

To understand the full legacy of the harms of the schools, it is important to examine how the Canadian legal system responded to residential school abuse. Relatively few prosecutions for abuse resulted from police investigations. In some cases, the federal government actually compromised these investigations—and the independence of the Royal Canadian Mounted Police (RCMP)—to defend its own position in civil cases brought against it by residential school Survivors.

RCMP independence compromised

In late 1994, the RCMP established the E Division Task Force to investigate allegations of abuse in British Columbia residential schools. There is evidence, however, that RCMP investigations into abuse were adversely influenced by the federal government's strategic interests in defending itself in the many civil lawsuits commenced by former students. For example, the government demanded that the RCMP hand over its investigation files related to abuse at the Kuper Island school. Despite some initial objections, the RCMP eventually did turn over the files.¹¹⁸ This was done without due regard for the privacy rights of the complainants in the case, and, in effect, gave the government an advantage in defending itself. When the police force requested the return of these files, the government declined, and then further refused to disclose the information it had received to the Survivors who had brought the civil lawsuits.¹¹⁹

Affidavits filed by RCMP officers suggest that the federal government's interest in defending itself in civil litigation interfered with police investigations into crimes committed at the residential schools. Although a judge eventually ordered that Survivors should have the same access to RCMP criminal investigation material regarding offences at the Kuper Island school as the government, the whole affair meant Survivors could reasonably conclude that the RCMP was acting as an agent of the federal government, rather than as an impartial enforcer of the law.¹²⁰

Call to Action

- 25) We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

Unnecessary insistence on corroboration

The RCMP E Division Task Force final report notes that “a very common situation that kept occurring over and over again” was that Crown counsel refused to prosecute without