

Ms. Michelaine Lehaie  
Chairperson  
Civilian Review and Complaints Commission for the RCMP  
P.O. Box 1722, Station B  
Ottawa, ON K1P 0B3

**URGENT: BY COURIER**

Fax: 613-952-8045

Commissioner Brenda Lucki  
RCMP National Headquarters  
Headquarters Building  
73 Leikin Drive  
Ottawa ON K1A 0R2

Fax: 613-993-0260

Attn: Ms. Lehaie and Commissioner Lucki,

**RE: Open letter to the RCMP's jurisdiction and concerns arising from its working relationship with the railway police forces.**

I am contacting you in your respective capacities as Chairperson of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (RCMP) and Commissioner of the RCMP. I represent Tara Jijian whose husband died while working at the CP Rail yard in Regina (2013). I also represent Lori Desrochers and Kaity Timmerman who are the survivors of Kevin Timmerman. Kevin was Lori's ex-husband and Kaity's father. He died while working at the CN Rail yard in Saskatoon (2015). I raise my clients' cases only to provide the background for the concerns we present in this letter. My clients' cases raise important questions about Canadian railway policing and the RCMP's jurisdiction and involvement in this arena.

Specifically, my reasons for contacting you arise from the ongoing railway protests in support of the Wet'suwet'en First Nation, the blockades related to that dispute, and the capacity of the RCMP's involvement. Although we seek your responses to all of our questions below, the most immediate

concern is that based on the RCMP's own public statements, the police force should not be involved in any aspect of these protests or other protests on railway property. Further, the RCMP must take a proactive and even-handed approach to railway-related policing. This means conducting investigations into deaths, derailments, explosions, and toxic spills, regardless of whether railway police services claim jurisdiction or not. We also request that the RCMP conducts thorough investigations into the cases of Jamie Jjian and Kevin Timmerman. The questions I pose to you in this letter will remain relevant even after the current Wet'suwet'en dispute has been resolved. These questions are of significant public interest for **three reasons**.

**First**, we are concerned with what appears to be a double standard in how the RCMP responds to railway policing incidents. The evidence suggests that when Canada's railway companies need assistance, for example, with policing the Wet'suwet'en protestors and their supporters, the RCMP readily intervenes. However, when there is a workplace death, derailment, oil spill, or other railway incident that may be attributable to railway companies themselves, the RCMP defers to the private police forces that the companies fund and control. For example, CN Police Service and CP Rail Police Service officers are full employees of the respective companies. However, they enjoy all the powers of public police forces across Canada, including the authority to arrest and lay criminal charges. This is unacceptable because those railway police forces' officers do not have a civilian or public oversight body. Instead, they report directly to the very corporate leadership whose actions may need to be investigated to determine if any charges should be laid against the company for wrongdoing.

Effectively, given that Transport Canada and the Transportation Safety Board do not, and will not investigate to lay charges or make criminal referrals, these railway companies get to police themselves through the officers they employ. The RCMP's deference to these police forces and the RCMP's record of failing to investigate numerous cases of potential corporate misfeasance is at the heart of the questions below.

**Second**, we are concerned that the RCMP is partly responsible for a jurisdictional ambiguity in Canadian railway policing. Despite our efforts, we have been unable to determine where the RCMP's jurisdiction ends and the railway polices' begins. The only demarcation we have been able to identify is that the RCMP acts if the railway companies request its assistance but refrains from doing so when the company police assert their jurisdiction. It seems that where the railway companies are implicated in the harmful incidents, they preclude the RCMP's involvement and in those cases, the RCMP acquiesces. However, when the railway companies face policing challenges from outside factors, e.g. from protestors, they request the RCMP's assistance and the RCMP readily complies. This leaves railway police forces, which report to and are funded by the corporation to decide when independent scrutiny and involvement of public law enforcement occurs.

Citizens have the right to know which law enforcement agencies have authority over them. As with the Wet'suwet'en protests, Canadians have the right to know whether they are being subjected to the powers of police forces with the jurisdiction to demand identification, detain, arrest, or lay criminal charges against them. This is part of the clarity we seek from the RCMP in the context of the Wet'suwet'en protests, and in the context of railway tragedies that are attributable to the railway companies. CP Rail for example seems to have taken a contradictory position on the jurisdictional question from the RCMP so we need clarity.

This jurisdictional ambiguity has created a vacuum of accountability. That accountability vacuum has denied justice to many people and communities that have been devastated by railway-related incidents across Canada. With respect to Jamie Jjian and Kevin Timmerman's deaths, the RCMP declined to investigate, instead deferring to the CP Police Service and CN Police Service that reported to the corporate entities that should have been investigated. Despite their efforts to obtain further information (supporting documents attached), Tara, Lori, and Kaity remain in the dark about the railway police's investigations into Jamie's and Kevin's deaths.

As you will see further below, given the startling number of railway incidents across Canada, including numerous fatalities, it is statistically improbable that none of these incidents warranted criminal charges. This is largely because of the jurisdictional vacuum in which people such as my clients are left with nowhere to turn to when the RCMP, municipal/provincial police forces, Transport Canada and the Transport Safety Board all wash their hands of important investigations and allow the railway companies to investigate themselves. We have found no cases in which any of these railway police investigations ever led to charges let alone prosecutions. This is unsurprising. Those who investigate themselves tend to exonerate themselves.

**Third**, if Canadian railway companies appoint, control, and fund their own police officers under Sections 44 and 44.1 of the *Railway Safety Act*, and can preclude the RCMP from investigations at will, the railway companies should not be able to delegate any tasks to publicly funded police forces. Why should Canadian taxpayers subsidize railway police forces by calling in the RCMP to deal with issues such as the Wet'suwet'en protests that do not involve company conduct but prevent the RCMP in cases where company conduct is an issue? It is one matter for police to cooperate across jurisdictions but quite another for a privately funded police force to outsource its work to the public purse. CN Police Service, CP Police Service, and Via Rail Police Service should be front and centre at all Wet'suwet'en-related protests across Canada. They should enforce all injunctions, arrests, dismantling of barricades etc. The railways cannot have it both ways; exerting jurisdiction over certain incidents and then calling in the RCMP to handle the politically sensitive protests.

Given the above, the following are the questions for which we seek the RCMP and its oversight body's responses:

- **Question 1:** In light of Sections 44 and 44.1 of the *Railway Safety Act* (R.S.C. 1985, c. 32, 4<sup>th</sup> Supp.), does the RCMP have the **jurisdiction** to conduct any policing functions on the property of Canadian railway companies, or relating to individuals implicated in policing matters within the railway police forces' jurisdiction? If so, pursuant to what legal authority?

This question is important because it highlights the jurisdictional ambiguity I raised above. While commenting on the CP Rail derailment that killed three CP Rail workers in Field, British Columbia in February of 2019, CP Rail recently released a statement arguing that although the RCMP had allegedly disavowed its jurisdiction to investigate the tragedy, the RCMP actually had both the **jurisdiction** and the **duty** to investigate the deaths pursuant to Sections 18(a) and 11.1 of the RCMP Act. CP Rail's statement states in part (Attachment 1):

"To be clear, the RCMP was immediately on-site post incident and the RCMP always has the legal authority and jurisdiction to investigate as it sees fit,"

...

Pursuant to section 18 (a) of the RCMP Act, it is the duty of RCMP officers to investigate offences against the laws of Canada and the laws in force in any province. Section 11.1 (1) of the RCMP Act provides that every RCMP officer is a peace officer in every part of Canada and has all the powers, authority, protection, and privileges that a peace officer has by law. By virtue of the RCMP Act the RCMP not only have jurisdiction to investigate offences that occur on CP property but are duty-bound to do so. (Underlining added).

<https://www.cpr.ca/en/media/cp-corrects-inaccuracies-in-cbc-reporting-of-field-b-c-derailment>.

CP Rail's statement is inconsistent with our experience with the RCMP. When Tara Jijian asked the RCMP's White Butte detachment to investigate the death of her husband, Jamie Jijian, at the CP Rail yard in Regina, the detachment told her that it and the RCMP as a whole, had no jurisdiction to do so. The RCMP officer told her that she had to resort to the CP Police Service (Attachment 2, 13). As detailed further below, when Tara Jijian approached CP Police Service for answers about any investigation that the force had conducted into her husband's death. The CP Police Service refused to provide any details, including about how the railway police force

was funded and whether its civilian management could initiate or terminate any investigations (Attachment 3,4,5,6).

Also, in a separate court case with documents in the public domain, CN Rail Police officers were cross-examined about their working relationship with management. As you can see from the transcript which is attached to a letter that the accused's counsel sent to the Minister of Transport and other police chiefs, there appears to be a revolving door between the police's public interest powers and the corporation's private interests (Attachment 7). When police officers who are legally bound to uphold the law on behalf of society are leveraged as tools of private corporate litigation, this undermines the very fabric of our democracy. It also gives rise to questions about interference with the administration of justice.

If CP Rail and the RCMP take different positions on the RCMP's jurisdiction, this is problematic as it leaves Canadians in the dark about which law enforcement body is at the helm. It raises questions about whether the meritorious cases have been falling through the cracks of the justice system. If the RCMP has always had the jurisdiction to investigate railway deaths, derailments, spills, and explosions, and with the goal of determining whether criminal or quasi-criminal charges are warranted, then the RCMP has failed numerous Canadian such as my clients. It would mean that the RCMP has been deferring to the railway police forces, which are funded, appointed through, and controlled by the companies whose actions warrant investigation.

Before we can reach any conclusions on this point, we request an unequivocal statement from the RCMP about whether it has the jurisdiction to investigate railway incidents such as workplace fatalities, derailments, railway explosions, and releases of harmful substances into the environment.

- **Question 2:** In light of Sections 44 and 44.1 of the *Railway Safety Act* (R.S.C. 1985, c. 32, 4<sup>th</sup> Supp.) and assuming the RCMP has the jurisdiction to investigate incidents on railway property, does the RCMP have the independent **duty** to conduct any policing actions on the property of Canadian railway companies, or relating to individuals implicated in policing matters within the railway police forces' jurisdiction?
- **Question 3:** If the RCMP has, and always had, the jurisdiction and duty to investigate railway-related deaths, serious injuries, derailments, oil spills and other railroad incidents, has the RCMP ever investigated, charged, or facilitated the criminal or statutory prosecution of any Canadian railway company, its **management, board of directors or officers?**

This question is important because as noted above, the CP Rail Police claims that the RCMP has always had the jurisdiction to investigate railway incidents from a policing lens (which is beyond Transport Canada and the TSB's respective mandates).

- <https://www.cpr.ca/en/media/cp-corrects-inaccuracies-in-cbc-reporting-of-field-b-c-derailment>.

However, considering the number of railway incidents that would warrant investigation over the years, we were unable to find any cases where the RCMP investigated and advanced charges, such as for criminal negligence. As you know, the Westray amendments to the *Criminal Code* were specifically designed to address workplace-related deaths, which are often of gravity that elevate them beyond as occupational health and safety incidents (i.e. administrative proceedings).

- <https://www.justice.gc.ca/eng/rp-pr/other-autre/westray/p1.html>.

When people die violent, sudden, or unnatural deaths, criminal liability and the necessary investigations cannot be precluded upfront. This means that when employees die in the course of their employment, or railway explosions kill people in Canadian cities, criminal liability can only be ruled out after a thorough and independent investigation. That has not happened to for the vast majority of victims. The disparity between railway incidents and the laying of criminal charges is stark. According to the TSB:

Overall, **1172 railway accidents** were reported to the TSB in 2018, a **7% increase over 2017 and a 13% increase from the 5-year average of 1035**. Most of the increase relates to non-main-track derailments of 5 or fewer cars. There were 57 rail-related fatalities reported in 2018, well below the 5-year average of 74, 34 of which involved trespassers. The number of crossing-accident fatalities was the same as in 2017 (19) and similar to the 5-year average (21), but the number of serious injuries due to crossing accidents nearly doubled (42) compared to 2017 (22) and to the 5-year average (24).

Further, between 2008 and 2018, the TSB reported more than 800 railway-related fatalities and more than 10,000 rail accidents for the same period.

- <https://www.tsb.gc.ca/eng/stats/rail/2018/sscr-ssro-2018.html>.

Despite these alarming statistics, we were unable to identify any cases where the RCMP independently investigated and criminally charged any railway company (or its corporate officers, board, or and management) for any of these incidents (with the potential exception of Lac-Mégantic). We were also unable to find any cases that proceeded to a prosecution or conviction. It is statistically improbable that none of these incidents and deaths were due to the railway companies' corporate actions or omissions. Even if we are wrong in this respect, this cannot be presumed without fulsome investigations. That is why it is critical for Canadians to understand which police service is really responsible for investigating these incidents and advancing prosecutions. It is our position that the railway police are disqualified because of an untenable conflict of interest. Their officers would be investigating the superiors to whom they report. That leaves the RCMP which would have to build the expertise and obtain the funding for such complex investigations. However, these should not be obstacles that frustrate the pursuit of justice.

As you know, the Transport Safety Board and Transport Canada investigation reports are neither intended nor permissible for use in legal proceedings, criminal or otherwise. Therefore, neither Transport Canada nor the TSB can deliver the justice that even CP Police Service asserts the RCMP has the jurisdiction and duty to do so. If that fact is not in dispute, we request that the RCMP opens criminal investigations into Jamie Jijian's and Kevin Timmerman's deaths.

- <https://www.tsb.gc.ca/eng/qui-about/index.html>.

Given that rail police officers work directly for the rail companies and are answerable to corporate management, this raises questions about whether the RCMP has been deferring any investigations of fatal and other serious incidents to the very management that may be responsible. Hence, in addition to requesting investigations into Jamie Jijian and Kevin Timmerman's deaths, we also request the RCMP's clarification of what criminal investigations and charges it has laid with respect to railway deaths, serious injuries, explosions, derailments, and the discharge of hazardous material into the environment.

- **Question 3:** If Canada's railway police forces have primary jurisdiction over policing incidents within 500 meters of railway property and have the jurisdiction over persons whose actions touch on railway affairs (*Railway Safety Act*, Section 44(3)), has any railway company ever asked the RCMP to investigate a fatality or other railway disaster (i.e. with the view of determining whether any criminal or quasi-criminal charges should be laid)? Please clarify the existence of

any relevant memoranda of understanding or other legal agreement or requests (formal or otherwise), between the RCMP and railway police forces operating across the Canada/US border. Please also clarify whether the railway companies pay the RCMP for providing this assistance (if any).

- **Question 4:** With respect to the Wet'suwet'en First Nation protests, did the CN Rail Police Service, the CP Police Service, or Via Rail Police Service, formally request the RCMP to participate in, or take over policing actions related to these protests anywhere in Canada?

This question is important because the RCMP needs the legal authority to conduct policing operations in areas that are not within its jurisdiction. If CP Rail's January 25, 2020 public statement is correct and the RCMP has jurisdiction and duty to investigate railway incidents, then the public deserves to know that RCMP officers involved in the Wet'suwet'en First Nation protests have the authority to be acting in that and similar capacities. The public also has the right to know why, in spite of having the jurisdiction and duty to conduct railway-related policing, the RCMP has not taken a consistent role in investigating and laying charges relating to the numerous deaths and fatalities on Canada's railways.

Compounding the ambiguity around the jurisdictional relationship between the RCMP and the railway police forces is Ms. Lahaie's recent public reply to the BC Civil Liberties Association.

- <https://www.crcc-ccetp.gc.ca/en/CRCC-Response-Concerns-RCMP-Actions-Wetsuweten-Territory>.

In that letter, Ms. Lahaie states that the RCMP has no legal authority to make identity checks and searches on protestors seeking to block the pipeline project on Indigenous territory. It appears that when constitutionally exercised, these are standard police powers. Therefore, if the RCMP cannot exercise them, is Ms. Lahaie's letter implying that it is the CP Rail Police that the jurisdiction to conduct these policing activities. On its face, Ms. Lahaie's letter appears to deny the jurisdiction (in whole or in part), that CP Rail's January 25, 2020 public statement asserts the RCMP has, hence our request for clarification.

The question around which police force has jurisdiction over the Wet'suwet'en First Nation protests and railway policing in general is also important because railway companies fund their own police forces. If they are calling on the RCMP, municipal police forces, and or the Ontario Provincial Police to conduct law enforcement



functions on railway property, then these railway companies would be outsourcing their law enforcement functions to Canadian taxpayers? We understand that cooperation between all police forces is an indispensable part of effective policing. However, there is a difference between cross-jurisdictional cooperation and the transfer of financial responsibility for a privately controlled police force to the taxpaying public.

The public needs an unequivocal statement from the RCMP's oversight body about the extent of the RCMP's jurisdiction and whether it should be involved at all in any protests or policing events within railway police jurisdiction. Furthermore, as a question of transparency and accountability, the public deserves to know the extents and limits of law enforcement powers, what police officers can do, where they can do it, and whether their jurisdiction can be shared, and if so, to what extent. Below is further background that we hope will help you appreciate why the questions above are so critical.

We look forward to your response to the questions above. Below is a general background information on my clients and how their situations reflect the concerns we have raised through our questions.

Thank you,



Tayengwa Runyowa  
(Counsel for Tara Jjian, Lori Desrochers, and Kaity Timmerman)

## TARA JIJIAN AND LORI DESROCHERS' FAILED EFFORTS TO GET ANY LAW ENFORCEMENT AGENCY TO ACT.

*Tara Jijian (and her sons) and Lori Desrochers (and her daughter, Kaity Timmerman).*

I represent two clients, Tara Jijian and Lori Desrochers, whose loved ones died in work-related incidents at CP Rail and CN Rail, respectively. I represent Tara and Lori in their litigations against CP Rail and CN Rail, respectively. The matter is ongoing, but its merits are unrelated to the purposes of this letter. The real issue is that in our advocacy, we learned that the railway police, at least in Saskatchewan, is deemed to have exclusive jurisdiction over all railway property, pursuant to Section 44 and 44.1 of the *Railway Safety Act*, and that this precludes RCMP jurisdiction over matters arising within 500 metres of railway property. Section 44(4) expands this territorial jurisdiction by extending to policing incidents arising from, or relating to the railways:

**44(4)** The police constable may take a person charged with an offence under Part III of the *Canada Transportation Act*, or any law referred to in subsection (1), before a court that has jurisdiction in such cases over any area where property owned, possessed or administered by the railway company is located, whether or not the person was arrested, or the offence occurred or is alleged to have occurred, within that area.

Tara's husband, Jamie Jijian, was crushed to death between two rail cars at the CP Rail yard in Regina, 2013. Sometime after Jamie's death, Tara received a leaked summary of a copy of Transport Canada's investigation report into Jamie's death (Attachment 8). Upon reviewing the conclusions, it is apparent that a formal police investigation was necessary to determine whether the hazards in the CP Rail yard and the company's culture and decisions warranted any charges. However, with Transport Canada and the TSB disavowing any criminal referrals and CP Police declining to disclose any aspect of their investigation (Attachment 3,4,5,6,9), the causes behind Jamie's death remain in a black box and only CP Rail has the key.

See Attachment 2, of this letter in which Tara Jijian approached the RCMP requesting that the RCMP conduct a criminal investigation into her husband's death. Note the response in which the RCMP states that it had no jurisdiction to do so and that the CP Police Service had that jurisdiction (Attachment 13). Also note Attachment 11 of this letter in which Tara makes the same request to the Regina Police Service, and the similar response she got from that RCMP (Attachment 12). It therefore appears that at least in Saskatchewan, only the railway police forces have the jurisdiction to address policing matters on rail property or relating to the railways themselves.

Lori Desrochers' ex-husband, Kevin Timmerman, died at the CN Rail yard in Saskatoon in 2015. Lori is power of attorney to their daughter, Kaity, who has a disability. Lori also made efforts to obtain clarity about what happened to Kevin. The TSB gave her its report, but Transport Canada was the main investigator of that incident. Transport Canada refused to give Lori the report until her request to the Prime Minister's office (Attachment 16,17) led to the release of a heavily redacted report (Attachment 10). CN Police Service declined to provide any information on its own investigation (Attachment 14,15).

Both Jamie and Kevin's loved ones remain in the dark about what truly happened.

*The roles of Transport Canada, Transportation Safety Board and Human Resources and Skills Development Canada.*

Although Transport Canada, TSB, and HRSDC conducted investigations, these were not done with the view of facilitating criminal investigations. The TSB and Transport Canada have never made any such referrals to any law enforcement authorities, and we understand that such referrals are not within their mandate. When people die violent, sudden, and unnatural deaths, there can be no presumption that precludes criminal investigations. In the post-Westray era, there can be no assumption that workplace-related deaths are merely regulatory/occupational health and safety incidents. See for example:

- <https://www.justice.gc.ca/eng/rp-pr/other-autre/westray/p1.html>.
- *R. v. Kazenelson*, 2018 ONCA 77 (CanLII), <<http://canlii.ca/t/hq2qk>>.

This is why the RCMP must take decisive steps to aerate the jurisdictional vacuum that its inaction on railway deaths and incidents has left. The public needs answers to our question and my clients deserves justice for their loved ones. Criminal investigations into the deaths of Jamie Jijian and Kevin Timmerman are necessary.

Royal Canadian Mounted Police  
Commissioner



Gendarmerie royale du Canada  
Commissaire

Guided by Integrity, Honesty, Professionalism, Compassion, Respect and Accountability

Les valeurs de la GRC reposent sur l'intégrité, l'honnêteté,  
le professionnalisme, la compassion, le respect et la responsabilisation

**MAY 08 2020**

Mr. Tavengwa Runyowa  
Runyowa Law  
2010 11th Avenue  
7th Floor  
Regina, Saskatchewan  
S4P 0J3

Dear Mr. Runyowa:

Thank you for your correspondence of February 27, 2020. My deepest sympathies to Tara Jijian, Lori Desrochers, Kaity Timmerman, and their families for the loss of their loved ones, Jamie Jijian and Kevin Timmerman.

Your correspondence highlights the complexities of investigations of this nature and the multitude of parties that are involved. The role of the Royal Canadian Mounted Police (RCMP) within the Province of Saskatchewan is governed by the *Royal Canadian Mounted Police Act, RCMP Regulations, 2014*, the common law, the *Saskatchewan Police Act, 1990*, and the Provincial Police Service Agreement with Saskatchewan. With respect to the matters raised in the letter, the RCMP is not the police of jurisdiction in either the City of Regina or the City of Saskatoon and is therefore not in a position to intervene in investigations in those jurisdictions by other law enforcement agencies.

More generally, RCMP members are required to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime, and the apprehension of criminals, offenders, and others who may be lawfully taken into custody. The RCMP may also provide assistance to other law enforcement agencies at their request, provided that the requested assistance falls within the mandate of the RCMP.

Your letter raises the broader approach to workplace injuries and fatalities. In 2017, through a joint statement by the Minister of Justice and Attorney General and the Minister of Employment, Workforce Development and Labour, the Government of Canada committed to implementing measures to help ensure that section 217.1 of the *Criminal Code*, commonly referred to as the Westray Law, is applied effectively.

In addition, the Department of Justice published three fact sheets in August 2019 addressing criminal liability for workplace deaths and injuries. The three fact sheets, *Background on the Westray Law*, *Criminal Code Offences and their Application by the Courts*, and *Sentencing of Individuals and Organizations*, have also been used to create awareness and build upon the knowledge and understanding in this area.

As part of the commitment to do more to ensure proper training in the provisions of the Westray Law, the RCMP has collaborated with partners to develop an online training course for law enforcement, workplace health and safety inspectors, and crown prosecutors on conducting criminal investigations related to workplace deaths and serious injuries. The training will provide strategies and best practices to better coordinate investigations across federal, provincial and territorial jurisdictions. It is also designed to raise awareness and support the amendments to the *Criminal Code* created by the Westray Law.

The RCMP agrees that more has to be done to mobilize awareness for the specific provisions of the Westray Law. The RCMP will continue to work with its partners in an effort to ensure that all stakeholders are aware and informed of these provisions in an effort to build a safer tomorrow for workers, employers, and all Canadians.

Thank you for taking the time to write on this important issue.

Kindest regards,



Brenda Lucki  
Commissioner

c.c.: Ms. Michelaine Lahaie  
Chairperson  
Civilian Review and Complaints Commission for the RCMP

Civilian Review and  
Complaints Commission  
for the RCMP



Commission civile d'examen  
et de traitement des plaintes  
relatives à la GRC

Office of the Chairperson

Bureau de la présidente

May 21, 2020

Tavengwa Runyowa  
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Regina, SK S4P 0J3

Dear Mr. Runyowa:

The Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (“the Commission”) received your correspondence, dated February 27, 2020, in which you requested that the Commission answer several questions about Canadian railway policing and the RCMP’s jurisdiction in that field. Your letter was also addressed to Commissioner Brenda Lucki of the Royal Canadian Mounted Police (“RCMP”).

You explained that you represent Tara Jijian, whose husband, Jamie Jijian, died while working at the CP Rail yard in Regina in 2013. You also represent Lori Desrochers and Kaity Timmerman, who are the survivors of Kevin Timmerman, who died while working at the CN Rail yard in Saskatoon in 2015. You stated that you raised your clients’ cases only to provide background for the concerns you were presenting in your letter.

In your correspondence, you set out several concerns, including your contention that there appears to be a double standard with regard to how the RCMP responds to railway-related incidents; that the jurisdiction of the RCMP with regard to railway policing is ambiguous; and that railway police forces should consistently exercise their jurisdiction, as opposed to “outsourcing” their work in certain cases to publicly-funded police forces such as the RCMP.

You asked five questions of the Commission and the RCMP. These questions concerned the RCMP’s jurisdiction to conduct policing functions with regard to railways; whether the RCMP has a duty to carry out those functions; whether the RCMP has done so in the past and whether railway companies have asked them to do so; and whether railway police forces asked the RCMP to take over policing actions related to the recent railway blockade protests.

.../2

In conclusion, you expressed that the public requires an unequivocal statement from the Commission about the extent of the RCMP's jurisdiction and whether the RCMP should be involved at all in protests or policing events within railway police jurisdiction.

The Commission's mission is to deliver a robust complaint process that holds the RCMP accountable for its activities and the conduct of its members. The Commission does so in an independent and impartial manner that is accountable to Canadians.

After careful review, the Commission has determined that the concerns you have outlined do not appear to qualify as conduct of RCMP members in the performance of a duty or function under the Royal Canadian Mounted Police Act ("RCMP Act"). Therefore, they do not fall within the Commission's mandate. You do not appear to be challenging the conduct of specific RCMP members, but rather, raising questions of a more general nature regarding RCMP jurisdiction and practices in railway policing matters. These questions are more appropriately addressed to the RCMP Commissioner, and it is my understanding that she provided you with a response, dated May 8, 2020.

Although you refer in your letter to some of your clients' interactions with RCMP members, you also explained that you raised your clients' cases only to provide background for your concerns. Please note that the RCMP Act contains a one-year time limit for submitting a public complaint, unless there are good reasons for the Commission to consider extending the time limit.

The issues you raise are important and I take them seriously, especially as they relate to incidents in which people have tragically lost their lives.

The jurisdictional issues concerning policing of railway matters are indeed complex. As you know, the investigation of *Criminal Code* offences falls within the jurisdiction of each province. In most provinces, the RCMP has been contracted to serve as the provincial police force, and thus is granted the mandate to enforce the *Criminal Code* within that province. However, even within provinces that have policing contracts with the RCMP, certain municipalities—applying powers granted to them by the province—have established their own police forces, which are responsible for the investigation of criminal offences.

As you know, specialized police forces such as the CP Police Service and the CN Police Service have also been established, and their jurisdictions are prescribed by law.

In a situation involving a deceased person, the "police of jurisdiction" ("POJ") respond. If a homicide is suspected, the POJ will lead the investigation. If the death appears to have been accidental, then the Coroners Service will investigate with assistance from the POJ as required. If the death was evidently the result of a workplace or industrial

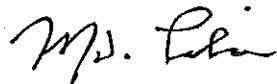
accident, then an agency such as WorkSafe Saskatchewan (occupational health and safety) will be involved in determining the cause(s) and recommending measures to prevent similar incidents in the future. The Transportation Safety Board may have a role if the occurrence involved a railway that is within the legislative authority of Parliament.

All POJ police forces are empowered to enforce the provisions of the *Criminal Code*, including the sections commonly referred to as the "Westray Law," which amended how criminal liability of corporations is established in cases of workplace death or injury.

As described above, the Commission will not be processing your letter as a public complaint. Please note that public complaint processes are also available for complaints concerning the actions of members of the Regina Police Service (Professional Standards Section or Saskatchewan Public Complaints Commission), the Saskatoon Police Service (Professional Standards Unit or Saskatchewan Public Complaints Commission), the Canadian Pacific (CP) Police Service (Professional Standards Department), and the Canadian National (CN) Police Service (Chief of Police).

I extend my sincere condolences to your clients, Ms. Jijian, Ms. Desrochers, and Ms. Timmerman, and I thank you for bringing these important issues to the attention of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Ms. Lahaie".

Michelaine Lahaie  
Chairperson

cc: RCMP Commissioner Brenda Lucki



August 17, 2020

**SENT BY COURIER & EMAIL**

Commissioner Brenda Lucki  
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Attn: Commissioner Brenda Lucki and Chairperson Michelaine Lahaie,

**Re: Further Clarification on the Royal Canadian Mounted Police's ("RCMP")  
interaction with private railway policing in Canada.**

This letter is in response to your letters of May 8<sup>th</sup>, 2020 and May 21<sup>st</sup>, 2020 in which the RCMP declined to open a new investigation into Jamie Jijian and Kevin Timmerman's workplace deaths at the Regina CP Rail yard (Regina) and CN Rail yard (Saskatoon) respectively. We request that the RCMP provides further clarifications on certain points that your letters did not address:

1. Does the RCMP have concurrent, overlapping, or subordinate jurisdiction to the railway police services such as CP Police Service and the CN Police Service (with respect to railway related incidents)?

Context: Under Section 44(1)(3) of the *Railway Safety Act*, the railway police forces, including the CP Police Service and the CN Police Service, have jurisdiction within 500

meters of property that the railway company owns, possesses, or administers. Your letter stated that the RCMP did not have the “investigational lead” in Jamie and Kevin’s case. Please clarify what this means. Does this mean the RCMP has jurisdiction to investigate but that jurisdiction is subordinate to that of the railway police forces? Also clarify whether the RCMP has the authority to **unliterally** initiate or take over the investigation into railway incidents despite any protest or inaction by railway police.

2. Does the RCMP have formal or informal policies of handing over investigations regarding **railway worker** injuries, deaths, or railway disasters to the relevant railway police forces?
3. Does the RCMP have formal or informal policies of handing over investigations regarding the injuries, deaths of **members of the public** to the relevant railway police forces?
4. Does the RCMP have similar powers to arrest and charge persons for alleged offences relating to railway property, even if the alleged offender is not on the property and did not commit the alleged offence within 500m of railway property?

Context: Section 44(4) of the *Railway Safety Act* extends the railway police’s jurisdiction beyond the 500m on either side of railway property. The Act extends the railway police jurisdiction to offences that relate to the railway industry, even if the alleged offender was not arrested within the 500m area, or the alleged offence did not occur in the area. We would like to know whether in such cases the RCMP has identical, overlapping, or concurrent powers or whether in this context, the RCMP is subordinate to the railway police’s under the *RSA*.

5. Sudden and/or violent deaths in Canada cannot be presumed to preclude foul play or criminal conduct at the outset. When a RCMP receives a report of a death on railway property, as a matter of policy, practice, or law, does the RCMP investigate these deaths to exclude foul play or criminal negligence?
6. Does the RCMP have police officers or investigators who are specifically trained in railway related investigations? If so, what is the nature of the training and does the RCMP retain other experts, e.g. forensic specialists to help?

Context: This question goes beyond the RCMP investigating criminality that happens on railway property (e.g. one worker assaulting another). We are concerned with the RCMP’s technical capacity to review industrial incidents to distinguish between true “accidents” and criminal acts (including criminal negligence) that cause injury or death.

Note that we are not referring to regulatory investigations such as those conducted by Transport Canada, the Transport Safety Board, or occupational health and safety officials. None of these investigations can give rise to criminal proceedings. We are interested in criminal investigations as contemplated under the Westray amendments to the *Criminal Code* (Section 217.1) or related provisions such as Sections 22.2, 220, and 221. Such industrial incidents can be highly technical in nature, involving subject matter that regular RCMP officers are not trained to deal with. The scenes of the railway incidents may not immediately indicate the role of criminal negligence or foul play as is often evident in crimes that most public police forces are engaged in. Typically, specially trained investigators with applicable forensic experience are required to properly investigate complex industrial incidents.

7. As a question of law, policy, or practice, does the RCMP attend the site of every railway incident such as a death, injury, explosion, spill, or derailment, **if** CP Police Service or CN Police Service are already present on scene? If so, does the RCMP hand over jurisdiction once railway police, employees, or the Coroner have taken over the scene?
8. If it is apparent that a railway death, injury, explosion, spill, or derailment may have been the outcome of corporate misfeasance (of CN Rail or CP Rail), does the RCMP have the authority to replace the railway police as the police of primary jurisdiction given that the railway police services answer directly to the railway companies?
9. If a railway company owns and controls its own police force, can the RCMP still investigate that company, its executives, board, or employees for potential *Criminal Code* offences relating to their jobs? Has the RCMP ever done so?
10. Given the centrality of the principle of police independence to Canada's legal system, is it the RCMP's position that it must still cede the "investigational lead" to the railway police forces that are controlled by the railway corporations under investigation (where a death, derailment or other disaster may have been the companies' fault)?
11. If a railway police officer commits a criminal offence while engaged in their duties, does the RCMP have the authority to investigate that potential crime? Has the RCMP ever conducted such investigations?
12. When railway police forces request the help of RCMP officers in carrying out tasks such as jailing or transporting persons in custody, does the railway pay the RCMP for that service?

13. If a member of the public requests the RCMP to investigate a death or serious injury that was allegedly caused by the railway company, its internal policies, or actions, can the RCMP initiate that investigation without the involvement of the railway police forces?

Once again, we are not seeking the RCMP's involvement in our on-going litigation regarding Jamie and Kevin's deaths. We only seek to obtain clarity about the RCMP's powers, jurisdiction, and policies, and practices. Your response to the above inquires will be appreciated.

Sincerely,

Type text here

*Tavengwa Runyowa*

Tavengwa Runyowa

(Counsel for Tara Jijian and Lori Desrochers)

Cc: Kathleen Roussel  
Director of Public Prosecutions  
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Royal Canadian Mounted Police  
Commissioner



Gendarmerie royale du Canada  
Commissaire

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Les valeurs de la GRC reposent sur l'intégrité, l'honnêteté,  
le professionnalisme, la compassion, le respect et la responsabilisation

**SEP 24 2020**

Mr. Tavengwa Runyowa  
Runyowa Law  
2010 11th Avenue  
7th Floor  
Regina, Saskatchewan  
S4P 0J3

Dear Mr. Runyowa:

Thank you for your correspondence of August 17, 2020, regarding the jurisdictional responsibility over the investigation of workplace injuries and fatalities.

As noted in my previous correspondence, your letters highlight the complexities of investigations of this nature and the multitude of parties that are involved. With respect to the matters raised, I reiterate that the Royal Canadian Mounted Police (RCMP) is not the police of jurisdiction in either Regina or Saskatoon and is not in a position to interject in investigations of other law enforcement agencies.

In terms of the other questions raised in your letter, each investigation is unique and will be dependent on the facts in each case. In addition, RCMP decisions are made, as you correctly point out, to be consistent with the principle of police operational discretion.

In reference to your questions about RCMP policy, you will find information on how to make an Access to Information request on the RCMP website at [www.rcmp-grc.gc.ca/en/making-a-request-the-access-information-act](http://www.rcmp-grc.gc.ca/en/making-a-request-the-access-information-act).

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- 2 -

The RCMP continues to collaborate with partners to address the important issues of workplace injuries and fatalities.

I regret that I cannot be of further assistance. Thank you again for taking the time to write.

Kindest regards,

A handwritten signature in cursive script, appearing to read "B. Lucki".

Brenda Lucki  
Commissioner

c.c.: Ms. Michelaine Lahaie  
Chairperson  
Civilian Review and Complaints Commission for the RCMP

November 17, 2020

**SENT BY EMAIL & COURIER**

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Attn: Commissioner Brenda Lucki and Chairperson Michelaine Lahaie,

**Re: Further Clarification on the Royal Canadian Mounted Police's ("RCMP")  
interaction with private railway policing in Canada as it pertains to the February 4, 2019  
Field, B.C. derailment of CP Rail Train 301.**

This letter is further to our letter of August 17, 2020 seeking clarification on the RCMP's interactions and seemingly overlapping jurisdiction with private railway police forces in Canada. August 17, 2020 correspondence was with respect to our other clients, Tara Jijian, Lori Desrochers, and Kaity Timmerman. We received Commissioner Lucki's September 24, 2020 response.

In Commissioner Lucki's September 24, 2020 letter, she stated, "each investigation is unique and will be dependent on the facts in each case." As such, to facilitate clarity in these discussions, we are now writing with regards to another specific case based on similar issues.

We have been retained by Ms. Pam Fraser, the mother of Dylan Paradis. Dylan was one of the three crew members who died in the February 4, 2019, Field, BC derailment of Canadian Pacific Rail ("CP Rail") Train 301. Pursuant to Sections 6 - 8 of the *Canadian Victims Bill of Rights* and all applicable obligations that the RCMP has to account to the public, we have the following questions with respect to the RCMP's involvement in the Field, BC railway disaster.

As you are aware, the families of the Field, BC train fatalities have tried to get answers about why their loved ones died in such a senseless tragedy. They have been horrified to learn that the company potentially responsible for the deaths, CP Rail, exercises full ownership and control of a public, federal police force that has primary criminal jurisdiction over the incident. To date, no independent police investigation has occurred beyond any CP Police Service's investigation, which CP Rail corporation has not disclosed, and has total control over. This letter provides the background to specific questions we need both the RCMP and its oversight body to address.

According to the Golden-Field RCMP February 4, 2019 press-release:

RCMP in Golden are assisting the Transportation Safety Board of Canada (TSB) in investigating a train derailment which occurred early this morning.

Just after midnight (MST) on February 4, 2019, Golden RCMP officers were called to investigate a possible Canadian Pacific train derailment near Field, BC.

Upon arrival at the site, officers discovered a train carrying grain hopper cars had derailed near Spiral Tunnels in Yoho National Parks, Field, BC.

Three people were found unresponsive and pronounced dead at the scene. Their identities have not been confirmed.

TSB is investigating along with the Employment Safety Standards Canada, RCMP and the BC Coroners Service.<sup>1</sup>

**Question 1:** Upon arriving on the scene, what was the RCMP's role and jurisdiction at the scene?

The CBC later reported that in emails with the RCMP, the news corporation had been told that the RCMP are not investigating the Field, BC incident, further citing an email from an RCMP spokesperson who stated: "The incident occurred on CP property; as such, that agency [CP Rail] has jurisdiction. ...No independent investigation was commenced by the RCMP."<sup>2</sup> Though it was further noted: "The RCMP added that they "of course would be willing" to step in if asked."<sup>3</sup>

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<sup>1</sup> RCMP, February 4, 2019, Golden-Field RCMP Assisting in Canadian Pacific derailment, available at: <http://bc.rcmp-grc.gc.ca/ViewPage.action?siteNodeId=2100&languageId=1&contentId=58133>.

<sup>2</sup> CBC, January 25, 2020, Families of CP Rail workers killed in B.C. mountain crash demand investigation reopened, available at: <https://www.cbc.ca/news/canada/cp-rail-b-c-crash-1.5439690>

<sup>3</sup> CBC, January 25, 2020, Families of CP Rail workers killed in B.C. mountain crash demand investigation reopened, available at: <https://www.cbc.ca/news/canada/cp-rail-b-c-crash-1.5439690>



**Question 2:** Is it therefore your position that the RCMP's jurisdiction is secondary to that of CP Rail's privately-owned police force? If so, can the RCMP exercise primary jurisdiction if the matter appears to involve the railway company, which I trust you agree, cannot criminally investigate itself?

On January 25, 2020, CP Rail's CEO, Mr. Keith Creel, responded to the above CBC article by stating:

The RCMP can investigate whatever it sees fit in Canada, and they have been involved from the very beginning. As I said to the CBC previously, we are open and willing to discuss anything with the RCMP, the TSB and all other agencies involved. We have been cooperating fully and will continue to do so.<sup>4</sup>

**Question 3:** In what way has CP Rail been cooperating with the RCMP in the Field, BC crash?

**Question 4:** In what way has the RCMP been involved "from the very beginning" in the Field, BC crash?

Mr. Creel further told the CBC on another occasion:

We've worked in lockstep with the RCMP from the very beginning. They still retain jurisdiction over that investigation. If they're [going to] step in or research or investigate anything that they haven't looked at prior to [that], they're certainly welcome to do that and we'll work in partnership to make sure we the facts available to them as we know it.<sup>5</sup>

**Question 5:** Again, in what capacity has CP Rail been working "in lockstep with the RCMP from the very beginning" and on whose initiative?

**Question 6:** Based on the above, do you agree that the RCMP does not require CP Rail's permission or request to investigate the Field, BC incident or any other railway matter?

In a recent October 26, 2020 letter from Mr. Creel to Ms. Fraser, Mr. Creel provided the following quote from the office of the federal Minister of Transportation:

"In this case, the Royal Canadian Mounted Police is a police service that would have the authority, if they feel it is warranted, to investigate such criminal conduct or alleged behaviour and recommend criminal prosecution be commented."<sup>6</sup>

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<sup>4</sup> CP, January 25, 2020, CP corrects inaccuracies in CBC reporting of Field, B.C. derailment, available at: <https://www.cpr.ca/en/media/cp-corrects-inaccuracies-in-cbc-reporting-of-field-b-c-derailment>

<sup>5</sup> CBC, CP Rail willing to work with RCMP on train derailment probe, CEO says, available at: <https://www.cbc.ca/player/play/1686309955879>

<sup>6</sup> Letter from Keith Creel, to Pamela Fraser, October 26, 2020, attached as Attachment 1.

Mr. Creel once again provided his position that “the RCMP always has the legal authority and jurisdiction to investigate as it sees fit. Should the RCMP see a need to investigate further it will do so- that is not something that CP decides.”<sup>7</sup>

**Question 7:** Once again, how does the RCMP reconcile its position that the “RCMP would be willing to step in when asked”, when the federal Minister of Transportation and the CEO of CP’s position is that the RCMP has the independent legal authority and jurisdiction to investigate as you (the RCMP) sees fit?

In January 2020, the RCMP provided statements to the media that the RCMP would be “reviewing the file to determine next steps”<sup>8</sup>, which as indicated in a secondary article, would mean “reviewing the investigation”.<sup>9</sup>

**Question 8:** Which “file” does this refer to?

**Question 9:** What exactly does “reviewing” an investigation entail and is this to independently determine whether criminal charges will be laid?

**Question 10:** Is this approach of reviewing a separate investigation, instead of starting its own investigation, a standard practice for the RCMP?

**Question 11:** Is it the RCMP’s position that “reviewing” the previously conducted investigation is appropriate in this situation because the lead TSB investigator (Don Crawford) felt that the evidence supported a case for a criminal investigation, and that CP Police investigator (Mark Tataryn) reported corporate interference in his investigation (including pointing to evidence tampering?).

**Question 12:** What were the results of your “review” of the investigation?

In the year following the Field, BC railway disaster, several entities, public interest groups and individuals, as well as the families and loved ones of the deceased, have called for an independent RCMP investigation into the Field, BC disaster, including:

- The TSB lead safety investigator, Don Crawford<sup>10</sup>;
- CP Police investigator, Mark Tataryn- whom we now understand works for the RCMP;

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<sup>7</sup> Letter from Keith Creel, to Pamela Fraser, October 26, 2020, attached as Attachment 1.

<sup>8</sup> Global News, January 28, 2020, RCMP called to investigate Field, B.C. train derailment that killed 3 CP crew members, available at: <https://globalnews.ca/news/6473846/fatal-field-bc-cp-train-derailment-rcmp-investigation/>

<sup>9</sup> The Golden Star, January 29, 2020, RCMP to review fatal Field train derailment investigation after evidence points to ‘cover up’, available at: <https://www.thegoldenstar.net/news/rcmp-to-review-fatal-field-train-derailment-investigation-after-evidence-points-to-cover-up/>

<sup>10</sup> CBC, January 27, 2020, Train safety investigator wants RCMP to probe fatal CP mountain crash, available at: <https://www.cbc.ca/news/canada/cp-rail-crash-call-investigation-1.5441955>

- The Alberta Federation of Labour<sup>11</sup>;
- Teamsters Canada<sup>12</sup>;

In previous correspondence, Commissioner Branda Lucki provided that where “the RCMP is not the police of jurisdiction”, they are “not in a position to intervene in investigations in those jurisdictions by other law enforcement agencies”.<sup>13</sup> Commissioner Lucki further provided that “[t]he RCMP may also provide assistance to other law enforcement agencies at their request, provided that the requested assistance falls within the mandate of the RCMP.”<sup>14</sup>

**Question 13:** If the RCMP is not the police of jurisdiction in railway matters, had not received a formal request from CP Rail to investigate, and/or does not have the investigational lead on the matter, under what authority is the RCMP reviewing the Field, BC file?

In the following correspondence, Chairperson Lahaie had further elaborated:

... As you know, the investigation of Criminal Code offences falls within the jurisdiction of each province. In most provinces, the RCMP has been contracted to serve as the provincial police force, and thus is granted the mandate to enforce the Criminal Code within that province. However, even within provinces that have policing contracts with the RCMP, certain municipalities-applying powers granted to them by the province-have established their own police forces, which are responsible for the investigation of criminal offences.

As you know, specialized police forces such as the CP Police Service and the CN Police Service have also been established, and their jurisdictions are prescribed by law.

In a situation involving a deceased person, the "police of jurisdiction" ("POJ") respond. If a homicide is suspected, the POJ will lead the investigation. If the death appears to have been accidental, then the Coroners Service will investigate with assistance from the POJ as required. If the death was evidently the result of a workplace or industrial accident, then an agency such as WorkSafe Saskatchewan (occupational health and safety) will be involved in determining the cause(s) and recommending measures to prevent similar incidents in the future. The Transportation Safety Board may have a role if the occurrence involved a railway that is within the legislative authority of Parliament.<sup>15</sup>

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<sup>11</sup> Alberta Federation of Labour, January 28, 2020 Press Release: ALF demands independent investigation into the deaths of three CP Rail Calgary workers, available at: <https://www.afl.org/pressrel28jan20>

<sup>12</sup> Global News, January 28, 2020, RCMP called to investigate Field, B.C. train derailment that killed 3 CP crew members, available at: <https://globalnews.ca/news/6473846/fatal-field-bc-cp-train-derailment-rcmp-investigation/>

<sup>13</sup> May 8, 2020 Letter to Mr. Runyowa from Commissioner Brenda Lucki.

<sup>14</sup> May 8, 2020 Letter to Mr. Runyowa from Commissioner Brenda Lucki.

<sup>15</sup> May 21, 2020 Letter to Mr. Runyowa from Chairperson Michelaine Lahaie.

**Question 14:** Is it the RCMP Commission's position that the RCMP is not the "police of jurisdiction" and cannot investigate railway incidents? Please reconcile this with the RCMP's own position that it **does** have jurisdiction, but not the "investigational lead".

**Question 15:** Is it the RCMP Commission's position that in cases involving workplace deaths, the RCMP requires an agency such as WorkSafe BC, WorkSafe Saskatchewan or their provincial counterparts to recommend a criminal investigation before the RCMP can commence such an investigation on railway property?

In her correspondence, Chairperson Lahaie had further stated:

All POJ police forces are empowered to enforce the provisions of the Criminal Code, including the sections commonly referred to as the "Westray Law," which amended how criminal liability of corporations is established in cases of workplace death or injury.<sup>16</sup>

Commissioner Lucki's letter further mentions the RCMP's commitment to do more to ensure proper training in the provisions of the Westray Law. As you are aware, the Westray Law (the Government of Canada's response to the Westray mine fatalities) comprises of legislation amending the *Criminal Code*, reinforcing the legal duties that corporate and corporate decision makers owe to their employees. This elevated responsibility of corporations for the health and safety of their employees means that employer criminal negligence must be at the forefront of investigations in situations of workplace accidents.

**Question 16:** How is the RCMP placing criminal negligence at the forefront of railway safety investigations when the RCMP automatically defers investigative jurisdiction to railway corporations' police forces from the outset?

The lack of independent criminal investigations into railway deaths is distressing to the deceased's families. The RCMP's consistent deference to the railway companies that need to be subjected to the investigations has prejudiced many Canadians' rights to criminal accountability. Our clients and Canadians deserve answers to the above questions and clarification of the seeming contradictions in your positions. We look forward to your response.

Thank you,

  
Tavengwa Runyowa

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<sup>16</sup> May 21, 2020 Letter to Mr. Runyowa from Chairperson Michelaine Lahaie.

Attachment 1 to November 17, 2020 Letter  
from Runyowa Law on behalf of Ms. Fraser



Keith Creel  
President and Chief Executive Officer

7550 Ogden Dale Road SE  
Calgary Alberta T2C 4X9  
Canada

T 403 319 7600

October 26, 2020

Pamela Fraser  
515 Homeplace SE  
High River, AB T1V 1K1

Dear Pamela,

I want to personally thank you for attending the October 14, 2020 memorial dedication at the Royal Canadian Pacific Pavilion. Thank you for taking the time to travel to be together, and for sharing your stories and thoughts. It was an honour to be there with you.

The monument that will soon be installed in Field will forever tell the story of the commitment and professionalism of Andrew, Dylan and Daniel.

As I noted at the dedication, I cannot imagine the pain and heartache you have endured during this process. Please know that the prayers and thoughts of my own family and of the entire 12,000-strong CP family remain with you, always.

In the weeks ahead we will provide you with a commemorative video of the October 14 ceremony, including the comments from the people who worked closely with Andrew, Dylan and Daniel.

While there has been recent media coverage about the role of the RCMP in any investigation, the office of the federal Minister of Transportation has stated publicly that, "In this case, the Royal Canadian Mounted Police is a police service that would have the authority, if they feel it is warranted, to investigate such criminal conduct or alleged behaviour and recommend that criminal prosecution be commenced." Furthermore, in a back and forth discussion the CBC had with the RCMP, posted as part of an October 23, 2020 CBC story, the RCMP said it "... never indicated that the RCMP could not investigate this matter."

In short, as I have stated previously, the RCMP always has the legal authority and jurisdiction to investigate as it sees fit. Should the RCMP see a need to investigate further it will do so – that is not something CP decides. This has been confirmed by the RCMP itself, and by Transport Canada. It is unfortunate that misleading statements continue to be made in this regard. CP has cooperated and continues to cooperate fully with all investigations and inquiries from regulatory and law enforcement agencies.

.../2

Once the Transportation Safety Board has issued its report I would be willing to meet with you to tell you what I can about the results of our own internal investigation and to answer any questions you may have. Should you have questions, do not hesitate to connect with Chad Rolstad, our Vice-President of Human Resources, or myself.

Respectfully,

A handwritten signature in black ink that reads "Keith Creel". The signature is written in a cursive, flowing style.

Keith Creel  
President and Chief Executive Officer