“THEY JUST LOOKED AT ME LIKE I DIDN’T MATTER” – THE EXPERIENCES OF ASSAULTED LGBTQ+ WOMEN WITH THE POLICE

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Abstract

Research reveals that LGBTQ+ women are subjected to high rates of sexual and gender-based violence (SGBV). It is widely known that most victim-survivors of SGBV do not report it to the police and when they do, they usually have negative experiences, often due to the influence of myths and stereotypes on police officers' attitudes and conduct. LGBTQ+ communities are known to be subjected to a multitude of myths and stereotypes that perpetuate violence against them, particularly in the case of highly marginalized subgroups (e.g., trans women, bisexual women). Little attention has been paid, particularly in the Canadian context, to the role of myths and stereotypes in LGBTQ+ women's decision-making processes about whether to report SGBV to the police and experiences when it is reported. This thesis aims to address this gap and work towards practical solutions, through qualitative interviews with the frontline experts who support LGBTQ+ survivors.

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Introduction

It is known that very few victim-survivors of sexual assault report it to the police, who elect not to press charges in approximately 67% of those few reported cases.[1] Similarly, most intimate partner violence (IPV) goes unreported and when it is reported, conviction rates are low.[2] LGBTQ+ women are subjected to some of the highest rates of sexual and gender-based violence (SGBV),[3] and their relationship with law enforcement is known to be very complicated through no fault of their own. The focus of this thesis is LGBTQ+ women's experiences with reporting SGBV to the police and reasons for not doing so, with emphasis on the role of myths and stereotypes. This first section of my thesis begins with providing the background for the research and then presents the problem statement. Next, I provide the context of the positionality of the researcher. Finally, there is an overview of the structure and contents of the thesis.

A. Background to the Study and Research Question

My literature review revealed that there is a great deal of scholarship on sexual and gender-based violence (SGBV),[4] the policing of SGBV, survivors' experiences with the legal system, myths and stereotypes related to SGBV, anti-LGBTQ+ myths and stereotypes, and relations between the LGBTQ+ community and the police (especially in Toronto, and especially in the context of events

[1] Pamela Palmater, "Shining light on the dark places: Addressing police racism and sexualized violence against Indigenous women and girls in the national inquiry" (2016) 28:2 CJWL 253.
[2] Caroline Akers & Catherine Kaukinen, "The police reporting behavior of intimate partner violence victims" (2009) 24 JOFV 159; Steve Yeong & Suzanne Poynton, "Can Pre-Recorded Evidence Raise Conviction Rates in Cases of Domestic Violence?" (2019) Australian Research Council, Working Paper No. 2019-18, online: <https://core.ac.uk/download/pdf/227722066.pdf>.
[3] Canadian Women's Foundation & Wisdom2Action, *Queering Gender-Based Violence Prevention & Response in Canada*, (Toronto: Canadian Women's Foundation & Wisdom2Action, 2022); Kate Poehlmann, *Not Our Problem: The Canadian Response to Violence Against Queer Women* (M.A., Queen's University, 2022) [unpublished].
[4] While sexual and gender-based violence (SGBV) encompasses far more than sexual assault and intimate partner violence (IPV) and it is not only women who are victims, here I use it or violence against women (VAW) as a shorthand/umbrella term for sexual assault and IPV.

such as the Bruce McArthur serial homicides).[5] There is slowly beginning to be more scholarship about SGBV against LGBTQ+ women and LGBTQ+ survivors' experiences attempting to access services through the SGBV sector.[6] There is, however, limited Canadian scholarship on LGBTQ+ survivors' experiences with the criminal law system, the policing of SGBV against LGBTQ+ women, the intersection of SGBV myths and stereotypes with anti-LGBTQ+ ones, or the role of anti-LGBTQ+ myths and stereotypes in survivors' experiences with the police or process of making the decision to report or not report. It is this gap in the scholarship that led me to my central research question: how might myths and stereotypes affect the experiences of LGBTQ+ women who are survivors of sexual assault and IPV that has been reported to the police in Toronto, as well as their reasons for choosing not to turn to the police for assistance? To begin answering this question, I interviewed five service providers in Toronto who had experience supporting LGBTQ+ women to pursue justice, either through reporting SGBV to the police or making the decision not to do so.

B. Problem Statement and Rationale

While there are many areas of the legal system that are relevant to SGBV and LBGTQ+ women's survivorship, my research focuses on law enforcement for the following reasons. Police officers are a survivor's first, and usually only, point of contact with the criminal law system.[7] It is known that very few cases of SGBV are reported to the police and of the ones that are, most cases of

[5] The impact of the McArthur serial homicides is discussed more fully, *infra*, page 494.
[6] E.g., Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[7] Iris Fairley-Beam, PowerPoint: *Questioning Survivors of Sexual Assault: Overcoming Implicit Bias* (Victoria: University of Victoria, 2019); Holly Johnson, "Why doesn't she just report it? Apprehensions and contradictions for women who report sexual violence to the police" (2017) 29:1 CJWL 36.

sexual assault and many cases of IPV do not result in charges or prosecution.[8] Fear of the police themselves and/or how they may react is known to be a deterrent for reporting SGBV[9] – especially for highly marginalized groups that are subjected to sexualized stereotypes, such as women who are transgender, sex workers, and/or Indigenous.[10]

My research question evolved over time. I had planned to research LGBTQ+ woman survivors' experiences with the Canadian criminal law system as a whole and see whether I could identify gaps in policy, legislation, or training that could help make the system more trauma-informed for these particular survivors. Its final iteration came from a realization that while it seems relatively safe to presume that the system is generally not trauma-informed for LGBTQ+ women or any other survivors, as noted above, there is currently a deficit of Canadian scholarship that focuses on LGBTQ+ women's experiences with the criminal law system– in other words, it is difficult to determine what needs to be fixed without first developing a more complete, empirically-based picture of the actual experiences in question.

C. Positionality of the Researcher

It seems fitting to include a positionality statement. I have been out and proud as a bisexual woman for many years. I hold considerable privilege as a well-educated able-bodied cis white Canadian woman from an upper-middle class background. My interest in the issue of LGBTQ+ women's experiences with the criminal law system and the role of myths and stereotypes can be traced to

[8] Jodie Murphy-Oikonen et al, "Unfounded sexual assault: Women's experiences of not being believed by the police" (2022) 37 J Interpers Violence 11; Myrna Dawson & Tina Hotton, "Police charging practices for incidents of intimate partner violence in Canada" (2014) 51:5 JRCD 655; Nicole MacInnis, *Sexual assault reporting rates in Canada: an exploration of factors involved in victims reporting decisions* (Master's Thesis, University of Manitoba, 2017)
[9] MacInnis, *supra* note 8.
[10] E.g., Palmater, *supra* note 1; Dean Spade, "Their Laws Will Never Make Us Safer" in Ann Braithwaite & Catherine M Orr, *Everyday Women's and Gender Studies*, (London: Routledge, 2016) 156; J James et al, *TRANSforming Justice Summary Report One: Legal Problems Facing Trans People in Ontario*, (Toronto: TRANSforming JUSTICE: Trans Legal Needs Assessment Ontario, 2018); Tara Lyons et al, "Negotiating violence in the context of transphobia and criminalization: The experiences of trans sex workers in Vancouver, Canada" (2017) 27:2 Qual Health Res 182.

my personal experiences. Since childhood, I have been very aware that people like me are some of the most victimized people in the world and that, largely due to the influence of myths and stereotypes, I am marked for violence by merely existing. I discovered this upon Googling the community I had just begun to understand I was part of and coming across articles on violent victimization of queer people. The more I read about biphobia and biphobic stereotypes, the clearer it became to me that these stereotypes were one of the main causes of the violence, though there was very little research to back this at the time. Since then, there has been more research, all of which has supported a causal link between biphobic and bimisogynistic stereotypes and violence against women who are bisexual or perceived to be bisexual.[11] I have been struck by the extent to which violence against women resources and research have clearly not been engineered with people like me in mind – not only do they presume a male abuser and the presence of abuse tactics that do not necessarily translate outside of heterosexual relationships, they also fail to recognize or consider forms of abuse that are specific to LGBTQ+ people and their relationships.[12] To a person without the lived experience of being LGBTQ+, it is likely not obvious why it would be important for IPV services to account for queerness or transness or why it is not sufficient to merely state that LGBTQ+ people are welcome or that abuse also occurs in LGBTQ+ relationships. However, the context of queerness and transness not only fundamentally shapes and defines what happens in a person's life but also how exactly they experience it and react too it. For example, as will be expanded upon, abuse – as well as myths and stereotypes - can take unique forms when the target is an LGBTQ+ woman.

[11] E.g., Laurel B Watson et al, ""I was a game or a fetish object": Diverse bisexual women's sexual assault experiences and effects on bisexual identity" 21:2 (2021) J Bisex 225.
[12] Canadian Women's Foundation & Wisdom2Action, *supra* note 3.

D. Language and Definitions

While many variations of the acronym exist and there is no consensus on it at the time of writing, I use "LGBTQ+" as shorthand for anyone who does not identify as both strictly cisgender and strictly heterosexual – which can and does encompass far more identities and descriptors than lesbian, gay, bisexual, transgender, and queer. This is mainly because while "LGBTQ" without the plus symbol seems to be the most widely recognized and least controversial acronym, I want to also honour and include those who are part of the community but may not feel seen and included by that acronym. I struggled with whether to explicitly include Two-Spirit ("2S") in the acronym, as many variations do. There are a few reasons why I ultimately opted not to. First, Two-Spirit is not "Pan-Indian" but a highly cultural term that can mean very different things depending on the individual and the Indigenous nation they belong to.[13] Indigenous cultures, which are far from a monolith, have traditionally had ideas about gender and sexuality that tend to be quite different from Western colonial ones.[14] Some Two-Spirit folks define it as something that is very different from, and not necessarily compatible with, Western ideas of queerness and transness.[15] People sometimes treat Two-Spirit as shorthand for describing someone who is both Indigenous and what Western thinking on gender and sexuality would consider to be either queer or trans, but that is not completely accurate.[16] A significant number of Indigenous people explicitly identify as both Two-Spirit and as queer or trans, or as one but not the other,[17] which to me serves as further evidence that it may not be proper to categorize Two-Spirit under the LGBTQ+ umbrella. I have also

[13] Jenny L Davis, "Refusing (mis) recognition: navigating multiple marginalization in the US two spirit movement" (2019) 12:1 RIAS 65.
[14] E.g., Davis, *Ibid*; Meghan Walley, "Exploring potential archaeological expressions of nonbinary gender in pre-contact Inuit contexts" 42:1 (2018) EIS 269.
[15] Davis, *supra* note 13.
[16] *Ibid.*
[17] *Ibid.*

encountered discourse around concerns that doing so may be a form of Pan-Indianism, misrecognition, or a colonial whitewashing of Indigenous gender and sexuality concepts that attempts to force them to fit into Western ideas of gender and sexuality that are not culturally relevant.[18] Because Two-Spirit is clearly distinct from the concepts of gender identity and sexual orientation that are most familiar to non-Indigenous scholars, it seems fair to say that if my research is about queer and trans women, it is not necessarily about Two-Spirit people (though by no means does it necessarily exclude them, either). My research process also lacked a focus on Two-Spirit identities, experiences of violence, and what myths and stereotypes there may be; for example, the literature I read on myths and stereotypes did not discuss any specific to Two-Spirit people and my interview questions did not specifically ask about the experiences of Two-Spirit survivors with the police, though this did briefly come up. I have noticed that this is often the case with work that does use an acronym that includes 2S: there is no meaningful discussion of Two-Spirit identities, issues specific to that community, and sometimes not even any other mention of Indigenous peoples. This could arguably be considered mere window dressing or "footnote intersectionality," and Two-Spirit and Indigenous peoples deserve so much more than footnotes and inclusive paint jobs that lack meaningful work or consultation. In other words, I was concerned that putting a 2S in the acronym might not accurately represent my research and might be a form of misrecognition, as Davis[19] puts it. Given what is known about the well-founded fear and mistrust of the police among both Indigenous peoples and non-Indigenous LGBTQ+ people,[20] I hypothesized that I would hear extremely few (if any) stories in my interviews involving survivors who are Two-Spirit or Indigenous engaging with the police, and I was correct. In short: the acronym as used by me is

[18] *Ibid.*
[19] *Ibid.*
[20] Palmater, *supra* note 1; Stephen S Owen et al, "Perceptions of the police by LGBT communities" 43 (2018) Am J Crim Just 668.

intended to include Two-Spirit people who feel that it applies to them, while also giving due respect to those who may not. I acknowledge that this acronym nonetheless has flaws, and that human sexuality and gender identity are infinitely more complex and diverse than it can do justice to.

Regarding justice, I have chosen to use the term "criminal law system" rather than "criminal justice system." This is because victim-survivors rarely experience the system as any form of justice – if anything, it tends to be a site of revictimization and re-traumatization, which is the opposite of justice.[21] Even where it leads to consequences (i.e., a conviction), the harm done to victims and their loved ones through the system does not go away. For example, while it is a rightful and just outcome that the man who killed Cindy Gladue is now in prison for it,[22] I cannot call it justice or credit the system for any sense of justice when that is the same system that rather literally dehumanized and objectified Ms. Gladue even in death.[23] There will be more information later about Ms. Gladue's homicide and how it is connected to my research area.

I use "perpetrator" or "abuser" for those who have committed SGBV. I find myself tending towards "victim" when discussing women who have been subjected to SGBV, though I also sometimes use survivor or victim-survivor, depending on what seems most appropriate in the context. Though "complainant" is the term normally used in the criminal law system, it is not appropriate in the context of my research – the criminal law system uses that language because the emphasis is not on believing and validating the victim-survivor, but on the requirement to presume that the perpetrator is innocent.[24] Though anyone of any gender can be a victim-survivor, this

[21] Maria Carolina Marinho Ribeiro, *Reimagining sexual assault law in Canada: a feminist, trauma-informed approach to restorative justice* (PhD Dissertation, University of Victoria, 2021).
[22] Tatiana Elektra Baboulas, "What if They Called Her Ms. Gladue?" (2021) 1:2 Voices of Forensic Science 105.
[23] *Ibid*.
[24] See: *R v Seaboyer; R v Gayme*, [1991] 2 SCR 577 where at paras 647-49 L'Heureux-Dubé J explains that, "[a]n introductory note of more than passing importance is the use of terminology in these reasons. A woman who has been sexually assaulted may be referred to, in reported decisions, as the "prosecutrix", the "alleged victim" or the

research is about women, so that is whom I am referring to in this context. I reject the idea that the label “victim” is intrinsically unfeminist, disempowering, or otherwise inferior to other language. Plenty of people who have been subjected to SGBV dislike the term “survivor” and/or prefer “victim”[25] and to me, supporting them means respecting the language they choose for themselves rather than employing toxic positivity tactics to take one more choice away from them, merely because the word “victim” is uncomfortable and harsh. For some, I surmise that pushing the word “survivor” on a self-described victim may be motivated by a selfish desire to minimize the gravity of what has happened and avoid fully confronting the undeniable truth that another person has been physically or sexually brutalized, often by someone they knew and loved, and that there are many people who are capable of such acts. Those are indeed uncomfortable and harsh thoughts and emotions to have to sit with – and to put it bluntly, surviving SGBV and its aftermath is also uncomfortable and harsh, and avoidance of the realities of SGBV ultimately only serves perpetrators and those who voluntarily enable them. The use of the word “survivor” as an umbrella term for all those who have been subjected to SGBV is also inaccurate, particularly in an era where femicide and intimate femicide[26] are both numerically increasing and being given more attention,

"complainant". The use of the term prosecutrix stems from the historical fact that the victim of the assault was responsible for bringing a civil suit in order that her injury could be redressed. Presently, it is the state that initiates and directs the prosecution of such offences; nevertheless this phrase may still be employed. As the phrase is clearly archaic and has pejorative connotations, I will avoid its usage. A more difficult choice presents itself regarding the characterization of a sexually assaulted woman as "complainant" or "alleged victim". In my view these descriptions are also problematic, the former in its harshness (especially in this context) and the latter in its presumption that the woman has nothing to complain of. The latter description is, however, accurate in that, in law, one cannot be the victim of the assaultive conduct of an accused until the accused has been found guilty beyond a reasonable doubt. In this sense, the phrase is accurate (excepting of course those cases where an assault occurred but the accused successfully pleads the defence of honest but mistaken belief in consent). Due, however, to its over inclusiveness and presumptive character, I will avoid using the term "alleged victim" in these reasons.”

[25] E.g., Jane Doe, *The Story of Jane Doe: A Book About Rape* (Toronto: Vintage Canada, 2003); Shalini Mital & Tushar Singh, “Victim or survivor: Perceived identity” (2018) 9:1 Psyber News 48.

[26] One woman or girl is killed in Canada every 48 hours. Femicide in Canada increased by 27% between 2019 and 2022. Of the 150 women and girls killed by male accused in 2022, in the cases where the relationship was known (59% of the 150), 58% of victims were killed by a current or former intimate partner. See: Myrna Dawson et al, *#CallItFemicide: Understanding sex/gender-related killings of women and girls in Canada, 2018-2022*, (Guelph: Canadian Femicide Observatory for Justice and Accountability, 2023) at 8 & 29.

and considering that "survivor" seems to imply that the abuse is past tense. When discussing people who belong to more than one marginalized community (e.g., being both queer and racialized), I tend to prefer the language of "multiply marginalized" over "disadvantaged" for two main reasons: calling someone disadvantaged can come across as condescending and pitying, and the disadvantage comes not from the person's identity but from power structures and systemic discrimination. Lastly, I prefer "subjected to" over "experienced" when discussing violence and abuse, to emphasize that these are not things people participate in or choose but things that happen to them.

E. Structure, Methods, and Overview

My literature review (Chapter One) follows my introduction. There are numerous bodies of literature that intersect with my research and doing justice to all of them would require far more time than is allotted within any Master's degree. Here I examine the literature regarding sexual and gender-based violence, violence against LGBTQ+ women, myths and stereotypes, responses to SGBV against LGBTQ+ women, and policing. There are so many "petals" intertwined in this area of research that I doubt it would be possible to produce a fully comprehensive list of them.[27]

The second chapter of this thesis is the theoretical framework that my research has been guided by. I use an intersectional, feminist, trauma-informed framework, which I believe to be essential to understanding my research and the reasons why it is necessary.

Following the overview of my theoretical framework is the third chapter, my methodology. As briefly noted earlier, my main research method consists of qualitative semi-structured interviews.

[27] See *infra* at page 13, where the petal metaphor is discussed in more detail.

Next, I delve into the empirical portion of my study (Chapter Four: Interviews). I conducted a total of five qualitative interviews with service providers who had experience supporting LGBTQ+ women who are survivors of acts of SGBV that have the potential to result in criminal charges, regardless of whether the act was ever brought to the attention of law enforcement or whether any such charges were laid. In this chapter I provide a summary of what each interviewee said, with a discussion of some specific standout points, their implications, and connections to both literature and other interviews.

My thesis concludes with Chapter Five: "Key Themes and Conclusion", which highlights my key findings and discusses both what needs to change in policing and directions for future research to take. What I ultimately learned is that myths and stereotypes play a very important role, especially in LGBTQ+ women's decisions not to report SGBV to the police, and other important factors include racism, immigration status, insufficient training and education on the part of the police, and survivors having heard stories from others of negative experiences with the police. The role of myths and stereotypes in LGBTQ+ women's decision-making is primarily that they, along with those additional factors, cause the victim-survivor to be concerned about poor treatment from the police, directed at herself and potentially her partner – and when SGBV is reported to the police, that largely comes true.

Lack of education among police officers is a key concern that was brought up by most of my interview participants. Specifically, their observations of the experiences of LGBTQ+ women when reporting SGBV to the police indicate that the police generally lack sufficient education in either LGBTQ+ topics or SGBV to provide adequate assistance to victims, let alone those whose situations involve the intersection of both. My interview data shows that LGBTQ+ survivors are not taken seriously, and they sometimes have to input additional emotional labour into educating

the police on their identities and the context of the violence they are subjected to. This is not acceptable: retelling a traumatic story is already emotionally laborious, reporting SGBV is most often an additional trauma in itself[28] and it simply is not proper for this responsibility to fall on the survivor rather than the institutions, training policies, and laws that are meant to address it.

Intersectionality-based concerns and community factors were also identified in my interviews as both major barriers to reporting SGBV to the police as an LGBTQ+ woman and contributing factors to negative experiences when it is reported. Put differently, intersectional feminist theory uncovers how multiple types of oppression overlap in the case of LGBTQ+ survivors' engagement and non-engagement with the police. Overall, I came across very few examples of LGBTQ+ survivors who had positive experiences with the police, and even those who did not have overly negative ones still reported a worrying amount of insensitivity, microaggressions, and other evidence of poor training at best and bigotry or apathy at worst. My findings show that the intersections of queerness and transness with race, disability, immigration status, and religion play an enormous role in experiences of reporting and decisions about whether to report at all. In terms of community factors, LGBTQ+ women tend to be very aware of policing's history of failing and betraying the LGBTQ+ community, often including friends of theirs. This effect is amplified when the survivor is also Black, Indigenous, a sex worker, or belongs to any other marginalized community known to face historical and ongoing systemic abuse from the police.

My research combines original qualitative data with qualitative and quantitative data from the literature. I weave in stories and narratives throughout that serve as examples of the types of

[28] Doe, *supra* note 25.

situations that my research is concerned about, provide context, and humanize the people I am researching.

One thing that has been made especially clear by my research is that there is a desperate need for more research into several topics that my thesis covers, including more research on SGBV against LGBTQ+ women in general. In undertaking this work, I had hoped, perhaps naively, that I might find *the* legal or policy solution to this very complex issue. I did not, and I would be suspicious of anyone who claimed to have done so, let alone in the span of a Master's program. In all the hours I have spent on my research, I have barely scratched the surface and there remains a lifetime's worth of work to be done. If you only read one sentence of this thesis, let it be this one: this work is so much bigger than me and must not end with me.

Chapter 1 - Literature Review

My research's focus is on LGBTQ+ survivors' experiences with the police in the context of reporting SGBV, as well as their reasons for choosing not to report SGBV, with an emphasis on how myths and stereotypes may affect both. I had Luker's[29] daisy metaphor in mind in undertaking my literature review. Luker compares literature reviews to petals on a daisy, with each "petal" representing a connected area of literature.[30] My main "petals" (the sub-sections below) are sexual and gender-based violence, violence against LGBTQ+ women, myths and stereotypes, responses to SGBV against LGBTQ+ women, and policing. Again, this literature, along with other stories and examples, is woven in throughout my thesis to add context and humanize the victim-survivors.

This thesis identifies a gap in the existing Canadian scholarship with respect to how LGBTQ+ victim-survivors of SGBV engage with the police. It begins to fill that gap, including with original interview data. The data offers new insights about the expectations and experiences of LGBTQ+ women who are victims of SGBV in their interactions with police. It serves to illustrate and corroborate some prior scholarship about policing, SGBV, and myths and stereotypes about LGBTQ+ women, while identifying important connections among these phenomena. Many of the lessons gleaned from the original data bear on contemporary Canadian policing in general, while others are more localized and expose issues and concerns that are local to the Toronto context. The gap I have identified and worked towards addressing matters because of the prevalence of violence against LGBTQ+ women and the implications of my findings for the policing of SGBV, policing in general, and authorities who may find themselves in the position of needing to respond to SGBV-related concerns. It has the potential to inform the work of service

[29] Kristin Luker, *Salsa dancing into the social sciences* (Cambridge: Harvard University Press, 2009).
[30] *Ibid*.

providers, educators, and law- and policymakers, ultimately leading to a more trauma-informed, more inclusive, and less violent world.

A. Sexual and Gender-Based Violence (SGBV)

In this context, sexual and gender-based violence (SGBV) encompasses sexual assault and IPV and while women are not its only victims, they constitute by far the majority of victims and are my focus here.

The *Criminal Code* defines sexual assault as non-consensual sexual contact. This encompasses a wide range of acts, varying widely in severity. Under Canadian criminal law, consent is not implied but must be expressed through words or conduct. The person giving consent must have the capacity to do so; capacity may not be present for various reasons, including intoxication. Even if consent is expressed, it is not legally valid if it was obtained through, inter alia, fraud, force, threats, or an abuse of authority.[31]

For the purposes of my thesis, IPV refers to abuse that is perpetrated by one intimate partner against another and would be considered a criminal offence in Canada. This mainly refers to physical and sexual violence, but can also encompass some forms of emotional abuse, such as blackmail or uttering threats of violence. IPV was once thought to entail a distinct "cycle of abuse" characterized by three linear phases: a tension-building phase where the abuser uses anger or jealousy to intimidate the victim and keep her feeling like she is "walking on eggshells," an explosive incident in which the abuser "snaps" and engages in severe physical violence towards the victim, and then a honeymoon phase where they do things to convince her not to leave or draw

[31] For a general discussion of the elements of sexual assault, see especially *R v GF* 2021 SCC 20. The key *Criminal Code* provisions are: sections 271 (defining sexual assault); 265 (defining assault in general); 265(3); and 273.1.

her back in.[32] While this may hold true in some abusive relationships, it is far from universal and more recent literature has heavily criticized the presumption that all abusive relationships follow this pattern, instead emphasizing that "battering is a constant state and not a cycle."[33]

Many violent relationships entail a specific power dynamic for which Stark[34] coined the term "coercive control."[35] Coercive control can be difficult to define and measure[36] because it is a pattern of behaviour that is defined largely by the victim's subjective experience of fear, subordination, and loss of autonomy, and not necessarily any specific tangible thing.[37] The definition of coercive control is contested, but it generally requires a pattern of behaviour in which one partner exerts power and control over the other, often (but not necessarily) increasing over time and inducing feelings of fear and distress within the victim.[38] There is no one way for a victim-survivor to feel, look or behave, and indeed, requiring her to express or consciously feel fear may result in the abuse being rendered invisible.[39] Cross et al[40] identifies five themes commonly present in coercive control, though there is no requirement for all (especially the first) to be present: one, physical violence; two, feeling afraid or unsafe with the abuser and/or within the home (sometimes even when the abuser is not physically present); three, threats of violence (towards the victim or someone else) or acts that would cause serious emotional harm (e.g., threatening to have the victim

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[32] Lenore E Walker, *The Battered Woman* (New York City: William Morrow Paperbacks, 1979).This cyclical understanding of IPV has been very influential in jurisprudence. See: *R v Lavallee,* [1990] 1 SCR 852.
[33] Trupti Panchal, "Working with Women Facing Spouse Abuse" (2009) 70:2 IJSW 323 at 333.
[34] Evan Stark, *Coercive Control*, 1st ed (Oxford: Oxford University Press, 2007).
[35] Some behaviours that fall under coercive control are already illegal in Canada, but many, particularly emotionally abusive behaviours, are not. At the time of writing, there is a bill before the House of Commons that proposes criminalizing coercive control. See: Bill 332: *An Act to amend the Criminal Code* (coercive control of intimate partner), 1st Sess 44th Parl 2024 (passed by the House of Commons, 12 June 2024 and began second reading in the Senate on 17 September 2024).
[36] Evan Stark & Marianne Hester, "Coercive control: Update and review" (2019) 25:1 VAWOFG 81.
[37] Pamela C Cross et al, *What You Don't Know Can Hurt You: The importance of family violence screening tools for family law practitioners* (Ottawa: Department of Justice Canada, 2018); Stark & Hester, *supra* note 36.
[38] Kevin L Hamberger, Sadie E Larsen & Amy Lehrner, "Coercive control in intimate partner violence" (2017) 37 Aggress Violent Behav 1.
[39] Stark & Hester, *supra* note 36.
[40] Cross et al, *supra* note 37.

deported or take their children away); four, sexual violence; and five, emotional abuse. Isolation is commonly a component of coercive control as well and can be incredibly subtle.[41] Isolation works to the abuser's advantage by driving a wedge between the victim and their actual or potential support system; over time, the victim becomes emotionally dependent on the abuser.[42] The victim may come to believe that the abuser needs her, is the only person who understands her or loves her, or that the world outside of the relationship is completely unsafe and she needs the abuser's protection.[43] The cruel irony is that it is the abusive relationship that is unsafe, not the rest of the world or the life she would have without her partner. Coercive control requires that our attention shift from discrete incidents such as an assault, to the cumulative effects of behaviours over time, each of which on its own may seem innocuous but together produce devastating consequences.

Sexual assault and IPV are highly gendered.[44] Victims of it are nearly always women and trans people, and there are clear gender dynamics at play.[45] SGBV defines women and trans people's lives in a way that is difficult to adequately explain to anyone who has not lived this reality. What makes SGBV gendered, other than the statistics, is the highly political and cultural gendered power dynamics behind it.[46]

[41] Christina Policastro & Mary A Finn, "Coercive control in intimate relationships: Differences across age and sex" (2021) 36:3-4 J Interpers Violence 1520.
[42] TK Logan, Kellie Lynch & Robert Walker, "Exploring control, threats, violence and help-seeking among women held at gunpoint by abusive partners" (2022) 37:1 JOFV 59.
[43] Courtney McDonald, "The social context of woman-to-woman intimate partner abuse (WWIPA)" (2012) 27 JOFV 635.
[44] Pamela Cross, *It Shouldn't Be This Hard* (Oshawa: Luke's Place, 2012).
[45] Cristine Rotenberg, "Police-reported sexual assaults in Canada, 2009 to 2014: A statistical profile" (2017) Juristat: Canadian Centre for Justice Statistics 1; Jodie Murphy-Oikonen and Rachel Egan, "Sexual and gender minorities: Reporting sexual assault to the police" (2022) 69:5 J Homosex 773.
[46] Poehlmann, *supra* note 3.

B. Violence Against LGBTQ+ Women

LGBTQ+ women are some of the most abused people in the world.[47] Violence against LGBTQ+ women occupies a unique, overlapping space of both VAW and anti-LGBTQ+ violence.[48] Though same-gender IPV is thought to be as common as heterosexual IPV, it accounts for just 3% of reported cases of IPV in Canada.[49] Whitehead et al's[50] work suggests this may be because of "heteronormative understandings of IPV, perceptions of homophobic responses by police, and fears about revealing their sexuality"[51] and that when same-gender IPV is reported, the victim-survivor may opt to stay closeted, e.g., by pretending that the perpetrator is their roommate rather than their partner, making the crime a case of simple assault rather than IPV. There may also be issues in data collection due to IPV research traditionally using a framework that very much assumes a male perpetrator and is unable to explain violence perpetrated by women.[52] Notably, while Whitehead et al's[53] work suggests that survivors, service providers, and police officers may all have difficulty identifying LGBTQ+ IPV as abuse due to heteronormative frameworks that assume all victim-survivors are women and all abusers are men, the tendency of service providers and police officers to struggle with identification of same-gender abuse featured prominently in my interviews, but the former less so. This makes sense as it seems intuitive to me that people who are in denial that what they are being, or have been, subjected to is abuse would be rather unlikely to call the police, tell the police that abuse has occurred if someone else calls them, or access SGBV services.

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[47] E.g., Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[48] Poehlmann, *supra* note 3.
[49] Jessica Whitehead, Myrna Dawson & Tina Hotton, "Same-sex intimate partner violence in Canada: Prevalence, characteristics, and types of incidents reported to police services" (2021) 36:23-24 J Interpers Violence 10959.
[50] *Ibid*.
[51] *Ibid* at 10978.
[52] *Ibid*.
[53] *Ibid*.

1. Anti-LGBTQ+ Violence

Anti-LGBTQ+ violence is a widespread problem worldwide and has been for a very long time.[54] Bisexual women are known to experience astounding rates of violence, with the majority having been subjected to at least one form of sexual violence, IPV and/or stalking.[55] Biphobic stereotypes have an evident, strong link to violence against bisexual women – for example, the stereotype that we are hypersexual has been known to lead people to assume that a bisexual identity is consent and "justify" sexually assaulting us on that basis.[56] Transgender individuals are subjected to extremely high rates of all forms of violence.[57] This is largely due to transphobic political discourse, which has been increasing in recent years, namely in the UK, USA, and Canada.[58] Despite the persistent myth of trans people as violent predators who go into public washrooms to find victims, statistics show that it is trans people who are assaulted in public washrooms, not cis women.[59] The prevalence of violence and abuse by cis men suggests there is also no need for abusers to pretend to be trans to gain access to victims, and it does not make sense that they would choose the option that creates a much greater risk to their own safety.[60] The history of homophobic violence is long and well-documented. In the book *Pink Blood*, some of the vast history of anti-

[54] Poehlmann, *supra* note 3.
[55] Mikel L Walters, Matthew J Breiding & Jieru Chen, *The national intimate partner and sexual violence survey: 2010 findings on victimization by sexual orientation* (Atlanta: Centers for Disease Control, 2013).
[56] Reina Gattuso, "Why Bisexual Women Are at a Higher Risk for Violence," Teen Vogue (6 December 2019), online: <https://www.teenvogue.com/story/why-bisexual-women-are-at-a-higher-risk-for-violence>; Watson et al, *supra* note 11.
[57] Alex Bucik, *Canada: Discrimination and violence against lesbian, bisexual, and transgender women and gender diverse and Two Spirit people on the basis of sexual orientation, gender identity and gender expression* (Toronto: Egale, 2016).
[58] Catherine J Nash & Kath Browne, "Best for society? Transnational opposition to sexual and gender equalities in Canada and Great Britain" (2015) 22:4 Gend Place Cult 561; Leticia Bode & Timothy Hildebrandt, "The next trans-Atlantic frontier: Examining the impact of language choice on support for transgender policies in the United Kingdom and the United States" (2018) 26:4 Atl J Commun 240; Evan Vipond, "Trans rights will not protect us: The limits of equal rights discourse, antidiscrimination laws, and hate crime legislation" (2015) 6:1 WJ Legal Stud 1.
[59] Gabriel R Murchison et al, "School restroom and locker room restrictions and sexual assault risk among transgender youth" (2019) 143:6 Pediatr 1.
[60] Bucik, *supra* note 57.

LGBTQ+ violence in Canada is examined, with some analysis of law enforcement's failings in their response to it.[61] Janoff describes a string of incidents of such violence in Vancouver in 1992, one of which was the vicious beating of a friend of his by a group of strangers on the street in a neighbourhood widely known to be frequented by the queer community.[62] The Vancouver Police Department (VPD) classed the beating as a robbery, even though the attackers did not steal the friend's wallet or any other possessions despite having ample opportunity to do so, and refused to call it a hate crime because no homophobic slurs were uttered and Janoff's friend had not felt the need to verbally inform his attackers that he was gay.[63] In 1998, an American university student named Matthew Shepard was tortured and murdered by strangers, just seven weeks before what would have been his twenty-second birthday, because they discovered that he was gay.[64] In 2019, a lesbian couple was beaten on public transit in London, UK because a group of men took offense to the women's relationship and refusal to engage in public displays of affection for the sexual gratification of strangers.[65]

2. SGBV Against LGBTQ+ Women

It is known that LGBTQ+ women are disproportionately affected by all forms of SGBV, such as rape, stalking, and domestic violence.[66] As with cisgender heterosexual (cishet, or non-LGBTQ+)

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[61] Douglas Victor Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press, 2005).
[62] *Ibid*.
[63] *Ibid*.
[64] Paul Middleton, "The Scarecrow Christ: The murder of Matthew Shepard and the making of an American culture wars martyr" in Ihab Saloul & Jan Willem van Henten, 1st ed, *Martyrdom: Canonisation, Contestation and Afterlives* (Amsterdam: Amsterdam University Press, 2020) at 1.
[65] Flora Oswald & Jes L Matsick, "Examining responses to women's same-sex performativity: Perceptions of sexual orientation and implications for bisexual prejudice" (2020) 20:4 J Bisex 417.
[66] Max Ferguson, Lesley A Tarasoff & David Kinitz, *Brief on Bisexual Mental Health For the House of Commons Standing Committee on Health on behalf of Toronto Bisexual Network* (Ottawa: House of Commons, n.d.); Jennifer Koshan, "Disclosure and Production in Sexual Violence Cases: Situating Stinchcombe" (2002) 40 Alta L Rev 655; Poehlmann, *supra* note 3; Brianna Jaffray, *Intimate partner violence: Experiences of sexual minority women in Canada, 2018* (Ottawa: Canadian Centre for Justice and Community Safety Statistics, 2021); Walters, Breiding & Chen, *supra* note 55.

women, violence against LGBTQ+ women is much more likely to be committed by someone known to them than by a stranger.[67] The dynamics and experiences of violence against LGBTQ+ women are like their cishet counterparts in many ways, with some key distinctions.

The coercive control dynamic that is present in abusive queer relationships is similar to the one present in abusive cishet relationships.[68] However, there are specific ways that LGBTQ+ women are more vulnerable and some tactics of coercive control that only they can be targets of.[69] LGBTQ+ women are often more isolated and have fewer supports due to homophobia, biphobia, and transphobia.[70] This isolation can take many forms, such as being rejected by their social circle or family of origin upon coming out as LGBTQ+. The fear of being outed is sometimes used against LGBTQ+ women by their abusive partners – for example, threatening to reveal her gender identity or sexual orientation to her employer or her family if she attempts to leave the relationship or does not do what the abuser wants.[71] Misgendering, deadnaming, using slurs, preventing the victim from accessing gender-affirming care, invalidating the victim's identity, and using anti-LGBTQ+ myths and stereotypes against her are other common tactics.[72] Homophobia, biphobia, and transphobia have all been successfully used by ex-partners against each other in family law and child protection cases[73] and some judges have accepted fathers' arguments that a mother's bisexuality was evidence that her "lifestyle" rendered her an unfit parent.[74] LGBTQ+ women

[67] Elaine Mears & Cliona Saidlear, *Finding a Safe Space: LGBT Survivors of sexual. violence and disclosure in Rape Crisis Centres* (Dublin: Rape Crisis Network Ireland, 2016).
[68] Stark & Hester, *supra* note 36; Carmen Maria Machado, *In the Dream House* (Minneapolis: Graywolf Press, 2019).
[69] Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[70] McDonald, *supra* note 43; Julia K Walker, "Investigating trans people's vulnerabilities to intimate partner violence/abuse" (2015) 6:1 Partn Abuse 107.
[71] Walker, *supra* note 70; Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[72] *Ibid.*
[73] Jake Pyne, Greta Bauer & Kaitlin Bradley, "Transphobia and other stressors impacting trans parents" (2015) 11:2 J GLBT Fam Stud 107.
[74] Judith Lewis, "The stability paradox: The two-parent Paradigm and the perpetuation of violence against women in termination of parental rights and custody cases" (2020) 27 Mich J Gender & L 311.

(particularly bisexual women) are more likely than cishet women to be subjected to the most serious forms of IPV, such as stalking, sexual violence, and false imprisonment.[75] In this sense, "most serious" does not necessarily mean most damaging or most traumatizing, and definitely does not diminish the gravity or trauma of other forms of IPV – what is meant is both serious as recognized by criminal law, and serious in terms of carrying the highest risk of lethality or serving as a warning sign for escalation of violence.

Carmen Maria Machado's memoir *In the Dream House*[76] tells the author's own story of surviving same-gender IPV as a bisexual woman of colour. Machado's relationship with an unnamed abusive woman is very similar to many heterosexual women's stories of abusive relationships. The following common elements are present: a strong attraction or connection at the beginning, isolation of the victim, beginning with milder behaviours or slightly hurtful comments that maintain plausible deniability and escalate into worse abuse, extreme jealousy, gaslighting, sleep deprivation, sexual violence (namely, coercion and initiating sexual activities when the victim is sleeping or attempting to sleep), and using the presence of emotions to justify abuse and avoid accountability.[77] With regard to the jealousy aspect, Machado's abuser also used biphobia and bimisogyny against her by positioning her bisexual identity as evidence that she was more likely to be unfaithful.[78] One of the most prominent stereotypes about bisexual people is that we are unfaithful to our partners.[79] While the abuse itself was relatively textbook, much of what distinguishes Machado's experience is the way that the queer community reacted to it – they did believe Machado about the abuse, but refused to hold her abuser accountable out of a sense of

[75] Walters, Breiding & Chen, *supra* note 55.
[76] Machado, *supra* note 68.
[77] *Ibid*.
[78] *Ibid*.
[79] Watson et al, *supra* note 11.

loyalty to and solidarity with the abuser as a fellow queer person, and concerns that acknowledging the truth would result in the abuse being attributed to queerness and/or seen as a reflection on queer women as a collective.[80] Based on Machado's[81] description of her life and early experiences before meeting her abuser, biphobia and bimisogyny may have influenced her life in a way that caused her to be more vulnerable to abuse.

Additional literature is consistent with these observations about the role of biphobic stereotypes in bisexual survivors' lived experiences. Bermea et al implicate key stereotypes about bisexual people in violence against us, including "transitory" sexual identity, promiscuity, attention-seeking, and having sexually transmitted infections (STIs).[82] The article also mentions that bi people are much less likely to be out compared to gays and lesbians, and discusses the role of minority stress (especially for multiply marginalized people). Some of the biphobic microaggressions mentioned are being excluded from queer events, being asked invasive questions about their sexuality, and being pressured by a jealous partner to identify as either lesbian or straight.[83] Bermea notes that bi women, especially trans bi women, are disproportionately affected by IPV but underrepresented in IPV research. Bermea cites one study that finds 83% of bi women have been psychologically abused by a partner and 91% have had a partner behave in a controlling manner. The named myths and stereotypes are described as perpetuating sexual violence against bisexual women, adding that "[r]esearch outside of the IPV literature supports this idea, noting how bisexual women are often sexually objectified due to the false perception that they are available for sexual experimentation and that they have more sexual experience."[84] There is clear

[80] Machado, *supra* note 68.
[81] *Ibid*.
[82] Autumn M Bermea, Brad van Eeden-Moorefield & Lyndal Khaw, "A systematic review of research on intimate partner violence among bisexual women" (2018) 18:4 J Bisex 399.
[83] *Ibid*.
[84] *Ibid* at 411.

overlap here with widely known myths and stereotypes about SGBV, such as the myth that consent at one time implies consent at another time. Brock's thesis[85] finds that queer women in same-gender relationships are subjected to the same or a higher rate of IPV, while bisexual women in general are disproportionately victimized in this way. Brock finds that experiences with the police tend to be negative and officers demonstrate stereotype-informed attitudes, such as assuming that the butch woman in a butch/femme couple must be the abuser. Brock also finds that there is a lack of language or appropriate frameworks to even comprehend queer IPV.

Guadalupe-Diaz's *Transgressed* sheds light, through interviews with survivors, on trans people's experiences being subjected to IPV.[86] One of the key themes Guadalupe-Diaz identifies in these interviews is that for trans survivors, transphobia and anti-trans myths and stereotypes act as both the context in which the abuse occurs and a tactic of it.[87] In this book, the interviewees, particularly trans women, reported a very high rate of sexual violence within their abusive relationships, including being sex trafficked by their partners.[88] There is a misconception that simply having a relationship with a trans person means that someone cannot be transphobic or willing to commit acts of violence against trans people, but this is clearly a myth.[89] Guadalupe-Diaz interviewed trans women who reported being told by abusive partners, and internalizing, that there was no point leaving the relationship or disclosing the abuse to others for reasons directly related to transness: no one would believe her or be sympathetic, she was not a real woman, no one would view her as a woman, no one else would ever love her or find her attractive, and/or she

[85] Victoria Brock, *Expanding Our Understanding of Intimate Partner Violence Experienced Among Queer Women in Same-Gender Relationships* (Master's Thesis, Columbia University, 2023).
[86] Xavier L Guadalupe-Diaz, *Transgressed: Intimate Partner Violence in Transgender Lives* (New York City: NYU Press, 2019).
[87] *Ibid*.
[88] *Ibid*.
[89] *Ibid*.

ought to consider herself lucky that anyone would be willing to be with someone like her. Guadalupe-Diaz also noted a widespread acceptance, even among professionals, of the myth that failing to immediately disclose transness at the very beginning a relationship is a justification for violence. As in much other literature, Guadalupe-Diaz finds that it seems to be very rare for trans women to attempt to access SGBV services and when they do, they find them to be inaccessible and often unsafe or hostile.[90] This places trans women at an even higher risk of revictimization – if a women's shelter is not an option and, as is the case for many trans women, she does not have trustworthy and accepting friends or family she can stay with, her options are the streets or a mixed-gender homeless shelter, both of which are described by Guadalupe-Diaz's interviewees as feeling unsafe[91] and are known to indeed be very unsafe for women due to a high risk of sexual violence from male strangers.[92]

Another unique form of SGBV against LGBTQ+ women is corrective rape, or rape that is meant to "correct" one's sexuality or gender identity.[93] Queer women are the main victims of corrective rape, and it can take a specific, under-recognized form when the victim is bisexual.[94] Bisexual victims may be told the purpose of the rape is to make them "choose a side," meaning become either heterosexual or homosexual.[95] While corrective rape is virtually always committed by men, women are sometimes the perpetrators of corrective rape against bisexual women.[96] There is evidence of other LGBTQ+-specific forms of SGBV, such as being coerced into unwanted

[90] *Ibid*.
[91] *Ibid*.
[92] E.g., Caroline Criado Perez, *Invisible Women: Data Bias In A World Designed For Men* (New York City: Harry N Abrams, 2021).
[93] Watson et al, *supra* note 11; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Sarah Doan-Minh, "Corrective rape: An extreme manifestation of discrimination and the state's complicity in sexual violence" (2019) 30 Hastings Women's LJ 167.
[94] Watson et al, *supra* note 11.
[95] *Ibid*.
[96] *Ibid*.

threesomes on the grounds that they "should" want to engage in one, threats of outing, withholding gender-affirming hormones, violent reactions to coming out, or possessiveness "justified" by stereotypes that bisexual people are unfaithful.[97]

LGBTQ+ women experience the trauma of violence in distinct ways. For example, bisexual women's relationship to their identities are often disrupted by the trauma of sexual violence. Many become fearful of potential partners whose gender matches the perpetrator's, resulting in feeling that they have lost their connection to the bisexual community and been successfully forced to "pick a side."[98] Abusive lesbian relationships are often the victim's first same-gender relationship, with the abuser as her only connection to the lesbian community.[99] She may feel that there is no sense in leaving, for it would only cause her to be more unsafe and isolated without removing the abuser from her life. Trans women report that the police and other services turn them away, fail to take them seriously, ask inappropriate questions about their bodies, assume they are the abuser, and/or lack sufficient training around the needs of trans survivors.[100]

C. Myths and Stereotypes

The myths and stereotypes I explore are those pertaining to LGBTQ+ women, to SGBV, and the overlap of the two. Myths and stereotypes are central to violence against LGBTQ+ women because they normalize and sustain it. This is perhaps especially true in the case of violence against bisexual women.[101] For the purposes of this thesis, myths are roughly defined as biased or incorrect beliefs

[97] Lyons et al, *supra* note 10; Watson et al, *supra* note 11; Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[98] Watson et al, *supra* note 11.
[99] McDonald, *supra* note 43.
[100] Kate Greenberg, "Still hidden in the closet: Trans women and domestic violence" (2012) 27 Berkeley J Gender L & Just 198; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Kristie L Seelman, "Unequal treatment of transgender individuals in domestic violence and rape crisis programs" (2015) 41:3 J Soc Serv Res 307; James et al, *supra* note 10.
[101] Canadian Women's Foundation & Wisdom2Action, *supra* note 3.

that are used to "justify," minimize, or deny abuse[102] and stereotypes as universal, usually negative, generalizations about specific groups of people that are not factually true.[103] An example of a myth is that survivors who delay reporting sexual violence or disclosing it to their friends and family are either lying or merely had sex that they regret,[104] while an example of a stereotype is that women are more emotionally sensitive than men or Asian people are proficient at mathematics.[105] Stereotyping is known to have negative effects on people's productivity and emotional wellbeing, even if the stereotype is seemingly positive.[106] Negative stereotyping often undergirds discriminatory practices.

The phrase "myths and stereotypes" is also a legal term. In the context of criminal evidence law, the rules formerly referred to as "rape shield laws" are intended to place limits on the way evidence related to a complainant's sex life or sexual history can be used in sexual offence cases. For purposes of these laws, the term "myths and stereotypes" can be understood with reference to the following recent explanation from the Supreme Court of Canada:

> Myths and stereotypes about sexual assault complainants capture widely held ideas and beliefs that are not empirically true — such as the now-discredited notions that sexual offences are usually committed by strangers to the victim or that false allegations for such crimes are more likely than for other offences. Myths, in particular, convey traditional stories and worldviews about what, in the eyes of some, constitutes "real" sexual violence and what does not.[107]

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[102] Tanya Erika Cortez, *The Myths of Rape Culture* (Master's Thesis, California State University, 2020).
[103] Erin Beeghly, "What is a stereotype? What is stereotyping?" (2015) 30:4 Hypatia 675.
[104] Fiona Leverick, "What do we know about rape myths and juror decision making?" (2020) 24:3 IJE & P 255.
[105] Beeghly, *supra* note 103.
[106] Nicholas P Alt, Kimberly E Chaney & Margaret J Shih, ""But that was meant to be a compliment!": Evaluative costs of confronting positive racial stereotypes" (2019) 22:5 Group Process Intergr Relat 655.
[107] *R v Kruk*, 2024 SCC 7, 489 DLR (4th) 385 at para 37.

My thesis uses the terms "myths and stereotypes" in a manner that is consistent with this judicial definition, but also broader. I am additionally concerned with myths and stereotypes about other forms of gender-based violence apart from sexual assault, namely IPV, and myths and stereotypes about LGBTQ+ women that are not directly related to SGBV. Much of my thesis is concerned with how these different myths and stereotypes interact, and how these interactions may shape survivors' experiences, including decision-making processes and police attitudes and responses.

1. Myths and Stereotypes About LGBTQ+ Women

Some examples of biphobic myths and stereotypes include that all bisexual people are dishonest, indecisive, manipulative, untrustworthy, hedonistic, hypersexual, sexually available, cannot be monogamous and faithful, and all have specific sexual desires (namely, threesomes and BDSM).[108] As one article put it, these stereotypes are so widely accepted that "People often mistake someone coming out as bisexual as a sexual invitation."[109] Having the capacity for both same- and different-gender attraction is wrongly viewed as implying that one is attracted to all individuals, rather than a percentage of individuals of various gender identities and expressions.[110] In both the queer community and mainstream society, bisexuality is simultaneously fetishized while also being hated and distrusted.[111]

[108] Watson et al, *supra* note 11; Poehlmann, *supra* note 3.
[109] Gattuso, *supra* note 56.
[110] *Ibid*.
[111] Alon Zivony & Tamar Saguy, "Stereotype deduction about bisexual women" (2018) 55:4-5 J Sex Res 666.

Transmisogynistic stereotypes perpetuate and aggravate violence against trans women, as well as causing them not to be viewed as believable or sympathetic.[112] This is obviously problematic in the context of the criminal law system, where victim credibility is central.[113]

Many homophobic myths and stereotypes are applied to all LGBTQ+ people, such as the widely known stereotype of LGBTQ+ people as child predators. However, there are some lesbophobic stereotypes, meaning ones that are specific to queer women and especially to those who are only attracted to women. A well-known one is that lesbians, and other queer women, hate all men and are predatory towards heterosexual women.

2. Myths and Stereotypes About SGBV

The troubling influence of myths and stereotypes in legal understandings and misunderstandings around consent and sexual assault has been well-documented. One example of a rape myth is the belief that being in a romantic relationship with or married to someone equates to implied consent to sex, which was enshrined in law until frighteningly recently.[114] In reality, many people have been sexually abused by a partner or spouse[115] and the mere presence of a relationship title or a sexual history does not imply consent. Canadian law has taken important steps to respond to the

[112] Lyons et al, *supra* note 10; Greenberg, *supra* note 100.
[113] Elaine Craig, "The Inhospitable Court" (2016) 66:2 Univ Tor Law J 197; International Association of Chiefs of Police, "Successful Trauma Informed Victim Interviewing" (5 June 2020), online: <https://www.theiacp.org/sites/default/files/2020-06/Final%20Design%20Successful%20Trauma%20Informed%20Victim%20Interviewing.pdf>; Government of Nova Scotia, Nova Scotia Public Prosecution Service, *Sexual Offences – Practice Note* (Halifax: Government of Nova Scotia, 2008) online: <https://novascotia.ca/pps/publications/ca_manual/ProsecutionPolicies/SexualOffences-PracticeNote.pdf>; Canadian Association of Chiefs of Police, "Canadian Framework for Collaborative Police Response on Sexual Violence" (27 November 2019), online: <https://www.cacp.ca/_Library/resources/Canadian_Framework_for_Collaborative_Police_Response_on_Sexual_Violence_-_November_2019.PDF>.
[114] Jennifer Koshan, "The Judicial Treatment of Marital Rape in Canada: A Post-Criminalisation Case Study" in Randall, Koshan & Nyaundi, eds*, The Right to Say No: Marital Rape and Law Reform in Canada, Ghana, Kenya and Malawi*, (Oxford: Hart Publishing, 2017) 2.
[115] Nicole K Jeffrey & Paula C Barata, "Intimate partner sexual violence among Canadian university students: Incidence, context, and perpetrators' perceptions" (2021) 50:5 Arch Sex Behav 2123.

presence and impact of myths and stereotypes within the legal system, namely with regard to sexual assault law.[116] Perhaps the most important example is the provisions formerly known as "rape shield laws,"[117] which (in theory) prohibit myths and stereotypes and severely limit[118] information about the sexual history of the victim-survivor from being entered as evidence or used as a line of questioning in sexual assault trials.[119]

Two particularly impactful myths related to SGBV go hand-in-hand: the myth of "real rape," and the myth of "good" or "real" victim-survivors.[120] "Real rape" is said to involve several stereotypical characteristics, namely physical force, bodily injuries, and being perpetrated by a male stranger – note that non-penetrative sexual violence is entirely ignored. Du Mont et al[121] have examined the impact of these myths on Canadian women's decision-making about whether to report sexual assault to the police, noting lesbians as an example of a group of women that has

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[116] Jennifer Koshan, "Challenging Myths and Stereotypes in Domestic Violence Cases" (2023) 35 Can J Fam L 33.
[117] In *R v Barton*, [2019] 2 SCR 579 at note 3, a majority of the Supreme Court of Canada wrote: "The term "rape shield" should be avoided for several reasons, including the fact that the relevant provisions do not offer protection against rape, apply to a number of sexual assault offences that do not involve rape, and have purposes going beyond shielding the complainant from the rigours of cross-examination (see *R. v. Seaboyer*, [1991] 2 S.C.R. 577, at pp. 604 (per McLachlin J.) and 648 (per L'Heureux-Dubé J.))."
[118] *R v Kruk*, 2024 SCC 7 at para 36 (citations omitted): "This Court has repeatedly recognized the prevalence of myths and stereotypes about sexual assault complainants, some of which include the following:
• Genuine sexual assaults are perpetrated by strangers to the victim.
• False allegations of sexual assault based on ulterior motives are more common than false allegations of other offences.
• Real victims of sexual assault should have visible physical injuries.
• A complainant who said "no" did not necessarily mean "no", and may have meant "yes."
• If a complainant remained passive or failed to resist the accused's advances, either physically or verbally by saying "no", she must have consented — a myth that has historically distorted the definition of consent and rendered rape "the only crime that has required the victim to resist physically in order to establish nonconsent."
• A sexually active woman (1) is more likely to have consented to the sexual activity that formed the subject matter of the charge, and (2) is less worthy of belief — otherwise known as the "twin myths", which allowed for regular canvassing of the complainant's prior sexual history at trial, regardless of relevance, thereby shifting the inquiry away from the alleged conduct of the accused and towards the perceived moral worth of the complainant."
[119] Danielle McNabb & Dennis Baker, "Ignoring implementation: Defects in Canada's "rape shield" policy cycle" (2021) 36:1 Can J Law Soc 23.
[120] Janice Du Mont, Karen-Lee Miller & Terri L Myhr, "The role of "real rape" and "real victim" stereotypes in the police reporting practices of sexually assaulted women" (2003) 9:4 Violence Against Women 466.
[121] *Ibid*.

been constructed as a "bad," less believable and/or less sympathetic victim-survivor.[122] They found that women whose ordeals fit the "real rape" myth are much more likely to report it to the police than those who do not, and some potentially conflicting findings about whether women who do not fit the "good victim-survivor" archetype are less likely to go to the police. Some examples of traits that a "good" or "real" victim-survivor supposedly has include being white, physically injured, and displaying an "appropriate" level of resistance.[123]

3. Overlap

It is easy to see how myths about VAW might intersect with anti-LGBTQ+ myths in a troubling way, potentially resulting in a negative impact on the experiences of LGBTQ+ women with the police. For example, one study found that the majority of male police officers believe that women who are caught cheating on their partners are likely to falsely claim they were sexually assaulted to avoid accountability.[124] Given the stereotype that bisexual women are unfaithful to their partners,[125] it seems probable that this belief may disproportionately affect bisexual survivors' experiences with the police. All women are far more likely to be victimized by someone they are close to than by a stranger, and many LGBTQ+ women are victimized by other women, including their partners.[126] Maleness and masculinity are implicit in the stereotypical profile of a perpetrator, and some research suggests that women who are trans and/or gender non-conforming are wrongly assumed to be the perpetrator rather than the victim, and this is likely to result in inappropriate responses by the police.[127] Stereotypes of LGBTQ+ women as dishonest or manipulative seem

[122] *Ibid*.
[123] *Ibid.*
[124] Johnson, *supra* note 7.
[125] Mary-Anne McAllum, "Young bisexual women's experiences in secondary schools: "Not everyone's straight so why are they only teaching that?" (2018) 18:3 Sex Educ 253.
[126] KelleyAnne Malinen, ""This was a sexual assault": A social worlds analysis of paradigm change in the Interpersonal Violence World" (2014) 37:3 Symb Interact 353; Koshan, *supra* note 116; Poehlmann, *supra* note 3.
[127] Greenberg, *supra* note 100.

likely to intersect in troubling ways with myths about opportunistic women who make false allegations of SGBV.[128] The false, misogynistic belief that "good" survivors are virgins and that women who have a history of engaging in casual sex are more likely to consent in the future seems likely to combine with stereotypes that portray LGBTQ+ women as sexual deviants and, in particular, bisexual women as hypersexual.[129]

An example of a myth or stereotype that intersects with both is the pervasive belief that bisexual people experience perpetual and indiscriminate sexual desire, and that this means they would consent to any sexual act and could not possibly be sexually assaulted.[130] This could not be further from the truth – just as heterosexual women do not desire all men, a bisexual person's capacity to be physically attracted to both people who are the same gender as them and people who are not, does not translate to being attracted to everyone. Even if it did, mere attraction is not consent.

D. Responses to SGBV Against LGBTQ+ Women

In my prior Master's Research Project, "Not Our Problem: The Canadian Response to Violence Against LGBTQ+ Women," I explored violence against LGBTQ+ women and the (non-) responses to it, and provided a comparison to the response observed in NGOs in the United States.[131] Neither VAW nor LGBTQ+ organizations in Canada have made it a priority to meaningfully address violence against LGBTQ+ women, leading to a lack of services designed with LGBTQ+ survivors

[128] Ferguson et al, *supra* note 66; Lyons et al, *supra* note 10; Johnson, *supra* note 7; Watson et al, *supra* note 11; Anna Gekoski et al, "'A lot of the time it's dealing with victims who don't want to know, it's all made up, or they've got mental health': Rape myths in a large English police force" (2024) 30:1 Int Rev Vict 3.
[129] Johnson, *supra* note 7; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Poehlmann, *supra* note 3; Ferguson et al, *supra* note 66.
[130] Gattuso, *supra* note 56; Watson et al, *supra* note 11.
[131] Poehlmann, *supra* note 3.

in mind and no organization stepping up to close this gap or fully recognizing the urgent need to do so.[132] Moreover, because LGBTQ+ women experience both VAW and anti-LGBTQ+ violence, a strong understanding of both – and of their interplay – is needed.[133] These issues are complicated and nuanced and require a background understanding of things such as trauma, power dynamics, intersectionality, and systemic discrimination. The VAW movement has historically been led by and for white cishet women and LGBTQ+ spaces have historically been centred around cis gay men, especially white cis gay men.[134] This has led to neither the VAW sector nor LGBTQ+ organizations centering LGBTQ+ women or recognizing their unique needs and experiences, as well as a lack of trust between the two sectors, especially when it comes to the issue of violence against trans women.[135]

It is very difficult to go to a women's shelter as a trans woman – many do not allow anyone who was assigned male at birth (AMAB), and those that do are typically, at best, uneducated and ignorant about transmisogyny and how to serve trans people.[136] The VAW movement was born out of and continues to be associated with second-wave feminism, which is sometimes perceived as being connected to or synonymous with the transphobic movement known as trans-exclusionary radical feminism (TERFism).[137] TERF ideology pits feminists and survivors against trans people, many of whom are themselves feminists and/or survivors, by framing them as perpetrators of violence against (cis) women and children and as men invading spaces they do not belong in.[138] It also aims to pit cis queer people against trans people, especially cis lesbians against trans queer

[132] *Ibid*.
[133] *Ibid*.
[134] Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Jaime Hartless, "'They're gay bars, but they're men bars': Gendering questionably queer spaces in a Southeastern US university town." (2018) 25:12 Gend Place Cult 1781.
[135] Poehlmann, *supra* note 3.
[136] Greenberg, *supra* note 100.
[137] Sally Hines, "The feminist frontier: On trans and feminism" (2017) J Gend Stud 94.
[138] *Ibid*.

women, by manufacturing a myth that trans people are homophobic and attempting to "turn" queer people by tricking them into having "straight" sex.[139] Unfortunately, some VAW organizations are influenced or managed by people who do not support trans rights, and both the literature and my interviews show that this is reflected in their policies and in survivors' experiences attempting to access them.[140] Walker[141] shows how ignorance about trans people has led to fear, even among some feminists, and this unfortunately resulted in a historical exclusion of trans people from feminist spaces dating back to at least the 1970s. Additionally, trans women have historically been completely unable to access SGBV services due to not being legally or socially recognized as "legitimate" women and, by extension, as "real" victims.[142] Discourse around SGBV, such as media coverage of relevant legislation in the UK, has been shown to reinforce gender roles, including related to who is a stereotypical victim and perpetrator, and led to "non-prototypical" victim-survivors not accessing services because they may not even know they are eligible.[143] Walker also identifies concerns about trans survivors being unable to "recognize their situations as abusive because of a lack of information."[144] Here too, it is noted that "aggressors use social stigma by employing threat tactics, such as threatening to inform others of their gender identity"[145] and "that the services advertised as available to trans people and LGBT individuals [in the UK] were limited to help lines with time restraints (e.g., Broken Rainbow), services specific to LGBT individuals although not IPV/A-related (e.g., Stonewall), and mainstream DV services that are typically only available to heterosexual cisgender women (e.g., Women's Aid, Women's Refuge).

[139] Cati Connell, iO Fields& Elliot Chudyk, "The myth of lesbian generation loss: Finding intergenerational solidarities in digital sexual selfhood projects" (2024) 28:1 J Lesbian Stud 1.
[140] Greenberg, *supra* note 100.
[141] Julia K Walker, "Investigating Trans People's Vulnerabilities to Intimate Partner Violence/Abuse" (2015) 6:1 Partner Abuse 107.
[142] *Ibid*.
[143] *Ibid*.
[144] *Ibid* at 118.
[145] *Ibid*.

Consequently, it is argued that one of the main barriers to seeking help for trans people is the lack of resources."[146] While necessary sometimes, the unnecessary use of gendered and binarist language is said to reinforce gendered stereotypes and the invisibility of "non-prototypical" victims, leading to SGBV against trans people being invisible and services being inaccessible, particularly for trans women.[147]

The response of Canadian NGOs to violence against LGBTQ+ women has noticeably lacked collaboration between VAW organizations and LGBTQ+ ones.[148] In contrast, some American NGOs have worked together in this context and this collaboration may have promoted trust and solidarity between the LGBTQ+ and VAW sectors and resulted a more comprehensive response.[149] Unfortunately, the direction that American policy and legislation are taking at the time of writing does not reflect this – some of the red states have become so hostile to the LGBTQ+ community, particularly trans women, that travel advisories have been issued.[150]

This subsection exemplifies why there is reason for grave concern about LGBTQ+ women's experiences with the police. It is widely known that there have long been enormous concerns about the policing of SGBV and the tendency of police officers to victim-blame and display attitudes towards cishet survivors that are insensitive, sexist, stereotype-based, and not trauma-informed.[151] One would expect that SGBV services and experts would be more sensitive, progressive, and trauma-informed, and that this would extend to LGBTQ+ women. The fact that it evidently does not suggests that there is even more reason to be concerned that the police, an institution that is not centred around supporting survivors or being trauma-informed and is widely

[146] *Ibid* 118.
[147] *Ibid*.
[148] Poehlmann, *supra* note 3.
[149] *Ibid*.
[150] Elizabeth Elliot, "All Souls and the Club Q Vigils" (2024) 39:2 Liturgy 45.
[151] Doe, *supra* note 25; Johnson, *supra* note 7; Murphy-Oikonen et al, *supra* note 8.

known to be problematic in the experiences of cishet survivors, may be very problematic in their responses to violence against LGBTQ+ women.

E. Policing

1. Policing of SGBV

There is a great deal of literature on cishet survivors' experiences with the criminal law system.[152] The criminal law system is most often a place of revictimization, rather than justice or safety; their experiences are often described as more traumatizing than the violence itself, dehumanizing, punitive, and a "second rape."[153] The criminal law system in its current state is not survivor-friendly or trauma-informed – it is humiliating to have to recount such intimate trauma to a court room full of strangers, and many women experience this as being the one on trial themselves.[154]

The criminal law system's hostility towards victim-survivors is especially apparent in the experiences of "bad" victim-survivors – sex workers, Indigenous women, women who are seen as risk-takers, women who are seen as taking too long to leave abusive partners, and more.[155] Women labelled that way (and most other women) report being disbelieved, retraumatized, turned away, blamed (e.g., for flirting, drinking, or wearing revealing clothing), treated as a joke, left unable to

[152] Jennifer Koshan, *supra* note 66; James Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999); Craig, *supra* note 113; Palmater, *supra* note 1; Elaine Craig, *Putting trials on trial: Sexual assault and the failure of the legal profession* (Montreal: McGill-Queen's University Press, 2018).
[153] E.g., Craig, *supra* note 113; Koshan, *supra* note 114; Johnson, *supra* note 7; Palmater, *supra* note 1; Craig, *supra* note 152; Doe, *supra* note 25; Shamika M Kelley, Yan Zhang & Eryn Nicole O'Neal, "To report or not to report? A focal concerns analysis of victim reporting decisions following victimization" (2022) 37:21-22 J Interpers Violence NP19880.
[154] Jennifer Nedelsky "Violence against women: challenges to the liberal state and relational feminism" (1996) 38 NOMOS: Am Soc'y Pol Legal Phil 454; Ptacek, *supra* note 152; Craig, *supra* note 152.
[155] Craig, *supra* note 152; Fairley-Beam, *supra* note 7; Jessica C Fleming & Cortney A Franklin, "Predicting police endorsement of myths surrounding intimate partner violence" (2021) 36 JOFV 407; Palmater, *supra* note 1; Megan Drever, "The gendered disposability of Indigenous women across time and space" (2022) 7 INvoke 2.

trust the systems that are meant to protect them, and sometimes further victimized by the police themselves.[156]

It is not news that law enforcement is not trauma-informed or survivor-friendly, or that there is a widely known problem of stereotyping and bias by the police in SGBV cases, particularly around "real" rape, "good" survivors, and the disproven idea that it is common for women to make false allegations of IPV or sexual assault.[157] Women who do not fit the stereotype of a "good" survivor are less likely to be believed by the police, and some examples of the traits of a "good" survivor include being white, having no history of addictions or mental illness or prior victimization, demonstrating an appropriate amount of resistance during the assault while simultaneously not being too capable or powerful, and the perpetrator also fitting the stereotype of a perpetrator (e.g., male, racialized, not "respectable" or "high status," physically larger than the victim, and in the case of sexual assault, a stranger).[158]

2. Policing of LGBTQ+ Communities

Relations between the police and LGBTQ+ communities have long been turbulent, in Canada and globally. There has been a great deal of controversy about the presence of uniformed police officers at pride parades, especially around allowing them to march in the parade.[159] This is perhaps particularly relevant in Toronto, where it was only a few years ago that the police were denying the existence of Bruce McArthur.[160] There has also been backlash to the Australian police prioritizing their image over meaningful work to repair relations with the LGBTQ+ community,

[156] Fleming & Franklin, *supra* note 155; Johnson, *supra* note 7; Craig, *supra* note 113; Palmater, *supra* note 1.
[157] Nedelsky, *supra* note 154; Koshan, *supra* note 152; Koshan, *supra* note 113; Fairley-Beam, *supra* note 7; Johnson, *supra* note 7.
[158] Johnson, *supra* note 7; Malinen, *supra* note 126.
[159] Andy Holmes, "Marching with Pride? Debates on uniformed police participating in Vancouver's LGBTQ Pride parade" (2021) 68:8 J Homosex 1320.
[160] David Semaan, *Racial terror in Toronto's gay village: A critical race analysis of the Bruce McArthur case and police inclusion in Toronto pride* (Master's Thesis, University of Alberta, 2020).

pushing a narrative that abuse of LGBTQ+ people by the police is distant history rather than an ongoing systemic issue.[161] This popular narrative is incorrect – the police are very much still ignorant towards the LGBTQ+ community at best and openly hostile at worst. Despite some improvements, Canada's police and other legal institutions have always been anti-LGBTQ+ – this reality is simply more subtle now.[162] LGBTQ+ people tend to report negative experiences in their general dealings with police officers and this contributes to our overall collective distrust of policing as an institution.[163] In White's[164] thesis, one participant reported that when she called 9-1-1 because her partner had overdosed, the responding officers had an aggressive attitude, became more aggressive once they learned that the caller was queer, and insisted on referring to the caller's partner as her "friend" despite being made aware that the two women's relationship was romantic in nature. LGBTQ+ people report a general sense that policing is not designed to serve our needs, there is a pressure to "pass" when interacting with officers in order to be respected, and particular concerns about police in rural areas.[165]

Police culture has been well-studied within criminology, sociology, and psychology. It is characterized by traits such as intense loyalty to other police officers, a "blue wall of silence" or an unwritten rule against reporting or objecting to the wrongdoings of other police officers, a sense of superiority to civilians, a belief that "outsiders" do not understand or are actively working

[161] Emma K Russell, "A 'fair cop': Queer histories, affect and police image work in Pride March" (2017) 13:3 Crime Media Cult 277; Emma K Russell, "Carceral pride: The fusion of police imagery with LGBTI rights" (2018) 26:3 Fem Leg Stud 331.
[162] Thomas E Warner, *Never Going Back: A History of Queer Activism in Canada* (Toronto: University of Toronto Press, 2002).
[163] Marshall Lorraine White, *Perceptions of the police by queer women* (Master's Thesis, The University of Alabama at Birmingham, 2019).
[164] *Ibid*.
[165] Kevin L Nadal et al, "Lesbian, gay, bisexual, and queer people's perceptions of the criminal justice system: Implications for social services" (2015) 27:4 Sex Gend Divers Soc Serv 457.

against the police, paranoia, and masculinity.[166] Police culture is associated with a competitive, ruthless brand of masculinity that disparages vulnerability and all emotions that are not anger, equates physical strength and violence with courage and power, and places female-presenting officers in a disadvantaged position while expecting male-presenting officers to continually prove their masculinity and heterosexuality.[167] This, of course, is blatantly misogynistic and homophobic, framing femininity and queerness as unacceptable and as signs of weakness and cowardice. Workman-Stark[168] found numerous problematic instances showcasing this, such as a male police officer who experienced workplace bullying from his fellow officers after they discovered that while he was not queer himself, he was friends with a lesbian woman and had attended a pride event with her as an ally. In retaliation, the officer was socially excluded and placed in dangerous situations on multiple occasions.[169] This type of masculinity is innately violent and promotes abuse. It is not a new concept to equate masculinity, power, and violence with each other. It is also antithetical with the values of LGTBQ+ acceptance, trauma-informed care, and best practices for responding to SGBV.[170] The principles of trauma-informed care require sensitivity, acceptance of vulnerability, and empathy towards the context in which trauma takes place and how that shapes individuals' lives and behaviour.[171] Police culture upholds a harmful masculinity that rejects vulnerability, sensitivity, and views anger as the only acceptable emotion.[172] Police officers' lived

[166] Angela L Workman-Stark, "Exploring differing experiences of a masculinity contest culture in policing and the impact on individual and organizational outcomes" (2021) 24:3 Police Q 298; Sarah Marshall, *Whistleblowing and Moral Dilemmas in Policing: An Analysis of Police Culture and the 'Blue Code of Silence'* (Master's Thesis, Brock University, 2019).
[167] Workman-Stark, *supra* note 166.
[168] *Ibid*.
[169] *Ibid*.
[170] Karen Rich, "Trauma-informed police responses to rape victims" (2019) 28:4 J Aggress Maltreatment Trauma 463; Joe L Couto, "Hearing their voices and counting them in: The place of Canadian LGBTQ police officers in police culture" (2018) 3:3 JCSWB 84.
[171] Maxine Harris & Roger D Fallot, "Envisioning a trauma-informed service system: A vital paradigm shift" (2001) 89 New Dir Ment Health Serv 3.
[172] Workman-Stark, *supra* note 166.

experiences further suggest that police culture is deeply misogynistic and anti-LGBTQ+,[173] and adding to the tension between police culture and the need for more trauma-informed, LGBTQ+-affirming policing practices is the fact that efforts by police forces to appear more LGBTQ+-affirming sidestep or are combined with the promotion of harmful masculinity and have often rightly been accused of pinkwashing or rainbow-washing.[174]

2020 saw the release of a scathing report detailing how police culture has harmed women who join the RCMP, especially LGBTQ+ women and Indigenous women.[175] The women interviewed spoke of being subjected to rape, sabotage,[176] severe bullying and harassment, being sent into extremely dangerous situations without backup, crying or vomiting at work or on the way to work, widespread abuse, being denied a promotion or training course for refusing to engage in a romantic relationship with a male supervisor, being denied courses they requested that were then given to less qualified men who did not want them, and having to listen to sexually degrading comments about their own and other women's bodies. Some of the women attempted to deter the harassment from their colleagues by significantly altering their appearances – gaining weight, not wearing makeup, wearing clothing several sizes too large, and even undergoing breast reduction surgery. In every such instance, these efforts did not reduce the harassment and either had no effect or only resulted in it becoming centred around body-shaming the woman instead of sexually objectifying her. It is extremely clear that Canadian police forces have an issue of being culturally hostile towards women, LGBTQ+ people, and BIPOC, all of whom are being subjected to very real and serious harm because of it.

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[173] Couto, *supra* note 170.
[174] Russell, *supra* note 161.
[175] Michel Bastarache, *Broken Dreams, Broken Lives: The Devastating Effects of Sexual Harassment On Women in the RCMP* (Ottawa: Royal Canadian Mounted Police, 2020).
[176] Many of the women told stories involving a man being assigned to train them and refusing to do so properly or at all in order to harm her career, and this was often very clearly motivated by sexist beliefs the trainer held.

3. Policing of SGBV Against LGBTQ+ Women

One of the most troublesome ways in which heteronormativity shows up in the SGBV world is in the lens though which violent incidents and relationships are judged.[177] Police and others struggle to recognize SGBV when it does not align with the social scripts that are commonplace in heterosexual relationships; for example, when the victim's or perpetrator's behaviour defies culturally accepted gender roles.[178]

Trans women are underrepresented in literature on VAW and the law.[179] This is partly because trans people rarely choose to engage with the criminal law system, and with good reason.[180] Relations between trans people and the police in Canada have always been troublesome, especially in the case of vulnerable subgroups, such as trans sex workers and Indigenous trans women.[181] This is for reasons such as mistrust of the law by trans people, inappropriate responses by police to victimization of trans women, failure by the justice system to investigate and prosecute violence against trans sex workers, and harassment and abuse of trans people by police.[182]

As previously stated, there is very little literature on the policing of violence against LGBTQ+ women, especially in a Canadian context. There is some literature from other countries, such as Australia and the US.[183] Some of this literature has noted things consistent with my

[177] Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Poehlmann, *supra* note 3; Malinen, *supra* note 126.
[178] Malinen, *supra* note 126; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Greenberg, *supra* note 100.
[179] Greenberg, *supra* note 100.
[180] James et al, *supra* note 10; Lyons et al, *supra* note 10; Spade, *supra* note 10; Greta R Bauer et al, "Reported emergency department avoidance, use, and experiences of transgender persons in Ontario, Canada: results from a respondent-driven sampling survey" (2014) 63:6 Ann Emerg Med 713.
[181] *Ibid*.
[182] *Ibid*.
[183] E.g., Toby Miles-Johnson, "LGBTI Variations in Crime Reporting: How Sexual Identity Influences Decisions to Call the Cops" (2013) 3:2 Sage Open 1; Cortney A Franklin, Amanda Goodson & Alondra D Garza, "Intimate partner violence among sexual minorities: Predicting police officer arrest decisions" (2019) 46:8 Crim Justice Behav 1181; Rhissa Briones Robinson, Flavia Mandatori & Gabriel R Paez, "Impact of Multiple Minority Statuses: An

Canadian findings, including that LGBTQ+ Australians are generally much less likely to report crime to the police and this is largely due to perceptions that the police will treat them unfairly or be unhelpful due to prejudices.[184] One American article[185] identifies overly narrow definitions of SGBV as a barrier to reporting that may disproportionately affect LGBTQ+ people, nothing that as recently as 2012, the FBI still defined sexual violence in heteronormative terms that were very much aligned with the "real rape" myth (e.g., physical force rather than coercion, perpetrated by a cis male stranger).[186] Literature on related areas, such as the experiences of cishet survivors with the police and the scale of violence against LGBTQ+ women, suggest cause for concern and make it even more worrying that there is little published research focused on this area. What is known about the high rates of abuse, especially towards bisexual women and trans women, suggests that there ought to be much more research than there is. I have come across no published literature focused on the experiences of LGBTQ+ women with other areas of the criminal law system, such as sexual assault trials, and the policing policies and related materials I reviewed[187] had so little focus on violence against LGBTQ+ women that one could be forgiven for wondering whether the police are aware that LGBTQ+ people exist.

Examination of Violent Victimization, Police Reporting and Perception of Police Bias" (2024) 1:17 J Victimol Victim Just 1.

[184] Miles-Johnson, *supra* note 183.

[185] Lisa Langenderfer-Magruder et al, "Sexual victimization and subsequent police reporting by gender identity among lesbian, gay, bisexual, transgender, and queer adults" (2016) 31:2 Violence and Victims 320.

[186] *Ibid*.

[187] Canadian Association of Chiefs of Police, *supra* note 113; *Community Safety and Policing Act, 2019*, SO 2019, c1, Sched 1, ss 37(1) and 38(1); Royal Canadian Mounted Police, "Gender-based violence" (15 November 2021), online: <https://www.rcmp-grc.gc.ca/en/relationship-violence/gender-based-violence>; Royal Canadian Mounted Police, "The Way Forward: The RCMP's sexual assault review and victim support action plan" (Ottawa: 2017); Royal Canadian Mounted Police, "It Can Be Stopped: Intimate Partner Violence and Abuse" (Ottawa: Royal Canadian Mounted Police, 2012); Council of Canadian Academies, *Policing Canada in the 21st Century: New Policing for New Challenges* (Ottawa, 2014); London Police, "Review of 'Unfounded' Sexual Assault Cases" (September 2017), online: <https://www.londonpolice.ca/en/about/review-of--unfounded--sexual-assault-cases.aspx>; Mass Casualty Commission, "Intimate Partner Violence, Family Violence, and Gender-based Violence Policies" (Halifax, 2022).

4. Cultural Trauma

Alexander et al[188] first defined the concept of cultural trauma. Cultural trauma is what happens when a community, especially a marginalized one, is "subjected to a horrendous event that leaves indelible marks upon their group consciousness, marking their memories forever and changing their future identity in fundamental and irrevocable ways."[189] Due to the gravity of the event, cultural trauma continues to impact a community long after those who lived it firsthand have died. This thesis takes the position that the crimes of Bruce McArthur qualify as a cultural trauma, especially for Canada's queer community and especially in and around the Greater Toronto Area (GTA). Between the years of 2010 and 2017, McArthur is known to have murdered at least 8 queer men: Kirushna Kumar Kanagaratnam, Dean Lisowick, Selim Esen, Majeed Kayhan, Soroush Mahmoudi, Abdulbasir Faisi, Skanadaraj Navaratnam, and Andrew Kinsman.[190] I purposefully do not use the phrase "gay men" to collectively describe the men murdered by McArthur, because some of them were proudly bisexual and others are not known to have put any label on their sexuality.[191] McArthur is known to have had romantic relationships with some of the men he murdered, namely Kinsman and Navaratnam,[192] which means that at least two of the murders qualify as same-gender IPV. The men McArthur murdered are not his only known victims – he used a weapon to physically assault a male sex worker, for which he was charged, tried, and convicted; he sexually assaulted a man named Peter Sgromo, who called the police; he was known within the queer community, especially the queer men's BDSM community, to have ignored

[188] Jeffrey C Alexander, "Cultural trauma" in Jeffrey C Alexander et al, *Cultural Trauma and Collective Identity*, 1st ed (Berkeley: University of California Press) at 1.
[189] *Ibid* at 1.
[190] Justin Ling, *Missing from the Village: The Story of Serial Killer Bruce McArthur, the Search for Justice, and the System That Failed Toronto's Queer Community* (Toronto: McClelland & Stewart, 2020); Amar Wahab, "When the closet is the grave: A critical review of the Bruce McArthur case" (2022) 25:7 Sexualities 849.
[191] Ling, *supra* note 190.
[192] *Ibid*.

BDSM protocol and/or suddenly become very aggressive and forceful during sex, including choking; and when the police arrived to arrest him, his would-be next murder victim was bound in his basement.[193] While McArthur is not known to have victimized any women, it is evident from my interviews that his legacy continues to shake the queer community. This cultural trauma forms an important piece of the context of violence against LGBTQ+ women and what it means to report that to the police. Based on the experiences shared with me in my interviews, I would argue that this is especially true for queer and trans Black women, Indigenous women, and women of colour (QTBIWOC). The connection between McArthur, my interviews, and Alexander et al[194] will be considered in more depth in Chapter Four, where I discuss my interview data. The failings in the McArthur investigation also double as an example of institutional betrayal, which is defined and discussed below.

5. Institutional Betrayal

Institutional betrayal is a key aspect of my research due to the role and perpetual systemic failings of the police in SGBV cases. Institutional betrayal is any institution's action or failure to act that condones or SGBV, creates conditions that are conducive to it, responds to it inappropriately, protects abusers, and/or punishes victims[195] or makes it very difficult or unsafe for marginalized victims to interact with the institution, especially by reporting violence.[196] Facing institutional betrayal when sexual violence is reported increases the chances that a victim will experience negative outcomes, namely post-traumatic stress disorder (PTSD).[197] Law enforcement is,

[193] Semaan, *supra* note 160; Ling, *supra* note 190.
[194] Alexander, *supra* note 188.
[195] Caitlin M Pinciotti & Holly K Orcutt, "Institutional betrayal: who is most vulnerable?" (2021) 36:11-12 J Interpers Violence 5036.
[196] Avalon Sexual Assault Centre, *We Matter and Our Voices Must be Heard* (Halifax: Mass Casualty Commission, 2022).
[197] Pinciotti & Orcutt, *supra* note 195.

unsurprisingly, among the institutions most implicated in institutional betrayal.[198] Once a person has experienced betrayal or abuse from one authority figure or institution, their overall view of authority and institutions tends to become tarnished.[199] A University of Regina survey found that this can lead to a ripple of other negative effects – for example, a person who has experienced institutional betrayal from the police is likely to develop a new or increased wariness of institutions and authority in general, including people who may be difficult or ill-advised to avoid, such as doctors, lawyers, managers, instructors, and parents.[200]

An important case study in institutional betrayal, and its interplay with myths and stereotypes, is *Jane Doe v Toronto Metro Police*. Jane Doe successfully sued the police after being raped by a serial home invader and rapist (known as the Balcony Rapist), then discovering that the police were aware of the danger but failed to issue a warning on the grounds of misogynistic stereotypes.[201] Specifically, the Toronto Police Service (TPS) used Ms. Doe and other women who fit a particular profile "as bait,"[202] claiming that this was justified because a warning would cause all women in the area to "get hysterical"[203] and this would disrupt the investigation by causing the offender to flee.[204] Ms. Doe later learned that the TPS had had access to information, prior to her rape, that was later used to produce a list of women who, based on several characteristics that the previous victims all had in common, were profiled as potential future targets of the Balcony Rapist – though this list had not been generated until after Ms. Doe had been raped, her name was on it.[205]

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[198] Avalon Sexual Assault Centre, *supra* note 196.
[199] Emilio T Filomeno, *Understanding the impact of institutional betrayal on individuals' perceptions of authority* (PhD Dissertation, University of Regina, 2020).
[200] *Ibid*.
[201] Doe, *supra* note 25; *Doe v Metropolitan Toronto (Municipality) Commissioners of Police*, 1998 CanLII 14826 (ONSC).
[202] *Ibid* at 16.
[203] *Ibid* at 16.
[204] *Ibid*.
[205] *Ibid*.

It is very telling that the police apparently felt that women's fear of rape would cause hysteria or panic, and the rapist would then flee, and the investigation would be compromised – and that this would be a worse outcome than the potentially preventable rape of a woman. It is also telling that it was apparently assumed that for women to know a rapist was active in their area would cause hysteria or panic, rather than merely have rational fear and increase their level of precaution until the offender was caught. Living under a looming threat of sexual violence is hardly new to women as a group, yet most of us seem to manage without losing all control of ourselves and ruining police investigations on a whim. As the Court found, stereotypical thinking was clearly at play here:

> In my view the conduct of this investigation and the failure to warn in particular, was motivated and informed by the adherence to rape myths as well as sexist stereotypical reasoning about rape, about women and about women who are raped. The plaintiff therefore has been discriminated against by reason of her gender and as the result the plaintiff's rights to equal protection and equal benefit of the law were compromised.[206]

The Balcony Rapist, who had previously been convicted for violence against women (including an identical spree of stranger rapes in BC), was only caught because his parole officer called in a tip after Ms. Doe, other activists, and women's organizations took it upon themselves to issue a warning in the form of public posters featuring the information that was known about the offender's physical description.[207] This was the second time the same parole officer had called in a tip about the same man in connection to the same serial rapes. This suggests that had this information been released sooner, it is possible he would have been caught sooner and this would have translated to a reduced number of victims. This series of rapes consisted of 6 known attacks

[206] *Doe v Metropolitan Toronto (Municipality) Commissioners of Police*, *supra* note 201.
[207] Doe, *supra* note 25.

in total, one of which was deemed to be unfounded.[208] In that case, the officers displayed a judgmental attitude towards the survivor and took extensive notes on details such as the number of presents under her Christmas tree, the gender of her friends, the level of tidiness of her apartment, and the fact that she, a grown woman, owned adult toys and BDSM paraphernalia.[209] While the police superficially accepted the survivor's account of the events that had transpired, they claimed that it was not rape and that the masked attacker must have been her fiancé acting out a rape fantasy.[210] Even if the latter had been true, a crime would still have been committed. Even if one were to accept that the survivor was not capable of recognizing her fiancé's voice, she was surely capable of remembering whether the couple had discussed and agreed to acting out such a fantasy, which they had not. Here too, stereotypical reasoning is at play.

A more recent example of institutional betrayal in the context of Canadian law enforcement and SGBV would be the spree of violent crimes that took place in rural Nova Scotia in April of 2020, henceforth referred to as "the mass casualty."[211] On April 18, 2020, a denturist with a lengthy history of problematic alcohol use, coercive controlling abuse, and predatory behaviour assaulted his common-law spouse Lisa Banfield, who was also his employee, with such brutality that her spine was fractured.[212] I mention him being her employer to help convey the extent of the power imbalance and dependency in that relationship. I am avoiding referring to him by name because I do not want to give individual mass murderers any more exposure or notoriety than necessary; to avoid confusion, I will from hereon be using "the murderer" to refer to the man who committed these crimes. The murderer's abuse towards his spouse had been increasing in intensity in the

[208] *Ibid*.
[209] *Ibid*.
[210] *Ibid*.
[211] Mass Casualty Commission, *Turning the Tide Together: Final Report of the Mass Casualty Commission, Executive Summary and Recommendations* (Halifax: Mass Casualty Commission, 2023).
[212] *Ibid*.

period preceding the mass casualty, such as efforts to isolate her from her family.[213] He was known to display intense jealousy and obsession towards Ms. Banfield, especially a fear that she would have an affair or leave him.[214] The murderer had a fascination with violence, weapons, and police culture, and was known to have obtained items such as grenades, police-grade handcuffs, a real RCMP uniform, and "four decommissioned police vehicles."[215] His neighbours and colleagues were very much aware that he had these items, most of which were legal for him to purchase and own.[216] He turned one of his decommissioned vehicles into an extremely convincing replica of an RCMP vehicle, which he made no attempt to conceal and was regularly seen driving in.[217] The murderer's morbid interests, alcoholism, and criminal activities were common knowledge within the small community he resided in, along with the fact that he was a master manipulator who was disturbingly possessive of Ms. Banfield and displayed "predatory patterns of behaviour."[218] There were numerous concerned community members who made phone calls to the police and other attempts to initiate an intervention prior to the mass casualty.[219]

The RCMP's response to the mass casualty was nothing short of a complete embarrassment. It was a catastrophic failure characterized by a lack of planning, lack of coordination, lack of training, lack of clear and timely communication, lack of collaboration with community members, and lack of concern for the victims and their families. The result was numerous preventable deaths and revictimizations, and the murderer committing suicide before he could be apprehended.[220] The RCMP sergeant who would have overseen the response had the day

[213] *Ibid*.
[214] *Ibid*.
[215] *Ibid*.
[216] *Ibid*.
[217] *Ibid*.
[218] *Ibid* at 154.
[219] *Ibid*.
[220] *Ibid*.

off and was unable to report for duty when called because he had socially consumed an alcoholic beverage.[221] No one had been clearly designated as the person meant to take charge in the event of that sergeant being unable to report for duty, which meant that no one was either in charge of the response or certain of who was meant to be in charge. Due to a failure to investigate some of the crime scenes thoroughly enough, crucial evidence was missed and was instead found by civilians.[222] There were 9-1-1 calls containing vital information that could have led to the murderer being apprehended, but the information was not communicated correctly, or in some cases at all, to the responding officers.[223] There were numerous other instances of crucial information not being properly communicated to RCMP members, several of whom did not know of the replica vehicle.[224] There was a lack of a clear, timely, and accurate warning to the public – what little warning there was did not get released in a timely manner, nor did it remotely convey the extent of the danger to public safety or, again, mention the replica vehicle.[225] Evacuation of at-risk civilians was an afterthought and it showed – there was no evacuation plan whatsoever and the extent of instructions that the responding officers were eventually given was to approach people on the street and instruct them to go home.[226] The majority of RCMP supervisors were found to have failed to complete the mandatory critical incident training, which was regardless found to be completely insufficient in terms of large-scale critical incidents such as this one.[227] The botched RCMP response failed victims and survivors, both those of the mass casualty and of SGBV. Here, "victims and survivors of the mass casualty" refers both to people who lost their lives or were otherwise directly impacted by the violence and people who were impacted in less direct ways,

[221] *Ibid*.
[222] *Ibid*.
[223] *Ibid*.
[224] *Ibid*.
[225] *Ibid*.
[226] *Ibid*.
[227] *Ibid*.

such as by witnessing it or learning that it happened to someone they knew. The RCMP failed to account for the possibility that there would be any survivors at all, and a man who had just discovered the maimed corpse of his family member was violently arrested without any genuine basis.[228] Lastly, the RCMP failed to consider the fact that the murderer was a local and could be expected to be familiar with the surrounding area and roads, while the responding officers were generally not and many had never been to the area before.[229]

In the aftermath of the mass casualty, Ms. Banfield's life was destroyed. She has described being so profoundly impaired by the trauma of the mass casualty that she is no longer able to walk down the street and she feels convinced that she will be assaulted again or that someone will harm her loved ones.[230] The Mass Casualty Commission does not normally use the word "victim" and instead uses "survivor," but made an exception in Ms. Banfield's case because despite her abuser being deceased, the violence and victimization are absolutely not over for her and this makes it inaccurate to refer to her as a survivor.[231] She was treated with a disheartening degree of victim-blaming, both by the RCMP and by her community.[232] She was the subject of a lawsuit by some of the surviving families, who vocally felt that she was responsible for her spouse's actions.[233] The intention is not to villainize the families, but to point out how this is not surprising in a culture that does not understand the realities of IPV and continues to hold women responsible for both their partners' behaviour (especially when that partner is a man) and that of men in general. Perhaps most disheartening is that after months of mining Ms. Banfield for information, while appearing

[228] *Ibid*.
[229] *Ibid*.
[230] Mass Casualty Commission, *Turning the Tide Together: Final Report of the Mass Casualty Commission, Volume 3: Violence* (Halifax: Mass Casualty Commission, 2023).
[231] Mass Casualty Commission, *supra* note 230; Mital &Singh, *supra* note 25.
[232] Mass Casualty Commission, *supra* note 211; Mass Casualty Commission, *supra* note 230.
[233] Mass Casualty Commission, *supra* note 230.

to be friendly and supportive towards her without informing her that she was being criminally investigated, the RCMP pressed charges against her and two members of her family for illegally supplying bullets to the murderer.[234] Due to the financial dependency the murderer coerced her into, Ms. Banfield was left homeless and unemployed after the mass casualty.[235] She was blamed by both the RCMP and members of the community for failing to make a police report, not that others' previous calls to the police about this individual had been any use.

The mass casualty is an example of institutional betrayal in three main ways: the failure of the RCMP's response, the ways in which Ms. Banfield was failed by the RCMP, and the fact that the numerous marginalized women whom the murderer had sexually exploited could not safely report it or were not taken seriously when they did.[236] Again, institutional betrayal occurs when an institution fails to respond appropriately to SGBV or makes it unsafe for marginalized people to report it, both of which occurred here.[237] The RCMP failed not only this community, but Canadians, who are meant to be able to trust them to provide protection and justice. There is no excuse for the RCMP's failure to warn the community of the danger that they were in, especially considering that the person posing the danger would have likely been assumed to be a police officer. The RCMP also gravely failed Ms. Banfield in numerous ways that could easily be the subject of an entire thesis themselves. In short, they victim-blamed her, inappropriately pressed criminal charges against her without properly accounting for the coercive control, and generally failed to recognize the context of her situation and its connection to the mass casualty, or to see the violence against her as being part of the mass casualty rather than a "lover's spat" that "triggered"

[234] Angela MacIvor, "Why lawyers for NS mass shooter's spouse say her case should prompt change within RCMP", *CBC News* (1 March 2023), online: <https://www.cbc.ca/news/canada/nova-scotia/lisa-banfield-lawsuit-rcmp-mass-shooting-domestic-violence-1.6761387>.
[235] Mass Casualty Commission, *supra* note 230.
[236] Avalon Sexual Assault Centre, *supra* note 196.
[237] Mass Casualty Commission, *supra* note 211; Avalon Sexual Assault Centre, *supra* note 196.

the murderer.[238] As mentioned, the murderer had a long history of exploiting vulnerable women, especially Black and Indigenous women – for example, many female employees of his complained of sexual harassment, and many marginalized female patients were coerced into performing sexual acts on him in exchange for reducing or waiving the cost of their denture treatment.[239]

The connection between SGBV and the mass casualty has been established. My task is now to establish how the mass casualty is connected to SGBV in the context of my thesis. The mass casualty is an important contemporary case study in institutional betrayal, barriers to reporting, the ways SGBV can be connected to other things in less obvious ways, the consequences of insufficient police training and policies that are not written with proactivity or survivors in mind, the connection between power and privilege and SGBV, the reality of SGBV within a small community, and the true cost of SGBV to communities and survivors, whose suffering does not simply end when the violence does. There are also many obvious parallels to the Bruce McArthur scenario that occurred only a few years prior in Toronto, and some to the serial murders in the Downtown Eastside of Vancouver.[240] Law enforcement's substantial history of failing to intervene or to intervene in an appropriate manner, both with regard to the murderer and in other cases of SGBV, created a lack of trust, feelings of powerless among marginalized people, and a sense that

[238] Mass Casualty Commission, *supra* note 211; Mass Casualty Commission, *supra* note 230.
[239] Avalon Sexual Assault Centre, *supra* note 196.
[240] Robert Pickton, recently deceased at the time of writing, is known to have murdered numerous women whom he abducted from the Downtown Eastside. There were many opportunities to apprehend him sooner, but he was enabled to carry on his crimes for years due to investigative failures. Stereotypes, misogyny, and racism clearly informed many of these failures; for instance, because many of the victims were Indigenous women who were sex workers and known to have difficulties with drugs or alcohol, the police did not take their families seriously when they attempted to report them missing due to the incorrect assumption that the disappearances were not suspicious and could be explained by transient lifestyles. Other failures were largely a result of organizational issues, such as poor communication, poor leadership, a lack of collaboration between different police forces, and wilful ignoring of known problem individuals (e.g., a civilian employee who was the subject of repeated complaints and was known to be racist, insensitive, aggressive, and openly make offensive comments about victims). See: Wally T Oppal, *Forsaken: The Report of the Missing Women Commission of Inquiry - Executive Summary* (Victoria: Missing Women Commission of Inquiry, 2012).

making any further police reports would be pointless at best and harmful at worst.[241] It is evident from my interviews that institutional betrayal – direct experiences of it, second-hand knowledge of others' experiences of it, and an anticipatory fear that it will occur – is a major reason why LGBTQ+ survivors are reluctant to engage with the police and report negative experiences when they do. It is abundantly clear that identity-based power dynamics played a role in the murderer being able to commit crimes without consequence for so long, ultimately leading up to the mass casualty and his successful evasion of capture by committing suicide – being white, a cis man, and a successful professional meant that he enjoyed a great deal of power and privilege, which was seemingly unaccounted for in the overall treatment and perception of Ms. Banfield.[242] Marginalized people in particular wanted to report the murderer but felt unable to, both because of a fear and mistrust of the police and because they saw the privilege and power he had and understood this to mean that they would not be believed over him and rather than being held accountable by institutions, he could be expected to continue to enjoy the same institutional backing and protection that his privilege had previously afforded him.[243] Compounding this was the fact that it had long been well-known within the murderer's small community that he was dangerous, predatory, and volatile, yet no meaningful intervention or accountability took place despite ample opportunity for it to.[244] It is difficult to imagine any way he could have hidden in plainer sight, yet he hid perfectly from the law until his death and was effectively hand-delivered the tools to do so by people who were unable or unwilling to take any action or admit the obvious danger. It was similarly known within Toronto's queer community that Bruce McArthur demonstrated very concerning behavioural patterns and had been romantically linked with multiple

[241] Mass Casualty Commission, *supra* note 211; Avalon Sexual Assault Centre, *supra* note 196.
[242] Mass Casualty Commission, *supra* note 211.
[243] *Ibid*.
[244] *Ibid*.

men who later went missing, as revealed in my interviews and the literature,[245] and people who attempted to take action experienced institutional betrayal in the form of having the police dismiss their concerns or fail to investigate thoroughly.[246] In short: the mass casualty demonstrates why marginalized people do not report violent or concerning behaviour to the police, how it is that it can go so incredibly wrong, the role of institutional betrayal in SGBV, and some of the difficulties that can occur around SGBV in small communities and policing.

F. Literature Review Conclusion

While both violence against women (VAW) and anti-LGBTQ+ violence have been extensively researched, there is simultaneously a lack of recognition of the distinctness of violence against LGBTQ+ women and a reluctance by either the VAW world or the LGBTQ+ rights world to address it.[247] Similarly, there is a great deal of literature on the criminal law system's treatment of VAW survivors,[248] but very little that focuses on LGBTQ+ women. Though there is extensive research on both negative stereotypes about LGBTQ+ women[249] and the myths surrounding VAW,[250] there is very little scholarship that addresses the overlap. One major area that needs attention is violence against bisexual women, the vast majority of whom are subjected to SGBV.[251] Bisexual women are overlooked and treated as monolithic with the gay community, rather than their own community with their own struggles.[252] A quick scan of CanLII did not yield a single

[245] Ling, *supra* note 190.
[246] Semaan, *supra* note 160.
[247] Poehlmann, *supra* note 3; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Malinen, *supra* note 126; KelleyAnne Malinen, "Gender, free will, and woman-to-woman sexual assault in service provider discourses" (2018) 33:1 Affilia 56; Greenberg, *supra* note 100; McDonald, *supra* note 43.
[248] Nedelsky, *supra* note 131; Johnson, *supra* note 7; Craig, *supra* note 113.
[249] Watson et al, *supra* note 11.
[250] Koshan, *supra* note 114.
[251] Walters, Breiding & Chen, *supra* note 55; Poehlmann, *supra* note 3; Canadian Women's Foundation & Wisdom2Action, *supra* note 3; Watson et al, *supra* note 11; Jaffray, *supra* note 66.
[252] Poehlmann, *supra* note 3; Ferguson et al, *supra* note 66.

relevant criminal case or legal journal article. My searches included "violence bisexual woman," "abuse bisexual woman," "biphobia," "bisexual woman," "bisexual," "bisexual violence," "bisexual hate crime," "bisexual sexual assault," and "bisexual domestic violence" (all without quotation marks). As explained in the introduction and literature review, there is an enormous gap in knowledge about LGBTQ+ women's experiences with the criminal law system and what is known about related "petals"[253] suggests that there is cause for concern. My empirical study begins to fill that gap, with a focus on policing for reasons explored above. The following chapters develop the framework and methodology I have designed in order to begin to fill that gap.

[253] Luker, *supra* note 29.

Chapter 2 – Theoretical Frameworks

A. Intersectional Feminist Theory

First and foremost, my work is informed by an intersectional feminist framework. The term "intersectionality" was coined by Kimberlé Crenshaw.[254] It refers to an understanding of the ways in which different kinds of identities impact a person's lived experience, particularly how they may be privileged in some ways and marginalized in others and how multiple types of marginalization can overlap and produce a unique marginalization. Crenshaw[255] famously developed intersectionality theory using the example of Black women's workplace discrimination lawsuits in the USA, which established that the intersection of sexism/misogyny and racism constitutes a specific marginalization (in this case misogynoir, or the marginalization of Black women for being both Black and women) and a business not being discriminatory towards Black men and white women was not sufficient to establish that they were not discriminatory towards Black women. I firmly do not believe it is advisable (or perhaps even possible) to do this kind of work, or any SGBV work, without intersectionality or that there ever comes a point where a researcher is "intersectional feminist enough" and can afford to stop putting effort into acting with this framework in mind. There are two primary ways in which intersectional feminist theory informs my work. First, the concept of my project was conceived from concerns about the intersection of queerness and transness with VAW and with related structures of oppression, such as misogyny, homophobia, and racism. A lack of attention to this intersection is the basic foundation of my research question and my previous work.[256] What makes violence against LGBTQ+ women unique

[254] Kimberlé Crenshaw, "Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine" (1989) 140 Univ Chic Leg Forum 139.
[255] *Ibid*.
[256] Poehlmann, *supra* note 3.

is that it cannot be reduced to either anti-LGBTQ+ violence or VAW because it is both, and neither sector[257] has historically been able to address it well because of a lack of collaboration and understanding of those intersections, why they matter, and how they shape women's lives.[258] Second, a look at my interview guide will reveal that I made a point of specifically inquiring about intersections. For example, my interviewees were explicitly asked to discuss their observations regarding LGBTQ+ survivors who hold additional marginalized identities, such as being disabled, a sex worker, racialized, or Indigenous.

Black feminist research forms the basis of much of modern feminist theory, including intersectionality. Black feminism goes hand-in-hand with intersectional feminism but is not synonymous with it. Collins[259] provides a strong overview of Black feminist theory and its overlaps and distinctions with intersectional feminism. The foundational themes of Black feminism are as follows: attention to sexual politics, attention to the interplay of racism and homophobia as tools of control, emphasis on lived experience, and allowing for forms of knowledge and scholarship that may not meet the narrow criteria imposed by white-dominated academia.[260] Black feminist theory lends itself well to research about LGBTQ+ women's experiences of SGBV, especially with mine's focus on myths and stereotypes, for those reasons.

B. Feminist Theory

Feminist theory – particularly around violence, sex, and trauma – has been very influential for my research. Butler's[261] theory of gender, which also overlaps with queer theory, argues that gender is

[257] That is, either the VAW sector or LGBTQ+ rights groups.
[258] Poehlmann, *supra* note 3.
[259] Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness and the Politics of Empowerment* (Abingdon: Routledge, 1990).
[260] *Ibid*.
[261] Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Abingdon: Routledge, 1990).

a culturally constructed performance and violations of expected gender performance are policed through violence (such as when others pick up on signs, perhaps even subconsciously, that a person may be queer and therefore inherently defying heteronormative gender roles). McPhail's "Feminist Framework Plus" (FFP) rejects the widespread claim that "rape is not about sex, it is about violence or power/control."[262] Cahill[263] tentatively argues the same. It is a mistake to "desex" sexual violence because this obscures the gravity of it, the lived experiences of victim-survivors, and risks dignifying insulting and absurd claims such as that being raped is comparable to being punched in the face.[264] It is also important to acknowledge that given that no researcher is a mind reader, no data collection method is flawless and the majority of sexual violence is never documented or reported[265] it is neither possible nor responsible to make a definitive, uniform claim about the thoughts, feelings, and motivations of all perpetrators of sexual violence.

C. Trauma-informed Framework

I use a trauma-informed framework. Trauma-informed, a term coined by Harris and Fallot,[266] means being mindful of what is known about the physical and psychological impact of violence and other traumatic experiences on individuals, including recognizing its connection to substance misuse and other negative social outcomes. In my research, this also includes collective trauma in communities and also means firmly rejecting stereotypical or outdated understandings of trauma and common trauma responses, such as the myth that remaining in or returning to an abusive relationship is an indicator that the abuse is not real or serious or that the victim desires or consents

[262] Beverly A McPhail, "Feminist framework plus: Knitting feminist theories of rape etiology into a comprehensive model" (2016) 17:3 Trauma Violence Abuse 314 at 314.
[263] Ann J Cahill, *Rethinking Rape: Implications of Embodiment* (PhD Dissertation, State University of New York at Stony Brook, 1998).
[264] *Ibid*.
[265] Palmater, *supra* note 1.
[266] Harris & Fallot, *supra* note 171.

to the abuse.[267] It also means rejecting myths that victims are helpless, weak, naïve, choose to be abused, and somehow simultaneously powerless but have the power to force the abuse to end if they truly wanted it to. It means rejecting oversimplified conceptions of "Stockholm syndrome" or trauma bonds in favour of recognizing that trauma bonds are a fawning or appeasement response,[268] there is no simple or one-size-fits-all approach that fits all abusive relationships, and many victims do feel emotional bonds with or love for their abusers despite the abuse. Rebecca Bailey is a psychologist famous for her work with activist and author Jaycee Dugard, who survived 18 years of captivity by a convicted sex offender[269]and with whom she co-authored an article on trauma responses.[270] Fawning is when a person goes out of their way to mirror others and be subservient in an attempt to neutralize or ignore real or perceived discomfort or danger and make a situation that feels uncomfortable or unsafe feel safer.[271] Appeasement has some similarities and shares a goal of manufacturing safety, but is specific to situations of abuse, human trafficking, or captivity.[272] It entails recognizing the danger and the power imbalance, building a relationship with the abusive person or person who holds the power, working to appear calm despite being afraid, and using that to facilitate emotional co-regulation: keeping the abuser calm in the hopes that this will reduce the frequency and severity of the violence.[273] While fawning targets the abuser's perception of the victim and attempts to neutralize the threat the abuser poses by convincing them that the victim is not a threat and will do what they want, appeasement directly targets the abuser's

[267] Rebecca L Heron, Maarten Eisma & Kevin Browne, "Why do female domestic violence victims remain in or leave abusive relationships? A qualitative study" (2022) 31:5 J Aggress Maltreatment Trauma 677.
[268] Rebecca Bailey et al, "Appeasement: replacing Stockholm syndrome as a definition of a survival strategy" (2023) 14:1 EJPT 1.
[269] John Glatt, *Lost and Found: The True Story of Jaycee Lee Dugard and the Abduction that Shocked the World* (New York City: St. Martin's Publishing Group, 2010); Jaycee Dugard, *Freedom: My Book of Firsts* (New York City: Simon and Schuster, 2016).
[270] Bailey et al, *supra* note 268.
[271] *Ibid*.
[272] *Ibid*.
[273] *Ibid*.

mental state and attempts to regulate both their emotions and the victim's, allowing the victim to survive having to remain in the situation.[274] Appeasement, again, is not a sign that the victim-survivor has chosen the abuse or does not want to leave; rather, it is a sign of basic self-preservation instincts in a situation from which escape is or feels next to impossible, and that they are attempting to make intolerable, unmanageable, and unpredictable circumstances more tolerable, manageable, and predictable. Thinking beyond surface-level, stereotype-informed beliefs about abuse even momentarily makes it easy to see why this would be the response of a rational actor in a dangerous situation that is seldom as simple as "just leave, then."

D. Queer Theory

Queer theory is an important part of all research involving the LGBTQ+ community. Queer theory can carry somewhat different meanings in different disciplines, but broadly refers to scholarship that emphasizes the lived experiences and perspectives of LGBTQ+ people and challenges heteronormativity, cisnormativity, and other heteronormative assumptions about people, society, identity, relationships, families, sex, and sexuality.[275] Queer theory is about leaving room for reality: not everyone has to be straight or cis, gender identity and expression are not binary, not all sex has to be "vanilla" and "straight," and there are many possible ways that people and relationships and families can look and function.[276] Queer theories of violence involve approaching it through the lens of a queer context and what is known about LGBTQ+ people's lived experiences. Authors that I draw on for queer theory include Jaffray's[277] work on queer women's lived experiences of violence and the role of stereotyping in that; Watson[278] provides a

[274] *Ibid*.
[275] Patrick R Grzanka, "Queer Theory" in *SAGE Research Methods Foundations* (Thousand Oaks: SAGE, 2019).
[276] Katherine Watson, "Queer Theory" (2005) 38:1 Group Anal 67.
[277] Jaffray, *supra* note 66.
[278] Watson et al, *supra* note 11.

foundational overview of what queer theory is and why it is significant; Watson et al's[279] work on bisexual women's experiences of sexual violence and its disruption to their sense of identity; Canadian Women's Foundation and Wisdom2Action[280] wrote one of the very first reports on SGBV through a queer lens, especially in a Canadian context; Bauer et al[281] have written on trans people's access to justice concerns and strongly negative experiences with the Canadian legal system.

E. Not Abolitionist

I will note that although some of the works drawn on are abolitionist, this is not abolitionist research. This thesis takes the position that prisons are a necessary evil, and a safe, stable society requires some form of enforcement mechanism. Criminology has firmly established that there exist individuals who are incapable of remorse or rehabilitation and pose a danger to society.[282] Due to this reality of human psychology and behaviour, it is not an option to completely throw out policing and the criminal law system. I pride myself on generally being fairly flexible in my views and open to changing my mind if presented with new evidence, but this is one of the few exceptions and it is due in part to my own and others' encounters with dangerous people and the institutions that enable and protect them. I acknowledge that the rigidity of this belief may be a bias and a limitation of my research. I stress that although I am not an abolitionist and do not believe I ever will be, I very much do support significant reforms of policing and the criminal law system, including a redistribution of funds. This is discussed more fully in the conclusion.

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[279] Watson et al, *supra* note 11.
[280] Canadian Women's Foundation & Wisdom2Action, *supra* note 3.
[281] Bauer et al, *supra* note 180.
[282] E.g., Robert D Hare, *Without Conscience: The Disturbing World of the Psychopaths Among Us* (New York City: Guilford Publications, 1993); Michael H Stone & Gary Brucato, *The New Evil: Understanding the Emergence of Modern Violent Crime* (Guilford: Prometheus Books, 2019).

Chapter 3 – Methodology

This is a qualitative study.[283] I do not subscribe to the notion that either qualitative or quantitative research is superior. Rather, I would argue that the two ought not to be viewed as in competition with each other but as sharing a symbiotic relationship. Both are enormously valuable and necessary to the building of knowledge. Some types of data, however, are best captured by qualitative methods – the subject of my research is among them, especially given that it is well-documented that SGBV has a very low reporting rate.[284] It is difficult to assign a numerical value to the many nuances of violence against LGBTQ+ women and survivors' experiences whether it is reported to the police or not, especially given the deep, well-founded distrust of law enforcement, the legal system, and institutions in general within our community.[285] That said, my research could not have been conceived of without the quantitative researchers before me who produced the often-cited statistics on violence against us.[286] They are the reason my teenage self became aware of the true gravity of the problem of violence against LGBTQ+ women, which shaped the course of my life and led me to pursue graduate school in the first place.

Over a period of a few months, I recruited and interviewed five service providers who had experience professionally supporting LGBTQ+ women who are survivors of forms of SGBV that could potentially result in a criminal charge, regardless of whether such charges were laid or whether the survivor ever engaged with the police. Though there were no other criteria, all interviewees were women or femme-presenting, white or white-passing, and living or working in the GTA. Some of them volunteered that they themselves were also members of the LGBTQ+

[283] The study was approved by York University's Office of Research Ethics.
[284] Murphy-Oikonen et al, *supra* note 8; Dawson & Hotton, *supra* note 8; MacInnis, *supra* note 8.
[285] Owen et al, *supra* note 20.
[286] E.g., Walters, Breiding & Chen, *supra* note 55.

community. My participants worked as lawyers, therapists, and similar occupations. For the purposes of this thesis, I have given them the aliases Nancy, Lauren, Samantha, Monica, and Tiffany. I had no particular motivation behind choosing those names, other than the fact that they are fairly generic names for women.

I recruited the experts primarily through email. To be more specific, I searched online for relevant organizations, such as sexual assault centres and LGBTQ+ organizations, and contacted them by email with some information about my research and an invitation for interested individuals to contact me. One expert was recruited through professional connections, while another knew one of the other interviewees and heard about my research from her.

There are a few reasons why I chose to interview service providers rather than survivors. The ethical weight of asking survivors to relive their trauma – which, in this case, is often already a trauma on top of trauma – cannot be ignored. There is a significant possibility that participating in such a study would be retraumatizing and cause emotional harm to survivors, who have already been severely emotionally harmed and whom this study is meant to be about helping. While service providers may also experience negative emotions as a result of exposure to trauma and being asked to recall that, they are trained professionals who are required to manage those emotions as part of their work. Though plenty of SGBV-related service providers are also survivors themselves,[287] my interviewees were not asked whether they were, let alone asked to recall their own trauma. Being asked to recall someone else's traumatic experience rather than one's own is less emotionally taxing and less potentially retraumatizing, especially in the context of a trained professional's indirect exposure through their work versus a personal experience or a loved one's. An additional

[287] Gwendolyn D Anderson & Rebekah Overby, "Barriers in seeking support: Perspectives of service providers who are survivors of sexual violence" (2020) 48:5 J Community Psychol 1564.

benefit arises from this approach's ability to mitigate the fact that a short Master's program does not allow for a large number of people to be interviewed. Five interviews with service providers who can speak to many different survivors' experiences yield more data and capture more experiences than five interviews with five survivors who would only be speaking to their own.

A limitation of my research is that all of my interviews were conducted over Zoom. I planned to hold them in person, but all of my participants indicated that Zoom was more convenient. I consider this a limitation because I am of the mindset that the world is becoming too dependent on technology, it is worrisome for technology to replace in-person human contact, and video conferencing is not conducive to a naturally flowing conversation and may make it more difficult to read social cues. With the exception of one participant who opted not to be audio recorded, all of my interviews were audio recorded and then transcribed. Other limitations include that the sample size was small, and that they were all of a relatively similar demographic: white or white-passing, female-presenting, and cis or cis-passing. There were also specific demographics that many of my interviewees were not able to comment much on the experiences of, such as bisexual women and Indigenous women. Many women may not feel comfortable or be able to seek services from SGBV organizations or from professionals such as lawyers and therapists.

The questions I asked focused on overarching patterns in cases involving violence against LGBTQ+ women, rather than on specific cases or individuals. The questions' overall themes included experiences with the police, reasons for choosing not to make a report to the police, prevalence of both voluntary and third-party reporting, the role of myths and stereotypes in both experiences and decisions regarding reporting SGBV to the police, and what might have made LGBTQ+ women's experiences with the police either positive or negative. A complete interview guide is included as Appendix A.

I have always strived to be a feminist researcher. What makes research methodology feminist is chiefly centering survivors and their lived experiences,[288] actively working towards inclusivity and recognizing the role of intersectionality in those lived experiences, recognizing the permeation and role of gendered power dynamics throughout all areas of society and all individuals' lives, and empowering survivors as much as possible – for example, allowing them to choose the language that is used to describe their experiences, and recognizing their strength and resilience along with their trauma and victimization. I am certain that there will always be ways I could be a "better" feminist and that my privilege as a white woman will always influence my work, so I view this as a neverending process rather than something with an end goal (or any end at all).

As I mentioned prior, I have identities that inevitably inform my work and my data analysis. As a white cis woman, I have privilege that many of the people my research is about do not have, and it is my responsibility to be mindful of this. One way that I do this is through reflexivity. This means that I make an effort to pause and reflect on things and consider how my privilege may impact my perception – for example, if I am making improper generalizations, or if the fact that I have never had to consider racism or transphobia into my assessment of my personal safety may be causing me to overlook an important consideration. One consideration that is very important for me to be mindful of during this research is that for most of my life, I looked up to the police and thought of them as protectors, helpers, and heroes. I have been aware for years that that is very often not the truth and is largely the product of privilege and the rose-coloured glasses of a child raised on crime-fighting television shows, but unlike many racialized people, I have not been

[288] E.g., Tamera Burnett, *The Elusive Pursuit of Justice: Sexual Assault Survivors Speak About Redress in the Aftermath of Violence* (PhD Dissertation, York University, 2022).

aware from childhood of the police as a threat to my life and as some of the main perpetrators of violence against people who look like me.

I must conclude this section with a brief description of how I worked with and analyzed my data. I read through my interview transcripts many times and identified themes through repetition. Specifically, I identified key words and phrases that some variant of appeared multiple times and/or across multiple interviews. Examples included "love," "fear," and "education." Having identified themes through close attention to the repeated words and phrases, I was then able to make connections between those and the secondary research that ultimately informed what I focused on in my analysis and could inform some interventions, such as recommended policing reforms and directions for future research to take. Identification of key words was an important part of my methodology as it helped me to see how, although the experts I interviewed were speaking from different contexts, there were both common themes and very unique insights from specific interviews. This was one of the reasons I decided it was best to analyze each interview individually rather than as a whole.

Chapter 4 – The Interviews

A. Overview of the Interviews

Despite the time constraints of an LL.M. requiring research ethics approval, I was able to conduct a total of five interviews. It is arguably difficult to establish themes with a very limited sample size. However, I have been able to identify some recurring elements that were relatively consistent across most of my interviews. For simplicity's sake, I will be referring those consistent elements as "themes."

Each of the experts I interviewed offered a unique perspective and their insights shed light on LGBTQ+ women's experiences, decision-making processes, and intersections that are important yet very understudied, particularly in the context of SGBV (e.g., queerness and immigration status). What follows is a summary of what each interviewee said, with a discussion of some specific standout points, their implications, and connections to both literature and other interviews. I have chosen to discuss each interview individually because each of them had so much unique insight and standout points.

B. Nancy

The first expert I interviewed was "Nancy," a lawyer. Because Nancy is primarily a criminal lawyer, most of her LGBTQ+ survivor clients are those who have been inappropriately charged when defending themselves against an abusive partner. She has seen many cases of abusive relationships in which sexual violence was part of the coercive control dynamic.

Most of Nancy's clients, including cishet women, are very reluctant to engage with the police about either sexual assault or IPV. She indicated that this is mainly due to either feeling wary and distrustful of law enforcement, or because the clients cope with their trauma by

minimizing it and this causes them to believe that what is happening or has happened to them is not "police-appropriate" or "serious enough to get the police involved." Based on what Nancy has observed in her career, survivors' experiences – in engaging with the police, in their decision-making about whether to do so, and with the violence itself – tend to be relatively similar whether they are LGBTQ+ or not. She has not seen major differences in, for instance, whether police involvement results in any improvement or a positive outcome (it does not) or whether the survivor is inappropriately charged for attempting to defend herself and/or her child from the abuser. Nancy's clients overwhelmingly have negative experiences with the police – she estimates that she has encountered a total of two survivors who had overall positive experiences with the police regarding SGBV, neither of whom identified as LGBTQ+. A few differences stood out to her, however.

1. How Police Contact Happens

Nancy noted that when LGBTQ+ survivors come into contact with the police, it is rarely by their own choice. Usually, the 9-1-1 call is made on behalf of her client by a third party, often a concerned neighbour or friend. It is not necessarily that that third party call is more likely to happen compared to when it is a cishet woman being victimized, but that when Nancy interacts with LGBTQ+ women after the police have been called regarding SGBV, this is more common as opposed to with cishet women, who seem more likely to have called the police of their own accord.

Given what is known about the historical and ongoing abuse of the LGBTQ+ community by law enforcement,[289] the unrelenting myth that woman-to-woman violence is not real or serious,[290] the widespread experience of being failed by legal and medical institutions as a trans

[289] Rachele Girardi, "'It's easy to mistrust police when they keep on killing us': A queer exploration of police violence and LGBTQ+ Victimization" (2022) 31:7 J Gend Stud 852.
[290] Malinen, *supra* note 126.

person,[291] and the TPS's recent failures in the Bruce McArthur serial homicide investigation,[292] it is not at all surprising that LGBTQ+ women would be reluctant to report SGBV to the police. I was, however, somewhat surprised to learn from Nancy that third parties are calling the police on LGBTQ+ survivors' behalf. The most favourable interpretation would regard this as a positive sign because it suggests that others take the violence seriously and view LGBTQ+ women as people who are worthy of help, protection, and justice. On the other hand, it would be a grave error to suggest that this third-party police reporting is entirely positive. Being trauma-informed means respecting the autonomy and agency of survivors and allowing them to make their own decisions,[293] especially when it comes to something as serious and potentially retraumatizing as involving the police in the lives of marginalized people who are often overpoliced to begin with. Conversely, it is dangerous for calling 9-1-1 in an emergency to never be an option – if an abusive partner is holding a woman and her child at gunpoint and all attempts to reason with the abuser or bring the victims to safety have failed, there comes a point where there are simply no other options.

2. Intimidation

Nancy indicated that LGBTQ+ women may have an increased sense of being intimidated by the police and fear of being overly scrutinized by them. She said they fear that something they say or do may be judged negatively or taken out of context.

Taking a survivor's statements or behaviour out of context runs the risk of having her appear as though she is not being truthful about the abuse or is actually the perpetrator rather than the survivor, which Nancy indicated to be something her clients are aware of and very concerned

[291] James et al, *supra* note 10.
[292] Ling, *supra* note 190.
[293] Selima N Jumarali et al, "Participatory research engagement of vulnerable populations: Employing survivor-centered, trauma-informed approaches" (2021) 2:2 JPRM 1.

about. It is not controversial that stereotypical IPV involves a heterosexual couple in which the man is the abuser and the woman is the survivor, and this is usually reflected in statistical realities.[294] This means that when there is abuse within a queer relationship, those norms – and the conventional understanding of what an abusive relationship is – are automatically challenged. Without being at least open to the principles of trauma-informed care, intersectional feminism, and queer theory, it is difficult to comprehend the realities of abusive queer relationships and the needs of such survivors. One need not be an expert who has spent countless hours reading academic literature on the subject to provide an adequate response – at least, I hope that is not the case – but the literature reviewed earlier in Chapter One, Section(E) (2) confirms that Nancy's clients, and those of my other interviewees, are correct in their perceptions; that is, that law enforcement is overwhelmingly outdated in its approach to gender, sexuality, trauma, and abuse.

3. Role of Peers

It is common, in Nancy's observations, for both cishet and LGBTQ+ survivors to cite others' accounts of negative experiences with the police as a reason for choosing not to make a report or being very reluctant to do so. They may have heard stories from friends or family members who reported SGBV to the police and had the experience of, for example, being victim-blamed, being treated in an insensitive manner, or the police being unable to deescalate the situation and potentially even having the opposite effect. One thing that seems to be slightly different for Nancy's LGBTQ+ clients is that they are additionally deterred by stories in which people they know from the LGBTQ+ community were subjected to SGBV, a report was made, "and the police

[294] Walter S DeKeseredy & Molly Dragiewicz, *Shifting public policy direction: Gender-focused versus bi-directional intimate partner violence* (Oshawa: University of Ontario Institute of Technology, 2009).

treated them like crap." In the context of an LGBTQ+ survivor's decision-making process, the experiences of other LGBTQ+ survivors may carry more weight than that of survivors in general.

4. Myths and Stereotypes

Nancy has observed that myths and stereotypes seem to be a factor in decision-making about reporting for all survivors, but perhaps especially so for LGBTQ+ women. The main stereotype that has come up is that women cannot be aggressive or physically strong, which contributes to the myth that women cannot be abusive or threatening or that violence is less serious when perpetrated by a woman. My conversation with Nancy led me to believe that there is overall more concern about myths and stereotypes playing a role in how the interaction with the police will go when the survivor is an LGBTQ+ woman (particularly if she is also racialized), while this may not be at the forefront of the minds of white cishet women in their decision-making process. It is perhaps that LGBTQ+ women are more aware of negative stereotypes as something they are personally targeted by and that is seen as legitimization of violence towards them, which leads to a greater anticipation of an unhelpful police response and an overall negative outcome of seeking their intervention.

Nancy has observed that common myths and stereotypes about SGBV are similarly prominent in LGBTQ+ women's experiences when they do report to the police, namely the myth that reports of SGBV commonly come from vindictive, opportunistic women who have ulterior motives and may be exaggerating or lying.[295] While more research is needed to establish this, I would hypothesize that this myth may be seen as more legitimate by the police when the abuse is occurring in a same-gender relationship, where there is already immense difficulty in convincing

[295] Gekoski et al, *supra* note 128.

the police that the violence is serious and deserving of legal consequences and the survivor is not safe and requires assistance. There may also be some potential overlap here with the earlier discussion of stereotypes that bisexual people and trans people are deceptive and manipulative.

Nancy indicated that with most LGBTQ+ survivors, their initial contact with the police involves being inappropriately charged for defending themselves against a partner who was assaulting them, rather than having charges laid as a result of that abuse. The survivor then reveals to the police that there has been a misunderstanding regarding the context of her use of force against her partner. Nancy commonly observes this interaction being wrongly perceived by the police as an opportunistic woman who is engaging in retaliation or attempting to gain the upper hand over her partner, such as in a divorce case. Because the abusive partner is also a woman, the survivor's fear, victimhood, and the abuse itself are all seen by the police as less credible and less serious.

5. Concerns About Discrimination

Nancy indicated that concerns about homophobia and transphobia being directed at the abuser, in addition to potential racism and other forms of discrimination, are a major concern that her clients have about going to the police. The overall sense from her clients is that the police are not on the side of the LGBTQ+ community and this means that there is no point to involving them, because they have no true intention of helping and if anything will worsen the situation. It is known that most victims, particularly those who are still in the abusive relationship, continue to have some degree of positive emotions towards their abusers.[296] Indeed, without an emotional bond it is difficult to imagine any way that an abusive or coercive controlling dynamic could take hold, let

[296] Bailey et al, *supra* note 268.

alone in a way that keeps the survivor in the relationship. Most victims continue to love their abusers and what they want is usually not to leave the relationship, but for things to return to how they were before the abuse began.[297] Abusive dynamics are known to sometimes revolve mainly around the victim working relentlessly towards that goal, believing that she can turn the abuser "back into the person she fell in love with"[298] if she loves them enough or says and does all the right things, and the abuser dangling it just out of reach and baiting her with promises of "this time will be different."[299] When a woman in a same-gender relationship is subjected to IPV, her partner is also presumably a member of the LGBTQ+ community and carries at least some of the same vulnerabilities, which the survivor is likely quite aware of. Despite pervasive myths about vindictive women who take pleasure in calling the police to make often exaggerated or false reports about SGBV, it is well-documented that calling the police in such cases is typically a last resort and done with the goal of safety (for herself and/or others) in mind, not revenge or punishment. Given these realities and my previous discussion in Chapter 1(E)(2) of the LGBTQ+ community's widespread, well-founded fear and mistrust of the police due to a history of persecution and institutional betrayal,[300] it makes sense that LGBTQ+ survivors would have grave concerns about potential police involvement's impact on themselves and/or the abuser. It has been said that because the legal system has long been hostile towards the LGBTQ+ community, for one LGBTQ+ person to report another for harming them means that that person will also be harmed.[301]

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[297] Heron et al, *supra* note 267.
[298] Pamela Cross, *Forty-four percent: A SHORT HISTORY OF INTIMATE PARTNER VIOLENCE* (Oshawa: Luke's Place, 2022).
[299] Suzanne Banowsky McCaskill, *Domestic violence: Policy, procedure, and reality* (Master's Thesis, Northern Illinois University, 2012).
[300] Owen et al, *supra* note 20.
[301] Kai Cheng Thom, *I Hope We Choose Love: A Trans Girl's Notes from the End of the World* (Vancouver: Arsenal Pulp Press, 2019).

Given that it is known that many LGBTQ+ people have trauma with the legal system,[302] it follows that that includes LGBTQ+ people who are abusive, which adds an additional disincentive to report the violence to the police. Again, Nancy indicated – and the literature is consistent – that the survivor rarely wishes any harm or misfortune on the abuser, she simply wants her circumstances to improve. In Nancy's experience, these concerns are most prominent when the abuser is not only LGBTQ+ but also holds additional marginalized identities, especially if they are Black, Indigenous, or a person of colour (BIPOC). In these cases, the concern is that the abuser will be subjected by the police to both racism and bigotry on the basis of their gender identity and/or sexual orientation. Engaging with the police regarding an IPV incident in an LGBTQ+ couple essentially requires being outed and subject to the whim of the responding officers, rolling the dice on whether the individual officers might turn out to be progressive, open-minded, empathetic, and ethical people.

6. Multiply Marginalized Survivors

It follows from the above that survivors who are themselves multiply marginalized are especially reluctant to seek assistance from the police, in Nancy's experience. LGBTQ+ women who are also sex workers are one group that Nancy named as especially reluctant – as a group, sex workers (especially multiply marginalized ones) "are not calling the police for anything." Though full-service sex work is not technically illegal in Canada, virtually everything related to it is.[303] Nancy also explained that other multiply marginalized survivors, such as queer and trans Black people, Indigenous people, and people of colour (QTBIPOC), are profoundly fearful and distrustful of the police and of how they and their partner would be treated by them, and this causes them to not be

[302] James et al, *supra* note 10.
[303] Cecilia Benoit et al, ""Well, it should be changed for one, because it's our bodies": Sex workers' views on Canada's punitive approach towards sex work" (2017) 6:2 Social Sciences 52.

able to view reporting the violence as something that would result in any improvements. This interview indicates to me that highly marginalized survivors fear the hypermasculine, racist, colonial, and conservative institution that policing has been throughout history,[304] and it is hardly a surprise that the relative unknown of this individual police officer would feel like a greater danger than the known danger of the abusive partner. Nancy said this is especially true for survivors who are Black, Indigenous, sex workers, or belong to other groups that are subjected to brutality at worst and apathy at best from the police, especially in the context of the intersection of these concerns with queerness or transness.

7. McArthur and Lack of Confidence in Police

Nancy brought up Bruce McArthur as a concern that has been raised by LGBTQ+ survivors in relation to the Toronto Police Service (TPS) – specifically, they are very aware of the police service's many failures in the Bruce McArthur serial homicide investigation and this contributes to a sense that the police are not on the LGBTQ+ community's side, are not concerned for their safety and wellbeing, and cannot be trusted to assist them. Nancy hears from survivors that when faced with the decision of whether to seek help from the police about SGBV, especially if they were active participants in the community during the homicides and disappearances, one thing that they wonder is: "what are the cops gonna do? You know, we called about all these murdered men, we called about our murdered friends, and they just ignored us." Nancy shared that it is known within the community that LGBTQ+ people who called the police expressing concerns about McArthur's volatile patterns of behaviour or who attempted to report the men missing were met with a blatant lack of concern and highly dismissive responses, such as refusing to take reasonable steps to investigate whether the man in question was safe and immediately concluding that he was

[304] Workman-Stark, *supra* note 166.

not missing and had merely decided to move away. This reflects, as Nancy put it, an underlying endorsement of the stereotype that LGBTQ+ people are flighty and transient – we do not want or are not capable of having stability, permanency, "roots," or "relationships where people would notice that we're missing."

My research revealed that the men whom McArthur murdered had jobs, friendships, relationships, families, and some – particularly Andrew Kinsman – were very connected and involved members of their communities.[305] The assumption of transience is not only untrue, but also irrelevant. Lacking permanent connections to Toronto does not make it unconcerning when a person appears to simply vanish into thin air and abruptly becomes unreachable. Given that some of the McArthur victims were relatively new to the community or lacked a permanent home address,[306] it is not surprising that they may not have had sufficient opportunity and time to form stability or a strong network of local relationships – again, that does not make it less concerning for them to go missing. If anything, that should have made the police more alarmed and more concerned for the welfare of these men. It may have made them more vulnerable to isolation and manipulation, and activities such as dating become more dangerous when there is no trusted contact to share one's location with or text for assistance if the date begins to feel unsafe. Indeed, some media coverage of the murders focused on how some of the victims were highly isolated or closeted, possibly due to a fear of backlash from their cultural or religious community, and how this may have made them more vulnerable to being targeted and murdered by McArthur[307] – if this is so readily apparent to journalists, it should not have been lost on professionals whose job it was to investigate the disappearances and keep the community safe. In short, stereotypes and covert

[305] Ling, *supra* note 190.
[306] *Ibid*.
[307] Wahab, *supra* note 190.

homophobia clearly led the police to fail to investigate thoroughly and to be unconcerned for LGBTQ+ people's safety in the past, and Nancy has seen that this is one reason why LGBTQ+ survivors remain wary of them and do not trust them to provide help in situations of violence. Other historical events in Toronto, namely the bathhouse raids,[308] have also shaped the community's deep-seated fear and mistrust of the police.

C. Lauren

The second expert I interviewed was "Lauren," a therapist. Lauren reported that the clients she has worked with who were LGBTQ+ woman survivors overwhelmingly have strong opposition to police involvement in their situations and she could only recall one such woman who voluntarily made a police report. She did not recall ever seeing a case where a third party called the police on behalf of a survivor who was an LGBTQ+ woman, which she feels is largely because of a failure to take the violence seriously, recognize it for what it is, or accurately understand LGBTQ+ relationships. This was a bit surprising because it directly contradicts Nancy's observation that the typical catalyst for LGBTQ+ survivors' contact with the criminal law system is when a third party who is concerned about the violence calls the police on their behalf. On the other hand, the context of Lauren's work as a therapist is very different from that of Nancy, a lawyer who is primarily working with survivors of IPV who have been inappropriately charged – in other words, while Nancy is generally only working with people who have already had to become involved with the

[308] In the 1970s and 1980s, the TPS raided several gay bathhouses, claiming that they were brothels. Though it is not unusual for sexual acts to occur, bathhouses are not brothels and this was clearly a power play intended to intimidate and humiliate the queer community. In 1981, this culminated in an incident of police brutality in the form of a mass arrest. The arrests that took place in this raid involved excessive violence and disproportionate use of force, bearing in mind that the men were nude and vulnerable. See: Nadia Guidotto, *Homo (sexual) sacer: biopolitics and the bathhouse raids in Toronto, 1981* (Ottawa: Library and Archives Canada, 2008).

criminal law system, it makes sense that Lauren would see fewer LGBTQ+ women who are involved in the system.

1. Myths and Stereotypes

Lauren reported that the police do not take IPV as seriously when it involves a same-gender relationship and that when both partners are women, it is frequently written off as "just a catfight." This signals, I would suggest, that the myth that violence between women is less serious is impactful in LGBTQ+ women's experiences with the police and their decision to not engage with them – i.e., they are influenced by concerns that the police's handling of the case will be informed by that myth, resulting in a negative experience characterized by themes such as being treated disrespectfully, lack of proper investigation, retraumatization from the police, and refusal by the police to make the needed interventions.

Lauren illustrated how the anticipation of a dismissive approach by police impacts decision-making by describing one of her clients, a young woman who had left a highly physically abusive girlfriend and chose not to seek help from the police. This survivor was a Black lesbian woman who was not a Canadian citizen and had obtained permanent resident status very recently. Lauren noted that this created multiple barriers to reporting for this survivor. Because she was Black, she was concerned about the potential for being negatively stereotyped and treated in a racist manner, potentially subjected to police brutality, and the violence against her being attributed to race rather than her being seen as a survivor and deserving of help and being believed. Because she was a lesbian, she was concerned about homophobia and feared that her relationship and the violence she was subjected to in it would not be taken seriously and would be labelled as a "cat fight." Because she was a woman, she was concerned about being treated with sexism and victim-blaming. Because she was not a Canadian citizen, she was concerned about not being protected by

the law, not being as familiar with Canadian laws and systems, and feared that going to the police could result in additional legal issues or jeopardize her immigration status.

Lauren also provided an example of how stereotyping and discrimination impact the police response when reports are made. One of the few clients of Lauren's who had voluntarily reported a crime to the police was a trans man who had been bitten by a dog. The officer he spoke with was extremely transphobic towards him and seemed unwilling to help, leaving the man with the feeling that he did not matter because he was trans. Lauren said transphobia from the police is one major concern that LGBTQ+ people often have about reporting SGBV, especially concerns for the abuser's safety if the abuser is themselves trans.

As discussed earlier in Chapter 1(C)(2), the widespread belief that survivors are vindictive and wish to see their partners suffer is a myth rooted in misogynistic stereotypes and victim-blaming – most survivors actually still care for their partner, have no ill will towards them, and only want to "fix" the relationship and put a stop to the abuse.[309] If an abuser is trans, that means there is a high probability that involvement from the police or legal system will result in harm to them,[310] adding yet another difficulty to grapple with when deciding whether to call the police. As Lauren said, trans people's legal identification may not reflect their gender identity, chosen name, or current appearance, and this means that if they are arrested, they may be sent to the incorrect prison. Sending trans women to men's prisons and trans men to women's prisons is not only humiliating, transphobic, and dysphoria-inducing, it also places them at a high risk of being subjected to SGBV themselves, from either staff or other inmates.[311] It is deeply unfair for the

[309] Jessica Wong & David Mellor, "Intimate partner violence and women's health and wellbeing: Impacts, risk factors and responses" (2014) 46:2 Contemp Nurse 170.
[310] Thom, *supra* note 301.
[311] Joanne M Brooke et al, "The experience of transgender women prisoners serving a sentence in a male prison: A systematic review and meta-synthesis" (2022) 102:5 Prison J 542.

survivor to be the one shouldered with the burden of moral responsibility for institutional violence towards the abuser when she is the one being harmed and the system is meant to be on her side, yet it is not on either partner's. I want to clarify that it is not my intention to suggest that a survivor should ever be considered responsible for any consequences that an abuser may face.

2. Multiply Marginalized Survivors

As with the experience of the trans client described above, Lauren reported that trans, non-binary, and other gender-diverse survivors have exceptional concerns about going through any type of institution to resolve issues related to SGBV. As she pointed out and also reviewed by me in Chapter 1(E), many of them have pre-existing medical trauma, trauma related to the legal system and/or a history of institutional betrayal, resulting in understandable reluctance to engage with systems that have previously broken their trust or been unsafe for them. While an in-depth discussion is outside the scope of this thesis, it is well-documented that the medical system is hostile towards trans and gender-diverse people, both in Canada and worldwide. In my research, I discovered evidence of numerous known cases of trans people being told their gender identity was not real, being turned away, or even dying because transphobic healthcare workers refused to treat them.[312] A 2021 report from the UK found that 70% of trans people have had negative healthcare experiences due to transphobia and at least 14% have had a doctor entirely refuse to treat them because they were trans.[313] Canada's healthcare system, along with some of the provincial governments that govern it, has been rapidly becoming more overt in its hostility towards trans

[312] Steph Foreman, "Fear and Discrimination: Medical Professionals and Transgender Patient Complications" (2012) 12 URJ 72; Ella Vermeir, Lois A Jackson & Emily Gard Marshall, "Barriers to primary and emergency healthcare for trans adults" (2018) 20:2 Cult Health Sex. 232; Amber Lee & Zul Kanji, "Queering the health care system: Experiences of the lesbian, gay, bisexual, transgender community" (2017) 51:2 Can J Dent Hy 80; Justin Bell & Eva Purkey, "Trans individuals' experiences in primary care" (2019) 65:4 Can Fam Physician 147; Bauer et al, *supra* note 180.
[313] TransActual, "Trans lives survey 2021: Enduring the UK's hostile environment" (London: TransActual, 2021).

people, namely in Alberta.[314] Going to the hospital to get medical attention following a sexual assault is often highly invasive and intimidating and is bound to be a difficult experience for anyone, but as Lauren pointed out, this is compounded when the survivor is a trans woman and there are additional fears surrounding it, e.g., how the survivor might be treated if medical staff were to become aware of her natal sex during the administration of a rape kit. It seems safe to assume that few people in that position would be keen to expose themselves to the additional risk of being misgendered, refused care, or even potentially subjected to further violence, and what Lauren sees in her work in terms of reporting and non-reporting reflects that.

In the case of Indigenous people who identify as Two-Spirit and/or LGBTQ+, Lauren stated: "they're Indigenous, so add that on top … the history of police state in Indigenous communities and not feeling … safe I think is a big reason not to go to the police, that as bizarre as it may sound to people, it feels safer not to report it than to report it." Policing of Indigenous communities in Canada could easily be an additional thesis, but in short, law enforcement and the criminal law system have inflicted and perpetuated a great deal of trauma upon Indigenous peoples. Some of the most prominent contemporary examples include the prosecution of a now-incarcerated man for the unlawful death of Cindy Gladue, in which the deceased, who was a mother of three children and known for her passion for cooking,[315] was referred to at trial using language such as "the Native girl" and "the prostitute" rather than by her name and her actual mutilated genitals were openly displayed in court with her family present;[316] the Missing and Murdered Indigenous Women and Girls (MMIWG) crisis, characterized by a grossly disproportionate rate of the victims in Canadian missing persons and homicide cases being Indigenous women and girls

[314] Heather Ganshorn, "Connecting the dots between extreme ideologies, "parent choice," and education privatization in Alberta and Canada" (2024) 15:2 Crit Educ 75.
[315] Beverley Jacobs, "Outrage of Injustice, Vaginas on Display: R v Barton," (2020) 3:1 JCFS 1.
[316] Baboulas, *supra* note 22.

and a long history of the police failing in such cases or even being the perpetrators;[317] and the many police-perpetrated murders of Indigenous people in the Starlight Tours, including a 17-year-old child named Neil Stonechild, who enjoyed playing card games with friends, always wore a white baseball cap, is missed by his family and friends, and became an accomplished athlete during his short life, winning a provincial wrestling championship.[318] Because most of Lauren's QTBIPOC clients have had prior negative or traumatic experiences with the police or heard such stories from others in their family or community, they have never been able to view the police as helpers, protectors, or as being on their side.

3. Bisexual Women

Lauren reported that bisexual women who are in heterosexual-passing relationships seem to feel more comfortable reporting IPV to the police than women in same-gender relationships, but less comfortable than heterosexual women. She described the police as displaying a very outdated understanding of LGBTQ+ topics and making assumptions about people's sexual orientation based on their relationships – in other words, queer women in heterosexual-passing relationship are assumed to be heterosexual because the police generally lack enough of a grasp of modern conceptions of sexuality. That renders the queerness of many bisexual women incomprehensible and invisible. Lauren indicated that bisexual women know this, and it causes them to choose to remain closeted in their dealings with the police and other SGBV services. The upshot of this, I would suggest, is that an important piece of context regarding the IPV is missing and the police are not likely to recognize that, for example, it may be helpful to refer the bisexual woman to LGBTQ+ counselling services. Being able to pass as heterosexual is often seen as a privilege, but

[317] Palmater, *supra* note 1.
[318] Susanne Reber & Robert Renaud, *Starlight Tour: The Last, Lonely Night of Neil* Stonechild (Toronto: Vintage Canada, 2010).

this is not necessarily the case.[319] The experience of having to remain closeted for one's own safety is traumatic in itself[320] and forces the survivor to not live as her authentic self, in addition to the stresses of being in an abusive relationship, having to interact with the police, and minority stress, or the inherent stress of belonging to a group that is subjected to discrimination.[321] Being closeted also entails the experience of fearing that one's true sexual orientation could be discovered and what the consequences of that could be, which adds to the fear that is already likely to be present.

4. McArthur and Lack of Confidence in Police

Similar to Nancy, Lauren has observed that Bruce McArthur plays a role in LGBTQ+ women's reluctance to report SGBV to the police and that the trauma of the serial homicides and disappearances left the community with a sense that the police will not help them, especially with anything involving any type of violence (but also with non-violent crimes). Based on what her clients have told her, it was well-known within the community that Bruce McArthur was a disturbed individual who exhibited alarming behaviour patterns and there were many people who called the police with tips and concerns related to him and his behaviour, yet these were dismissed or not followed up on. Lauren noted that this seems to have been passed down through generations of LGBTQ+ folks – even very young LGBTQ+ youth who would have been too young to be participating in the community at the time are aware of Bruce McArthur and how the community was affected – and it affects their perception of the police and willingness to turn to them for help. In discussing Nancy's interview, I highlighted the problematic reliance of police on stereotypes in relation to the McArthur homicides. It is also important to note that the failure of police to listen

[319] Rosie Nelson, "Deconstructing the Clinging Myth of 'Straight-Passing privilege' for bi+ People" (2024) 24:2 J Bisex 1.
[320] Nisha Gupta, "Illuminating the trauma of the LGBTQ closet: A cinematic-phenomenological study and film about existential rights" (2022) 19:3 Qual Res Psychol 632.
[321] Watson et al, *supra* note 11.

or appropriately respond to the community's warnings, thereby aiding McArthur to continue preying upon queer people, is an example of institutional betrayal.

Lauren strongly felt that the main reason why LGBTQ+ women do not report SGBV to the police is because they do not feel safe in doing so. Though unique to every individual, the reasons why LGBTQ+ survivors feel unsafe engaging with the police range from a lack of trust, to past institutional betrayals and cultural traumas, concerns about discrimination, concerns for how police involvement might affect the abuser, and an overall sense that the police are unsupportive and do not help marginalized people.

D. Samantha

The third person I interviewed was "Samantha," a therapist at an SGBV organization. One option that the organization provides to survivors who have decided that they do want to make a police report is to have the survivor be accompanied by a mental health worker for support and meet with the police in an alternative location that tends to feel safer and less intimidating than a police station. That option is especially preferred by her most marginalized clients, who often describe being so intimidated by police stations that the thought of going to one feels completely unsafe and overwhelming, they are unable to cope, and it prevents them from being able to make the report despite wanting to do so. As Samantha pointed out, it is surely not lost on anyone who has seen a police station that they are not designed to be comfortable, inviting places and are designed to intimidate suspects and make them feel like criminals – which is anything but helpful to survivors, who commonly feel as though they are the one being investigated and punished for the crime.[322]

[322] Janine Benedet, "The Role of Motive in Sexual Assault Trials" (2022) 34:2 Can J Women Law 331.

1. Stronger Concerns About Police

Samantha's clients indicate to her that their primary concerns about reporting SGBV to the police are that they will not be believed, they will not be supported, they will be blamed, they will be mocked or disparaged, and they will not be taken seriously. While present for virtually every survivor, Samantha indicated that those concerns are considerably stronger for those who are LGBTQ+, racialized, and/or hold other marginalized identities. Regarding the decision of whether to involve the police in cases of SGBV, like Nancy and Lauren, Samantha explained that LGBTQ+ women express a great deal of concern for both their own safety and that of the abuser, who is typically also a member of the LGBTQ+ community. As discussed in relation to Lauren's interview, it is common for survivors to feel a sense of loyalty and protectiveness towards their abusers. This sentiment was echoed by Samantha, who also explained that this appears to be amplified when both belong to the LGBTQ+ community.

When an incident of SGBV has occurred, survivors feel more comfortable seeking help from, and potentially talking to the police at, Samantha's organization than a police station for several reasons. Consistent with what I heard in my other interviews, Samantha reports that the clients she sees have already had their own experiences of abuse or harassment from the police and/or heard stories of other LGBTQ+ people's negative experiences with officers who were meant to be protecting them from abuse and harassment. They strongly and persistently fear that the police will misgender and deadname, be overtly homophobic, biphobic, transphobic and/or racist, misunderstand the situation based on myths and stereotypes, or, again, even attend the scene only to be violent and abusive themselves. From what Samantha has observed, police involvement in SGBV does not tend to make the situation any safer and actually makes it more unsafe the majority of the time – again, especially when the survivor or the abuser is queer, trans, and/or racialized,

and women in such circumstances tend to be acutely aware that calling the police may not be a safe option for either themselves or the abuser. It seems survivors are right to question whether police involvement is beneficial to their safety.

2. How the Decision is Made

The major factors that Samantha's LGBTQ+ clients generally consider in their decision-making about whether to report SGBV to the police, and that ultimately deter almost all of them from doing so, can be summarized as follows, in addition to some of what has been discussed above (e.g., fear that they or their partner will face discrimination and abuse, even physical violence, from the police). They indicate to Samantha that they fear that they will not be believed, a fear that is stronger than in cishet women. They fear that the police may not adequately understand the importance of protecting the integrity of information about the SGBV. They are concerned about the police having a lack of education around the LGBTQ+ community and topics such as pronouns. Again, they persistently and strongly fear due to others' experiences that if they report SGBV, they will be misgendered and misunderstood. Samantha and I discussed that being misunderstood in this context could look like actions being decontextualized, the relationship not being perceived accurately, or the survivor being perceived as deceptive or opportunistic in her allegations of abuse. Her clients feel a sense of loyalty and protectiveness towards the LGBTQ+ community and are concerned that reporting a fellow LGBTQ+ person for a violent crime will be viewed by the police as a reflection of the entire community, thereby perpetuating stigma and judgment. They fear that they will be betraying the LGBTQ+ community and receive backlash within it, which could lead to further isolation. Consistent with the literature, many of the LGBTQ+ women Samantha has supported have an unsafe or non-existent relationship with their family of origin, the LGBTQ+

community is the only place where they feel any sense of family or belonging,[323] and being ostracized from it due to being seen as a traitor would mean being truly alone, compounded by the use of isolation as a tactic in coercive control.[324] Though Bruce McArthur has not specifically come up in Samantha's work, she does feel that those events play a role, mainly in that they have made LGBTQ+ Torontonians much more fearful of violence in general. Samantha's clients indicate to her that they are concerned about the police as a source of further violence, particularly if sex work is involved in any way. Sex workers are known to fear the judgment and dehumanization that is often the reaction to their work and sometimes escalates to violence, even lethal violence.[325] LGBTQ+ survivors who are multiply marginalized, such as also being racialized or disabled, especially indicate to Samantha that are very afraid for both themselves and their partner. The leading concern expressed to Samantha is safety – specifically, the survivor's own emotional safety and the physical safety of the abuser. LGBTQ+ women fear that if the police are called, they will increase the violence, either harming the abuser or escalating rather than de-escalating the violence that is already being done to the survivor.

3. Myths, Stereotypes, and Transmisogyny

Samantha has seen that SGBV myths and stereotypes are extremely prominent in policing, both in general and when it comes to LGBTQ+ survivors. Most of her clients are highly aware of these stereotypes and how they cause them to be viewed by others, including the police. Despite legal reforms and decades of supposed progress, it remains common practice for the police to ask Samantha's clients "archaic, inappropriate questions" that are obviously influenced by victim-blaming and SGBV myths, such as "did you lead him on?". Even when such attitudes are less

[323] E.g., McDonald, *supra* note 43; Thom, *supra* note 301.
[324] Stark & Hester, *supra* note 36.
[325] E.g., Lyons et al, *supra* note 10.

overt, her clients describe being able to infer the officers' beliefs and sense the "undertones of judgment." Samantha noted that these myth and stereotype-based attitudes show up similarly for LGBTQ+ women, but more uninhibited and with less empathy. She observes that myths and stereotypes make it difficult for police officers to understand the true extent of the psychological manipulation that can be present in any abusive relationship, perhaps especially a queer one, as well as the fact that despite the presence of abuse, the survivor may still feel love for her partner and would likely prefer not to leave. Particularly where there is financial enmeshment, feelings of emotional dependence, or shared children, Samantha has observed that leaving the relationship and/or reporting the abuse to the police truly may be the more damaging and unsafe option in some cases, perhaps especially for LGBTQ+ victim-survivors.

Samantha indicated that she has personally seen several myths and stereotypes play a role in LGBTQ+ women's experiences and decision-making about whether to report SGBV to the police. Some of these include that only cis men can commit rape, that LGBTQ+ people (especially bisexual people and trans people) are dishonest or hypersexual, and that IPV only occurs in heterosexual relationships. Butch/femme pairings are the stereotypical lesbian relationship and Samantha has observed that police officers seem confused by lesbian relationships that do not appear to fit that stereotype. She has heard from clients that in cases where the police respond to a call involving violence within a butch/femme relationship, the "butch" or more masculine-appearing partner is automatically assumed to be the abuser, is treated with much more blatant lack of care, and is subject to lines of questioning that are openly led with stereotypes. In Samantha's experience, the myth of the "real" or "perfect" victim presents in a specific manner for LGBTQ+ survivors – if they are not a feminine cis woman or there is something about them that is not aligned with a stereotypical victim, they are treated with disbelief, with much less concern

and care, and the way they are questioned shows that they are being blatantly stereotyped by the police due to their physical appearance. Samantha explained that bisexual women display exceptional concerns about the role that myths and stereotypes may play in their treatment by the police should they choose to report the SGBV they have been subjected to. Samantha indicated that awareness of such myths and stereotypes produce pre-emptive feelings of being misunderstood and being made further unsafe, resulting in a secondary victimization even prior to any contact with the police. Bisexual women indicate to Samantha that they expect inappropriate, irrelevant, stereotype-based questions that have more to do with their bisexuality than with the violent crime that has happened to them, and they do not want to put themselves through this additional traumatic and objectifying experience. They express fear to Samantha that they will be stereotyped as unfaithful, liars, and as "trying to get the upper hand" through reporting. The irony is that there is little to gain by reporting and the situation is frequently made worse. Bisexual women who have reported SGBV to the police in the past indicate to Samantha that they did receive the intrusive, biphobic questioning that they feared they might. In general, LGBTQ+ survivors are highly aware of and concerned about stereotyping and of how they may be treated very differently depending on which officer they get and that officers' personal politics.

Regarding trans women, Samantha's experience has been that going to the police for help is generally unthinkable to them. One client, a trans woman who had been sexually assaulted, strongly felt that reporting was not an option whatsoever because of transphobia, transmisogyny, and negative stereotypes about trans women. The client felt there was no point to making a report and that it was a certainty she would only face further abuse and dehumanization, this time from the police.

4. Experiences Reporting

Samantha's high-level observations of LGBTQ+ survivors' experiences with the police are as follows. She has never seen a case where a third party called the police on behalf of an LGBTQ+ survivor. The police are highly insensitive, even more so than they are when speaking with cishet survivors. They ask questions that are astonishingly ignorant and inappropriate, and often "the same questions over and over." When a person has been through a serious trauma that they are then made to relive the details of in conversation with the police, it is not difficult to imagine how having an already emotionally difficult question repeated would be aggravating and upsetting and might create the impression that one is being viewed as untruthful. This is one example of the next point, which is that the police are "not at all trauma-informed" and it is readily apparent in the way they interact with Samantha's clients, particularly LGBTQ+ and other marginalized ones. Though not surprising, that point is particularly disappointing in light of the enormous amount of work that has been put into trauma-informed policing practices and training for officers.[326] Samantha has found that the officers she interacts with appear to have little to no training regarding LGBTQ+ communities, LGBTQ+ relationships, LGBTQ+ cultural contexts, the context of and importance of intersectionality in QTBIPOC's lived experiences, how an LGBTQ+ survivor's needs may be different, how to support LGBTQ+ survivors, or even such rudimentary knowledge as what "non-binary" means or why it is important to refer to trans and gender-diverse people by their chosen name and pronouns even if that may not match their physical appearance or legal documents. In Samantha's experience, the police are "horrible with" marginalized survivors in general – as a marginalized person, particularly a racialized or visibly trans one, it can be extremely intimidating to speak to armed police officers, who are often large cishet white men. It is to be expected that

[326] International Association of Chiefs of Police, *supra* note 113.

many people who are reliving something as horrifying as a sexual assault or a partner assault would experience a high degree of emotional distress as a result and that this may cause physical reactions, such as crying. Samantha has found that the police are not sympathetic or sensitive to such reactions, nor do they make any effort to recognize and mitigate the intimidation factor or the humiliation of being recorded while crying and telling strangers the details of such intimate trauma. Racialized women and LGBTQ+ women who have contacted the police for help with IPV in the past indicated to Samantha that the police failed to deescalate the situation or increase the survivor's safety; indeed, involvement from the police frequently results in an increase in danger without resolving any of what prompted the 9-1-1 call. The response of the police to these calls is not the same as the response when it is a cishet white couple. Women who are LGBTQ+ and/or racialized are aware of this and the consequence is that, in Samantha's words, "when they're seeking safety, the police aren't who they think of." They prefer to attempt to resolve issues of violence and abuse through alternative means, such as making safety plans.

5. Misgendered, Emotional Labour, and No Charges

Samantha indicated that she has only personally accompanied one LGBTQ+ woman or woman-aligned client who went through with the full process of reporting an incident of SGBV to the police. The survivor was a non-binary femme person who used they/them pronouns and had been sexually assaulted – from hereon, I will refer to this client as "C" to avoid clunkiness and confusion. C also had a disability that affected the way they communicated and meant that the interview required more time than it typically would. Overall, Samantha described this as the first relatively positive police reporting experience she had ever seen with any survivor. However, there were numerous problems and it was apparent that it was largely due to the officers' failure to understand the survivor's intersecting identities. The officers repeatedly misgendered C and

displayed ignorance about the significance of pronouns for trans and gender-diverse people. The misgendering made C even more upset and caused them to have to take time to perform emotional labour to educate the officers, who ought to have already been trained on this by their employer. Samantha noted that these officers were young and inexperienced, and that she felt this contributed positively to the outcome by making them more patient, understanding, and willing to accommodate the survivor's needs, particularly around the disability – but "had these been the officers I had in other reports, it would have gone south very quickly." Perhaps somewhat surprisingly, Samantha said that it tends to be older, more experienced police officers that survivors have the most negative experiences with. The police ultimately decided not to lay any charges against the person who sexually assaulted C. The specifics of why no charges were laid are confidential, but Samantha indicated that this was a "disheartening" and surprising outcome because there was an enormous amount of evidence in this case.

6. Inadequate Training

Samantha expressed that in her experience, the main issue with policing and LGBTQ+ survivors is a lack of adequate training for police officers. The lack of training shows up as not being trauma-informed, not being sensitive, not being up to date in their knowledge, and being completely uninformed about LGBTQ+ topics. When a survivor has already gone through something traumatic, it is the opposite of helpful or supportive to then be misunderstood and dismissed by ignorant police officers.

E. Monica

The fourth expert I interviewed was "Monica," an immigration lawyer. While she is not a criminal lawyer, she frequently sees cases of LGBTQ+ women who have come to Canada as refugee

claimants and have been subjected to SGBV – in their country of origin, upon arrival in Canada, or both. Many of these refugee women are from countries where it is very dangerous to be LGBTQ+, harsh criminal penalties (including capital punishment) may be enforced for sexual activity that takes place in any circumstances other than a heterosexual marriage, and law enforcement is, at best, uninterested in the violent victimization of LGBTQ+ people. Monica's clients also frequently describe the police in their countries of origin as being exceptionally corrupt and untrustworthy, and that there are no resources to turn to when a person needs help. While there is undeniably corruption and plenty of problems with the police in Canada, our police are simply not comparable to the police in, for example, Iran or Kenya.

1. Queering Immigration and Refugee Status

Monica indicated that the police in Canada are generally not sensitive or trauma-informed regarding SGBV, LGBTQ+ topics, or refugees. Being a refugee carries its own unique set of considerations. Being a refugee generally entails coming to Canada with pre-existing trauma and institutional betrayal – indeed, being persecuted or unprotected by one's government may be one of the highest forms of institutional betrayals there is. As mentioned previously, many refugees – especially ones who are LGBTQ+ or have become refugees for reasons related to SGBV – originate from countries that have poor civil rights protections, extreme levels of government corruption, horrific persecution and suppression of women and LGBTQ+ people, and police forces that lack ethics, openly support the abuse of LGBTQ+ people, and are unwilling to take any action against SGBV. Some cultures lack much of an understanding of queerness or transness and identifying as LGBTQ+ would be entirely unthinkable. One client of Monica's was a trans man whose country of origin lacked a concept of or word for being trans. He understood that he had always strongly felt that he was not a woman, that he felt a desire to bind his breasts, and that he

would like to go by he/him pronouns and a masculine name and be treated as a man, but he did not understand that this meant he was trans or what that was, nor did it occur to him that this was something he could ever act on or speak about. He was terrified to discuss any of this with Monica and was bewildered to learn that trans people in Canada have legal protections, supportive communities and organizations, that it is possible for them to walk down public streets and be relatively safe, and that they could even conceive of the possibility of going to the police to report an assault. Like many LGBTQ+ refugees, he was experiencing a level of culture shock that is difficult for most people to fathom. Some clients tell Monica of beliefs in their home countries that liken queerness or transness to being "wrong" or "defective," an extraterrestrial being, or possessed by the devil. I have often wondered whether there is such thing as an untraumatized LGBTQ+ person, because living in a world where one's existence is literally demonized is bound to be traumatic for anyone. For refugees, however, that tends to be true to another level – it is no secret that Canada's political climate is growing increasingly hostile towards people like me, but it is unlikely to ever become so unsafe as to force me to flee on the basis of my queerness and if it ever does, I have my doubts that anywhere I could flee to would be much better.

Monica shared that when her clients speak with the police, they often appear "skittish and afraid" and that this is largely because most police officers are large, intimidating white men with guns. She described this as very frightening and retraumatizing for her clients, due to the context of their backgrounds and histories. Most of her clients are racialized LGBTQ+ people who have come to Canada from countries where LGBTQ+ legal rights are minimal to non-existent, same-sex relationships or simply being LGBTQ+ may be illegal and perhaps even punishable by execution, they may have been exposed to armed conflict, the government accepts or even encourages violence towards LGBTQ+ people, and the police are far more corrupt, unsafe, and

untrustworthy than they are in Canada. In Monica's experience, no attempt is made by most police officers to recognize this context or be sensitive towards it.

2. "They Just Looked at Me Like I Didn't Matter"

Like many of my interviewees, Monica indicated that she had seen only one LGBTQ+ woman choose to seek assistance from the police after being subjected to SGBV, and this engagement with the police proved to be neither helpful nor a positive experience. Monica did not personally accompany the woman to the police station. This client was a Black butch lesbian woman who had come to Canada, along with her child and partner, as a refugee from a country where it is illegal to be LGBTQ+. The woman's partner, who was the more femme/feminine presenting of the two, had historically been abusive and then the abuse became much worse after the couple arrived in Canada. To avoid confusion due to both partners using she/her pronouns, I will hereon refer to the survivor as "S" and the abuser as "A." A was an alcoholic and would become violent towards S when intoxicated. Like many women who become trapped in abusive relationships,[327] this was not the first time S had been subjected to SGBV – her child had been conceived through a rape in her country of origin. S – again, like many other survivors[328] – did not want the relationship to end, but for the violence to end and for the woman she loved to seek professional help with her addiction. Following a physical assault by A, S went to the nearest police station to make a report. She was nervous about how she might be treated by the police, but her fear for her safety had grown to surpass these concerns. Unfortunately, her expectations proved true. S's exact words to Monica were "they just looked at me like I didn't matter." Monica described S as being

[327] Elisabeth Christie Ørke, Solveig Karin Bø Vatnar & Stål Bjørkly, "Risk for revictimization of intimate partner violence by multiple partners: A systematic review" (2018) 33 JOFV 325; Martine Hébert et al, "A review of mediators in the association between child sexual abuse and revictimization in romantic relationships" (2021) 30:4 J Child Sex Abuse 385.
[328] Wong & Mellor, *supra* note 309.

"devastated" by the way that the police treated her and the fact that her experience led her to feel unimportant instead of supported, after coming to Canada for a better life and with the expectation that she would be treated more kindly than in her country of origin, where the police are very different from the Canadian police and would have arrested or killed her had they become aware that she was in a same-gender relationship. S expressed to Monica that due to her history, she felt frightened of the police and of being in a room with a strange man, let alone a physically imposing white man with a gun. The police made no attempt to be sensitive to this or take any time to understand S as a person, her history, what had happened to her, her relationship with A, or what kind of support she or her child might need. The most egregious aspect of S's experience was probably the fact that no attempt was made to investigate what had happened or follow proper procedures for interviewing her or documenting the information she shared. She was not offered a private room or to speak with a female police officer, nor was she formally interviewed at all. The police handed her a pen and a piece of paper, asked her to sit in the public area of the station and write down her story, and then told her they would call her back soon. As described by Monica, S had the distinct impression that she was not at all a priority for them, and they wanted to simply process her and move on to more important things. Despite efforts to convey the urgency and seriousness of the situation and that A needed a serious intervention for her alcoholism, the police were uninterested in listening. They never did follow up and an LGBTQ+ social services organization that Monica referred S to had to call them on her behalf to attempt to convince them to do so. The bizarre and unprofessional way that S's complaint was handled speaks to just how little those officers valued the life and safety of a Black lesbian refugee woman and her child. What is particularly alarming is that the presence of both violence and alcoholism in a home where a

child lives did not seem to register as cause for concern, even though police officers are mandatory reporters and those are both criteria that may warrant a call to a Children's Aid Society (CAS).

3. Myths and Stereotypes for LGBTQ+ Immigrants and Refugees

Monica has seen myths and stereotypes impact LGBTQ+ refugee women's decision-making and experiences in a unique way. As mentioned above, some of her clients describe coming from cultures that have myths about LGBTQ+ people that suggest connections to aliens or Satan – trans people "have a devil in them," queer people "have a devil in them," trans people are "alien," the devil created lesbianism, gender nonconformity is demonic, bisexual people can choose to become heterosexual by being in a "straight" relationship and are choosing the "devil in them" when they instead enter into a same-gender one, queer people are attracted to people of the same gender because a demonic influence causes them to be and not because they simply happened to be born queer and that is natural and normal. I will point out that while growing up in the Canadian Bible Belt, I personally heard vaguely similar myths many times, especially around the supposed connection between Satan and people like me, with our "deviant preferences" and "unnatural lifestyles." While I certainly do not support homophobic, biphobic, or transphobic attitudes anywhere and there is no denying that Canada is a much better place to be LGBTQ+ than countries that impose the death penalty for same-sex sexual activity, it would be a grave error to get so caught up in finger pointing that we forget that our culture and institutions are also homophobic, biphobic, and transphobic. That aside, Monica has heard clients describe the shame, fear, internalized oppression, and self-blame that can come from growing up in a context where those types of stereotypes are present. As Monica explained, bisexual refugee women who have been subjected to IPV describe hearing from their families and others, and internalizing, the idea that the abuse is not wrong because their partner is "beat[ing] the devil out of them" or that they brought it upon

themselves by acting upon their attraction to women and not choosing the "safer" path of a "straight" relationship. Ironically, as Monica noted, a violent relationship with a man and an inability to get help for it is sometimes precisely what led the bisexual woman to be in Canada as a refugee – her partner became violent, the police came, it was discovered that she was bisexual, and both the police and the survivor's own family outright supported the male partner's abusive actions because they essentially viewed it as converting the survivor from bisexual to heterosexual.

The myth that lesbian relationships are butch/femme, and the butch is always the more aggressive one has also been impactful in what Monica has seen – in the aforementioned case of S and A, it appeared to her that S being butch and A being femme contributed to the police not taking the abuse seriously or viewing S as a genuine victim who deserved support. Many of Monica's clients also internalize themselves the myth that remaining with, returning to, or not calling the police on an abusive partner is the same as consenting to the abuse. In the case of S, her situation might be summarized as a double bind because while she felt that not reporting A to the police was a failure on her part and meant that the abuse was not serious or that she deserved it, she also felt that this would result in A being harmed due to her race, sexual orientation, and being under the influence of alcohol. She also expressed to Monica that she had no desire for the outcome to be A being punished, only for the violence to stop and for A to receive professional help for her addiction. Monica's clients, like those of my other interviewees, also feel that calling the police on their abuser would be a betrayal of the LGBTQ+ community and "selling her partner out." This concern is heightened for Monica's clients if their country of origin is one where the police becoming aware of the relationship would result in the abuser (and potentially the victim as well) being incarcerated for the rest of their life, beaten, or killed.

4. Insufficient Training

Monica believes that a lack of training for police officers, especially around SGBV, trauma, intersectionality, and LGBTQ+ communities, is a major problem. From what she has seen, the police do not seem to treat SGBV with the seriousness or urgency that it warrants, particularly when the survivor is LGBTQ+. They do not understand the context of traumatized people's behaviour and do not seem to be trained on how to interact with them in a supportive way – for example, Monica believes that S was viewed with suspicion because she appeared uncomfortable and hesitant, which anyone using a trauma-informed lens would have understood as being due to her trauma. Police do not appear to understand, based on what Monica shared with me, the role that intersectionality can play in survivors' experiences – for example, S was very aware when she came to Canada of the way that Black people are treated by the police in North America and this was one reason why she felt so uncomfortable and afraid when speaking with white male police officers, and the police seemed to take the position that it was better to not acknowledge race rather than being sensitive to S's context and taking steps to make the experience less distressing and intimidating. The notion that colourblindness is inclusive or creates positive change is outdated, tone deaf, and anything but supportive or trauma-informed; in this case, it seems to me that it obscured S's reality and prevented the police from being able to understand her story and her needs. The police were clearly ignorant about LGBTQ+ communities and it showed in a few ways; for example, Monica said they did not seem to grasp that S was afraid of A, that the threat posed by the abusive relationship was urgent and serious, that a butch woman could be victimized by her femme partner, or the context of a multiply marginalized woman placing herself in a vulnerable position by seeking assistance from white male police officers. S reported to Monica that the police appeared confused as to why someone in her position would feel the need to seek assistance from

them at all, and the fact that they simply gave her a pen and paper rather than interviewing her speaks volumes about how seriously they took her concerns. I recall hearing Monica tell this story and thinking that the police seemed far more concerned and sympathetic when my brother reported his bicycle stolen. Apparently, in this country, we value bicycles over Black lesbian refugees and their children.

In short, Monica's LGBTQ+ clients are affected by many of the same myths and stereotypes that other victim-survivors of SGBV typically face, but perhaps harsher and with less sympathy from others. There is also an overlap of those myths and stereotypes with myths, stereotypes, and negative attitudes about LGBTQ+ people. It is not surprising that, in Monica's view, LGBTQ+ women who are refugees, many of whom are also BIPOC, do not feel that seeking help from the police is an option and virtually never have positive experiences when they do.

F. Tiffany

My fifth and final interview was with "Tiffany," who works at a women's shelter. Tiffany's work primarily exposes her to women who are victims of IPV and have already been brought to the attention of the police, whether through their own report or someone else's. This may skew the percentage of LGBTQ+ women she sees who have engaged with the police regarding the SGBV they were subjected to. While the majority of Tiffany's clients are cisgender and heterosexual, she has supported several women who disclosed to her that they identified as lesbian and/or trans. As with Nancy's clients, the vast majority of LGBTQ+ women Tiffany has worked with did not voluntarily report the violence to the police (especially QTBIWOC, immigrants, and refugees) and where police did become involved, it was usually because they were called by a third party, such as a doctor, the CAS, or a women's shelter worker. Like Monica, Tiffany mentioned that LGBTQ+ women who are immigrants or refugees often come from countries where it is illegal to be

LGBTQ+, the death penalty is imposed for violations, and police corruption is so severe and deep-seated that "nobody calls the police [because] they don't help." The result is that many immigrant and refugee clients are afraid of the police and cannot fathom willingly calling them for assistance, let alone regarding violence within a same-gender relationship. Interestingly, she reported that no client had ever disclosed to her that they identified as bisexual. This certainly does not mean she has not had bisexual clients, nor is it surprising – it is consistent within the literature that bisexual people are more likely to be closeted than their gay and lesbian counterparts[329] and many will describe themselves as gay or lesbian to avoid the biphobia within the queer community.[330] Of the women Tiffany has worked with who have disclosed to her that they identified as LGBTQ+, every single one had been disowned by their families because of homophobia or transphobia.

1. Cisheteronormative Understandings of Violence

There are two particularly pertinent cases that Tiffany shared with me. One involved a lesbian woman in a physically, emotionally, and sexually abusive relationship. Both partners were cis women. After her partner brutally raped her with a foreign object, the survivor attempted to seek assistance from the police. Tiffany explained that the officers initially did not consider what had happened to be rape or sexual assault because it did not involve a penis and seemed to believe that non-consensual sexual contact between two cis women could not be serious enough to be considered sexual violence, even though, I might add, the law is extremely clear that gender plays no role in whether such an act is criminal and it is unconstitutional and discriminatory for the police to enforce such laws unequally on the basis of gender. The law is also clear that sexual

[329] Gary J Gates, *Sexual Minorities in the 2008 General Social Survey: Coming Out and Demographic Characteristics* (Beverly Hills: Williams Institute, 2010).
[330] Watson et al, *supra* note 11.

assault includes both direct and indirect contact, including the use of foreign objects.[331] As I have explained in relation to other interviews, this response displays an underlying endorsement of the "real rape" myth, ignorance about queer sex and relationships, and the homophobic belief that romantic relationships and sexual acts between two women are not "real." Tiffany felt that the officers were not taking the survivor's complaint appropriately seriously and seemed confused as to how it could be possible for a woman to rape another woman. This underreaction strikes me as especially concerning since foreign object rapes are known to be more violent on average and to indicate a higher risk of future homicide.[332] Tiffany explained that the severely traumatized survivor was very ashamed and reluctant to disclose details of what had happened to her. It was not until she went into more of those specifics, including the type of object that was used in the rape, that the officers began to believe her or take her more seriously.

The other significant case was that of a woman who began to face severe coercive controlling abuse from her partner after coming out as trans. This client was a trans woman who had began transitioning recently – in other words, she was visibly trans - and had previously been the victim of a very violent sexual assault by a different perpetrator. When she contacted the police for assistance after her partner physically assaulted her, the officers displayed a lack of empathy and a worrying degree of ignorance about transness. For example, one of them pointed out that the survivor was taller than her abuser and insinuated that this meant there was no danger to her, the violence was not serious, and she ought to be able to defend herself and manage it on her own without needing help from the police. They implied that she was "a man in a wig," which is a transphobic slur, and told her that what she was telling them did not make sense because a (cis)

[331] See: *Criminal Code*, RSC 1985, c C-46, ss 265(1)(a), 271.
[332] Eric Beauregard, Julien Chopin & Jan Winter, "Lethal outcome in elderly sexual violence: Escalation or different intent?" (2020) 71 J Crim Justice 1.

woman could not possibly be abusing someone who looked the way she did. There were children in the home, yet the officers seemingly did not view the violence as serious enough for this to even be a consideration. It is well-documented that it is emotionally damaging for a child to live in a home in which abuse is occurring, even if the child is not directly targeted or present during a violent or threatening incident, and that this can cause serious long-term harm and increase the risk of future victimization and perpetration.[333] Given this context and the fact that the police are statutorily required to report to child welfare authorities where a child may be in need of protection,[334] it is even more troubling that they did not take this complaint seriously. Tiffany reported that this survivor had similar experiences when attempting to access gender-based violence services. This included being treated as though she did not belong, having her appearance scrutinized in a transphobic way (specifically, they felt that she did not appear feminine enough), and repeatedly being referred to with he/him pronouns after the service providers were spoken to about it multiple times. They did not seem to understand that gender identity is separate from a person's appearance and that her appearance did not change the fact that she was a woman, and her pronouns were she/her. This woman was failed by both the police and the SGBV sector, and, as with many of Tiffany's other clients, not for the first time. It is not surprising that so few LGBTQ+ women seek help for SGBV, especially from the police, if they anticipate that this is what happens when they do. This goes back to my literature review – while the police generally

[333] Margot Shields et al, "Exposure to family violence from childhood to adulthood" (2020) 20 BMC Public Health 1. In *Barendregt v Grebliunas*, 2022 SCC 22 at para 143 the court acknowledged this harm, noting: "The suggestion that domestic abuse or family violence has no impact on the children and has nothing to do with the perpetrator's parenting ability is untenable. Research indicates that children who are exposed to family violence are at risk of emotional and behavioural problems throughout their lives: Department of Justice, Risk Factors for Children in Situations of Family Violence in the Context of Separation and Divorce (February 2014), at p. 12. Harm can result from direct or indirect exposure to domestic conflicts, for example, by observing the incident, experiencing its aftermath, or hearing about it: S. Artz et al., "A Comprehensive Review of the Literature on the Impact of Exposure to Intimate Partner Violence for Children and Youth" (2014), 5 I.J.C.Y.F.S. 493, at p. 497."

[334] See, for example, section 125 and in particular s125 (6)(e) of Ontario's *Child, Youth and Family Services Act, 2017*, SO 2017, c14, Sched 1.

have a negative reputation regarding SGBV, one would expect civilian SGBV services to be more sensitive and progressive, so what is known about LGBTQ+ women's experiences with such services is cause for even more concern about their experiences with the police.

2. (Plenty of) Reasons Not to Report

Tiffany cited the following factors as common reasons why LGBTQ+ women do not want to speak to the police. As mentioned before, many of her LGBTQ+ clients are immigrants or refugees from countries where it is illegal to be LGBTQ+. Immigration status being tied to sponsorship from an abusive partner is a well-known issue within the SGBV sector,[335] but this is especially concerning for LGBTQ+ women who have come to Canada from countries that impose harsh legal penalties for gender transitioning or same-sex sexual activity. Those women not only worry that ending the relationship or calling the police will cause them to lose their immigration status in Canada or to be deported, but also fear for their lives and safety in the event that they are forced to return to their country of origin. The harsh reality for many women with precarious immigration status is that if they were forced to return to their country of origin and it was discovered that the partner who had been sponsoring them was also a woman or that they had not been living as their natal sex, the best-case scenario is total ostracization and unemployability and the worst-case scenario is that they would be killed. It is not difficult to see why so many women, after coming to Canada "because they're running from something or just they want a better life for themselves and their kids," do not view this as any better than living with the abuse or perhaps even as an option at all. LGBTQ+ women share with Tiffany that they do not expect the police to help them and fear that the response will be racist, xenophobic, homophobic, transphobic, not trauma-informed, or victim-

[335] Hannah Fonteyne et al, "Immigrant Women's Experiences of Domestic Violence in Canada: A Qualitative File Audit" (2024) 39:4 JOFV 613.

blaming. She indicated that they have heard stories from others in the LGBTQ+ community about the police being discriminatory or unhelpful and this increases their fear that the same will happen to them if they report the SGBV they have been subjected to; they fear that their children will be taken away or will be emotionally harmed by the abuse being reported – a common fear among all victim-survivors of IPV, but perhaps especially significant given the stigma around LGBTQ+ parenting; and they may have had few to no models for what a healthy relationship looks like, especially a queer relationship, and this may make it difficult for them to even process that what is happening is abuse – or it may make them defensive and reluctant to come forward, lest they be seen as "confirmation" of homophobic notions about queer relationships being pathological, destructive, or deviant. Because it is so common for survivors to be revictimized[336] and LGBTQ+ women are much more likely to be survivors,[337] it is unsurprising that many of Tiffany's LGBTQ+ clients have previously been abused, especially as children, and had prior experiences with being failed by people and institutions that were meant to protect them, such as the police, CAS, and their families of origin. Many of these women's first abusers were a family member or family friend and when they attempted to tell their family or get help, the abuse was a "family secret" and the adult abuser was the one protected instead of the child victim-survivor. Often, the family successfully concealed the abuse and prevented it from coming to the attention of the police or CAS; when they didn't, the survivor was unlikely to remember the interactions with the authorities fondly. If the abuser was successfully prosecuted, the family may still have blamed the survivor, not believed them, or ostracized and resented them for supposedly causing the abuser to get into trouble or be sent away – never mind that between a child who came forward about abuse, an adult

[336] Ørke et al, *supra* note 327; Hébert et al, *supra* note 327.
[337] Jaffray, *supra* note 66; Poehlmann, *supra* note 3; Walters, Breiding & Chen, *supra* note 55; Canadian Women's Foundation & Wisdom2Action, *supra* note 3.

who made a choice to abuse a child, and other adults who made a choice to protect the violent adult instead of the child being harmed, the child is the only person without any responsibility.

3. Experiences Reporting

Tiffany named the following as common problems in LGBTQ+ women's experiences with the police – as with the other interviewees, these experiences are nearly always very negative from what she has seen. The police dismiss IPV between women as "girly fights," "catfights," or "drama" and display the attitude that a woman could not be capable of doing meaningful damage – this seems especially prominent when the survivor is trans and/or racialized, suggesting an intersection with transness and/or race. They view sexual violence through an outdated, patriarchal lens that positions heteronormative rape as the essential element or as the only form of sexual violence that is truly serious or traumatizing. They do not believe survivors, validate their feelings, or see the importance of taking steps to ensure their safety, such as physically separating the couple rather than questioning the survivor about the abuse in front of the abuser. They are not trauma-informed – namely, they fail to understand that the core of an abusive relationship is a power dynamic where the abuser exercises power and control over the survivor, and the fact that the police are also in a position of power makes it difficult and intimidating to talk and be open with them as the survivor. Tiffany said male police officers have often been particularly problematic,[338] especially if they are white and the survivor is a QTBIWOC, doubly so if she is also an immigrant or refugee and/or her first language is not English – again, she may fear that something she says will be perceived in an unfavourable way, the racialized power dynamic of a QTBIWOC speaking

[338] This is also consistent with the literature, e.g., Parratt and Pina's findings that female police officers may benefit more from sexual assault training, seek it out more, and be more empathetic towards victims than male police officers. Kayleigh A Parratt & Afroditi Pina, "From "real rape" to real justice: A systematic review of police officers' rape myth beliefs" (2017) 34 Aggress Violent Behav 68.

to white male police officers with guns is intimidating, and she may have a fear of police officers due to what the police were like in her country of origin, especially if she fled that country due to actual or threatened gender or sexuality-based persecution. They do not understand the role of codependency in an abusive queer relationship. They view LGBTQ+ survivors as a case or a number rather than an individual who is shaped by circumstances and identities, including queerness or transness. It does not make sense to them that a person would still love, care for, or have loyalty to someone who is harming them – while this tends to be true in any abusive relationship, it is especially significant and complicated in a queer relationship because of the dynamic of two similarly marginalized people who are likely carrying a great deal of prior trauma and some inherent isolation from their family of origin.[339]

Tiffany has worked with some LGBTQ+ women who had positive experiences with the police. LGBTQ+ survivors, especially racialized ones, are often much more comfortable and less intimidated speaking to a female officer. The most important aspect that seemed to make a difference in the cases where the experience was positive was that the officers were supportive, put in meaningful effort to listen to the survivor's needs and validate her emotions, and understood that her abuser's gender did not reduce the danger or the severity. Those sorts of officers are not the majority, from what she has seen, and it makes sense. As discussed in the literature review, police culture is known to be one that devalues emotions, vulnerability, and anything that is seen as feminine, homosexual, or passive.[340] An LGBTQ+ woman who is actively being subjected to abuse and betrayal and may well be surviving through a fawn or appease response[341] is likely to be seen as just that: emotional, vulnerable, feminine, homosexual, and passive. The nature of police

[339] Thom, *supra* note 301; Machado, *supra* note 68.
[340] Workman-Stark, *supra* note 166.
[341] Bailey et al, *supra* note 268.

work is such that compartmentalization is required, emotions do need to be pushed aside at times, and people who are sensitive are not likely to be well-suited to become police officers. This poses a dilemma because it seems to be directly at odds with what is required to be trauma-informed and support survivors. However, Tiffany's experiences seem to suggest that there are people who can do both, especially given that SGBV work is also emotionally difficult and may require compartmentalization at times. Another important factor that Tiffany has found to make a major difference for LGBTQ+ survivors is whether the responding officers have taken specialized training in IPV. These officers tend to be more trauma-informed and to display a better understanding of coercive control, power dynamics in abusive relationships, and why survivors may behave a certain way, including why they may remain in the relationship when this appears to be a completely irrational choice from an outside perspective. Tiffany has been told that police officers are meant to all be trained on those things, in addition to serving LGBTQ+ communities and racialized communities and the role that myths, stereotypes and oppression can play, yet it appears to her that the vast majority either have not had any training in those topics or did not absorb or heed it at all. Many officers appear to take the stance that treating everyone the same equates to inclusivity or fairness. This is misguided and the opposite of trauma-informed – people are individuals who are shaped by circumstances and that needs to be taken into account in order to help them, and in practice, the police are not treating everyone the same and it is partly due to a lack of critical examination of myths, stereotypes, and important considerations regarding individuals' backgrounds.

4. Myths and Stereotypes

Tiffany had a great deal to say about the role of myths and stereotypes in LGBTQ+ women's experiences reporting SGBV to the police and decision-making process about whether to report at

all. As mentioned above, she has seen examples of the police displaying an acceptance of the myth of "real" rape or sexual violence and "good" survivors. "Real" sexual violence is assumed to be synonymous with rape, which is assumed to involve a penis and to be accomplished through physical violence, meaning physical force. Tiffany's clients who have tried to report sexual violence that does not meet these narrow criteria have been dismissed by the police – at best, it is seen as a "lesser" form of sexual violence, and at worst, it is seen as either fictitious or as not being sexual violence at all. Most cases of sexual violence against LGBTQ+ women that Tiffany has seen in her work overlap with IPV, meaning that the perpetrator was a current or former romantic partner of the survivor. Those perpetrators have typically been cis women, who do not have penises and therefore cannot commit "real rape" according to that myth. LGBTQ+ clients of Tiffany's who have been subjected to sexual violence have thus often been met with suspicious or unsupportive reactions from the police, who struggle to understand how a woman or AFAB person could be a rapist or how a sexual assault that does not necessarily involve penetration or penises could be as serious, violent, and traumatizing as one that does. Police officers have shared with Tiffany that they feel frustration and a loss of sympathy when victim-survivors do not want the abuser to be charged, do not want to leave, leave and then come back, or when there are several calls to the same address. This signals to me that there is both an endorsement of victim-blaming myths and a lack of a trauma-informed framework among the police officers viewed through the lens of negative stereotypes about LGBTQ+ people. This is also consistent with the available literature, such as Harden et al's[342] findings that lesbians do not report IPV because of concerns about

[342] Jacqueline Harden et al, "The dark side of the rainbow: Queer women's experiences of intimate partner violence" (2022) 23:1 Trauma Violence Abuse 301.

perpetuating stigma and that the myth of a violence-free “lesbian utopia” is strong within the queer community and leads to victim-survivors not being believed.

Chapter 5: Key Themes and Conclusion

I begin my conclusion by returning to my research question: how do myths and stereotypes affect LGBTQ+ women's decision-making about reporting SGBV to the police, as well as their experiences when it is reported? From my interviews and secondary research, it is clear that LGBTQ+ women fear that myths and stereotypes will lead to being treated badly by the police. The myths and stereotypes that are anticipated are layered and intersecting (e.g., the intersection of anti-LGBTQ+ myths and stereotypes with racist ones or ones pertaining to SGBV). LGBTQ+ women anticipate, for good reason, that these various intersecting and interlocking myths and stereotypes will lead to discriminatory treatment of them and/or of the person responsible for the abuse. They are also acutely aware of the longstanding and ongoing negative relationship between the LGBTQ+ community and the police due to institutional betrayals that are traceable, in part, to the deployment of myths and stereotypes. LGBTQ+ women's experiences of reporting SGBV to the police substantiate the concerns just identified and reveal police attitudes and behaviours that are clearly influenced by myths and stereotypes (namely, a very heteronormative and outdated understanding of sexual violence). Beyond the direct role of myths and stereotypes in influencing LGBTQ+ women's decision-making and experiences of reporting to police are a host of additional factors, many of which are no doubt at least in part impacted by myths and stereotypes (e.g. a lack of understanding of the LGBTQ+ community and similarly, a lack of trauma-informed practices).

A. Myths, Stereotypes, and Deciding Whether to Report to Police

My interviews show that the same myths and stereotypes that are known to be present in cases of SGBV against cishet women are present and sometimes stronger in cases where the victim-survivor is an LGBTQ+ woman, and this is something survivors are very aware of in their decision-

making. LGBTQ+ women often decide not to report SGBV because they anticipate that myths and stereotypes will cause them to be treated badly by the police. This is true of anti-LGBTQ+ myths and stereotypes, myths and stereotypes related to SGBV, the overlap of both, and their intersection with myths and stereotypes tied to race, class, Indigeneity, and (dis)ability for example.

Anti-LGBTQ+ myths and stereotypes are of great concern. My interviewees indicated that bisexual women are aware of biphobic stereotypes and as a result, are deterred from reporting and/or choose to remain closeted. Trans women are exceptionally reluctant to report SGBV to the police and one of the biggest reasons is because they fear that transphobic myths and stereotypes will cause them to be discriminated against, treated with disrespect or mockery, disbelieved, and/or not taken seriously. Lesbian women are aware that they are stereotyped as being unable to be victims in their relationships and when it is acknowledged that lesbian relationships can be abusive, it is assumed that there is an abusive butch partner and a battered femme partner. Additionally, lesbians' reporting decisions are influenced by knowledge of the myth that lesbian relationships are passive and free of abuse. Knowledge of these myths and stereotypes results in reluctance to report out of fear that the police will have an inappropriate or discriminatory response as a result.

Many of my interviewees brought up myths and stereotypes that are steeped in victim-blaming and misogyny, as is often the case with SGBV-related myths and stereotypes – for example, that not leaving is a reflection on the victim or on the severity of the abuse, that women who make allegations of SGBV are exaggerating or lying to gain some sort of advantage or revenge, that women cause their own sexual assaults through behaviour or clothing, and that sexual violence only happens to particular types of women or is only committed by particular types of perpetrators. A prominent myth in sexual assault cases involving my interviewees' LGBTQ+

clients is the “real rape” myth, which seems to imply that only cis men can commit rape or that non-penetrative sexual violence cannot be similarly serious, violent, and traumatizing.

The intersection of different myths and stereotypes plays a role in LGBTQ+ women’s decision-making about whether to report SGBV to the police. For example, bisexual women are aware that they are stereotyped as dishonest, hypersexual, and more likely to consent to sexual activity, and that there is a possibility this stereotype could overlap with rape myths, especially ones that insinuate that women commonly lie about sexual assault. Sometimes there is internalization of myths and stereotypes – for example, a person who has grown up hearing myths that equate queerness with satanic influence and myths that victims of SGBV have done something to deserve the violence may convince themselves that they brought the violence upon themselves by being queer, contributing to a decision not to report it to the police. Racialized myths and stereotypes, especially their interplay with myths and stereotypes about LGBTQ+ communities and/or SGBV, were named as a significant concern for many QTBIPOC clients.

Myths and stereotypes cause LGBTQ+ women to be concerned not only about how they may be treated by the police if SGBV is reported, but also how others may be treated, especially the perpetrator. LGBTQ+ women tend to be very conscious of the significance of bringing the police into a queer space or a queer relationship, both from myths and stereotypes and from other considerations that will be discussed later. They are concerned that their partner will be discriminated against or disproportionately punished because of myths and stereotypes related to their status as an LGBTQ+ person, and additionally concerned if the partner is multiply marginalized (e.g., due to immigration status, race, or disability). The experts I interviewed said that multiply marginalized survivors, namely QTBIWOC, have expressed especially grave concerns about how they and/or their partner may be treated by the police if they report SGBV.

B. Myths, Stereotypes, and Experiences with the Police

One of my predictions going into this research was that relatively few LGBTQ+ women have had contact with the police regarding SGBV and the majority of those who have will have had negative experiences, for reasons both similar to and different from their cishet counterparts. This was confirmed by my interviews, which indicate that most LGBTQ+ women are strongly against reporting SGBV to the police, and this is partly because, as reviewed just above, they anticipate that myths and stereotypes will lead to a negative experience. Different interviews reflected different perspectives on whether it is common for a third party to contact the police on LGBTQ+ survivors' behalf, though this may be due to the fact that my interviewees work within different professional contexts[343] and some had only actually encountered about one to two LGBTQ+ survivors who engaged with the police.

In the previous subsection, I discussed the role of myths and stereotypes in LGBTQ+ women's decision-making about whether to report SGBV to the police. Unfortunately, these concerns are well-founded – in the majority of cases that the experts I interviewed have seen, they largely come true. The influence of SGBV myths and stereotypes is clearly present in the police's treatment of LGBTQ+ survivors. It is common knowledge that police are known to treat survivors in a way that reflects an endorsement of myths and stereotypes, such as the myth that sexually assaulted women encourage or contribute to what happened because of clothing, behaviour, or alcohol consumption. According to my interviews, in the experiences of LGBTQ+ survivors, the same treatment from police is present and stronger. The stereotyping is more overt and there is less sympathy and sensitivity. Assumptions and decisions are made by the police that reflect this – for

[343] As discussed earlier in Lauren and Tiffany's interviews, it makes sense that a criminal lawyer or a shelter worker would be working with more women who have gone to the police, compared to a therapist.

example, assuming that the more masculine-appearing partner is the abuser, and the more feminine-looking partner is the survivor, or asking questions that are not trauma-informed and focus unnecessarily on the survivor's sexual orientation or gender identity.

C. Other Concerns About the Policing of Violence Against LGBTQ+ Women

Though my interviews, like my research question, emphasized myths and stereotypes, they also revealed a plethora of additional concerns about the policing of violence against LGBTQ+ women, both in decision-making and experiences. Increasingly, the question on my mind became "why on Earth *would* they report?" All survivors have many reasons to not report SGBV to the police that are not directly centred around myths and stereotypes, and this is especially true of those who are LGBTQ+ and/or racialized. I am beginning to think that, much like asking why abused women do not leave, "why don't they report it?" is entirely the wrong question to ask, especially when the victim-survivor is LGBTQ+ and especially when she is multiply marginalized in other ways.

My interviews revealed that many LGBTQ+ women's hesitations to report SGBV are centred around second-hand stories of others' negative (and often traumatic) experiences with the police. This is especially true of QTBIWOC and other multiply marginalized LGBTQ+ women. While it is quite likely that these negative experiences were shaped, at least in part, by the operation of myths and stereotypes, my interviewees raised the impact of second-hand stories as a distinct reason for the reluctance to report.

Despite recent efforts to incorporate a trauma-informed framework into policing, it is the experience of my interviewees and their clients that it is rare to encounter a trauma-informed police officer. Being trauma-informed has different requirements when the victim-survivor is LGBTQ+, and so it is not surprising that LGBTQ+ women do not experience policing as trauma-informed –

not that cishet women tend to have that experience, either, but the extent of it appears from my interviews to be worse in LGBTQ+ women's experiences. Intimidation is another concern that was raised. It can be intimidating to talk to the police for anyone, and this is especially the experience of LGBTQ+ women, and even more so if they are also racialized and/or an immigrant or refugee. One example of the police not being trauma-informed is that they are not mindful of this and do not take steps to mitigate it. What is viewed as "inclusive" seems to be, at best, half-heartedly adopting a "colourblind" approach, which completely ignores the reality of intersectionality and lived experiences.

My interviews further revealed that the police do not understand the LGBTQ+ community. They are also commonly homophobic, biphobic, transphobic, and/or racist towards LGBTQ+ survivors. This may be as blatant as laughing, misgendering, name-calling, use of slurs such as "man in a dress/wig," or even violence, or take on less overt forms, such as making undue assumptions or not taking the violence as seriously.

My interviews and the literature are both very consistent that there is a longstanding negative relationship between the police and the LGBTQ+ community, characterized by hostility and ignorance from the police and fear and mistrust from the LGBTQ+ community. This relationship is primarily due to institutional betrayal in the form of events such as the TPS's failure to investigate the disappearances of the McArthur victims thoroughly and refusal to admit that there was a possibility of an active serial murderer targeting queer men. McArthur's crimes and the apathy of the police continue to haunt Toronto's queer community, and that is the most pertinent example of how the cultural trauma of institutional betrayal plays out here. The TPS severely broke the queer community's already fragile trust in them, and the result is that they are even more reluctant to come to them for help with violence. When the TPS were apathetic to the queer men's

disappearances, failed to investigate thoroughly, failed to follow up on leads, blatantly ignored important connections and evidence, refused to believe there could be foul play, dismissed concerns about the disappearances and/or about McArthur himself, and denied that there was a serial killer despite the enormous amount of evidence to the contrary, a message was received loud and clear and that message was that LGBTQ+ people's survival does not matter to the police. This is part of why the LGBTQ+ women my interviewees support feel there is at best no point in reporting SGBV to the police, who displayed such apathy towards it before – recall that again, some of McArthur's homicides were examples of same-gender IPV, given that he was known to have had romantic relationships with the deceased.[344] This is surely not lost on some women when they think through whether to report their own same-gender IPV victimization to the same police, if they are able to view it as an option at all.

My interviews revealed that concerns related to immigration and refugee status are very common. I will stress that immigrant and refugee women are as diverse as Canadian-born women, and it is important to try to avoid making undue assumptions about them. Many immigrant and refugee women lack a clear understanding of Canada's culture, laws, and institutions. For example, Monica reported that many of her clients originate from countries where it is illegal to be LGBTQ+, the death penalty may be imposed, and the police are absolutely not to be trusted. Some women not only fear the police, but also may not understand important context around them that the average Canadian would be familiar with. Canadian law is complicated, detailed, can change drastically depending on the outcome of a court case, and uses highly technical language that is notoriously confusing and may include words that have a very different meaning from their usual one. In other words, Canadian law can be very difficult to understand for anyone who is not a legal

[344] Ling, *supra* note 190.

professional, let alone someone who is new to Canada and may not speak its official languages fluently. LGBTQ+ women who are immigrants or refugees may also be wary of the police due to negative experiences with the police in their country of origin. Often, they have fled countries where the police are much more problematic than they are in Canada and are legally allowed to arrest, beat, or kill them for existing as an LGBTQ+ person. It is not surprising that women coming from such circumstances would be hesitant to view the police as people to seek assistance from with SGBV. Indeed, many of the stories I heard involved concerns around immigration or refugee status, many of which are very much unique to a queer context – one that the police do not seem to comprehend or be sympathetic to. Women who have been sponsored by or married a same-sex partner or have completed a legal or medical gender transition in Canada may be wary of losing their immigration status, especially if this means risking deportation to a country that imposes the death penalty for being LGBTQ+.

LGBTQ+ women who have been supported by my interviewees sometimes express concerns related to their children, particularly if they are BIPOC. They fear that reporting SGBV to the police could result in scrutiny from CAS, including removal of their children. They fear that it will be experienced as upsetting, frightening, or a betrayal to their children, especially if the result is the children's other parent being arrested and/or incarcerated. These are all common fears, and often a reality, for all mothers who are subjected to IPV; however, the context is slightly different due to the stigma around LGBTQ+ families and the extensive history of problematic (and often unwarranted or disproportionate) child welfare intervention in BIPOC families.

Ultimately, many of these concerns are related to myths and stereotypes, all are at least partially related to institutional betrayal, and all reflect feelings of fear and mistrust towards the police from LGBTQ+ women. "Fear" and "mistrust" were some of the words most frequently

brought up, with some variation appearing at least once across every single one of my interviews. LGBTQ+ women often fear the police more than they fear their abuser.

Even the few LGBTQ+ women who had overall positive experiences with the police reported to my interviewees that there were problems, largely stemming from a lack of education in the officers – for example, not comprehending that gender identity is not synonymous with biological sex.

Intersectional issues and community factors were a recurring topic in my interviews. Multiply marginalized subcategories, or disadvantaged subgroups,[345] of LGBTQ+ women face unique challenges. Intersectionality plays an enormous role, particularly around the fear and mistrust that QTBIWOC feel towards the police. Loyalty to the LGBTQ+ community is another reason why women choose not to report SGBV to the police – they are concerned that they will receive, and sometimes do receive, backlash from other LGBTQ+ people due to being seen as a traitor or a sellout, because the abuser is well-connected within the community, or because that is their shared social circle with the abuser and so their peers, friends, and chosen family are also the abuser's and may take the abuser's side. Community loyalty can also be tied to women's concern that the abuse will be seen as a reflection on the entire community, rather than on the abuser only.

One theme in my interviews was a concerning level of ignorance from the police about sexual violence that does not fit heteronormative scripts, particularly when it involves two women. My interviews consistently reflect a set of widespread beliefs held by police officers regarding rape and sexual assault: that only cis men can commit rape, that rape entails heteronormative intercourse, and that other forms of sexual violence are automatically less serious or are not "real."

[345] Dara Z Strolovitch, "Do interest groups represent the disadvantaged? Advocacy at the intersections of race, class, and gender" (2006) 68:4 J Politics 894.

This reflects a heteronormative, cisnormative understanding of sexual violence and is problematic for many reasons. Plenty of women in abusive relationships with cis women have been subjected to sexual violence by their partners, as reflected in both my interviews and the literature.[346] The apparent failure by police officers to comprehend non-heteronormative sexual assault speaks to prejudices and misconceptions around both sexual violence and queer sexual activity.

D. The Way Forward

It is clear from my research that the status quo of the policing of violence against LGBTQ+ women is not acceptable and action is required. There are three main areas to focus on: police education and oversight, further research, and widespread cultural change.

1.Police Education and Oversight

Trauma-informed policing

My interviews reflect that LGBTQ+ women very much do not experience the police as being trauma informed. As stressed previously, intersectional realities mean that trauma-informed policing practices can look very different when it is marginalized communities being served. My interview data shows that this rarely happens and one of the main reasons is that police officers are not sufficiently educated on intersectionality, LGBTQ+ issues, or SGBV. Several of my interviewees explicitly mentioned an apparent lack of education on the part of police officers as a key factor that causes LGBTQ+ women to have overwhelmingly negative experiences when SGBV is reported.

The lack of a trauma-informed approach manifests in several ways. One interviewee observed that most police officers appear to lack so much as basic IPV training, and none felt that

[346] Poehlmann, *supra* note 3; Malinen, *supra* note 247.

officers were well-trained on it as a group. This suggests a likely ignorance of issues such as power dynamics, trauma bonds,[347] reactive abuse, and coercive control. My interviews align with concerns throughout the literature indicating that police officers overwhelmingly have a very cisheteronormative and stereotype-informed understanding of sexual violence. What is especially concerning is that they also do not seem to be aware of current laws, including what is and is not legally considered sexual assault. At the trial itself, there are strict evidentiary rules that limit questioning about the survivor's sexual history. While the investigative context is different in important respects, both should share the core imperative of protecting the victim-survivor's dignity, privacy, and equality. This imperative should inform whether and how police ask survivor's intimate or personal questions – yet my interviews disclosed a shared concern about police officers asking irrelevant or insensitive questions, particularly of LGBTQ+ survivors, that were anything but trauma-informed. All police officers should receive training on sexual assault that uses a trauma-informed, intersectional feminist approach, with special attention to the needs of LGBTQ+ and BIPOC survivors.

Some efforts have been made to make policing, and the criminal law system more broadly, more trauma-informed.[348] For example, in November 2019, the Canadian Association of Chiefs of Police released a report containing a proposal for police forces across Canada to collaborate on a trauma-informed framework for police responses to sexual violence, including sexual violence within romantic partnerships.[349] The framework calls for a reform of interview techniques, forensics, and training and education, particularly educating police officers on the effects of trauma

[347] Also known as "Stockholm syndrome," though there is some pushback against that term from feminists and survivors. See: Bailey et al, *supra* note 268.
[348] International Association of Chiefs of Police, *supra* note 113; Government of Nova Scotia, *supra* note 113; Canadian Association of Chiefs of Police, *supra* note 113.
[349] Canadian Association of Chiefs of Police, *supra* note 113.

and the power dynamics of IPV. Given that policing can be a dangerous and traumatic job, it seems intuitive to me that this could have an immense benefit for police officers themselves, as well as those they serve. The report calls for a broad restructuring of priorities under a trauma-informed and survivor-centred framework, with the safety of the victim-survivor being the priority. My interview data seems to endorse this report because some of the most common complaints I heard were about the police being insensitive, not trauma-informed, not sufficiently educated, not taking the danger to the victim-survivor seriously, and/or causing the victim-survivor to feel deprioritized or unimportant.

In 2017, the RCMP released a report titled "The Way Forward," aiming to "treat victims of sexual assault with compassion, care, and respect, informed by established evidence-based best practices; conduct sexual assault investigations across Canada consistently and to the highest professional standards, with oversight practices established to ensure the greatest level of accountability and stewardship of investigations; and, increase public awareness and trust of RCMP sexual assault investigations and encourage greater levels of reporting."[350] Evidently, it is not that police forces are unaware of the problems in the policing of SGBV or of the fact that victim-survivors feel unable to trust them to handle it (particularly sexual assault) appropriately. The report also serves as the RCMP's action plan around trauma-informed policing practices regarding victim-survivors of sexual assault, based on a detailed review of all unfounded cases from 2016. It specifies that being compassionate and trauma-informed towards the victim must become a top priority in any sexual assault investigation. It identifies additional priorities as well, such as transparency, accountability, education for both officers and the general public, and victim support. Damningly, the review finds that the majority (57%) of unfounded sexual assault

[350] Royal Canadian Mounted Police, *supra* note 187 at 1.

complaints in 2016 were misclassified and 13% were identified as requiring further investigation. It highlights some major issues with sexual assault investigations, including insufficient knowledge of the law by officers that results in inappropriate responses (e.g., claiming a complainant consented because they did not verbally say "no"), insufficient training for officers around sexual assault, a lack of oversight, poor documentation, and a fear of police by marginalized communities (including LGBTQ+ people). The action plan notes that "the overwhelming majority of sexual assault victims do not report the incident to the police because they feel the crime is minor and not worth the time to report."[351]

While these findings are consistent with both my interview data and other literature, at the same time neither report attends in a meaningful way to the distinct issues facing LGBTQ+ or other marginalized communities. As I concluded earlier, one might be forgiven for wondering whether the police are aware that LGBTQ+ people exist given the limited attention in these reports. Clearly more work is needed to ensure that marginalized survivors enjoy the benefits of these efforts related to trauma-informed policing.[352]

Addressing Bias, Myths, and Stereotypes

As my research has revealed, the activation of a broad range of myths and stereotypes plays a critical role in survivors' decision-making and experiences in relation to policing. Here too, some initiatives have been taken, with much of the training informed by the implicit bias approach, which suggests that negative interactions between police and minorities are linked to an unconscious endorsement of myths and stereotypes.[353] Fridell's "Fair and Impartial Policing (FIP)"

[351] *Ibid*, at 8.
[352] Malinen, *supra* note 126; Craig, *supra* note 152; Poehlmann, *supra* note 3; Canadian Association of Chiefs of Police, *supra* note 113; Greenberg, *supra* note 100; Bucik, *supra* note 57.
[353] Amanda M Petersen, "Beyond bad apples, toward Black life: A re-reading of the implicit bias research" (2019) 23:4 Theor Criminol 491.

training, used in the US and parts of Canada, is one such model.[354] Implicit bias as a framework is not without its problems.[355] This type of training simultaneously over-focuses and under-focuses on individuals, and absolutely under-focuses on the historical realities of policing as an institution.[356] It has been criticized, especially within abolitionist scholarship, for naively assuming that bias-free or non-racist is the default in both conduct and beliefs, treating overt prejudice (especially racism) as a relic of the past when it very much is not, oversimplifying systemic racism, allowing disproportionate violence inflicted by trained police officers on Black civilians to be waved away as a mistake made by an otherwise "good" officer in a stressful situation or "an unfortunate collision of training and tough luck,"[357] and emphasizing a mere reduction of wrongful Black deaths rather than protecting Black lives.[358]

As mentioned in my discussion of my interview with Tiffany, there is a tension between the need for trauma-informed police training that includes sensitivity and the reality that policing is a dangerous, stressful job that entails exposure to violent, threatening, and upsetting situations and is therefore not a job for "sensitive" people, but some lessons from SGBV work may suggest that there are people who can do both.[359] This could perhaps be accomplished through better recruitment practices and more nuanced training that also teaches and emphasizes skills such as active listening, trauma-informed principles, inclusivity, and the dangers of myths and stereotypes. There is also a need for policing to recognize the historical problems with police culture, how marginalized officers and civilians alike are harmed by it, and work to change that so that policing

[354] Fair and Impartial Policing, "Fair and Impartial Policing" (2024), online: <https://fipolicing.com/>.
[355] Petersen, *supra* note 353.
[356] *Ibid*.
[357] *Ibid*, at 497.
[358] *Ibid*.
[359] E.g., Taslim Alani &My Mirella Stroink, "Self-care strategies and barriers among female service providers working with female survivors of intimate partner violence" (2015) 49:4 CJCP 360.

as an institution can become safer, more trauma-informed, and less retraumatizing and traumagenic. In short: implicit bias training (discussed more below) is a start, but not sufficient alone.

Rebuilding Trust

I want to stress that education and reforming policing procedures alone are not enough – even with perfect training and perfect policing procedures, the police will still need to do a great deal of work towards repairing their relationship with the LGBTQ+ community and with marginalized populations in general. Virtually all marginalized populations have been profoundly betrayed by the police, time and time again.

Part of rebuilding (or rather, building in the first place) trust needs to start with collaboration with LGBTQ+ organizations and activists to ensure that we are expressly included in police education, policies, guidelines, etc., because it is clear that gender- and sexuality-neutral approaches are incapable of addressing SGBV properly.

The truly meaningful collaboration necessary for trust building requires a massive shift in police culture. On paper, police officers are not above the law in Canada or the US. In reality, they often are.[360] Research has long suggested that the way police officers are trained is a large part of the problem.[361] Police officers in Canada and the US are trained in a way that causes them to adopt an "us versus them" attitude (the "them" being everyone other than the police) and to view themselves and their fellow officers as superior to civilians, the world as a war between the police and criminals, their purpose and duty as "winning" that war, and the law as something they enforce

[360] Terrance A Johnson & Raymond W Cox, "Police ethics: Organizational implications" (2004) 7:1 Public Integr 67.
[361] *Ibid*.

on the inferior civilians but are not, or ought not to be, themselves subject to.[362] One could be forgiven if this reads like a recipe for a police force that has a god complex and, in so many ways, is in practice actively harmful to public safety, especially to marginalized populations. Of course, police officers are not a monolith. Johnson and Cox[363] identify these issues along with others, such as wages being low enough to encourage corruption (e.g., accepting bribes), and insufficient screening to eliminate candidates who may have antisocial tendencies, problematic views, or other traits that are inappropriate for a police officer. These concerns are remarkably consistent with more recent Canadian literature, including the 2020 Bastarache report on the harassment and abuse of female RCMP officers.[364]

My study draws on the approach known as "defund the police," which means reducing the amount of funding that police departments receive in favour of increasing the funding allocated to social services that prevent crime by addressing its root causes, such as mental health and addictions services.[365] Those who believe that the police prevent crime, including violent crimes, deeply misunderstand both crime itself and the role of law enforcement as an institution. Deterrence theory has been thoroughly discredited[366] and I would argue that this is especially true of the prevention of crimes that fall under the umbrella of SGBV, especially sexual violence. The current model of policing in Canada is designed to react to crime once it has already happened, rather than to prevent it. Another key issue that the movement to defund the police aims to address is that the police are frequently sent to calls that they are simply not the best people to respond to,

[362] *Ibid*.
[363] *Ibid*.
[364] Bastarache, *supra* note 175.
[365] Jennifer Cobbina-Dungy et al, ""Defund the police:" Perceptions among protesters in the 2020 March on Washington" (2022) 21:1 Criminol Public Policy 147.
[366] Justin T Pickett & Sean Patrick Roche, "Arrested development: Misguided directions in deterrence theory and policy" (2016) 15:3 Criminol Public Policy 727.

particularly mental health-related ones.[367] Some municipalities, including Toronto, have launched pilot projects that send mental health workers to mental health-related calls, either instead of the police, with the police, or on a case-by-case basis.[368] These projects are relatively new and there currently seems to be little published writing on them.

2.Future Research

To return to a point made in the introduction, there is an enormous gap in knowledge about violence against LGBTQ+ women in relation to the Canadian criminal law system. My thesis is one tiny step forward towards addressing this, but the gap remains present and urgent. There are many additional areas that I was not able to cover in my thesis and that future research should endeavour to investigate. The following are just a few examples of what still needs to be researched. A question that came up during my research, and that may warrant further investigation, was whether it may be possible for IPV by men against bisexual women to be prosecuted as a hate crime. LGBTQ+ survivors' experiences with other areas of the criminal law system also need to be researched, particularly around the trial level. There is a deficit of research into Two-Spirit and Indigenous LGBTQ+ people's experiences with SGBV and related criminal law system responses. The impact of the McArthur homicides on Toronto's LGBTQ+ community, and LGBTQ+ people more broadly, needs to be studied more.

3.The Need for Cultural Change

As mentioned, there is a need for widespread cultural change. Rape culture is pervasive and well-documented, including its unique impact on LGBTQ+ communities and the extremely high rate

[367] Ian Cummins, "'Defunding the police': A consideration of the implications for the police role in mental health work" (2023) 96:2 Police J 230.
[368] Laura Huey et al, "Caught in the currents: evaluating the evidence for common downstream police response interventions in calls involving persons with mental illness" (2021) 6:1 Facets 1409.

of violence against us. This runs much deeper than policing, Toronto, or Canada: it is a global phenomenon, and it is present in all areas of human life. It is presently inescapable, but that does not have to be the case and a future without it is worth fighting for. I truly believe that everyone can do their part to end the systemic perpetuation of SGBV, even if it is something as seemingly small as no longer laughing at sexist jokes, reading a Wikipedia article, or correcting biphobic assumptions. I want to conclude this thesis by thanking my interviewees again and reiterating what I said early on: This work is so much bigger than me and must not end with me.

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Appendix A: Interview Guide

Blurb: Hello, thank you so much for taking the time to speak with me today. My name is Kate (she/her pronouns) and I'm a Master of Laws (LL.M.) candidate at Osgoode Hall Law School, researching the experiences of women who identify as queer or trans/gender-diverse with the police in Canada as well as their decisions not to engage, regarding the sexual and gender-based violence (SGBV) they have been subjected to. For convenience's sake, I am using "LGBTQ" as shorthand for "queer or trans/gender-diverse," which I'm defining for the purposes of this research as anyone who does not consider themselves to be both strictly heterosexual or straight and strictly cisgender. Similarly, I am using "trans" as an umbrella term for "anything but cisgender" and "queer" for "anything but straight." Again for the purposes of this research, I'm defining SGBV as sexual assault and/or intimate partner violence against a person of a marginalized gender or sexual orientation – in this case, I'm interested in learning more about the experiences of victim-survivors who identify both as women and as LGBTQ. I use the terms victim, survivor, and victim-survivor interchangeably, all of which I define as a person who has been subjected to SGBV. Similarly, I use either perpetrator or abuser to describe a person who has committed SGBV. Does this all make sense and do you have any questions before we begin?

1. Can you tell me about the work your agency does with women who identify as LGBTQ and have been subjected to SGBV, and what your role is in that context?

2. Of the LGBTQ women who are survivors that you have worked with, what is your rough estimate of how many have chosen to report the violence to the police?

a. Are there any specific subcategories of LGBTQ women where that estimate would be considerably higher or lower?

3. So we've just been talking about your work. We are now going to shift towards talking about LGBTQ women's decision-making around reporting SGBV to the police, and then later to their experiences once the police are involved. In your observations, what are some of the factors that LGBTQ women consider in their decisions about whether to report SGBV to the police?

a. What role, if any, do anti-LGBTQ myths and stereotypes seem to play in these decisions?

b. What about biphobic stereotypes – for example, that bisexual people are dishonest, indecisive, or hypersexual? Have you seen anything like that at play?

c. What about transphobic stereotypes, such as that trans people are "sexual deviants" or trying to indoctrinate children?

d. What about myths and stereotypes about SGBV - for instance, that women who wear revealing clothes or drink too much alcohol are "asking for it," or intimate partner violence must be "not that bad" if the victim stays for a long time or gets back together with the perpetrator or is reluctant to turn to the police for help?

e. Would you say community factors play a role? For example, some of the literature on abuse in lesbian relationships suggests that some victims might be reluctant to speak about the abuse or call the police because of loyalty towards the lesbian community and a sense that doing so would be breaking that loyalty and throwing all lesbians under the bus.

f. What role, if any, would you say that concerns about discrimination, towards the victim or the perpetrator or both, from the police play?

i. Are you seeing concerns based on violence by the police towards the LGBTQ community, particularly those with intersecting marginalized identities such as sex workers and POC?

4. We've talked about decision-making, but now I want to talk about the actual experiences of LGBTQ women with the police, either by reporting it themselves or having the police called by a third party. When LGBTQ women do interact with the police in this context, what are their experiences?

a. Do you see differences for specific groups, like for example trans women, lesbians, bisexual women, asexual women, racialized women?

5. What role, if any, would you say the perpetrator's gender identity or gender expression might play in LGBTQ women's experiences with the police?

a. What about any other characteristics of the perpetrator, like race or class or disability?

6. Is there something you think is missing from the police's understanding of or approach to violence against LGBTQ women?

7. In the literature on the reporting of sexual violence to police, the same concerns are raised much of the time: that the police blame women, don't believe them, are not trauma-informed, don't investigate thoroughly, and/or don't follow up. Do you see similar concerns in the experiences of LGBTQ women?

a. Would you say there is anything different about these concerns, or their nature and intensity, for LGBTQ women as compared to women who are straight and cis?

8. Can you recall any examples of LGBTQ women who had relatively positive experiences with the police? If so, what can you tell me about those experiences and what might have made it positive for the survivors?

9. There has been a lot more attention recently to trauma and trauma-informed policing practices. Have you seen evidence in your clients' experiences of such a framework being implemented by the police?

a. Do you think trauma-informed policing might look different when the victim is an LGBTQ woman? If so, how?

10. My impression from some of the literature I have read is that there is a tension between the police's protectiveness over their public image and the need for an intersectional trauma-informed analysis of violence against LGBTQ women, which would have to include an acknowledgement of the harms that policing as an institution has perpetrated and still sometimes does. What are your thoughts on this?

11. Would you say that any rape/sexual assault myths and stereotypes play out differently when the victim-survivor is an LGBTQ woman?

a. What about myths and stereotypes about intimate partner violence?

12. Have you noticed any influence of anti-LGBTQ myths and stereotypes in survivors' experiences with the police?

13. Have you noticed any crossover between anti-LGBTQ myths and stereotypes and SGBV-related ones in this context? For example, one survey of police officers in the UK showed that a high number of officers, particularly male ones, believe that it is common for women who cheat on their partners to lie and say they were sexually assaulted. Given that bisexual people are stereotyped both as liars and as incapable of being faithful in a relationship, one thing I am trying to figure out with this research is whether this particular myth might come up more when the victim-survivor is a bisexual woman.

14. As you likely know, some survivors choose not to report the violence to the police but end up having to unwillingly engage – for example, because a concerned neighbour called the police. One thing that is apparent from the literature is that SGBV against LGBTQ people – particularly in the context of violence between two women – seems to be harder to recognize for what it is, both for the survivor and for others, and this is partly due to gendered stereotypes. Something I'm wondering is if myths and stereotypes might also be influencing the behaviour of others and if this may be impacting LGBTQ women's experiences or non-experiences with the police – for example, maybe that neighbour doesn't call the police because they do not see the survivor as a woman needing or deserving protection or they think that violence between two women can't be all that serious. What are your thoughts on this?

15. Is there anything else you think is relevant or that you would like to share?

16. Do you have any questions or feedback about this research, the definitions used, your experience as a participant, or anything else?

Appendix B: "Why did Canada kill you?"[369]

I saw fit to include an untitled poem written by Kirushna Kumar Kanagaratnam's cousin, published in "Missing From the Village."[370] I have also included photographs of the eight men known to have been murdered by Bruce McArthur.[371]

Hey Canadian government!

Where is my brother?

He came to you

But you say he is not alive

What happened to my brother?

He reached you, safe, by ship

But you say he was not safe after he reached land

Why you did not understand his fate?

He trusted you to keep him safe and happy

But you kicked him away

Who killed my brother?

He never thought about harming anyone

He ran to you to protect him

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[369] This exact phrase was uttered at Kirushna Kumar Kanagaratnam's funeral, by a family member, see "'Big questions' hang over funeral of alleged Bruce McArthur victim," CBC News (25 November 2018), online: <https://www.cbc.ca/news/canada/toronto/kanagaratnam-funeral-bruce-mcarthur-investigation-1.4920180>.
[370] Ling, *supra* note 190, at 211-212.
[371] CBC, *supra* note 369.

But you threw him to danger

Krushnakumar, who lost his brother to a gun

That is why he thought you would keep him alive

But you ignored him

He did not come from rich family

He begged you to keep him safe

But you kicked away his refugee alms plate

He expected humanitarian aid from you

But you showed him, and us, inhuman conditions

What are you going to say to us?

I could not stop his mom's tears from falling

He is our homeland's refugee

Hereafter please be thoughtful

You have given our lives endless sadness

"Top row, from left to right, [Skandaraj] Navaratnam, Andrew Kinsman, Selim Esen, and [Abdulbasir] Faizi. Bottom row, from left to right: Kirushna Kumar Kanagaratnam, Dean Lisowick, Soroush Mahmudi, and [Majeed] Kayhan."[372]

[372] *Ibid.*