

National Inquiry into Murdered and Missing Indigenous Women and Girls

AFFIDAVIT OF MELANIE OMENIHO, PRESIDENT Women of the Métis Nation/Les Femmes Michif Otipemisiwak

I, MELANIE OMENIHO, of the City of Edmonton, in the Province of Alberta, MAKE OATH AND SAY:

- 1) My name is Melanie Omeniho. I am a Métis woman and a citizen of the Métis Nation. I am President of the one national organization that represents only Métis women – the Women of the Métis Nation/Les Femmes Michif Otipemisiwak (the “WMN/LFMO”). I have personal knowledge of the matters to which I hereinafter depose, except where stated to be on information and belief, and as to these last said matters I verily believe them to be true.

My Background

- 2) I was born and raised in and around Edmonton. I have lived here all my life. I was raised to be a proud Métis woman and I have learned about my Métis Nation culture and history from my family, my community, my direct experience working for the Métis Nation and from the time I have spent with our Métis elders.
- 3) I have worked for the Métis Nation since 1986. I began working for my people in a variety of consulting and management positions. I first actively worked on issues concerning Métis women in 1986. I worked on Métis women’s issues for the Royal Commission on Aboriginal Peoples, during the Meech Lake Accord, the Charlottetown constitutional negotiations, the Kelowna Accord and many other significant national events.
- 4) I was elected to represent the interests of Métis women in Alberta in 1996 and as an Alberta delegate to the Métis National Council (the “MNC”). In 2010 I was asked to represent the interests of Métis women on the MNC Board of Governors, a role I have fulfilled ever since. I was elected President of the WMN/LFMO that same year.
- 5) I have been active in representing Métis Nation women at the United Nations and in ensuring that Métis Nation women are included in all aspects of our history, culture and way

of life. I have spent much of the past twenty years advocating and working to help Métis Nation women maintain their strength, dignity and respect in the face of the many barriers and difficulties we face.

WMN/LFMO and the Métis National Council

- 6) The WMN/LFMO is a federally incorporated not-for-profit corporation. It is governed by a board of six (6) Métis women directors, one from each province in the Métis Nation, plus a nationally elected president.
- 7) The WMN/LFMO is not disassociated from the Métis National Council. We work *with* them and as a part of them. We have the full support of the Métis National Council in our attempts to work with this Inquiry. As the elected President of the WMN/LFMO, I have a seat on the Métis National Council.
- 8) The Métis National Council is the national governing body for the Métis Nation. The duly elected presidents of each of the five provincial Métis Nation organizations – the Métis Nation of British Columbia, the Métis Nation of Alberta, the Métis Nation-Saskatchewan, the Manitoba Métis Federation and the Métis Nation of Ontario – are the governors of the Métis National Council.
- 9) The Métis National Council is one of the three national Indigenous organizations (along with the Assembly of First Nations and the Inuit Tapiriit Kanatami) that are recognized nationally and internationally as representing the Indigenous peoples of Canada.

WMN/LFMO Work

- 10) The mandate of the WMN/LFMO is to represent the interests of Métis women and provide them with a voice at the local, provincial, national and international levels. It is our primary goal to improve the lives and wellbeing of Métis Women and thereby, the Métis Nation. This includes promoting and pursuing the advancement of Métis women by advocating for economic development, health and wellness, traditional knowledge, housing, education, justice and the Michif language.
- 11) In particular the WMN/LFMO has been active at the international level agitating for the continuing development of international law to protect women from violence. We have been active in supporting two United Nations declarations – the *Declaration on the Rights of*

*Indigenous Peoples*¹ and *Declaration on the Elimination of Violence Against Women*.² We have also been active in pressing for the implementation of the *Convention on the Elimination of All Forms of Discrimination against Women*.³

- 12) Canada ratified the *United Nations Convention on the Elimination of All Forms of Discrimination against Women*, which is often described as an international bill of rights for women. By ratifying the *Convention*, Canada committed to undertake a series of measures to end discrimination against women in all forms. Canada agreed to take all appropriate measures, including legislation and temporary special measures so that Canadian women can enjoy all their human rights and fundamental freedoms. From my work at the United Nations I have learned that when countries ratify a convention they are legally bound to put its provisions into practice.
- 13) Canada then supported the adoption of the 1993 *United Nations Declaration on the Elimination of Violence Against Women*. The *Declaration* states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms. The *Declaration* defines “violence against women” as
- ... any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.⁴
- 14) From my work at the United Nations I have learned that declarations are not generally legally binding. Instead they represent the dynamic development of international legal norms and reflect the commitment of states to move in certain directions, abiding by certain principles. United Nations declarations once adopted establish an important standard for the treatment of women. That said, in 2017 the United Nations Committee on the Elimination of Discrimination Against Women recognized that “the prohibition of gender-based violence against women has evolved into a principle of customary international law, binding all States.”⁵ At the same time the United Nations adopted the terms “gender-based violence

¹ United Nations Declaration on the Rights of Indigenous Peoples, MMIWG Exhibit B3

² United Nations Declaration on the Elimination of Violence Against Women, A/RES/48/104, 85th plenary meeting, 20 December 1993, attached as Exhibit “A” to this affidavit.

³ United Nations Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979 by the UN General Assembly, MMIWG Exhibit B20

⁴ United Nations Declaration on the Elimination of Violence Against Women, *supra*, Exhibit “A”, Article 1.

⁵ General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, July 26, 2017, attached as Exhibit “B” to this affidavit.

against women” because it “makes explicit the gendered causes and impacts of the violence. The term further strengthens the understanding of the violence as a social rather than an individual problem, requiring comprehensive responses, beyond those to specific events, individual perpetrators and victims/survivors.”⁶

- 15) The WMN/LFMO see the international convention, declarations and recommendations as important influences in Canadian domestic law. They provide an international standard by which we can judge Canada’s performance when it comes to protecting the human rights of Indigenous women. In light of this the Women of the Métis Nation support the use of the term “gender-based violence”.

Recommendation #1: That this Commission adopt the language of the United Nations General Recommendation No. 35 and use the term “gender-based violence” to make it explicit that there are gendered causes and impacts that underlie the violence experienced by Indigenous women and girls in Canada.

Recommendation #2: That this Commission adopt a human rights lens, as recommended by the United Nations and by Dr. Brenda Gunn in her testimony before this Commission and that this human rights lens be reflected in all aspects of the Commission’s report and recommendations.

- 16) One of the many issues we have discovered through our work is that there are denigrating stereotypes about Métis women that are embedded in every part of Canadian society. There is a depressingly long list of stereotypes. Métis women are seen as ignorant, dirty, stupid, lazy, irresponsible, drug and alcohol addicts, and poor mothers with little by the way of morality or values. This shows up in the education system where Métis girls are not expected to graduate and are treated as unintelligent and ultimately as if they are unworthy. It also shows up in the criminal justice system where the police and courts often treat Métis women who are the victims of gender-based violence as if they are on trial and are less than human. This is exactly what transpired in the trial of Bradley Barton for the murder of a Métis woman, Cindy Gladue.

⁶ General Recommendation No. 35, supra, Exhibit “B”, Article 9.

17) The statistics support our concern about the treatment of Indigenous victims in the criminal justice system. The statistics are, to say the least, not encouraging. According to data published by Statistics Canada in 2014:⁷

- a. The overall rate of violent victimization among Indigenous people was more than double that of non-Indigenous people.
- b. Alberta has the second highest number of Indigenous victims (11.55 per 100,000).
- c. The rate of homicides for Indigenous females is six times higher than for non-Indigenous females.
- d. Indigenous females had an overall rate of violent victimization that was close to triple that of non-Indigenous females;
- e. Indigenous identity is a risk factor for violent victimization of females.
- f. 31% of Indigenous people reported having not very much confidence or no confidence at all in the criminal justice system.
- g. Having contact with the justice system contributed to the low confidence level.
- h. 40% of Indigenous people reported having contact with police in the previous year and 33% had contact with the criminal court system at some point in their lives.

18) Statistics Canada concluded that even factoring in other risk factors (youth, drugs and alcohol, etc.), there are still unknown factors at play that put Indigenous females at a high risk for violent victimization.⁸

19) The Women of the Métis Nation have made it our goal to change this and to speak up wherever we can to effect that change. That is why we tried to participate in this Inquiry.

The Métis Nation

20) Unfortunately, what we have seen through our participation in this Inquiry is that the Commissioners and Commission staff are ignorant of the Métis Nation. You are thoroughly confused about who the Métis Nation is and who its citizens are. This has been evident in the many communications and comments made by Commission staff.

⁷ Jillian Boyce, "Victimization of Aboriginal people in Canada, 2014", Canadian Centre for Justice Statistics, Statistics Canada, *Juristat*, Catalogue no. 85-002-X, p. 3, 9, 18. This report uses the term "Aboriginal". I have replaced "Aboriginal" with "Indigenous", attached as Exhibit "C" to this affidavit.

⁸ Boyce, *supra*, Exhibit "C", p. 11.

- 21) For the record, we are not women who have lost our Indian Act status. We are not non-status Indians. We are not simply women who have mixed ancestry. We are not women in eastern Canada. We are not people who are confused about our identity. We are not the lost souls who have been rejected by First Nation communities.
- 22) We are the women of one of the Indigenous peoples of Canada – the Métis Nation of the Canadian North-West. We are a separate and distinct people. The Métis Nation homeland spans across the Prairies from northwestern Ontario to British Columbia. This new Indigenous people came into being in the late 1790s and by 1816 it had named itself *la nouvelle nation*. It has its own culture, language and history.
- 23) The Métis Nation has asserted itself as one of Canada’s rights-bearing Indigenous peoples for over two hundred years. Many of its assertions have become famous parts of Canadian history, including the Battle of Seven Oaks in 1816, the Red River Resistance of 1869-70 and the North-West Resistance of 1885.
- 24) The Métis Nation has long had its own laws, which we know as the Métis Laws of the Prairie. These Laws include the Laws of the Hunt (circa the 1830-40s), the Red River Code (1869), the Qu’Appelle Code (1873) and the Laws of St. Laurent (1873). Today the Métis Nation’s provincial governing members still have their own Métis Laws and govern themselves under their own customary practices and traditions.
- 25) In the 20th and 21st centuries the Métis Nation has continued to assert its existence, its right to self-determination and its Indigenous rights in the national constitutional debates surrounding the patriation of the Constitution in 1982 and the inclusion of s. 35, in the Constitutional Conferences that followed in 1983, 1985 and 1987, at Meech Lake and Charlottetown. The Métis Nation has also asserted its Indigenous rights in a series of court challenges, the most recent of which has been this court’s decision in *Manitoba Metis Federation*.⁹
- 26) The Métis Nation has its own language, Michif. A central foundation of our Métis Nation culture rests on a concept, *wahkootowin*. Having a culture based on *wahkootowin* means the Métis Nation is a kinship-based culture that relies on reciprocal relationships. In saying this I wish to emphasize that I use the term “kinship” deliberately. Using the term “family” is

⁹ *Manitoba Metis Federation v. Canada (Attorney General)*, [2013] 1 SCR 623, available online at <https://www.canlii.org/en/ca/scc/doc/2013/2013scc14/2013scc14.html?autocompleteStr=manitoba%20metis&autocompletePos=1>

misleading because in our Metis Nation culture “family” is a much larger concept than Canadians usually mean when they use the word. *Wahkootowin* is a better word because it embraces an extended kinship network that includes relations that would not be considered “family” in Western family structures.

- 27) I also use our word *wahkootowin* because it carries additional meanings. Embedded in the concept is the idea that relatives do no harm to each other and indeed have ongoing reciprocal obligations towards each other. The idea that those in relationships have ongoing reciprocal obligations to each other and do not do harm to each other is also extended to the respected partners and allies of the Métis Nation.
- 28) Canada is in just such an ongoing reciprocal relationship with the Métis Nation. As allies and partners sharing the same lands and waters we are bound to each other. We each have obligations and rights. We must learn to work together, to respect each other’s customs, practices and laws and to protect Métis Nation citizens who are just as much citizens of the Métis Nation as they are Canadian citizens.

The Lack of Indigenous Institutions in Canada

- 29) Canadian institutions are one of the mechanisms by which Canada acts as the partner and ally of the Métis Nation and several of Canada’s seminal institutions – the criminal justice system, education system, policing, social services, health, child welfare, the courts and government – all play critical roles in this ongoing reciprocal relationship. The obligations arising from such important relationships requires Canadian institutions to listen to the Métis Nation, to treat our citizens with respect, to protect our citizens and their rights, to acknowledge our cultural values and interests and most of all, to work with our laws, customs and systems.
- 30) The Métis Nation is now subject to Canadian institutions in all aspects of our lives. This is inescapable, even when the ideas that permeate these institutions directly contravene our own and even when, as the evidence clearly shows, they continue to hurt our people.
- 31) Like all cultures, the Métis Nation has adapted over the centuries. We came to be influenced by Christian churches. We came under the influence of Canadian law. We no longer travel in Red River carts. We no longer hunt buffalo. But the value we accord our Métis women, our cultural traditions for our dead, the importance of family and the dignity and care we

give to bodies, our *wahkootowin* – none of that has changed. Those beliefs were formed long ago and have not disappeared.

- 32) The Métis Nation also has its own values about justice, education, social welfare and health. Unfortunately all institutions in Canada exclude us. All institutions exclude Métis Nation laws, customs and traditions. We are included only as the problem that must be solved and when solutions are proposed they are usually proposed unilaterally and with a view to a permanent solution to the problem. The idea that Canada seeks a permanent solution to Métis Nation people, and Indigenous peoples generally, is a thought that should give us great pause. But this attitude permeates the social welfare system, the education system, the criminal justice system, child and family services and even government. We are the *subject* of these institutions, the *problem* to be solved. Our customs, traditions and values do not inform the construction, rules or laws of Canada's institutions. The WMN/LFMO believes that is one of the fundamental reasons for the violence that is the subject of this Inquiry.
- 33) Part of the tension between the Métis Nation and Canada is because we are excluded. There are no institutions in Canada that are Métis Nation institutions. There should be, but there are not. There are no institutions that include our customs, laws and nation. There should be, but there are not. It does not have to be this way. The WMN/LFMO believes strongly that Canada would be a better place if there were Métis Nation institutions of health, justice and social welfare. Canada would be a better place if it would incorporate some of our practices. Canadian ideas about justice, health, children and families and social welfare are not always the best. We see this every day with the over-representation of Indigenous people in the criminal justice system, the poor health and education of our people, the loss of our children, and the shocking volume of our women and girls who have been murdered and are missing. Canada could learn some things from us. We believe strongly that reconciliation is possible, but Canada must provide opportunities to listen and be open to change. Canada must make space for Indigenous laws, practices and institutions. This is one way in which reconciliation will happen.
- 34) Canadian institutions proceed on the assumption that everyone's values are the same as those of the non-Indigenous population. Or if the values are different, it is because they are recent immigrant values and recent immigrants (or at least immigrants not from Europe) are expected to conform. Immigrants can bring their food, celebrations and religions to Canada.

They cannot bring their institutions or laws. While Indigenous peoples are not immigrants, the same rules apply to us. This is a problem that has been here since the first settlers arrived from Europe. With all due respect to the Truth and Reconciliation Commission cultural competency training alone is not enough to change this fundamental omission.¹⁰

- 35) Until Indigenous laws, customs and values are incorporated, *really incorporated*, into Indigenous institutions that form part of Canada's essential law and civil society, the WMN/LFMO believe nothing will change and the gender-based violence that is the subject of this Inquiry will continue. There is a reason why such fundamental change is necessary.
- 36) Euro-Canadian law and Canadian civil society arose from a deeply gender-biased tradition. Their Christian gods and even their Greek and Roman gods were all-powerful males. Their legal systems and their religions have a thousand-plus tradition that women were subservient, lesser beings that men could use and abuse. Women in Euro-Canadian law were the property of men. While there are now superficial changes in this power structure – women can now vote and hold property – everything else, from wages, to income standards, to jobs to participation in government – every part of the Canadian system privileges men over women. Violence against women was encouraged or ignored, always. It was legal for most of history.
- 37) Even today it is virtually impossible for a woman who has been sexually assaulted to obtain justice in Canada's legal system. Every part of the justice system protects the male perpetrator. This has always enabled, encouraged and ignored male violence against women. It is embedded in the Canadian civil society. This is the culture that Europeans brought with them as immigrants to Canada. It is still the culture that abides.
- 38) The worst aspects of such a gender-based hierarchy are always visited upon the poor, the marginalized and Indigenous peoples.
- 39) This too provides an important reason for the incorporation of Indigenous laws and traditions, as a counter-balance for the overwhelmingly patriarchal system imposed on Indigenous peoples by the Euro-Canadian culture. Our women knowledge keepers, elders, educators, spiritual leaders and warriors must be provided with a space to raise their voices and be heard. This is what underlies our next recommendation:

¹⁰ Truth and Reconciliation Commission Calls to Action, no. 27, MMIWG Exhibit 63.

Recommendation #3: That this Inquiry recommend the establishment of Indigenous institutions (criminal justice, social, health and education) by Indigenous women and for Indigenous women.

This Inquiry

- 40) It is most unfortunate that everything I have said above also applies to this Inquiry.
- 41) One of my most important roles as President of the WMN/LFMO has been to educate and to speak out about the continuing violence against Métis Nation women and girls. To that end I worked hard to ensure that the unique situation facing Métis Nation women and girls was considered by this Inquiry.
- 42) It needs to be said that the Inquiry has not made this possible.
- 43) Most of the information before this Inquiry is *not* Métis Nation-specific. This is unfortunate because our issues are not identical to those faced by First Nation or Inuit women. For example, while it is a fact that some Métis Nation women attended residential schools, by far the majority did not. Also, while some Métis Nation women live on reserves, by far the majority, do not. These facts make it clear that residential schools and violence on the reserves are not the only causes underlying the issue of murdered and missing Indigenous women and girls. Obviously for Métis Nation women something more is at play.
- 44) At the launch of this Inquiry the WMN/LFMO was cautiously optimistic that insight might be gained into the violent reality facing Métis Nation women and girls. The Inquiry's stated mandate is to "look into and report on the systemic causes of all forms of violence against Indigenous women and girls, including sexual violence" and that they must "examine the underlying social, economic, cultural, institutional, and historical causes that contribute to the ongoing violence and particular vulnerabilities of Indigenous women and girls in Canada".
- 45) But very early in the life of the Inquiry, we began to see that there was a lack of care, concern, or consideration in gathering specific Métis Nation experiences to begin to unravel the unique experiences faced by Métis Nation women and girls.
- 46) Even with being granted Intervenor status at the Inquiry, WMN/LFMO found ourselves continually treated as an after-thought in many, if not all of the Inquiry's processes. It took well over a year for WMN/LFMO to receive the first contribution agreement to ensure

payment of our lawyers and ultimately up to the writing of this affidavit, our Lawyers still have not been paid or reimbursed expenses for work completed on WMN/LFMO's behalf and directly relating to Inquiry activities.

- 47) The Inquiry released its Interim Report in November of 2017. The report states that information about the experiences of Métis women and girls is a "knowledge gap" that will "need to be filled in order for the National Inquiry to make specific recommendations concerning the safety of Métis women and girls".¹¹ The Commission has always known about this knowledge gap. It has done nothing to fill that gap.
- 48) On March 8th, 2018, the National Inquiry submitted a request to the Government of Canada for an extension of two years to its mandate. On the same day the WMN/LFMO issued a press released stating they were not in support of the request for extension.

The National Inquiry should have included Métis women and girls in its work. But it has not done so and the exclusion of Métis is not a mere oversight. The Inquiry now claims there are limitations in the mandate that have prevented its work with Métis women and girls. We do not accept this new excuse. The Inquiry states that it is only now going to establish a Métis Advisory Committee. This too is unacceptable. Métis inclusion should have been part of the Inquiry's work from day one.¹²

- 49) The excuse for its failure to work with Métis women and girls was shocking and inexcusable. There is nothing that has ever prevented the Inquiry from doing this work except its own determination not to do it.
- 50) On May 29, 2018, WMN/LFMO submitted a proposal to the Government of Canada to engage in research to gather the information that was not being collected by the Inquiry. The proposal was developed as a result of consultation with several key knowledge holders in terms of truths encountered by Métis women and girls from both an historical and contemporary perspective. On November 5, 2018 we were informed that funding would be made available to WMN/LFMO. WMN/LFMO will do the research and gain as much insight as possible given the short timelines. This independent work has been made necessary *because the Inquiry isn't doing its job with respect to the Métis Nation.*

¹¹ *Our Women and Girls are Sacred*, November 1, 2017, p. 60 and 119.

¹² A copy of the WMN/LFMO Press release dated March 8th, 2018 is attached to this affidavit as Exhibit "D"

- 51) On June 5, 2018, Minister Bennett stated that the National Inquiry would receive an extension to April 30, 2018 but only to submit its final report. The inquiry could continue to gather stories from families and survivors and further examine institutional practices until December 2018.
- 52) WMN/LFMO issued a press release on that same day stating that we were appreciative of Minister Carolyn Bennett's announcement around the terms of the extension granted to the National Inquiry and that a further two years was not granted to the flawed process. After the last press release, the Inquiry requested a meeting with WMN/LFMO. The purpose of the meeting was supposed to establish a working relationship between WMN/LFMO and the Inquiry. The main topics to be discussed were research and the recommendations contained in the Inquiry's Interim Report.
- 53) The meeting took place August 1, 2018. The inquiry stated that events were being planned for the fall to gather more information, specifically that there would be a series of "guided dialogues" about the gaps in the research. We note that the admission by Inquiry staff that it was trying to obtain information about the gaps in research in the last months of the Inquiry was a stunning admission of the Inquiry's failure.
- 54) On or about November 6-8, 2018, the email invitations were sent out to the invited guests by the Inquiry. The session was scheduled for November 19, 2018. Yet invitations went out only 11-13 days in advance. It was abundantly clear from the short notice that many people would be unable to attend. WMN/LFMO was not on the email invitation list and did not see the invitation before it was sent out.
- 55) The "invitation" to a "Métis Guided Dialogue" was greeted with outrage by the recipients. Although the header said it was an invitation to a "Métis Guided Dialogue" the body of the invitation was all about a 2SLGBTQIA and Inuit session. The invitation stated that the goals were:
- To gather more information and fill gaps including particular experiences of specific Indigenous groups, the emphasis being on deepening knowledge on systemic institutional weakness, gaps, problems that marginalize and negatively impact safety of Indigenous Women, girls, Inuit people and 2SLGBTQIA;
 - To identify best practices and solutions for institutional and systemic change;

- To develop specific recommendations to increase the safety of diverse Indigenous groups.¹³

- 56) Other than in the heading, there was no mention of Métis content anywhere in the invitation. It was not a guided dialogue about Métis at all. It was to be about 2SLGBTQIA and Inuit! We were flooded with calls objecting to the invitation and demanding to know what we were doing.
- 57) WMN/LFMO only received a copy of the original invitation email from an invited participant.
- 58) I spent the bulk of November 7-8, 2018, calming the waters the Inquiry had stirred up. Everyone was angry and confused.
- 59) WMN/LFMO drafted and sent an email to the invited guests we had recommended. We tried to explain the “error” on the email they received the previous day from the Inquiry. I must state that nothing we said mollified people. They saw it as just another example of the Inquiry’s prejudice against the Métis Nation.
- 60) The short notice also was cited as a major problem for the invitees. I acknowledged the short notice however I did urge people to participate in the session because it would be the only way to contribute to Métis-specific information being included in the final report. I was still trying desperately to work with the Inquiry. My emails remained supportive of the Guided Dialogue process and that of the Inquiry.
- 61) Up to and including November 9, 2018, I continued to receive calls expressing deep concern for the guided dialogue process.
- 62) The Inquiry staff was advised of the initial error in the email on or about November 6, 2018 and that this error was reflecting poorly on WMN/LFMO but especially on the Inquiry. The Inquiry official I spoke to said that a note of apology would be sent out to all participants from the Inquiry.
- 63) Over the course of the next two days (November 10th and 11th, 2018), several more phone calls were received expressing concern about the entire process leading up to the National Inquiry Guided Dialogue process. Several of these calls were from Métis Nation leadership. Based on some of the calls received it was apparent that no further explanation of the guided dialogue process or draft agenda had been circulated to the invited participants.

¹³ A copy of the Métis Guided Dialogue Invitation is attached to this affidavit as Exhibit “E”. The name of the recipient has been removed.

64) On Monday November 12, 2018, WMN/LFMO sent an email to Jennifer Moore-Ratray requesting a copy of the apology that was sent out to the invited participants. An email was forwarded with a very curt apology the Inquiry had been circulating. Ms. Moore-Ratray added that they had received responses such as “we all make mistakes” and “thanks for the clarification”. I state emphatically for the record that this was *not* the response I was getting.

65) In light of the confusion caused by the Inquiry, I engaged in discussions with WMN/LFMO board members and Métis Nation Leadership. As a result of these discussions WMN/LFMO decided to withdraw its support and involvement in the Métis Guided Discussion for the following reasons:

- It seemed from the invitation that the guided dialogue was going to be used to belatedly “gather more information” but the information would not be part of the evidence before the Inquiry.
- It was too little too late. If the Inquiry was serious about gathering Métis Nation evidence, this should not have been an afterthought in the last month of the Inquiry with less than 2 weeks of notice for participants to prepare or even be able to clear their schedules to attend.
- Given the lack of Métis Nation inclusion in the Inquiry process to date, WMN/LFMO did not have any confidence that a one-day discussion facilitated by an external consultant would result in a sufficient picture of the systemic causes of violence experienced by Métis women and girls. It is not possible to make up for all the time the Inquiry did *not* spend learning about Métis Nation women and girls in one day.
- The draft agenda did not maximize the use of the time and only allowed for minimal input from the participants. The commission planned to re-run what it had done for Inuit, 2SLGBTQIA and what it called “specific Indigenous groups”. The Métis Nation was being treated as an interest group, not as one of Canada’s Indigenous peoples. There was no thought or planning done into a Métis Nation specific event at all.
- Because of our experience with the Inquiry and the late date set for the event, WMN/LFMO had no confidence that a draft report from the Métis Guided Dialogue session would be circulated for review before being finalized and its recommendations embedded in the final Inquiry report.
- WMN/LFMO had serious concerns that the external facilitator from Simon Fraser University would not have the background and reference points to capture the full innuendo of the dialogue. It would take a full day, at least, to educate the facilitator about the identity issues alone. The Inquiry staff is full proof about the complexities involved here. If Inquiry staff have not learned anything about the Métis Nation, as has been shown throughout the Inquiry and specifically during the planning of this event, there is small chance an outside facilitator could do so.
- WMN/LFMO was not confident that all invited participants from the Inquiry list would sufficiently represent the Métis Nation. The Inquiry is very confused about Métis identity. It has proceeded on the basis that Métis means anyone with mixed ancestry. That means the Inquiry, by definition, is excluding the Métis Nation, which is a separate and distinct Indigenous people with its own customs, laws and traditions. The Inquiry’s

confusion is what we find unacceptable. The Inquiry refused to work with us for the entire length of the Inquiry. It would only deal with the “Métis” as it includes anyone across Canada with mixed ancestry. This would make it impossible to arrive at any information about the gender-based violence facing the women and girls of the Métis Nation. We have always sought a Métis Nation-specific relationship with the Inquiry. The Inquiry has denied no other Indigenous people. But you have denied us throughout the process.

- WMN/LFMO was concerned that the lack of respect shown throughout the National Inquiry process and the chronic lack of inclusion of the experiences faced by Métis Nation women would be reflected in the planning and delivery of the session. That turned out to be only too true.
- This entire event was a last minute, after-the-fact add-on, which only serves to highlight an Inquiry process that has ignored Métis Nation women. In this way the Inquiry’s process mirrors the racism experienced by Métis Nation people historically and in contemporary terms. Far from fixing the problem of gender-based violence against Métis Nation women, the Inquiry is contributing to it.

66) With the full support of the Métis National Council, the WMN/LFMO announced that it was boycotting the Métis Guided Dialogue session. We were of the opinion that the information compiled at this hastily prepared session would not capture an accurate depiction of the unique experiences of Métis Nation women and girls who experience gender-based violence. An inaccurate expression of this session would lead to recommendations for Métis women and girls in the Inquiry final report that would have little or no meaningful impact to improve outcomes and increase safety for Métis women and girls.

67) The poor planning and communication is yet more evidence of the ongoing turmoil of this Inquiry. This has been a pattern we have seen in the resignation of the Métis commissioner and the revolving door of staff turnover including two executive directors, chief commission counsel, research and communications directors and community relations managers. Hearings have been scheduled and then abruptly cancelled. There is a shocking lack of communication with the public and parties. The Inquiry’s processes have been, to put it politely, lacking in clarity for participants. No one knows what to expect from the Inquiry in terms of schedule, content or procedure. There has never been any evidence of an overall plan.

68) Promises to the WMN/LFMO have not been kept. We were promised a Métis advisory panel. Yet even beginning on this important panel was delayed until after the Interim Report was published and *it never did materialize*.

69) When the Inquiry sought an extension of time, it said it needed to engage contract research. This was shocking to everyone. How could this not have already been commenced? This should have been well under way from day one.

70) In a press release issued by WMN/LFMO on November 19, 2018 the President of the Métis National Council, Clément Chartier stated,

It is unfortunate that the National Inquiry on Missing and Murdered Indigenous Women and Girls and its final report will not reflect perspectives of the Métis Nation. The process to date has been exclusive and discriminatory, akin to undertakings of the past such as the Truth and Reconciliation Commission. From the Métis Nation point of view the anticipated report will, in effect, be a report on missing and murdered First Nations and Inuit women and girls exclusively.¹⁴

71) On November 23, 2018, Chief Commissioner Buller wrote to Clément Chartier, President of the Métis National Council. Commissioner Buller's letter misrepresents many facts. She began by acknowledging that the invitation to the Métis Guided Dialogue contained "inaccurate information". This is an understatement to say the least. The content of the Guided Dialogue invitation contained nothing, absolutely nothing, about Métis. This is not "inaccurate information". This is simply another example of the Inquiry's sloppy work and thoughtless approach to the Métis Nation women and girls – we are an afterthought. Our "dialogue" is not considered important enough to be evidence before the Commission.¹⁵

72) We disagree that "without exception" the Inquiry has been committed to deliver its mandate in an "inclusive, respectful and collaborative manner". The Métis Nation's experience with the Inquiry is quite the opposite. We have been excluded and disrespected and have seen no evidence of collaboration for the entire course of the Inquiry.

73) Commissioner Buller stated that the Inquiry heard from experts and knowledge keepers of Métis ancestry who provided Métis perspectives. We challenge that statement. The transcripts reveal just how very little evidence with respect to the Métis Nation was collected by the Inquiry. Overall the total reference to the Métis averages around 3% of the references to Indigenous, First Nation, Métis and Inuit in both languages. This is throughout the Inquiry. This is in sharp contrast to the numbers of Métis in Canada.

¹⁴ A copy of the WMN/LFMO press release containing this statement is attached to this affidavit as Exhibit "F".

¹⁵ A copy of Commissioner Buller's letter is attached to this affidavit as Exhibit "G".

74) Statistics Canada figures from 2016 state that the First Nation population (including registered, treaty and non-status Indians) is 977,230; the Métis population is 587,545; the Inuit population is 65,025. The total population 1,673,785. We are aware that these figures are not accurate and likely underestimate the Indigenous population of Canada.

Nevertheless they provide a general picture of the numerical relationship of First Nation to Métis to Inuit. Generally speaking the data shows that Inuit are approximately 4%; Métis are 35%; First Nations are 58% of the Indigenous population in Canada.¹⁶

75) It needs to be said that in addition to the few references to Métis during the Inquiry, most of the references to Métis are individuals who are identifying the fact that they have mixed ancestry and relate that to their First Nation ancestry.

76) There appear to be only a couple of references to the Métis Nation. This is further proof that the Métis Nation women and girls have been largely ignored.

77) Commissioner Buller further stated that members of the Inquiry's "staff of Métis ancestry" were involved throughout the entire Truth Gathering Process, including the Director of Research. We point out that the Director of Research has been on the job for a total of seven months.

78) We also point out that some of the Inquiry's staff who claim to be Métis appear to be very confused about their identity. [REDACTED]

[REDACTED]

79) We further point out that it is the Inquiry's own staff that has been most disrespectful to the WMN/LFMO. In fact one senior staff member said that the Inquiry was not doing anything because it was impossible when the Métis didn't know who they were anyway. This profound ignorance of the Métis Nation permeates every level of the Inquiry. No one made any attempt to work with the Métis Nation on the confusion that reigns within the Inquiry about Métis identity.

¹⁶ A copy of First Nations People, Métis and Inuit in Canada: Diverse and Growing Populations", March 20, 2018 is attached to this affidavit as Exhibit "H". We note that the Statistics Canada numbers (the percentage numbers set out above) do not add up to 100%.

¹⁷ A copy of [REDACTED] is attached to this affidavit as Exhibit "I".

- 80) These are all excuses and they are inadequate at best. It is the same kind of shallow excuse we find in consultation from oil and gas companies who say they consulted with one or two trappers and thus have fulfilled their consultation obligations with an Indigenous people.
- 81) Using the term “Métis ancestry” also begs the question again of what Commissioner Buller understands about the Métis Nation. Does this mean simply that when individuals admit that they have mixed ancestry they are considered competent to give evidence with respect to the Métis Nation? Again this is a complete and utter disregard of the Métis Nation, one of the Indigenous peoples Canada. We are not simply people of mixed ancestry from anywhere across Canada.
- 82) Commissioner Buller further states in her letter that no feedback was received from the WMN/LFMO about the agenda of the Guided Dialogue. This is not correct. In fact the document originally circulated was about the Inuit and 2SLGBTQIA. It was not helpful and contained nothing about the content of the Métis Guided Dialogue. It was not an agenda for the Métis Guided Dialogue.
- 83) A draft agenda was only circulated days before the event was scheduled and was not co-developed with the WMN/LFMO. It is very misleading for Commissioner Buller to try to blame the WMN/LFMO and take no responsibility for the Inquiry’s failures, its poor planning, its errors, and its ignorance.
- 84) Commissioner Buller stated in her letter that the Guided Dialogue was carefully designed to “build on themes present in the testimonies of Métis witnesses”. This is extremely misleading. The invitation stated the design of the session quite clearly. It was intended to gather more information and fill gaps about Inuit people and 2SLGBTQIA. There was *no* evidence of any careful design. There were *no* themes presented from the Métis witness testimonies.
- 85) In yet another misstatement, Commissioner Buller stated that the National Inquiry supported the WMN/LFMO’s independent research. The only reason the WMN/LFMO had to seek funds to do its own research is because the Inquiry *would not do it*. The Inquiry had no role in either supporting or not supporting the WMN/LFMO’s independent research. They certainly made no public statement in support. Nor did they make any statement of support to the WMN/LFMO.

86) As noted above, Commissioner Buller sent her letter to President Clément Chartier of the Métis National Council. No one from the Métis National Council responded. This is in large part because the Métis National Council and the WMN/LFMO are thoroughly discouraged by the pattern of denial, excuses, exclusion and misrepresentation that the MMIWG has undertaken throughout the entirety of its existence. The Métis Nation is responding in this affidavit to the Commissioner's excuses and attempts to justify the missteps of the Inquiry with respect to its deliberate exclusion of Métis Nation women and girls.

87) WMN/LFMO has been granted a contribution to complete a small Métis research project and to formulate recommendations on the systemic causes of violence against Métis women and girls. *We received this grant specifically because the federal government recognized that the Inquiry was failing to address Métis Nation women and girls.* The grant is late in arriving, which is a direct result of our misguided faith in the Inquiry in its initial stages. We believed the Inquiry would include Métis Nation women and girls. We were wrong. Instead we were excluded at every point. We will produce a minority report and recommendations for the Minister's consideration as she reviews the recommendations in the Inquiry's final report.

SWORN BEFORE ME at
Edmonton, Alberta
On this 30th day of November, 2018


A Notary in the Province of Alberta

Kathleen S. Kenny
Barrister & Solicitor


Melanie Omeniho