vancouver: University of British Columbia Press, 2006).

²² Michael Ryan, “Teacher Nicole Ryan hires hitman to kill ex husband Supreme Court sets her free husbands response,” Youtube video, 9 minutes, Posted January 2013, <https://www.youtube.com/watch?v=yq2WWsY8Rmc>.

²³ Molly Dragiewicz, *Equality with a Vengeance: Men’s Rights Groups, Battered Women and Antifeminist Backlash* (Boston: Northeastern University Press, 2011), 64–65.

tarnished by the proceedings,²⁴ failing to clarify that the Crown had chosen not to call him because his testimony was deemed not to be helpful. As Philip Slayton noted, this video introduced a “novel and dramatic” kind of commentary into the debate about the case,²⁵ and fueled demands from anti-feminists for an inquiry. The *National Post* was particularly vehement in arguing the “Supreme Court of Canada has denied the truth to the Canadian public in what is seemingly all one big cover up.”²⁶ In response to public pressure, even before the Supreme Court decision, the Meteghan, Nova Scotia, RCMP had conducted an internal investigation of the involvement of the local detachment in the Ryan case in April 2011; this investigation had exonerated local officers. In 2013, however, the Minister of Justice and Attorney General for Nova Scotia, Ross Landy, requested a full inquiry by the Commission of Public Complaints, stating “the public and the RCMP would benefit from an independent review that would put any remaining concerns and doubts about RCMP actions to rest.”²⁷ It was in this highly politicized context that the Commission for Public Complaints undertook the review that resulted in the *Report Following a Public Interest Investigation into the Conduct of RCMP Members in Nova Scotia*.

Investigations of the RCMP

As others have noted, the RCMP “is arguably the most revered and iconic of all Canadian institutions.”²⁸ The distinctive dress uniform of the RCMP is internationally recognized and is “even copyrighted for sale by the Disney Corporation.”²⁹ As Lorne Brown noted as early as 1978, the RCMP has been very successful in cultivating an image, if not the reality, of fairness in policing: “they have managed to become identified with the national interest to the point where criticism of the force is considered by many people to be an unpatriotic act.”³⁰ With origins in policing the West, and ensuring the movement of settlers onto Indigenous lands, the RCMP had wide discretion and enormous power and was overwhelmingly white, male, and privileged. Indeed, the Mountie was the iconic Canadian white male and “was often portrayed in heroic terms, as a well-bred gentleman whose actions were tempered by restraint, fairness, morality, loyalty, and pride in his reputation, all of which demanded respect for his authority.”³¹ Women did not serve as active

²⁴ Ryan, Youtube video.

²⁵ Philip Slayton, “A new kind of case commentary,” <http://www.canadianlawyermag.com/A-new-kind-of-case-commentary.html>.

²⁶ Tristin Hopper, “See the husband in the Nova Scotia hitman case deny allegations he pursued a ‘reign of terror’ against his wife,” *National Post*, January 21, 2013. <http://news.nationalpost.com/2013/01/21/nicole-ryan-michael-ryan/>.

²⁷ MacPhail, *Report Following a Public Interest Investigation*, 1.

²⁸ S. Perrott and E. K. Kelloway, “Scandals, sagging morale, and role ambiguity in the RCMP,” *Police Practice and Research* 12, no. 2 (2011): 120.

²⁹ *Ibid.*

³⁰ Lorne Brown, *An Unauthorized History of the RCMP* (Toronto: James Lorimer, 1978), 127.

³¹ Bonnie Reilly Schmidt, “The Greatest Man-Catcher of All: The First Female Mounties, the Media and the Royal Canadian Mounted Police,” *Journal of the Canadian Historical Association* 22, no. 1 (2011): 201.

officers until 1974. In the 21st century, the RCMP has come under unprecedented scrutiny and has been criticized as elitist, ethnocentric, misogynist, authoritarian, and resistant to community-based policing initiatives.³² Most recently, the force faced a class action lawsuit from women officers alleging on-going and extensive sexist harassment on the job; on October 6, 2016, the RCMP officially apologized to the women and the federal government has earmarked \$100 million for compensation.³³

When criticisms of the conduct of the RCMP arise outside the context of formal litigation, the local detachment can investigate internally, as was done in Meteghan in 2011.³⁴ The behaviour of police is also potentially subject to investigation by an external, federally mandated body. Until 2013, this was the Commission for Public Complaints (CPC).³⁵ The Commission was touted as “distinct and independent from the RCMP.”³⁶ Investigations were to be conducted according to the rules set out under subsection 45 of the *Royal Canadian Mounted Police Act*. Commissioners could not have any former official connection to the RCMP, and investigations could be prompted at the request of the public, various levels of government, or on the initiative of the RCMP itself.³⁷ All investigations were required to produce a final report, and there was no process for appeal or review of the investigation (and this remains true under the revised system).³⁸ In practice, as other critics have noted, the Commission was “entirely dependent on the RCMP itself to determine exactly what information [was] relevant to the CPC’s investigations.”³⁹ The CPC had limited power to subpoena documents and witnesses. Litigation prompted by the refusal of the RCMP to release documents to the Commission suggests that the Commission faced significant resistance from the RCMP.⁴⁰ The CPC also determined the scope of each inquiry. The Commission was “designed to investigate only complaints regarding the conduct of individual

³² J. E. Deukmedjian, “From community to intelligence: Executive realignment of RCMP mission,” *Canadian Journal of Criminology and Criminal Justice* 48 (2006): 523–542; J. E. Deukmedjian and W. de Lint, “Community into intelligence: Resolving information uptake in the RCMP,” *Policing and Society* 17 (2007): 239–56; and S. B. Perrott and D. M. Taylor, “Ethnocentrism and authoritarianism in the police,” *Journal of Applied Social Psychology* 24 (1994): 1640–64.

³³ Jim Bronskill, “RCMP earmarks \$100M in compensation for sexual harassment against female Mounties,” October 6, 2016, <http://globalnews.ca/news/2986688/rcmp-to-settle-in-class-action-harassment-claims-from-former-mounties>.

³⁴ Critics have noted the vast majority—over 90%—of complaints are dismissed at the local level: Giuseppe Valiante, “RCMP rejects 90% of formal complaints,” *Toronto Sun*, October 27, 2014.

³⁵ Under significant criticism, in 2013 the CPC became the Civilian Review and Complaint Commission for the RCMP (CRCC). The intention of this change was to “improve transparency and modernize the RCMP’s human resources regime.” *Enhancing RCMP Accountability Act* S.C. 2013 c. 18, assented June 19, 2013. The reforms may be largely superficial, as Ian MacPhail, the interim Commissioner of the CPC from January 28, 2010, until July 14, 2013, was immediately appointed as Commissioner of the CRCC.

³⁶ MacPhail, *Report Following a Public Interest Investigation*, 2.

³⁷ *Royal Canadian Mounted Police Act* 45.34 (1) and (2).

³⁸ *Royal Canadian Mounted Police Act* 45.76 (1).

³⁹ Peter Kasurak, “Is there a British solution to the RCMP’s problems?” *Policy Options* September 11, 2007, at para. 22, policyoptions.irpp.org/magazines/reasonable-accommodation/is-there-a-british-solution-to-the-rcmps-problems/.

⁴⁰ *Canada (RCMP Public Complaints Commission) v. Canada (Attorney General)* 2004 F.C. 830.

members of the RCMP, not the policies or professional practices of the force.”⁴¹ It was in this context that the CPC limited the scope of the investigation in the Ryan case to the actions of individual officers responding to specific calls. They removed from the scope of the inquiry wider questions about the policies of the RCMP with regard to domestic violence as well as the undercover sting operation.⁴² They also failed to obtain input from experts on violence against women. As the remainder of this paper will illustrate, these decisions had profound consequences not only for Nicole Doucet, but also potentially for other abused women.

Coercive Control

The Commission should have considered the evidence before them on the basis of coercive control theory, but they did not. Coercive control theory corrects many of the stereotypes associated with battered woman syndrome,⁴³ the theory first recognized by the court as legitimating self-defence in the context of domestic violence. In Canada the *Lavallee* case of 1990 was the first in which evidence of battered woman syndrome was successfully used to support a plea of self-defence. Bertha Wilson J. convinced an ultimately unanimous court to rethink self-defence.⁴⁴ Before *Lavallee*, battered women who killed their abusers found themselves “disadvantaged by the law of self-defence, premised on norms that represented men’s, and not women’s lives and experiences”: evidence of abuse was not admissible; the equal force requirement punished women for using weapons to defend themselves against larger men; and the ‘reasonable’ man standard did not contemplate the experiences of an abused woman.⁴⁵ But Wilson J. asserted that women could not be expected to wait for the “uplifted knife” before protecting themselves; otherwise, abused women would be condemned to “murder by instalment.”⁴⁶ Although evidence with regard to battered woman syndrome is now permissible in Canadian courts, Elizabeth Sheehy illustrates that few women have been acquitted on such claims, with judges more often “imposing suspended sentences, conditional imprisonment

⁴¹ Kasurak, “Is there a British solution?,” at para. 22.

⁴² Mr. Big stings are not permitted in either the United States or the United Kingdom. In Canada, however, the legality of such operations was upheld in *R. v. Hebert* [1990] 2 S.C.R. 151. Canadian courts have found that people in situations such as those of Ms. Doucet are not under detention and therefore are not under the coercive power of the state, so the evidence has not been obtained improperly.

⁴³ According to Lenore Walker, abuse consists of “three phases that repeat themselves in a cycle”: first, the tension building phase; second, the acute battering phase; and third, the loving contrition phase. When women experience the complete cycle, they develop learned helplessness, where the battered woman becomes increasingly passive and “feels that she has no control over the abusive relationship and that she cannot leave.” Lenore Walker, “Battered woman syndrome,” *Annals of the New York Academy of Sciences* 1087, no. 1 (2006): 146. See also: Lenore Walker, *The Battered Woman* (New York: Harper and Row, 1979); and Lenore Walker, *Terrifying Love: Why Battered Women Kill and How Society Responds* (New York: Harper Collins, 1989).

⁴⁴ Ellen Anderson, *Bertha Wilson: Law as Large as Life* (Toronto: University of Toronto Press and the Osgoode Society for Legal History, 2001), 218–21.

⁴⁵ Sheehy, *Defending Battered Women on Trial*, 23. These self-defence standards were first challenged in the United States in *State v. Wanrow* (1977), 559 P2d 548 (Wash S Ct) and *State v. Kelly* (1984) A2d 364 (NJ S Ct).

⁴⁶ *R. v. Lavallee* [1990] 1 S.C.R., 883.

(house arrest), and sentences of less than two years imprisonment.⁴⁷ Moreover, battered woman syndrome is a limited and limiting theory:⁴⁸ abuse is not necessarily experienced as a 'cycle'; not all women respond to battering with helplessness; and the syndrome pathologizes women instead of the men who abuse them.⁴⁹

Coercive control theory better captures the invisible (to the general public) and on-going trauma suffered by those who feel trapped in abusive relationships. It also provides important context in the specific case of Ms. Doucet, explaining why she had to resort to hiring a hit man in order to free herself from a man who repeatedly threatened to kill her. Coercive control is the constellation of behaviours through which some abusive men, often without using a great deal of daily violence, engage in "malevolent conduct...to dominate individual women by interweaving repeated physical abuse with three other equally important tactics: intimidation, isolation and control."⁵⁰ Evan Stark, the author who has popularized this theory, asserts "the main means used to establish control is the micro-regulation of everyday behaviours associated with stereotypic female roles such as how women dress, cook, clean, socialize, care for their children, or perform sexually."⁵¹ Men who engage in coercive control "stalk their partners;...harass them at work; park outside their jobs;...repeatedly call them at work or at home; leave threatening messages on their cell phones; show up at their new residence at odd hours;

⁴⁷ And even these reduced sentences are now more difficult to assign given new mandatory minimum sentencing regulations: Sheehy, *Defending Battered Women on Trial*, 7 and 9.

⁴⁸ Evan Stark, "Re-Presenting Woman Battering: From Battered Woman's Syndrome to Coercive Control," *Alberta Law Review* 58, no. 4 (1994–1995): 973.

⁴⁹ Rebecca Bradfield, "Women Who Kill: Lack of Intent and Diminished Responsibility as the Other 'Defences' to Spousal Homicide," *Current Issues in Criminal Justice* 13, no. 2 (2001–2), 143; Elizabeth Comack, "Do We Need to Syndromize Women's Experiences? The Limitations of the 'Battered Women's Syndrome,'" in *Unsettling Truths: Battered Women, Policy, Politics and Contemporary Research* ed. Kevin Bonnycastle and George Rigakos (Vancouver: Collective Press, 1998); Isabel Grant, "The Syndromization of Women's Experiences," *University of British Columbia Law Review* 25, no. 1 (1991); Ruthy Lazar, "Reconceptualizing Victimization and Agency in the Discourse of Battered Women Who Kill," *Studies in Law, Politics and Society* 45 (2008); Aileen McColgan, "In Defence of Battered Women Who Kill," *Oxford Journal of Legal Studies* 13, no. 4 (1993); Sheila Noonan, "Battered Women's Syndrome: Shifting the Patterns of Criminal Law Defences or (Re) Inscripting the Familiar," in *Feminist Perspectives on Foundational Subjects of Law*, ed. Anne Bottomley (London: Cavendish Press, 1996); Melanie Randall, "Domestic Violence and the Construction of 'Ideal Victims': Assaulted Women's 'Image Problems' in Law," *St. Louis University Public Law Review* XXII (2004), 07; Martha Schaffer, "The Battered Woman Syndrome Revisited: Some Complicating Thoughts Five Years After *R. v. Lavallee*," *University of Toronto Law Journal* 47, no. 1 (1997); and Julie Stubbs and Julia Tolmie, "Defending Battered Women on Charges of Homicide: The Structural and Systemic versus the Personal and Particular," in *Women, Madness and the Law: A Feminist Reader*, ed. Wendy Chan, Dorothy Chunn, and Robert Menzies (London: Glasshouse Press, 2005), 191. The propensity of courts to blame racialized women for their own victimization, and to assert that such women are aggressors, has also been critiqued: Julie Stubbs and Julia Tolmie, "Gender, Race and the Battered Woman Syndrome: An Australian Case Study," *Canadian Journal of Women and the Law* 8, no. 1 (1995). Walker's most recent reformulation of Battered 'Woman's Syndrome asserts that critical responses have missed her central point that the severity of abuse increases over time and that "the impact from the most recent event would include the totality of the battering experience," and that Battered 'Woman's Syndrome should not be used independently of more wide-ranging evidence about the risk of femicide. Lenore Walker, *The Battered Woman Syndrome*, 3rd ed. (New York: Springer Publishing, 2009), 55–56.

⁵⁰ Stark, *Coercive Control*, 5.

⁵¹ *Ibid.*, 5.

perform periodic ‘house checks’ or ‘inspections’;...and demean them to business clients, co-workers, and family members.”⁵² Coercive control, which Judith Herman describes as “domestic captivity,”⁵³ can induce symptoms of post-traumatic stress disorder in victims: hyperarousal or high alert for danger, flashbacks, and dissociation.⁵⁴ While such symptoms are readily recognized by the public in cases in which men have returned from war zones or captivity, many find it difficult to accept that for some women the home is a place of constant threat of attack. Importantly, men who exercise coercive control will not give up and allow women to leave; coercive control “is more predictive of intimate homicide than the severity or frequency of physical abuse.”⁵⁵ As a society, we fail to protect women when they experience coercive control: shelter spaces are limited;⁵⁶ police responses to abused women are often sub-optimal, even dismissive;⁵⁷ and women too often remain economically dependent on their abusers and fearful of the loss of custody⁵⁸ of their children.⁵⁹ Stark argues that police fail to respond adequately to coercive control, in part because violence against women is only understood as physical violence, and also because each battering incident is considered independently instead of as a larger pattern of controlling behaviour. Behaviours that rely primarily on the threat of violence do not receive priority response from police.⁶⁰ The net result of micro-control is that “a victim’s level of fear derives as much from her perception of what could happen based on past experience as from the immediate threat by the perpetrator,” but some police do not understand this fact. Too often, “women are assumed to be lying or exaggerating when they claim a level of fear or danger that seems disproportionate to the proximate incident.”⁶¹ As Evan Stark asserts, absent obvious violence, a woman’s fears may be hard for outsiders to

⁵² *Ibid.*, 131.

⁵³ Judith Lewis Herman, *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror* (New York: Basic Books, 1992), 86.

⁵⁴ *Ibid.*, 86.

⁵⁵ Sheehy, *Defending Battered Women on Trial*, 235.

⁵⁶ Nancy Janovicek, *No Place to Go: Local Histories of the Battered Women’s Shelter Movement* (Vancouver: University of British Columbia Press, 2007); and Ontario Association of Interval and Transition Houses, *Shelter Voices*, March 2014, www.oaith.ca/assets/files/shelter%20voices%20%20Ontario,%202014%20FINAL.pdf.

⁵⁷ Ida Johnson, “Victims’ perceptions of police response to domestic violence incidents,” *Journal of Criminal Justice* 35, no. 5 (September–October 2007), 498–510; and Monica Perez Trujillo and Stuart Ross, “Police Response to Domestic Violence: Decisions about Risk and Risk Management,” *Journal of Interpersonal Violence* 23, no. 4 (2008).

⁵⁸ Cynthia Chewters, “Violence Against Women and Children: Some Legal Issues,” *Canadian Journal of Family Law* 20, no. 1 (2000): 99; and Martha Schaffer, “Joint Custody since *Kaplanis* and *Ladisa*: A Review of Recent Ontario Case Law,” *Canadian Family Law Quarterly* 26, no. 3 (2007): 315.

⁵⁹ See Elizabeth Sheehy, “Bonnie Mooney,” in *Defending Battered Women on Trial*, for a detailed examination of the consequences of such failure for one battered woman, Bonnie Mooney, who was attacked in a friend’s home after separation. Her friend was killed, and her daughter gravely injured, by her ex-partner. She had repeatedly sought help from the police and ultimately sued them for negligence. The police were exonerated on the twin mistaken beliefs that Mooney could have saved herself by leaving (although she had, in fact, left) and that her ex-partner was too violent and unpredictable for his actions to have been prevented.

⁶⁰ Stark, *Coercive Control*, 57.

⁶¹ Herman, *Trauma and Recovery*, 94. See also: Liz Kelly, *Surviving Sexual Violence* (Cambridge: Polity Press, 1987).

understand and behaviours of men may be normalized to others, as “masculinity in our society is identified even more closely with ‘being in control’ than it is with the use or capacity to use force.”⁶² Women also often hesitate to name themselves as experiencing abuse; many have internalized the belief that they provoked the violence.⁶³ Further, women dissociate themselves from the violence in order to survive it and often have difficulty recalling exact details of abuse.⁶⁴ They have disproportionate rates of depression and treatment with tranquilizers and pain medications which may undermine their ability to present themselves as rational in their recollection of events preceding self-defence.⁶⁵ Yet experts have found battered women “developed a complex profile of psychosocial problems subsequent to the presentation of an initial episode of domestic violence [which is typically ignored] at the hospital”;⁶⁶ in Doucet’s case, her ex-husband used her psychiatric history to portray her as ‘crazy’ and abusive in his YouTube video. Women in intimate relationships with those connected to the police and/or the military often face exaggerated risks when reporting spouses, who may find support in protective agencies despite their illegal behaviour;⁶⁷ Nicole Doucet’s husband, Michael Ryan, was a member of the Canadian Armed Forces. All of these problems and many damaging stereotypes are painfully evident in *The Report*, despite the fact all courts found unequivocally that Nicole Doucet was a battered woman.

The Report

The Commission examined the RCMP’s records of “over 25 occurrences in which Ms. Doucet, Mr. Ryan or both had some involvement with the RCMP” interviewed all involved police officers as well as Nicole Doucet, her lawyer, Joel Pink, and Michael Ryan. They did not, however, hear testimony from experts on violence against women. Evidence with regard to coercive control could have helped to contextualize Ms. Doucet’s situation for the Commission. On July 10, 2013, the Commission released its forty-three-page, twenty-three-finding, *Report*,⁶⁸ concluding “the RCMP acted reasonably in each of its dealings with Ms. Doucet and her family and did not fail to protect her.” Indeed, the police were exonerated as having responded consistently with “policies pertaining to cases involving domestic abuse” in the one incident in which domestic violence was directly alleged; to “have received no information that would permit them to form reasonable grounds to believe that Ms. Doucet was a victim of domestic violence” in the other instances in which police were called; and to have conducted “reasonable investigations and

⁶² Stark, *Coercive Control*, 280.

⁶³ M. Mahoney, “Legal Images of Battered Women: Redefining the Issue of Separation,” *Michigan Law Review* 90, no. 1 (1991): 8.

⁶⁴ Evan Stark and Anne Flitcraft, *Women at Risk: Domestic Violence and Women’s Health* (Thousand Oaks, California: Sage Publications, 1996), 12.

⁶⁵ *Ibid.*, 21.

⁶⁶ *Ibid.*

⁶⁷ Gina Gallo, “Airing Law Enforcement’s Dirty Laundry,” *Law Enforcement Technology* 31, no. 6 (2004): 132; and Diana Wetendorf, *When the Batterer is a Law Enforcement Officer: A Guide for Advocates* (Battered Women’s Justice Project, 2004), <http://www.vaw.umn.edu/>.

⁶⁸ MacPhail, *Report*, 1.

exercised reasonable discretion with respect to their dealings with the family.”⁶⁹ The evidence cited in *The Report*, however, indicates the standards used by the RCMP (and by the Commission) reflect the experiences of a ‘reasonable man’ and fail to account for coercive control. As the joint intervenors in the case, the Legal Education and Action Fund and the Canadian Association of Elizabeth Fry Societies, asserted in their response to *The Report*, the assessment of proceedings “ignores critical facts and simply reinforces the police position.”⁷⁰ The behaviours that characterize coercive control are very evident in the RCMP’s own evidence about Michael Ryan, but were missed or ignored by both the police and the commission. Ryan stalked his wife and in particular followed her to work;⁷¹ and he called her repeatedly at home, often to threaten legal action of some kind with regard to their property or their child.⁷² Abusers also focus on isolating women from their families.⁷³ There were debates about money, property, and access to family members in the Doucet-Ryan household that had led to litigation between Doucet and her family of origin.⁷⁴ Yet Mr. Ryan’s controlling and obsessive behaviour was normalized and considered unthreatening by the RCMP, despite her expression of profound fear. *The Report* invites the public to question or doubt the evidence presented in, and unequivocally accepted by, three levels of the court, that “over the years Mr. Ryan had pushed her, squeezed her neck, called her names, threatened to kill her and their child, sexually assaulted her, put guns to her head and killed family pets,” and behaved in a manner that was frightening because it was consistently “controlling and manipulative.”⁷⁵

The Report catalogued the incidents in which the police had attended to the Ryan household between November of 2007 and March of 2008. In order to understand the problems inherent in the responses of the RCMP, we review these cases chronologically, illustrating the profound disregard shown for the fear repeatedly expressed by Ms. Doucet. Corporal Thibaudeau, the commanding officer at the detachment, admitted he had had a conversation with Ms. Doucet a few weeks before the first official intervention by the police in which she had told him “that she was afraid of her husband, but that she had been unable to explain why, other than stating that he was much larger than her and that he was in the Army.” He asserted that this “did not provide him with grounds for arrest.”⁷⁶ He claimed he

⁶⁹ Civilian Review and Complaints Commission for the RCMP, “Complaints Commission releases report on RCMP’s handling of complaints involving Nicole Ryan Doucet,” July 10, 2013, <https://www.cccc-ccetp.gc.ca/en/newsroom/complaints-commission-releases-report-rcmps-handling-complaints-involving-nicole-ryan>.

⁷⁰ *Joint Statement Regarding the Report Following a Public Interest Investigation into the Conduct of the Royal Canadian Mounted Police Members in Nova Scotia in Respect to Matters Involving Nicole (Ryan) Doucet; Royal Canadian Mounted Police Act Subsection 45.43 (1)*, <http://www.caefsa.ca/joint-statement-regarding>.

⁷¹ MacPhail, *Report Following a Public Interest Investigation*, 21.

⁷² *Ibid.*, 8, 16, and 19.

⁷³ Stark and Flitcraft, *Women at Risk*, 263–64.

⁷⁴ The home in which the family resided had been purchased by Nicole Doucet and her father. Her father had then transferred his share of the property to two of Doucet’s sisters. Repeated disputes arose about ownership of the property. MacPhail, *Report*, 3.

⁷⁵ *R. v. Ryan* [2013] at para. 164.

⁷⁶ MacPhail, *Report Following a Public Interest Investigation*, 11.

had followed all RCMP policies by asking if she was a victim of domestic abuse, which she had denied at the time, and by telling her that without evidence or allegations of violence she did not have any complaint against her husband. This would not have been an auspicious start to her relationship with the police. Officers should be trained to understand that women often cannot speak of domestic violence in specific terms and are ashamed to admit what has happened to them.⁷⁷

The first occasion when the police were officially asked to intervene in events between Nicole Doucet and Michael Ryan occurred on November 23–24, 2007. The police were called to the family home over a dispute about an access visit with regard to the child. In the afternoon, Ms. Doucet called the police to report that Mr. Ryan was coming to pick up their child and some of his belongings and she was upset and afraid. She told the police he had a history of violence and access to weapons, he was in the military, and they had recently separated and had disputes not only about the child but also about the division of marital property. She called the police again in the evening to report he had threatened to burn the house down and she thought he had been driving up and down the street. The police contacted the detachment where Mr. Ryan resided; it was determined he had returned home. Michael Ryan claimed that his ex-wife was angry because he had a new girlfriend and, because of this anger, had refused to allow him to see their daughter for the weekend. He admitted “he [had] called Ms. Doucet approximately 30 times. She did not answer and he left two messages on her voicemail.” He also admitted he had told her he planned to call both Social Services and the RCMP “because of concerns he had with regard to how she was taking care of their child,” but he did not consider repeated calls, or threats to report her, to be harassment. Neither, it seems, did the police or the Commission. Constable Racicot listened to the phone messages and determined them simply “rude,” not threatening.⁷⁸

In accordance with RCMP policy, Ms. Doucet was escorted to a safe place for the night and was later interviewed by Victim Services.⁷⁹ She reported Ryan had always manipulated her and “it’s either his way or no way. And I’ve said I’ve had enough and I um, I know what I want and I will stand my ground. And he doesn’t agree with that so he said that he would um burn the house down and he would ruin my reputation in the community. And he would phone the police and tell them I was an unfit mother.”⁸⁰ The following day, the New Minas RCMP arrested Mr. Ryan for uttering threats and then “accompanied him to his home [to] seize his registered firearms.”⁸¹ The military police were informed of the situation. A Domestic Violence Risk Assessment was carried out by Victim Services, “where the matter was identified as being ‘high risk’” and it was recommended that she be given a panic button, a device to provide her with instant communication with the

⁷⁷ Helen Baker, “The Significance of Shame in the Lives of Women Who Experience Male Violence,” *Liverpool Law Review* 34, no. 2 (August 2013); and Paula Wilcom, *Surviving Domestic Violence: Gender, Poverty and Agency* (Hampshire: Palgrave MacMillan, 2006).

⁷⁸ MacPhail, *Report Following a Public Interest Investigation*, 8.

⁷⁹ *Ibid.*, 9.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

police.⁸² Domestic Violence Risk Assessments consider “the presence of and/or accessibility of weapons; the use of threats involving weapons or attempting suicide; a change in relationship status, including a separation, a threatened separation, or legal proceedings involving family-related matters; the abuse of drugs or alcohol; an increase in the frequency or severity of violence; violence outside of the relationship; the destruction by the alleged perpetrator of cherished personal items; jealousy or the attempt to control a partner’s activities; accusations of cheating; statements such as ‘If I can’t have you no one can’; homicidal or suicidal threats; violence towards children or pets; sexual violence; pregnancy or violence during pregnancy; mental health history; and history of police involvement with the parties.”⁸³ Many of these factors were evident in the case of Nicole Doucet. While the RCMP did the right thing by referring Ms. Doucet to Victim Services, they subsequently ignored the recommendation that she be provided with a panic button. A high-risk assessment should have ensured that Ms. Doucet would be given support in safety planning, but she felt that she was abandoned by the police as soon as her case was filed.⁸⁴ Yet the commission concluded that by interviewing all parties immediately, sending Ms. Doucet to Victim Services, and removing weapons from Michael Ryan, the RCMP had done all they could. Ms. Doucet also claimed she was not informed that her case was considered to be high risk, or that her husband had been arrested, although she was told that his weapons had been removed.⁸⁵ Despite these facts, the Commission asserted that, “while it is apparent that Ms. Doucet maintains her position that the RCMP failed to protect her, that statement in respect of this particular incident is without basis in fact and negatively impacts Ms. Doucet’s credibility and reliability.”⁸⁶ But her perspective that she was not well treated is not disproven by the fact that the letter of the law was followed. An assessment was undertaken. But she was not informed of the findings of the assessment and the recommendations made by Victim Services were ignored. Although minimal policy requirements may have been adhered to, her needs had not been met. For the Commission to make assumptions about her ‘credibility and reliability’ with regard to the violence on this basis is shocking. Instead, *The Report* should have questioned the discretion permitted under RCMP policy. How could a woman who had been deemed to be at high risk for lethal violence have been sent home and her further pleas for help ignored?

In the weeks that followed, Michael Ryan engaged in a pattern of what can only be described as on-going legal harassment of his wife. On December 6, he called

⁸² *Ibid.*, 10.

⁸³ *Ibid.* While we cannot know which assessment tool was used by the social worker in this case, a number of such tools are available and are considered by social workers to be crucial to safety planning: Allison Millar, Ruth Code, and Lisa Ha, *Inventory of Spousal Violence Risk Assessment Tools Used in Canada* (Ottawa: Research and Statistics Division, Department of Justice, April 2009, updated 2013): www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr09_7/rr09_7.pdf. Further, studies of risk assessment suggest that women themselves are often the most accurate at assessing potential escalation and lethality: Lauren Bennett Cattaneo, Margaret Bell, Lisa Goodman, and Mary Anne Dutton, “Intimate Partner Violence Victims’ Accuracy in Assessing their Risk of Re-abuse,” *Journal of Family Violence* 22, no. 6 (August 2007): 429–40.

⁸⁴ MacPhail, *Report Following a Public Interest Investigation*, 23–24.

⁸⁵ *Ibid.*, 13.

⁸⁶ *Ibid.*

the RCMP “reporting that the family dog had been left outside the family residence, in the cold without food or water.” Ms. Doucet did not confirm or deny the allegations, but asserted that Mr. Ryan was free to take the dog.⁸⁷ On December 16, Mr. Ryan called the RCMP requesting that his in-laws be removed from the family home. An hour later, his in-laws called the RCMP and accused him of removing permanent fixtures from the home. Constable Michel-Poitras “referred the parties to their respective lawyers, as she deemed the matter to be civil in nature.”⁸⁸ The Commission defended this decision, asserting “civil disputes or property issues are extremely problematic from a policing perspective.”⁸⁹ While determining not to intervene was acceptable on its face, given the parties were co-owners of the house, Mr. Ryan’s presence in the home when he was under charges of uttering threats should have been perceived as a sign of heightened risk to Ms. Doucet, but it was not.

On December 17, Mr. Ryan called the RCMP to ask to go into the house to remove some of his belongings. Since Ms. Doucet had moved out after the incident on November 23 [when Mr. Ryan had threatened to burn down the house with her in it], the police informed him that it would not be a breach for him to retrieve his personal items. Shortly thereafter, Ms. Doucet’s father, sister and brother-in-law arrived at the house and Mr. Ryan sustained serious injuries from an assault by Ms. Doucet’s father, who was subsequently convicted of assault.⁹⁰ On December 20, Ms. Doucet attempted to apply for a new peace bond against Mr. Ryan, asserting “he had threatened to destroy her and to phone Social Services with regard to the care of their daughter; she and her daughter had been in hiding since the incident; the military police had told her to obtain a peace bond; and Mr. Ryan had access to various weapons at his workplace.”⁹¹ Ultimately, however, the issue was not heard, as Ms. Doucet did not pursue it. The file does not explain why, but many women choose not to pursue peace bonds because of fear that such actions will simply escalate the violence. As Elizabeth Sheehy asserts, “battered women are often torn about police intervention, for to seek it and be refused greatly exacerbates a man’s power and sense of immunity from authority, thereby increasing the danger she is in.”⁹² *The Report*, however, did not contextualize this decision, instead asserting “Ms. Doucet did not wish to pursue the matter,” a description that is ambiguous and may be very euphemistic.⁹³

Mr. Ryan called the RCMP on January 2, 2008, to complain that “Ms. Doucet had been contacting him, despite the fact that he was subject to an undertaking not to be in contact with her.” It was explained to him that she was under no such order. Ms. Doucet explained that she had not been in contact with Mr. Ryan, but with his mother and sister, “trying to gather support for her claim that Mr. Ryan

⁸⁷ *Ibid.*, 15. The file on this incident has since been purged.

⁸⁸ *Ibid.*, 16.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, 17.

⁹² Elizabeth Sheehy, “Causation, Common Sense and the Common Law: Replacing Unexamined Assumptions with What We Know about Male Violence Against Women or from Jane Doe to Bonnie Mooney,” *Canadian Journal of Women and the Law* 17, no. 1 (2005), 114.

⁹³ MacPhail, *Report Following a Public Interest Investigation*, 17.

was violent so that she could present evidence in family court.” The family rejected her and reported the contact to Mr. Ryan.⁹⁴

Nine days later, Ms. Doucet specifically requested a panic button, but this request was refused. Corporal Thibaudeau asserted he would only agree to the use of a panic button in “extreme cases” where “there was a long history of violence resulting in injuries,”⁹⁵ reflecting a focus on physical injury and a failure to understand the nature of coercive control. Rather, using his discretion and explicitly ignoring the fact that Ms. Doucet had been deemed to be at ‘high risk’ of lethal violence by Victim Services, he decided Ms. Doucet did not need a panic button “as the only information provided to the RCMP reflecting any violence within the Ryan family involved the incident of November 23, 2007, in which it was alleged Mr. Ryan had threatened to burn down the family residence.” The Commission accepted this decision and concluded that “Corporal Thibaudeau used his discretion reasonably.”⁹⁶

On January 12, the RCMP received a call from Ms. Doucet’s father, sister, and brother-in-law, who were at the residence, complaining Mr. Ryan had once again broken in, but the “RCMP deemed this matter to be of a civil nature.”⁹⁷ On January 18, Mr. Ryan called the RCMP to complain Ms. Doucet had been “stealing his mail.” The RCMP explained to him that she could not be charged with theft as she had access to the mailbox and she had not opened the mail. Ms. Doucet contended that she spent at least two hours with Constable Michel-Poitras after this incident, asserting his complaint was again a tactic of control with which he was trying to build a file to undermine her claim to child custody. This should have raised concerns about the escalating harassment being directed at Ms. Doucet through legal channels, but it did not. Nor did the Commissioner see any malevolent intent or pattern of control in this behaviour.⁹⁸

Ms. Doucet contacted the RCMP on January 28 to report that, in violation of his no-contact order, Mr. Ryan had sent her a text message seeking access to their daughter. In a statement taken by Constable Garault, Ms. Doucet asserted she did not feel safe:⁹⁹

I know Mike, I know his rages. Suddenly he becomes crazy and violent and you never know when or why. It happens in a flash. He is very violent. He has always been violent but no one wants to say or do anything. He’s always had anger management problems, but he doesn’t care when people say that about him. And he tells me he doesn’t have a problem. He’s always organized. He plans things and incidents to get other people in trouble.

Corporal Thibaudeau decided to warn Mr. Ryan after this incident, not to charge him. While the Commissioner admitted some officers might have chosen to charge in equivalent circumstances, it was nonetheless asserted that “the police do not proceed with charges in every case, nor should they.”¹⁰⁰ Corporal Thibaudeau

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*, 20.

⁹⁶ *Ibid.*, 28.

⁹⁷ *Ibid.*, 18.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*, 19.

¹⁰⁰ *Ibid.*

believed “the breach was relatively minor, there were no threats, and the contact was by way of a text message.” The Commission determined this decision was reasonable because Ms. Doucet had not provided specific details about incidents that “would permit them to form further reasonable grounds to believe that Ms. Doucet was a victim of domestic violence.”¹⁰¹ They showed no understanding that abused and controlled women find it extremely difficult to talk about the specifics of the violence they face; moreover, this decision ignored the fact that Ms. Doucet had been deemed to be at ‘high risk’ of lethal violence.

On January 31, Ms. Doucet telephoned the RCMP to report she had seen Mr. Ryan on the highway and she feared he was seeking out their daughter at her school. When the police arrived at the school, Mr. Ryan was no longer there. On February 8, “Mr. Ryan attended Ms. Doucet’s place of employment, a school,”¹⁰² ostensibly in order to remove a vehicle, leased in his name, which she was still driving. The school phoned the police because they had been informed by Ms. Doucet that she was afraid of Mr. Ryan and did not want him admitted to the premises. When her Vice-Principal alerted the police they needed to watch Mr. Ryan, the RCMP officers instead argued, “He’s a soldier...He protected us. He protects us. He’s a Canadian soldier... Watch what you say...”¹⁰³ Such comments reflect the particular difficulties faced by women reporting violence perpetrated by partners connected to police and military services. The Commission responded to the evidence about this event by asserting that, “when prompted as to what information she was providing to the RCMP, Ms. Doucet said only that she needed help,” and when the officers asked her what she would like them to do, she “could not provide a clear response to the question,”¹⁰⁴ effectively both ignoring the difficulties abused women face in naming the violence to which they are subjected and blaming the victim for the RCMP’s failure to protect her.

Ms. Doucet’s sister called the police on March 13 to report a further break-in and theft at the family home. Her concern was dismissed, as Mr. Ryan was still a half-owner of the home and Ms. Doucet was not living at the residence. The RCMP determined the matter to be “civil.”¹⁰⁵ On March 13, Mr. Ryan called the police to report Ms. Doucet had been to his home and was trying to “set him up” for a breach of his conditions. She admitted she had been at his residence, but asserted she had been there at the insistence of her daughter who expressed fear about being with her father.¹⁰⁶ This was the last incident between the parties before Ms. Doucet was arrested on March 17, 2008, on charges of trying to hire someone to kill her husband, by which time she was in extreme fear of lethal violence and had given up any hope that the police might protect her.

Ms. Doucet admitted to the Commissioner that, at the time of her calls for help, she had not told the police about specific cases of abuse, including cases of

¹⁰¹ *Ibid.*, 29.

¹⁰² *Ibid.*, 21.

¹⁰³ *Ibid.*, 21–22.

¹⁰⁴ *Ibid.*, 22.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*, 23.

harassment at gun point, incidents which she did later recount at trial.¹⁰⁷ However, when she completed an initial questionnaire, the police determined “she had the signs and symptoms of being abused,” yet they refused to credit her profound fear of her husband; moreover, under their own policy they had rightly delivered her to a safe place and initiated a Domestic Violence Risk Assessment, yet they ignored the findings and recommendations thus produced. In addition, Ms. Doucet asserted in her interview with the Commissioners that she had been afraid of being considered “stupid” and was “embarrassed, ashamed.”¹⁰⁸ Such sentiments are all too common with abused women, but the officers with the local RCMP, and the Commissioners themselves, seemed oblivious to this fact.

The Commission asserted that her “reported concerns about him had escalated over time,” and used as evidence against her the fact that she had not reported her husband was abusive when she hired the undercover officer to carry out the intended hit. They did not consider the possibility her calls for help might have reflected real escalating fear and risk. She argued that instead of setting up an expensive sting operation, they should have asked her what she needed in order to feel safe. The Commission, however, determined such an expectation was “in almost every respect, unrealistic.”¹⁰⁹ It is deeply disturbing that the RCMP and the Commission could view an expectation that the police would help to keep someone safe as “unrealistic.” As Elizabeth Sheehy asks, “if policies for arrest and prosecution of batterers are not enforceable in civil law, and if courts tell women that violent men are so unpredictable that the policies will not work anyway, what are women to do to save their lives?”¹¹⁰ The Commissioner did not criticize the decision to engage in a sting operation and rejected the assertion of Ms. Doucet and her lawyer, Joel Pink, that the police needed greater training in how to deal with intimate partner violence and in recognizing the signs and symptoms of domestic abuse. Instead, he asserted there were “no deficiencies or lack of knowledge.”¹¹¹

In her interview with the Commission, Ms. Doucet defended her inability to articulate her fears in terms that practically defined coercive control.¹¹²

What is holding a gun to your head? Is that physical abuse? There is no physical contact there. Sexual abuse. How do I quantify...you're married. You live together. How...what's considered? And I don't...I don't like talking about this. How...what is considered abuse? When you have to perform oral sex and you don't want to, is that sexual abuse? Is someone holding me there? No. But I'm afraid...I can't prove what I am saying. And you know, I have always been told that I can't prove anything... How do I say that, and somebody is going to listen to me? Were you that dumb? Come on? Are you that stupid?...You know, what is the line that determines, you know, being pinned up against the wall, having my throat squeezed, what is it in the law book? What is that called?

¹⁰⁷ R. v. Ryan (2010), at para. 154.

¹⁰⁸ MacPhail, *Report Following a Public Interest Investigation*, 23–24.

¹⁰⁹ *Ibid.*, 24.

¹¹⁰ Sheehy, *Defending Battered Women on Trial*, 87.

¹¹¹ MacPhail, *Report Following a Public Interest Investigation*, 27.

¹¹² *Ibid.*, 25–26.

But the Commission did not recognize these behaviours as violence. Instead, *The Report* vilified Nicole Doucet, denied the degree to which she had been ill-served by the RCMP, and failed to question in any way the limitations of RCMP policy or the decision to engage in a sting operation. While it might have been reasonable for the Commission to exonerate individual officers of wrong-doing, as they had acted within the discretion and limitations of existing policies, the failure to critique such policies themselves reflects a failure to understand coercive control and the real risk of lethal violence faced by women in abusive relationships. The Commission thus missed an opportunity to encourage the RCMP to reform policies with regard to responses to intimate partner violence. *The Report* also thus reinforced stereotypes and misconceptions about domestic violence and the propensity of women to lie.

The erroneous findings of the Commission were widely reported in the public domain and led the public to question not the RCMP but instead the victimization to which Ms. Doucet had been subjected. In a vitriolic piece in the *Globe and Mail*, a paper previously sympathetic to Ms. Doucet, Colin Freeze asserted “an investigative agency described her as simply not credible.”¹¹³ Douglas Quan, also previously sympathetic, argued “police were never provided with any information to suggest she was in danger.”¹¹⁴ Jonathon Kay of the *National Post* pontificated “thus did our highest court create a precedent whereby a woman caught trying to arrange the murder of her estranged and geographically distant husband can be set free on the basis of unproven, and apparently dubious, claims of past domestic abuse.”¹¹⁵

Conclusion

We echo the Joint Statement of the Canadian Association of Elizabeth Fry Societies and the Legal Education and Action Fund that the Commission “ignored critical facts and simply reinforce[d] the police position.”¹¹⁶ *The Report* ignored empirical evidence of Nicole Doucet’s profound fear of her husband and the on-going abuse and harassment to which she had been subjected. It also legitimated male violence and control in interpersonal relationships and focused “on the battered woman, scrutinize[d] her conduct, examine[d] her pathology and blame[d] her...in order to maintain that denial and refuse to confront the issues of power”¹¹⁷ both in domestic relationships and in the discretion exercised by police ‘protection’ services. As Elizabeth Sheehy has asserted in other contexts, *The Report* granted violent men “the implicit consent of the state” and signalled to women that their knowledge of abusers will not be acknowledged, and their needs will not be met, even “when their very lives are at stake.”¹¹⁸ This has had profound consequences

¹¹³ Colin Freeze, “RCMP ‘did not fail’ abused woman agency finds,” *Globe and Mail*, July 11, 2013, A.7.

¹¹⁴ Douglas Quan, “RCMP didn’t fail Doucet,” *The Gazette*, July 11, 2013, A.11.

¹¹⁵ Jonathon Kay, “The dangerous expansion of ‘battered woman defence’ in Canadian law,” *National Post*, July 15, 2013, <http://fullcomment.nationalpost.com/2013/07/15/jonathon-kay-decision-to-clear-woman-who-hired-hit-man-sets-dangerous-precedent/>.

¹¹⁶ Canadian Association of Elizabeth Fry Societies, *Joint Statement Regarding the Report*.

¹¹⁷ Elizabeth Schneider, “The Violence of Privacy,” in *The Public Nature of Private Violence: The Discovery of Domestic Abuse*, Martha Albertson Fineman and Roxanne Myitiuk, (London: Routledge, 1994), 42.

¹¹⁸ Sheehy, “Causation, Common Sense and Common Law,” 116.

for Nicole Doucet as an individual who has faced, long after the conclusion of her trial, vilification and hostility online and in the popular press. While we have enormous sympathy for Doucet herself, the consequences of this case extend beyond her individual suffering. The beliefs about domestic violence endorsed by the RCMP, and the Commission, reflect and reinforce negative stereotypes about women who are abused, particularly a propensity to blame women for putting up with 'difficult' behaviours, and the belief women exaggerate, and even fabricate, domestic violence claims. The publicity surrounding *The Report* creates a real risk that other women suffering from abuse will hesitate to seek the 'helping' services of the state.

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