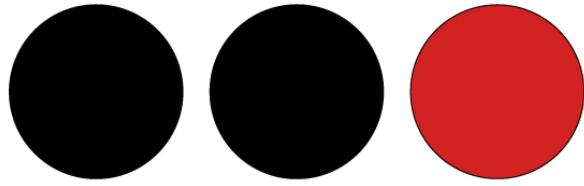




**BATTERED WOMEN'S
SUPPORT SERVICES**



Safety Changes Everything

September 26, 2022

Honourable Marco Mendicino
Minister of Public Safety
House of Commons
Ottawa, Ontario, K1A 0A6

VIA EMAIL: marco.mendicino@parl.gc.ca

Regarding: Our Meeting and Bill C-20

Dear Honourable Marco Mendicino,

I am writing to thank you for taking time to meet with Battered Women's Support Services (BWSS) and our colleagues on September 6 to discuss gender-based violence and public safety.

As you learnt about us, we provide education, advocacy, and support services to assist women experiencing gender-based violence. We work from a feminist perspective to eliminate gender-based violence and to promote gender equity. For over forty years, BWSS has been working towards ending violence against women, girls, femmes, LGBTQ2S, and non-binary survivors of violence. Our specialized services team provides crisis intervention, legal advocacy, counselling and support, and information services to meet survivors' individual complex needs. We also provide violence prevention and intervention services, as well as community education and training programs to end gender-based violence.

We are writing today to follow up on our conversation regarding Canada Border Services Agency (CBSA) oversight and Bill C-20, *the Public Complaints and Review Commission Act*.

We are pleased that there is growing momentum for independent, civilian-led oversight of CBSA. CBSA is responsible for immigration enforcement, and the agency has sweeping police powers – including the powers of arrest, detention, and search and seizure – but it remains the only major law enforcement agency in the country with no independent civilian oversight.

BWSS is one of the few anti-violence organizations in B.C. who actively supports and advocates for immigrant, migrant, and refugee women and gender diverse survivors, especially those who have precarious or no immigration status in Canada. For these survivors, even a brief negative interaction with CBSA officers — who are often armed — can have devastating impacts on their mental health, well being, and safety planning, as well as their ability to recover from post-traumatic stress. During the two-year period between January 2020 and January 2022, CBSA itself reported [315 founded cases of officer misconduct](#), including incredibly troubling incidents of sexual harassment. Prior to the pandemic, there were over [1,200 complaints against CBSA officers](#) between January 2016 and mid-2018, with

at least 64 complaints of sexual assault and harassment. For refugee survivors fleeing gender-based persecution and/or violence, this serious gendered, racist misconduct is exacerbated by the deep dangers of already fleeing violence.

We also note that this official number of misconduct complaints is a significant under-estimate. Given the very real fears of potential repercussion by CBSA in their immigration and refugee cases, people without citizenship in Canada are very afraid to report CBSA officers to CBSA itself. This results in a low complaint rate. [Lucy Granados](#), for example, was violently deported to Guatemala after CBSA used excessive force against her. This caused a medically documented traumatic injury, with serious nerve damage in her cervical spine that caused paralysis in her arm. She never filed a complaint. Also, when CBSA investigates itself, it finds most complaints to be “unfounded.” Around [85 percent of complaints against CBSA](#) made between January 2016 and March 2021 were deemed “unfounded” or “undetermined.”

One of the most sweeping powers of CBSA is the power to detain people in detention centers, whether in provincial jails or federal immigration holding centers. [Human Rights Watch writes](#) “CBSA’s unchecked exercise of its broad mandate and enforcement powers has repeatedly resulted in human rights violations in the context of immigration detention.” In 2014, BWSS appeared as a [witness at a Coroner’s inquest into the death of Mexican migrant Lucia Vega Jimenez](#). The devastating situation for Jimenez, who strangled herself in December 2013 while detained by CBSA at Vancouver International Airport awaiting deportation to Mexico, was examined by a Coroner’s inquest after immense community pressure. Rosa Elena Arteaga, the Director of Direct Service and Clinical Practice for BWSS, appeared as a witness for the Coroner and made important recommendations to CBSA to stop prioritizing detention for survivors, and, instead, that CBSA implement and follow procedures so that survivors can access legal and safety options. As you know, it was the tragic death of Jimenez in CBSA custody that resulted in nation-wide calls for a rehaul of CBSA detention and calls for independent oversight of CBSA.

Given this impact of CBSA policies and practices on racialized immigrant, migrant, and refugee survivors, we strongly echo the urgent calls for independent, civilian-led oversight of CBSA.

However, we remain deeply concerned about some serious shortcomings in Bill C-20, the Public Complaints and Review Commission Act. Our three key concerns are shared in greater detail below.

In particular, the new Public Complaints and Review Commission (PCRC) would largely replicate the existing process and model of the Civilian Review and Complaints Commission (CRCC) for the RCMP. Under this process, as per Sec 37(1) of Bill C-20, the majority of complaints will still be investigated by the RCMP or CBSA.

At present, [according to the CRCC](#), “When a complaint is made, typically the RCMP carries out the initial investigation into the complaint and reports back to the complainant. If a complainant is not satisfied with the RCMP’s handling of their complaint, they may request that the Commission conduct a review of the RCMP’s investigation.” [Legal expert Tom Engel says](#) “It’s actually a disgraceful process. They keep saying they have independent oversight, which is completely false.” [Bill C-20 proposes to maintain the exact same model](#): “In most cases, the PCRC would refer complaints to the RCMP and the CBSA for initial investigation. If an individual was not satisfied with the RCMP or CBSA’s handling of a complaint, they could ask the PCRC to review it.” We are deeply concerned that the PCRC would still be a model of law enforcement (CBSA and RCMP) [investigating itself](#), with an independent body largely receiving and facilitating — but not actually investigating — complaints. To emphasize, this is not an independent review of the complaint itself. This is undoubtedly a broken framework.

Our two additional concerns are as follows:

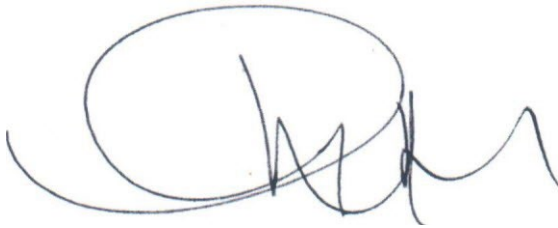
- CBSA (and RCMP) will not be required to implement any recommendations that are made by the Public Complaints and Review Commission, thus making any public interest, Chairperson-initiated investigation under the Act effectively toothless.

- The CBSA often deals with extremely vulnerable individuals, especially survivors of gender-based persecution and/or violence who are afraid of negative repercussions, such as deportation, if they file a complaint. Third parties, such as civil society and public interest organizations, should be granted standing to make complaints. These organizations may also be able to better identify recurring or systemic patterns.

What we do know of the misconduct of CBSA officers is deeply disturbing and haunting. Immigrant, migrant, and refugee survivors of gender-based violence deserve real safety and accountability. This must mean truly independent, civilian-led, and effective CBSA oversight, with effective accountability mechanisms that are not toothless. [We echo national refugee organizations and legal experts](#), who previously wrote to the federal government that “The government must ensure that the accountability mechanism for CBSA is adequately funded and effective, to avoid reproducing the kinds of deficiencies, capacity issues and delays evident in other federal law enforcement accountability bodies.” We must get this right.

Thank you for your consideration of this matter and I would be pleased to discuss these issues further. If you or your staff require additional information, I can be reached at by phone at 604-808-0507 or by email at director@bwss.org.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Angela Marie MacDougall', with a large circular flourish at the beginning.

Angela Marie MacDougall
Executive Director, BWSS Battered Women's Support Services Association