

National Inquiry into
Missing and Murdered
Indigenous Women and Girls



Enquête nationale
sur les femmes et les filles
autochtones disparues et assassinées

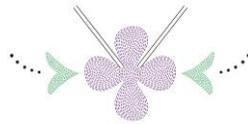
**National Inquiry into Missing and Murdered
Indigenous Women and Girls**

Truth-Gathering Process Part III

Expert & Knowledge-Keeper Panel : Human Rights Framework

Held at the Hotel Pur, 395 Rue de la Couronne

Ville de Québec / Quebec City



Part III Volume IV

Monday May 14, 2018

**Panel I: Recognizing & Fulfilling National & Domestic Human
Rights**

Timothy Argetsinger & Tracy Denniston

Fay Blaney

Naiomi Metallic

**Heard by Chief Commissioner Marion Buller
& Commissioners Michèle Audette, Brian Eyolfson & Qajaq
Robinson**

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1 Quebec City, Quebec

2 --- The hearing starts on Monday, May 14th, 2018 at
3 8:19 a.m.

4 **MS. TERRELYNN FEARN:** My name is Terrelynn
5 Fearn, and I am the Director of Outreach and Support
6 Services with the National Inquiry, and I want to welcome
7 you all here today.

8 I'm just going to take a couple of minutes
9 to review the opening ceremony. We are going to get
10 started. We have one of our Elders, Marcel Godbout from
11 Wendat is going to be providing us with an official welcome
12 and an opening prayer.

13 And I said, "Marcel, is it okay to introduce
14 you as our Elder?" He said, "young Elder." So our
15 wonderful young Elder, Marcel, and merci, thank you for
16 coming and welcoming us to this beautiful traditional
17 territory.

18 Then we will proceed with a pipe ceremony
19 with Grandmother Laureen Waters and Grandmother Pénélope
20 Guay, and then we will have Elder Rebecca Vevee with the
21 lighting of the Qulliq, and then we'll proceed at the end
22 with some opening remarks from the commissioners. All four
23 commissioners will do some short and brief opening remarks.
24 Then we will take a short break and then we will proceed
25 with the hearing.

1 So without further ado, I'd like to ask
2 Marcel to come up and provide the opening.

3 **MR. MARCEL GODBOUT:** Alors, la prière que je
4 vais vous faire, pour l'ouverture, chez nous, c'est une
5 prière traditionnelle. C'est la façon de faire chez nous
6 lorsqu'on se rencontre ; on brûle le tabac et on énonce
7 aussi des éléments de la Création, on remercie ce qui est
8 important pour nous. Tous les éléments de la création sont
9 vraiment nécessaires pour nous, pour notre survie et on
10 prend le temps d'énoncer tous ces éléments-là.

11 Et à l'intérieur de ces éléments-là, on
12 remercie tout ce qui est féminin parce que pour nous,
13 évidemment, ça joue un rôle majeur et très important.
14 Après, je vous dirai ce que j'ai dit dans ma langue.

15 Dans notre tradition à nous, évidemment, on
16 n'utilise pas la sauge ou le foin d'odeur ;
17 traditionnellement, c'est le tabac qui sert de fumigation
18 pour nous, dans (problème technique : 9 :07 à 9 :21) on vit
19 dans la maison de la femme, hein, traditionnellement. Et
20 c'est la femme qui nous donne le temps.

21 Donc, je suis content, vraiment, de pouvoir
22 vous présenter ça, de voir l'importance de la femme pour
23 nous, parce que durant ces audiences, c'est un peu ça aussi
24 qu'on fait : c'est de mettre de l'avant l'importance des
25 femmes, de nos femmes et toute l'égalité qui doit être, le

1 respect qui doit être accordé aussi aux femmes.

2 (LANGUE AUTOCHTONE PARLÉE - NATIVE LANGUAGE)

3 **MARCEL GODBOUT:** Pensez à remercier à, dans
4 notre pensée à nous, chez les Wendats, c'est que ce n'est
5 pas juste pour honorer les éléments de la Création, mais
6 c'est aussi pour les encourager à continuer le rôle qu'ils
7 jouent. Donc pour nous, par exemple, l'érable a un rôle
8 très important. Donc, lorsqu'on fait ces énoncés-là, c'est
9 une façon pour nous aussi d'encourager l'esprit de l'arbre
10 à poursuivre sa responsabilité, à jouer son rôle en tant
11 qu'érable.

12 Donc, on a commencé par remercier les hommes
13 et les femmes, les êtres humains ; ensuite, nos aînés, tous
14 ceux qui ont passé avant nous, qui ont ouvert le chemin et
15 nous, on poursuit ce chemin-là aujourd'hui. On a une pensée
16 aussi pour notre Terre mère et tout ce qui s'y retrouve,
17 tout le monde végétal : les plantes qui nous apportent la
18 médecine. Pour nous, les petits fruits vont sortir bientôt,
19 en juin, donc pour nous, c'est important de célébrer aussi
20 l'arrivée des petits fruits. Il faut dire qu'à l'époque, le
21 goût sucré qu'on avait nous provenait de ces petits fruits-
22 là, donc ils étaient très appréciés. Et c'est aussi une
23 médecine. Donc, pour nous, c'est très important, on célèbre
24 ; il y a des cérémonies qui sont liées à la médecine,
25 justement, aux petits fruits.

1 Par la suite, on remercie aussi les trois
2 sœurs : maïs, courge, haricot, qui sont la base de notre
3 culture, de notre société. Ensuite, évidemment, on remercie
4 les arbres, dont l'érable, justement et le représentant des
5 arbres pour nous et lorsqu'on fait la cérémonie de
6 l'érable, c'est qu'on procède aussi à la célébration de
7 l'arrivée du printemps, parce que la sève commence à couler
8 dans les arbres.

9 Par la suite, évidemment, on remercie tout
10 le monde animal ; les différents animaux, dont plusieurs
11 nous apportent le clan, comme celui dont je me suis nommé
12 tout à l'heure, provenant du Clan de la Tortue. Alors, tous
13 ces animaux-là et ceux qui nous donnent la vie, entre
14 autres l'original, où les membres de ma communauté vont à la
15 chasse et ont de la nourriture pour nos aînés et autres.
16 Donc, on a une pensée aussi pour ces animaux-là.

17 Par la suite, évidemment, on remercie tous
18 les animaux, tous les animaux ailés, donc les oiseaux, en
19 passant des plus petits aux plus gros, les oiseaux de
20 proie, dont entre autres l'aigle, qui est très important
21 pour nous, mais aussi le petit oiseau qu'on appelle la
22 tourte qui a malheureusement disparu aujourd'hui, qui
23 amenait les semences un peu partout.

24 Ensuite, évidemment, on a une pensée pour
25 les différents éléments, entre autres les éléments qui nous

1 viennent du vent, des quatre vents. Aussi, Grand-Père
2 Tonnerre, pour nous, qui est très important et tout son
3 monde, mais aussi tous les éléments de la Création, dont
4 l'astre du jour, de la nuit, les étoiles.

5 Finalement, on a une pensée pour le
6 Créateur.

7 Juste avant de faire la cérémonie de la
8 pipe, avec Blue, je vais vous faire un chant et ce chant-
9 là, c'est un chant des femmes. C'est un chant qu'on ne fait
10 pas habituellement, c'est juste lors des cérémonies, mais
11 je pense que ça s'impose, pour toutes les femmes qui
12 étaient là avant, qu'on ait une pensée pour elles, parce
13 qu'on est ici avant tout pour elles, mais aussi pour celles
14 qui vont venir parce que oui, c'est important de ne pas
15 oublier ce qui est avant, mais il faut penser aussi à aller
16 de l'avant.

17 Ce chant-là, c'est aussi pour les gens, les
18 femmes du passé, celles d'aujourd'hui, mais celles à venir
19 également, parce que nos femmes doivent avoir un bel avenir
20 dans lequel elles se sentent bien, sécurées et peuvent aussi
21 veiller sur nos petits, sur notre communauté, sur notre
22 nation, parce qu'elles ont un rôle très important à jouer
23 et on leur doit respect.

24 Ce chant-là, c'est un chant de la nation que
25 je vais vous partager.

1 (CHANT EN LANGUE AUTOCHTONE/SONG IN NATIVE LANGUAGE)

2 **MARCEL GODBOUT** : Alors, maintenant, je vais
3 inviter Blue pour la Cérémonie du calumet. Alors, si Blue,
4 tu veux venir à l'avant pour... Les seuls mots que je voulais
5 vous mentionner pendant que Blue va préparer la cérémonie
6 pour la pipe, c'est que ce qui est important pour nous
7 aussi, durant les audiences... évidemment, ce que je propose
8 humblement, c'est que vous savez que nous, dans la nation
9 huronne-wendat, souvent, quand on avait de grands
10 rassemblements où on devait créer des ententes avec les
11 gens ou autres, on arrivait souvent avec ce qu'on appelle
12 des Wampum.

13 Et pour nous, les perles de Wampum étaient
14 importantes puis il y avait toujours une préparation avant
15 qui se faisait. Et lorsqu'on les offrait, avant même de
16 remettre ce qu'on appelle un collier de Wampum, ce qui
17 signifiait une entente entre nations ou entre gens pour
18 différentes choses, il y avait toujours une préouverture à
19 tout ça et on offrait ce qu'on appelle des cordons de
20 Wampum. Et ces cordons-là disaient, entre autres, ces
21 paroles-là... chaque cordon était... arrivait de cette façon-
22 ci. Le premier cordon, souvent, on le présentait à la
23 personne et aux gens en face et lorsqu'on arrivait avec le
24 premier cordon de Wampum, on disait : « Maintenant, que ta
25 gorge soit dénouée pour que maintenant, tout ce que tu

1 auras, tout ce que nous aurons à dire soit les bons et les
2 vrais mots que nous aurons énoncés entre nous. Par ce
3 deuxième cordon de Wampum que je vous offre, c'est que pour
4 être sûrs que tous les deux, que ce cordon de Wampum là
5 fasse en sorte d'ouvrir nos oreilles pour justement pouvoir
6 recevoir ce que l'un et l'autre aura à dire. Un troisième
7 cordon de Wampum pourrait dire aussi : je vous offre ce
8 cordon, mais en offrant ce cordon, c'est que nos cœurs
9 s'ouvrent pour que nous soyons, les deux, que nous
10 puissions partager avec cœur la prochaine entente qui sera
11 avec nous, et ainsi de suite.

12 Il y avait une grande préparation, et je
13 pense qu'aujourd'hui, c'est ça; ce qui est important
14 aujourd'hui, je crois, comme dans tout le reste des
15 journées, je vous souhaite que la parole soit une partie de
16 la guérison de ce qui va suivre aussi comme long
17 cheminement et processus de guérison.

18 Justement, c'est par la parole, par nos
19 gestes un vers les autres pour honorer ces femmes-là, mais
20 aussi celles qui sont ici et celles à suivre. Donc, ce qui
21 va dire, va se dire avec le cœur; oui, avec la tête, mais
22 ne pas oublier de parler aussi avec notre cœur, parce que
23 c'est lui aussi qui agit.

24 Et c'est important, je pense, c'est ce que
25 je vous offre, que les créateurs guident vos paroles, votre

1 cœur, qu'ils ouvrent vos oreilles, aussi, et aussi vos
2 yeux, et que tous vos sens soient éveillés pour faire en
3 sorte que tout ce qui se fera aujourd'hui se fasse dans
4 l'harmonie, la paix, le respect, et pour le bien de tous
5 ceux qui sont à venir, aussi. En n'oubliant pas, toutes
6 celles qui ont passées avant, aussi.

7 Donc, on va être prêt pour la cérémonie de
8 la pipe.

9 **MS. LAUREEN WATERS:** Good morning. Thank you
10 for having us, here, this morning, Pénélope and I, for your
11 pipe ceremony for those that are here and those that are
12 watching. I thought I'd talked loud enough, but I guess
13 not.

14 (INDIGENOUS LANGUAGE)

15 This morning, Pénélope and I will do a pipe
16 ceremony for you, and with you. This ceremony is usually
17 done early in the morning at sunrise and at other times
18 when we're coming in agreement, as our elders said. So
19 today, we want to bring it to you, while you're here, cause
20 sometimes early in the morning our witnesses or people who
21 are testifying and the community is not here, yet. So we
22 thought it was more appropriate that we bring the ceremony
23 to you and with you, so that you see that.

24 Those of you may have never seen a pipe
25 ceremony; our pipe ceremonies are prayers ceremonies, it's

1 meant to come to you in prayer and to take your prayers and
2 to light that tobacco that we put in this. We don't
3 swallow it, it's strictly for prayer. And then, once we
4 breathe out that smoke, we're offering your prayers to the
5 Creator and all those Ancestors.

6 We will invite you to come if you so choose
7 to partake in the pipe. These are both community pipes
8 that both Pénélope and I carry, so they are available to
9 the community. They are protected, so there are certain
10 protocols that people follow, such as if you have your moon
11 time, you cannot touch sacred items. These pipes, here,
12 are available any time. They are sacred helpers, so
13 regardless if you have your moon time or if you don't,
14 these are protected for that. Because we want the people
15 to come to get healed, we want the people to partake to
16 find those forgivenesses, that balance in life from the
17 tragedies that have happened.

18 We will light the pipe and explain as we're
19 doing it, and then when it comes time to light the pipes,
20 all audio and video will be stopped because that is the
21 actual ceremony itself, when we light that tobacco.

22 But prior to that, we want people to be able
23 to partake in this and to see, so that they feel honoured
24 and that we honour our Ancestors and those that have been
25 murdered and gone missing. Which is why we have our chair,

1 here; that is for all those spirits of those people that
2 have been murdered and gone missing. We invite them to
3 come and sit and be with us, to partake in this because we
4 are translating their stories, we are saying what happened
5 to them. We are having them help us with this work in
6 honouring them in that way.

7 This is not usually done over audio, but we
8 are in a different stage of our lives now, and we are in a
9 different way of being. We don't do things solely on the
10 land anymore, we've now moved into buildings. And we can't
11 stop our traditional ways just because we live in different
12 spaces and different times, so we have to incorporate them
13 into that. And I mean no offence to anyone who doesn't
14 follow this way. I come to you humbly just to teach what
15 little I know and to share with you, to provide this space
16 for our Ancestors, to honour our murdered and missing
17 Indigenous women and girls, trans, to spirit, little boy,
18 little girls whose lives have been stolen from us.
19 Mothers, grandmothers, grandfathers, to honour them.

20 So, again, I want to apologise ahead of
21 time, this is not meant to offend anybody. If it's not
22 within your normal protocol, please open your minds and
23 your hearts to experience something new in a different way.
24 And should you want to carry it, by all means you can
25 carry; and should you want to put it down, there will be no

1 offence taken. So thank you very much, we're going to
2 start because we have a big day in front of us, so thank
3 you.

4 **(PIPE CEREMONY STARTS)**

5 For the first round, we're offering this
6 tobacco for everyone's emotions, to help us with what we're
7 going to hear today, to help us as we expose ourselves once
8 again and we speak our truth. So this first loading of the
9 pipe is offered for anyone's emotions.

10 The second offering of tobacco is for
11 physical being, for all those that are suffering
12 physically, for all those that have been left scarred and
13 hurt and injured. We offer this tobacco for their well
14 being, to heal our nations, to heal our people, to restore
15 us to our rightful places on this land in which we walk our
16 Mother. This tobacco is offered for that intention.

17 For this third round, we offer this tobacco
18 for our intellect, our minds. We ask that those Ancestors
19 help us with our minds to open our being to help us with
20 what we think, what our eyes translate to our minds and
21 then what our minds translate to our voices so that we can
22 speak to each other in a good way, so that we can explain
23 our situations and share our stories and know that none are
24 greater than the other.

25 We have all lost someone and that their

1 lives are valued so our stories can be shared in that way,
2 in a good way, that the work that we're doing can be
3 honored, that we're doing to the best of our
4 availabilities. We can only do what we know and we can
5 pick up what we need to learn and then incorporate it into
6 it.

7 No journey is perfect. The journey of the
8 inquiry has not been perfect but together, when we come
9 together and we offer this for our minds to think in a good
10 way so that we can all act in a good way and we can do the
11 work in a good way.

12 And the last loading of the pipe, the fourth
13 round that we are going to do is for the spirituality that
14 we carry. We know that we have to have a complete balance
15 in life, including all those four parts of us, the emotion,
16 the physical, the intellectual and the spiritual. And we
17 ask today that these ancestors whom we have lost and those
18 yet to come will come and sit and be with us and that they
19 will help us on our walk.

20 And when we load this last round into the
21 pipe, that tells the ancestors this is the help we need
22 today. This is the work that we're doing. This is the way
23 that we're coming to you in a good way. As I say, none of
24 us is greater or less than the other. We are all valuable
25 spiritual beings walking in our human bodies and we will

1 make mistakes and we will say things and we will do things
2 and we ask the ancestors to be kind for us. Look upon us
3 and help us because we are all children. We have all come
4 from a mother and our women need to be honoured. Our two-
5 spirit, our trans, they all need to be honoured. So today
6 we ask those ancestors be with us.

7 This is the first time our pipes are going
8 to be left out here on the altar for the day and that may
9 be different than someone's protocol as well but we're
10 doing this so that your thoughts and prayers can come to
11 these pipes and when they're lit, we will travel with each
12 and everyone of you so you will become part of our pipe
13 system.

14 Much like a spider web, we spread out right
15 across the whole world and when one person lights their
16 pipe, the other person feels that and then in turn we light
17 our pipe, so it's a continuation of prayers that will
18 happen for you. So your prayers will not only be taken
19 here but they'll be transferred like a spider web to all
20 those pipe carriers that are out there and those pipe
21 carriers will be lighting their pipes for your intentions
22 as well. That's one of our promises we make when we
23 receive these sacred gifts, when they're gifted to us, that
24 we will carry that responsibility and that we will honour
25 that way. So we offer this last round for that.

1 I'm going to ask Pénélope if she wants to
2 say anything because she's really quiet.

3 (LAUGHTER/RIRES)

4 **Mme PÉNÉLOPE GUAY:** Non, je vais être
5 correcte. Je suis correcte.

6 **MS. LAUREEN WATERS:** She doesn't know. See,
7 she's quiet.

8 (LAUGHTER/RIRES)

9 **MS. LAUREEN WATERS:** Okay. So at this time,
10 we're going to ask that all audio and video be shut off as
11 we light these pipes and should you want to partake, please
12 come up and we will offer you the pipe.

13 (SHORT PAUSE/COURTE PAUSE)

14 **MS. TERRELLYN FEARN:** Many thanks for that
15 beautiful ceremony and the opening.

16 We would now like to call upon Rebecca to
17 light the Qulliq and there is Inuktitut translation. Is it
18 number 3? Sean, is number 3 Inuktitut translation?

19 Numéro 1 anglais, numéro 2 français, numéro
20 3 inuktitut. Merci.

21 (LIGHTING OF THE QULLIQ)

22 **MS. REBECCA VEVEE:** (Speaking in Inuktitut).
23 Thank you for inviting me to light the Qulliq. In 1964,
24 that is when we left behind the practice of lighting the
25 Qulliq. It was our source of life, light. Everyone of us

1 who lived in the north relied on the Qulliq for warmth. We
2 would awaken with my grandma having lit it. Us children
3 were not permitted to touch the Qulliq but now I have lit
4 the Qulliq at a public function for the first time. Thank
5 you.

6 I know our ancestors are amongst us. They
7 are not visible but they are with us. I've awaited to hear
8 from my illuk (phon.), my cousin who has been missing for
9 years. We were not instructed how to use the Qulliq as
10 we'd lose our only dwelling if we played around with the
11 Qulliq.

12 These wicks we gather them in the Arctic and
13 this I got from Iqaluit which is -- yeah, trying to -- I
14 selected it because it looks like the tinder that my
15 grandma used. We have to use the wick very properly in
16 order for the Qulliq to be lit well.

17 This is Arctic cotton added with sand used
18 for cooking over the Qulliq and this is how it remains lit
19 for long. They look like teeth a little bit when they're
20 lit. I don't have too much else to share.

21 When I saw the Qulliq for the first time, it
22 reminds me of many things. When we were experiencing
23 hunger and we'd gather together and dine when there was
24 food available, if there was no source of light, we
25 wouldn't be here today. But the fact that our ancestors

1 knew how to make the Qulliq has brought us to where we are
2 today.

3 And now I can light it here in Quebec City.
4 Thank you for inviting me once again and may God bless you
5 all. Those who are unable to be here, whom are not here, I
6 express my thanks to our relations. Thank you.

7 My grandmother, whenever she was lighting
8 the Qulliq, she would indicate don't ensure the light is
9 too high. The best source of oil utilized was the whale
10 oil, and the seal oil was the one that emitted smoke.

11 Yes, the seal oil, if it's lit too high, can
12 leave remains of soot in the tent or within our nostrils.
13 So the whale oil was the best to use to make a bannock and
14 other sources of food. Please be aware of which oil is
15 best to utilize.

16 I feel like I'm lighting a Qulliq like my
17 grandmother. Thank you. Yeah, this prompts me to think of
18 my relations. This can be lit over the night but dimmed
19 very low, as that small -- just that one section of the
20 light lit, and by the daytime it was spread over the oil
21 lamp for more heat and lighting.

22 We had to tend to the wick very well to
23 ensure we'd have lighting and source of heat within our
24 dwelling. Thank you. Sorry, I'm saying too much now.
25 Merci. Qujannamiik (phon).

1 (LAUGHTER/RIRES)

2 MS. REBECCA VEVEE: Qujannamiik (phon).

3 Thank you.

4 We're here to be happy. We're here to be
5 sad. It's okay. I am also a comedienne.

6 (LAUGHTER/RIRES)

7 MS. REBECCA VEVEE: I've been a humorous
8 person all my life amongst my fellow Inuit. Rebecca, do
9 you ever see -- sleep, because you talk so much?

10 (LAUGHTER/RIRES)

11 MS. REBECCA VEVEE: (Speaking native
12 language). Maybe that's it. Qujannamiik (phon). Thank
13 you.

14 MS. TERRELYNN FEARN: Qujannamiik (phon),
15 Rebecca. Many thanks.

16 At this time, I'd like to call upon the
17 commissioners to provide some brief opening remarks. We'll
18 begin with Chief Commissioner Buller,
19 Commissioner Robinson, Commissioner Audette, and
20 Commissioner Eyolfson. En français.

21 MS. MARYSE PICARD: Alors, nous allons
22 demander au commissaire de faire un petit mot d'ouverture.

23 (OPENING COMMENTS)

24 COMMISSIONER BULLER:

25 Bon matin, mes chers amis.

1 us. Please know that your story, your truth is also
2 important to us and we'll be reaching out to you.

3 The tidal wade -- wave of truth that started
4 almost a year ago in Whitehorse continues to wash over this
5 country from coast to coast to coast. As we move forward
6 into these new parts of our hearings, the truths that
7 family members and survivors have shared and will share
8 with us provide the foundation, a good foundation for us to
9 move forward.

10 This is our second, what we call expert
11 hearing. The first one was in August of last year in
12 Winnipeg. That focus was on Indigenous law and
13 decolonizing perspectives, and it provided us with a good
14 foundation for listening to stories and truths. While the
15 primary focus was on Indigenous law then, the critical
16 issue of human rights was also woven through the testimony
17 that we did hear.

18 This week, our focus is on human rights. A
19 human rights framework will form the basis for analysis,
20 our consideration of the evidence that we have heard
21 already. Let us all listen to understand, rather than
22 listen to respond.

23 This is another step on our healing journey
24 that we are all walking together across Canada. There is
25 much work to do now, as we know, and we continue that work

1 in a good way.

2 Canada, let's learn together this week about
3 human rights and the importance of all rights for all
4 Indigenous women and girls. This will form another
5 framework for us as we move forward.

6 I call on my dear colleague,
7 Commissioner Robinson.

8 **COMMISSIONER ROBINSON:** They always do this
9 to me. I think it's because I'm the youngest. I always am
10 not too sure when I get to go. I find out in the moment.
11 So here I am.

12 Good morning, bonjour, kué, ullaasakkut
13 (phon). I'd like to start by thanking Elders Blu,
14 Pénélope, (speaking Inuktitut).

15 I have just -- I'll translate quickly for
16 myself. I just wanted to express my gratitude to Rebecca
17 for lighting the Qulliq. It's been a symbol of light and
18 illumination and learning since we have started our
19 hearings in Whitehorse last year, and I thank her very much
20 for bringing that light into this space here.

21 I'd like to acknowledge that we are on
22 Wendat territory, territory that's also shared by the Inuit
23 and Wendake (phon) people. I also want to acknowledge the
24 families and survivors, those in the room, the members of
25 the national Family Advisory Circle, those here with

1 parties withstanding and those here to bear witness.

2 I also want to acknowledge and send my
3 thoughts to families and survivors across the country,
4 those that we've heard from and those who have chosen not
5 to be part of this. I respect and understand that this is
6 not everybody's medicine.

7 This week's very important. We have heard
8 from, as Marion has indicated, over 1,200 families and
9 survivors.

10 We've had some criticism about, you know,
11 how many families and survivors do you need to hear from.
12 I believe all of them. There is some criticism that this
13 is just a sharing circle, you're just letting people vent.
14 And I want to reject that completely. We have heard
15 powerful, powerful truths. We have heard from women and
16 men who have lost loved ones, children who've lost their
17 mothers, who've lost their siblings, who continue to have
18 questions that are unanswered, tell us about the reality
19 that they live in, the Canada that they live in.

20 And this is the reality that we have to
21 address in the course of this Inquiry, and the realities
22 that they experience require fundamental change at all
23 levels.

24 The objective of the Inquiry -- and this is
25 throughout our interim report -- it's not merely to end

1 violence, but it's to build a foundation but it's to build
2 a foundation for Indigenous women and girls 2SLGBTQ
3 individuals to reclaim their power and their place.

4 So that brings us to this hearing. Why
5 this? Why look at human rights in the course of this
6 Inquiry?

7 One, a lot of you standing here in front of
8 me have called for this to be the framework through which
9 we do this analysis. So what does that mean? The
10 government called upon us to do this as well, to use a
11 human right lens in our work. This is what we're seeking
12 to fully understand and build on this week.

13 The tragedy of Murdered and Missing
14 Indigenous Women and Girls and the violence experience has
15 to be contextualized through this framework. It's a
16 question of understanding the root causes, understanding
17 patterns of discrimination, but also identifying the roles
18 and obligations of institutions and systems, and finally,
19 it's about finding solutions.

20 In order to address the issue of violence
21 and in order for Indigenous women to reclaim their power
22 and place in this country, human rights, Indigenous rights
23 must be fully respected, protected and fulfilled, and
24 that's what we will hear more about this week. We'll hear
25 about it from knowledge keepers, academics, those with

1 frontline experience, and it all frames this understanding.

2 And our hope is that it will help us all
3 structure recommendations that are going to be actionable,
4 that are going to create real change so that the stories
5 and the truths that the children and the grandchildren and
6 the great grandchildren tell will be a better one. Nagoine
7 (phon).

8 **COMMISSIONER EYOLFSON:** Bonjour, baneen
9 (phon), good morning. My name is Brian Eyolfson. I'm one
10 of the commissioners as well.

11 I'd like to start by thanking the Wendat and
12 Innu and Abenaki people for welcoming the National Inquiry
13 to this beautiful territory, inuwansal (phon).

14 I'd also like to thank the Elders, Marcel,
15 for the wonderful opening and song, and Rebecca, for
16 lighting the Qulliq for us this morning. I'd like to thank
17 our grandmothers for their support and guidance and for
18 getting us started in a good way this morning with
19 ceremony, Blu and Pénélope; and Bernie, who is also here
20 for support.

21 Also, I want to give a thank you to Melanie
22 Morrison and Barbara Manitowabi, two of our Family Advisory
23 Circle members who are here with us today, for their
24 support, for their dedication and for their very valuable
25 advice.

1 I'd also like to acknowledge all the parties
2 withstanding who are here with us this morning for their
3 continued engagement.

4 Part 1 of the truth gathering process was
5 powerful. We heard many, many very difficult truths that
6 were important to hear, but we also saw and heard that many
7 Indigenous women and girls are courageous, resilient, and
8 their strength is undeniable.

9 While Part 1 of the truth gathering process
10 shows us what violence looks like for Indigenous Women and
11 Girls in Canada, many family members and survivors also
12 provided a lot of very valuable recommendations towards
13 eradicating the systemic violence.

14 Part 2 and Part 3 of the truth gathering
15 process, the knowledge keeper and expert hearings and the
16 institutional hearings will help us further understand the
17 systemic causes and possible solutions for ending violence.
18 And parties withstanding will also contribute their
19 expertise by asking questions of the witnesses in Part 2
20 and 3, and I look forward to that.

21 I really look forward as well to hearing
22 from this week's knowledge keepers and experts. As a
23 lawyer who focused on Indigenous rights and human rights
24 more generally for over 20 years, I understand and
25 appreciate the importance and value of approaching this

1 work with a human rights framework, a framework that is
2 gender relevant, rights based and intersectional, as well
3 as culturally specific and decolonizing.

4 To the families and survivors who have
5 entrusted us with this sacred responsibility, we will work
6 hard to prove worthy of your trust. I just want to thank
7 all of you here, and those who are watching online, for
8 participating in this important work, work that will make a
9 difference in the lives of Indigenous Women and Girls and
10 two spirit LGBTQ people as we strive to create a better and
11 safer place for everyone. I look forward to working with
12 you all this week. Merci. Thank you. Qujannamiik (phon).

13 **COMMISSAIRE AUDETTE:** Merci beaucoup mes
14 chers collègues, les commissaires, je vous aime tellement,
15 mais vous ne m'entendez pas encore dans vos oreilles,
16 alors, je peux dire plein de choses sur vous avant que la
17 traduction arrive! [Rires]

18 I was saying I love you so much, I could say
19 anything, but ---

20 **(LAUGHTER/RIRES)**

21 **COMMISSAIRE AUDETTE:** --- now we're in
22 public.

23 (Langue autochtone parlée) Les hommes, les
24 femmes, jeunes et moins jeunes, merci d'être ici. Je veux
25 dire un gros merci à Marcel ; Marcel a déjà pris soin de

1 mon fils, Wapen Gawi, et quand il a su que tu étais notre
2 aîné, il a dit : « Lui? Il est jeune! » [Rires] J'ai dit :
3 « Peut-être jeune, mais rempli de sagesse. »

4 Merci de nous accueillir sur ton territoire,
5 sur votre territoire, chère nation huronne-wendat, mais
6 aussi un beau territoire qui a été partagé pendant des
7 millénaires avec plusieurs nations, dont la mienne, la
8 nation Innue. Alors, je vous dis : bienvenue chez nous!
9 D'ailleurs, vous êtes dans ma cour, je n'habite pas loin
10 d'ici.

11 Un gros merci à Mélanie Morrison : elle fait
12 partie de nos idoles, nos guerrières, les femmes qui nous
13 assurent de faire en sorte que cette enquête historique se
14 fasse de la bonne manière, de la bonne façon et de faire en
15 sorte aussi qu'on pose les bonnes questions aux experts.

16 Merci à Barbara, qui a conduit de l'Ontario
17 jusqu'ici pour venir voir Québec et venir voir cet
18 important travail que sont les audiences institutionnelles
19 avec nos experts et gardiens et gardiennes du savoir.

20 Un gros merci à Terrelynn Fearn pour son
21 animation *in English* et à Me Picard, Maryse Picard, qui
22 fait la partie en français - un gros merci.

23 Je demanderais à notre directrice générale,
24 Jennifer Rattery(phon.), alors une femme de la nation Crie
25 et Ojibwe du Manitoba, alors, if you can stand up so they

1 see who is our new and powerful ED. Bonjour!

2 (APPLAUSE/APPLAUDISSEMENTS)

3 COMMISSIONER AUDETTE: Merci beaucoup! Merci
4 d'être ici et son *French* est *very good*, [Rires] *just to you*
5 *know!*

6 Alors, cette enquête, comme vous le savez,
7 beaucoup de familles ont travaillé pendant des décennies
8 pour faire ne sorte qu'on mette la lumière sur les
9 disparitions, sur les assassinats, mais aussi sur les
10 injustices. On nous a donné comme mandat d'étudier et
11 d'examiner les causes systémiques et toutes les formes de
12 violence auxquelles font face les femmes et les filles
13 autochtones ici, au Canada, toutes les formes de violence.

14 On ne nous a pas donné 15 ans de travail ou
15 d'études ou d'analyses ou 20 ans, on nous a demandé 500 ans
16 d'oppression, de regarder ce qui se passe depuis 500 ans,
17 et ce, en deux ans. On nous a demandé aussi de questionner
18 et de regarder ce qui se passe dans chaque province et
19 territoire, et ce, seulement en deux ans.

20 Alors, c'est un travail colossal, un travail
21 immense. Et je vous dirais, fière de m'associer avec mes
22 collègues ici les commissaires, de faire partie de
23 l'Histoire. Cette enquête est historique, elle a une portée
24 large; qu'elle soit d'une communauté en milieu inuit ou
25 urbaine au Manitoba ou sur l'Île du Prince Édouard ou à

1 Vancouver ou tout simplement ici, à Québec, nous avons une
2 portée régionale, provinciale et territoriale, comme je
3 l'ai dit plus tôt et aussi nationale, mais je dirais
4 internationale.

5 La communauté internationale nous observe,
6 observe aussi le Canada. Et dans quelques semaines, ici,
7 dans la région de Québec, il y aura un G7. Moi, je dis :
8 merci, c'est important, mais notre enquête aussi, votre
9 enquête est importante autant que ce qui se passe sur la
10 communauté internationale et le G7.

11 L'enquête nationale a écouté près de 1 200
12 personnes, hommes et femmes. Des gens courageux, des gens
13 qui ont osé dire la vérité pour la première fois ou pour
14 avoir répété maintes fois ce qui s'est passé dans leurs
15 vies. Alors, je leur dis merci.

16 Et grâce à leurs témoignages, à leurs
17 récits, que ce soit sous œuvres artistiques, ou d'un chant,
18 d'un poème, ou d'un témoignage verbal, publique ou en huit
19 clos, ou d'une déclaration, les témoignages nous permettent
20 aujourd'hui de poser les bonnes questions, aux experts et
21 aux gardiens du savoir. Et évidemment, au gouvernement,
22 éventuellement.

23 Vous savez que nous l'avons demandé cette
24 extension. Nous l'avons demandé à maintes reprises, nous
25 sommes toujours en attente d'une réponse à savoir si

1 l'enquête aura un 24 mois additionnel pour pouvoir faire
2 les travaux qu'on nous a demandé de faire.

3 Treize provinces et territoires, et je vais
4 terminer avec ça, méritent de venir s'asseoir ici, méritent
5 de nous expliquer, de nous répondre et de nous proposer des
6 solutions. Pendant plusieurs mois, les familles ont
7 questionné, ont ciblé ou nommé des problèmes qui se passent
8 à travers le Canada.

9 Alors, je crois que c'est important que les
10 provinces et territoires aient l'espace, comme les familles
11 ont eu, pour venir répondre à ces questions et venir nous
12 proposer des pistes de solution, aussi, au même titre que
13 les familles l'ont fait.

14 Vous être en territoire, au Québec, on
15 appelle Québec, province du Québec, et l'Assemblée des
16 Premières Nations du Québec et du Labrador a adopté une
17 déclaration en 2015 sur les droits fondamentaux des
18 enfants.

19 Alors, merci à nos leaders, et encore plus à
20 nos femmes élues. Chères dames, à travers le Québec,
21 beaucoup de femmes sont en politique et elles ont adopté en
22 2017, donc très, très, très récent, et adopté à
23 l'unanimité : Tolérance Zéro, une déclaration contre la
24 violence faites aux femmes et aux jeunes filles autochtones
25 ici, au Québec.

1 Alors, je vous dis merci, et faisons en
2 sorte que cette enquête soit un succès, et non pour les
3 commissaires, mais pour les femmes, les filles et les
4 familles autochtones. Elles méritent que leurs histoires
5 entendues, mais elles méritent aussi justice. Nous avons
6 deux membres, ici, de famille, et je suis contente de vous
7 voir, et je vous dis un gros, gros merci, and I'll speak
8 French all week. Wow, thank you so much.

9 **Mme TERRELLYN FEARN:** Merci Commissioners.
10 Thank you very much. At this time, I'd like to call upon
11 one of our grandmothers, Bernie Williams, and the
12 Commissioners to come up, and we'd like to honour and
13 acknowledge those that opened us doing a ceremony in a good
14 way.

15 **Mme MARYSE PICARD:** Alors, on va demander à
16 une de nos grand-mères, Bernie, de s'approcher, ainsi que
17 les commissaires.

18 **COMMISSIONER MICHÈLE AUDETTE:** She's the
19 boss.

20 **MS. BERNIE WILLIAMS POITRAS:** I just want to
21 say my name is (Indigenous language), also known as Golden
22 Spruce Woman. My name's Bernie Williams, I am one of the
23 grandmothers to Michèle Audette. I just want to say to,
24 and please forgive me if I don't say properly, (Indigenous
25 language) the territory, here. I come from (Indigenous

1 name) and I am also a hereditary chef-in-waiting, I get to
2 potlatch in August this year for my hereditary chef's name.

3 But along in my territory is the gift of
4 copper. And I'm sure many of you heard, you know, in the
5 last year that we've given the gift of copper, which is the
6 highest gift that any hereditary chef or families
7 (Indigenous name) give, it's the highest honour. And also,
8 the copper is used as protection, too, so we'd like to ask
9 Marcel to please come up to receive the gift of copper.

10 And I would also like to call up our other
11 grandmother. Pénélope, please.

12 And to our Elder, Rebecca VeVee.

13 I would also like to also ask Lauren Blu to
14 come up here to receive.

15 I just also want to acknowledge our family
16 members from NFAC. One of the hardest things, I think, is
17 as family members- I am a family member but also a survivor
18 in that end, too- to know that our friend NFAC is here to
19 advise and to support us. But I would also like to
20 acknowledge the knowledge keepers that are here, and most
21 of all the family members and the survivors across this
22 great land, and that this has been a very long journey for
23 many of us.

24 I see many family members that are also
25 sitting in here today, and survivors, our hat to you for

1 coming here and it has been a long journey. There's many
2 family members that have been fighting for over 30, 40,
3 some 50 years, and that at the end of my day, this is what
4 it looks like: it's still crimes against humanity.

5 And I hope that through this week, that
6 through the process, that Canada and that the three levels
7 of government can really take a look that this is not
8 acceptable, and really honour the families and survivors,
9 and again, lesbians.

10 I am (Indigenous language) spirit woman too,
11 and I just hope that this week... is that this work will get
12 done and that there will be some closure. I know that it's
13 gonna be a long, a long journey and that, and to other four
14 commissioners, I just, I don't know... I have nothing but
15 respect and love for these four that have been working so
16 hard and who have also been leaving their families behind,
17 too.

18 And I also want to recognize all the men and
19 women that are here working behind the scenes, that many of
20 them are also family members, too, and many of you don't
21 know. So I really want to all acknowledge them.

22 And the last... the last pendant, I'd like to,
23 is give as a gift of respect to, is our new executive
24 director. This has been a, she's just thrown in it, it's
25 just like... and we want to honour you to give you this gift

1 as a gift of respect and also for your protection.

2 **MS. TERRELYNN FEARN:** Thank you.

3 So that concludes the opening ceremony. I
4 want to extend my heart and great thanks for everyone to --
5 who participated, for you, as well, to be part of this
6 opening ceremony, and to the grandmothers to the Elders,
7 traditional keepers, to opening us up in a good way,
8 opening this ceremony in a good way over the next four
9 days.

10 So we're going to take a 10-minutes break,
11 and we'll get setup and get started. When you come back,
12 may I ask that we ensure that our phones are on vibrate and
13 that we have everything we need. So we'll reconvene and
14 see you in 10 minutes.

15 --- Upon recessing at 9:43 a.m.

16 --- Upon resuming at 10:03 a.m.

17 **MS. CHRISTA BIG CANOE:** ...we had 38 -- 5
18 parties withstanding providing notice of providing notice
19 of appearance, and for this morning, we have 28 parties
20 registered in attendance.

21 What will happen, and just sort of as a
22 matter of housekeeping, is we were presenting with a panel
23 this morning. We will be presenting four witnesses, and
24 this afternoon, parties withstanding will have an
25 opportunity to do cross-examination.

1 Essentially, we just wanted to acknowledge
2 and thank the witnesses for attending and we will be
3 qualifying witnesses with the consent of the 28 parties and
4 we'll indicate that again. So we do recognize there's a
5 little more formality on the record for these particular
6 hearings, and it's just so that we can capture the
7 expertise and the knowledge that they're sharing with us in
8 a good way.

9 So on -- with that, I would like to ask
10 Violet Ford to call the first two panel members of the
11 first panel, which is exploring and looking at domestic and
12 national issues in human rights, with a focus on the social
13 determinants of health and essential services as human
14 rights.

15 **MS. VIOLET FORD:** Thank you.

16 Yeah, I'd just like to point out again that
17 the parties in attendance have consented to the manner in
18 which we are seeking to qualify the witnesses.

19 Good morning, Commissioners, Chief
20 Commissioners. I will start my questions with Tracy
21 Denniston, who is sitting on my right, by asking the first
22 question.

23 **MS. VIOLET FORD:** What is your full name?

24 **MS. TRACY DENNISTON:** Tracy Jean Robena
25 Denniston; surname, Winters.

1 **MS. VIOLET FORD:** My apologies. Before I
2 start asking her questions, I would request to have her
3 sworn in.

4 **MR. BRYAN ZANDBERG:** Good morning --
5 morning, Tracy.

6 **MS. TRACY DENNISTON:** Morning.

7 **MR. BRYAN ZANDBERG:** I understand you wanted
8 to swear on the Bible?

9 **MS. TRACY DENNISTON:** Yes.

10 **MR. BRYAN ZANDBERG:** Okay. I'll just pass
11 you that.

12 Tracy, do you swear that the evidence you
13 will give will be the truth, the whole truth and nothing
14 but the truth, so help you God?

15 **MS. TRACY DENNISTON:** Yes.

16 **MR. BRYAN ZANDBERG:** Thank you.

17 **MS. TRACY DENNISTON:** Thank you.

18 **TRACY DENNISTON, SWORN:**

19 **EXAMINATION IN-CHIEF/INTERROGATOIRE EN CHEF PAR MS. FORD:**

20 **MS. VIOLET FORD:** Let's start again. What
21 is your full name?

22 **MS. TRACY DENNISTON:** Tracy Jean Robena
23 Denniston. My surname is Winters.

24 **MS. VIOLET FORD:** What is your cultural
25 background?

1 **MS. TRACY DENNISTON:** I am an Inuk woman
2 from -- originally from Hopedale, Labrador. Raised in
3 Hopedale all my life and then moved to Nain in the last
4 18 years to live with my husband there with my family.
5 I've lived a Inuk all my life.

6 **MS. VIOLET FORD:** You say that you were
7 raised by your grandparents?

8 **MS. TRACY DENNISTON:** Yes. I was culturally
9 adopted to my grandparents.

10 **MS. VIOLET FORD:** How old were you?

11 **MS. TRACY DENNISTON:** Born -- like 3 weeks
12 old. I was premature and sent out to St. Anthony when I
13 was born, and they came and got me when I was 3 weeks old.
14 With them ever since.

15 **MS. VIOLET FORD:** Okay. From your
16 grandparents, what were your teachings from your
17 grandparents, your traditional Inuit teachings that you
18 received?

19 **MS. TRACY DENNISTON:** The biggest one for me
20 was the respect, respecting our Elders, respecting our
21 family and making sure we always took care of our family.
22 And our family included not only our direct family but also
23 our extended family, and also our community at large,
24 Hopedale. So we always had to make sure we were taking
25 care of everybody.

1 Importance of sharing. We always had to
2 make sure if we had food -- wild food in the house -- if we
3 had more than enough then we'd share it with other families
4 who needed some.

5 Duties to family is we all -- had a -- our
6 family was huge, so we always made sure that we all were
7 taking care of each other growing up. Because there was a
8 lot of times our family would go off hunting, so we would
9 take care of the kids while the other ones went hunting.

10 Spirituality was a big piece. My parents
11 were church elders. Giguks (phon.) what they called them
12 back then. They were church elders. So when things were
13 hard, we always had spirituality on our side and made sure
14 if we were going through hard times that we were -- we
15 always knew we had a higher power to pray to. And that was
16 something I -- I always take with me now.

17 As well as the laughter. Like there were
18 times -- there were really hard times growing up, so we
19 always made sure there was laughter in our life. And that
20 was a means of coping and getting through tough times.
21 There was always laughter in our family.

22 And as well as just looking at Inuit people.
23 In our communities, values is something it's hard not to --
24 like when you have to think about values, it's something
25 you have to kind of look deeply in to because that's

1 something you already know, it's already in you, it's just
2 something you've got to bring out. So for me, resilience
3 is something that I feel our Inuit people have very
4 strongly, because in order to go through very harsh times
5 they had to be very resilient to get through.

6 **MS. VIOLET FORD:** Thank you for that. A
7 question related to that last remark. Do you think that
8 those values, beliefs, obligations to family, for examples,
9 are still within the people in Nain?

10 **MS. TRACY DENNISTON:** Yes. The majority,
11 yes.

12 **MS. VIOLET FORD:** Now, another question
13 around the -- things that have impacted on the community of
14 Nain, in Hopedale, for example.

15 Many of the people in those areas, would you
16 say are residential school survivors?

17 **MS. TRACY DENNISTON:** Yes. My family was
18 very impacted by residential schools. I come from a
19 different generation where even though I was culturally
20 adopted, all who I call my brothers and sisters all had
21 attended residential schools. And -- and I just use an
22 example of my mother.

23 My mom -- I remember when I was 13, I tried
24 to be hard one time, and she just started crying because
25 she didn't know how to deal with a child at age 13 because

1 she -- all of her children were gone to residential school
2 so she didn't have to deal with children. And it's still
3 very much a part of our lives. Even today, even though I
4 didn't attend, I still feel the impacts myself.

5 **MS. VIOLET FORD:** Growing up with these
6 factors that you have just listed has created for you your
7 -- some of your life experiences; correct?

8 **MS. TRACY DENNISTON:** Yes.

9 **MS. VIOLET FORD:** What have you learned from
10 these experiences?

11 **MS. TRACY DENNISTON:** There is a difference.
12 Like I got to say, in my generation, there is a difference.
13 Even just speaking out is something very new for Inuit from
14 what I grew up in. And -- because when I was young in the
15 seventies and eighties, when I was growing up, a lot of
16 people didn't speak out on issues and violence was one of
17 the biggest topics that I remember growing up seeing in our
18 communities.

19 It wasn't -- it was normal to see women
20 walking around with black eyes. It was normal for that,
21 and it was never talked about. But now, in my generation,
22 even though we grew up seeing it, a lot of community
23 members still feel that it's pretty normal when really our
24 generation know as you become educated you start to see
25 that no, this is not right. Like, violence is something

1 that have always been a part of in my life without going
2 through it in my personal life. You kind of make the
3 connection just to things and how- this is why I ended up
4 in my roles in the helping field, all my education, I've
5 always been doing that part in my life.

6 **MS. VIOLET FORD:** Your community of Nain.
7 Can you tell the commissioners what are the economic
8 situations and realities of that community?

9 **MS. TRACY DENNISTON:** As a community member,
10 I've lived in Nain for the last 18 years and Hopedale is
11 very similar to Nain in our ways of, like, Nain and
12 Hopedale are closely connected, so.

13 There's nothing I can separate from knowing
14 as a community member what I've seen and as my work as a
15 frontline worker... we are going through a change. It's very
16 slow, but we are going through a change.

17 And this is something I think where women's
18 coming to place but also women who become stronger, more
19 educated, are able to speak about uncertain topics, which
20 is part of what I'm doing with my life.

21 **MS. VIOLET FORD:** Now, going to your CV, this
22 is your most recent, CV.

23 **MS. TRACY DENNISTON:** Yes.

24 **MS. VIOLET FORD:** Can you share this
25 experiences that you've laid out in your CV as it relates

1 to your qualifications to speak on this matter? Can you go
2 through some of that CV for the commissioners?

3 **MS. TRACY DENNISTON:** Okay. I just wanna say
4 between going to university back and forth, I raised a
5 family as well.

6 Going back and forth to university, I have
7 about 20 years, 15-20 years frontline experience working,
8 cause all of my work I've ever done was in frontline,
9 dealing with women's issues, violence prevention, suicide
10 prevention. Like, everything that I've ever worked in has
11 always been in the human resource field, social work field.

12 **MS. VIOLET FORD:** Just before I go on to the
13 next question, I just want to bring it to the attention of
14 the Commissioners to help guide them. This is found in
15 your binders in Tab 1 and under Tab B; Tab 1B.

16 You say what your current employment is.
17 What is the title of your current...?

18 **MS. TRACY DENNISTON:** I'm currently executive
19 director for the Nain Transition House.

20 **MS. VIOLET FORD:** But you've been in the
21 position just for a few months?

22 **MS. TRACY DENNISTON:** Yes, just for a few
23 months. I'm doing a maternity replacement.

24 **MS. VIOLET FORD:** And before then, you were
25 in the role of a frontline's worker, correct?

1 **MS. TRACY DENNISTON:** Yes.

2 **MS. VIOLET FORD:** For many years?

3 **MS. TRACY DENNISTON:** Yes.

4 **MS. VIOLET FORD:** How many years?

5 **MS. TRACY DENNISTON:** Well, I graduated from
6 Memorial University in 2013 with Social Work, in Inuit
7 Social Work. So I've been a frontline worker since then,
8 but also previous to my Social Work degree, I've done a lot
9 of frontline work as a support worker frontline, doing with
10 my social work diploma.

11 So I have... since 2013, I've had more
12 involved work as a frontline worker and more into therapy
13 and also dealing with victims.

14 **MS. VIOLET FORD:** In your CV, it says some of
15 the other skills that you have related to your work. Would
16 you mind bringing those out a little bit more?

17 **MS. TRACY DENNISTON:** Some of my other
18 skills, can you explain?

19 **MS. VIOLET FORD:** For example, some of the
20 skill you have listed here is in terms of sense of
21 experience in-group facilitation?

22 **MS. TRACY DENNISTON:** Yes.

23 **MS. VIOLET FORD:** And you have community
24 outreach?

25 **MS. TRACY DENNISTON:** Yes.

1 **MS. VIOLET FORD:** Okay.

2 **MS. TRACY DENNISTON:** The majority of my work
3 as always been with community, working in community-based
4 programming. I've been a lot of work as a support worker
5 with department of Health and Social development, in doing
6 different programs, like developing probation programs from
7 anywhere mandated by the courts to do dealing with violence
8 against women. That was one of the things.

9 Also, as doing a lot of healing, like, I've
10 done some healing work with community Elders, who have
11 traditional knowledge in healing. So I've been a support
12 to them as they were dealing with a lot of work, and this
13 is where I feel our communities could benefit from the
14 traditional healers.

15 **MS. VIOLET FORD:** In terms of your
16 employment, just to be clear, especially for the parties
17 here, you are not an employee of the department of Victim
18 services at the moment?

19 **MS. TRACY DENNISTON:** I'm currently on a
20 leave of absence.

21 **MS. VIOLET FORD:** From the government of
22 Newfoundland and Labrador?

23 **MS. TRACY DENNISTON:** Yes.

24 **MS. VIOLET FORD:** In that area?

25 **MS. TRACY DENNISTON:** Yes.

1 **MS. VIOLET FORD:** Now, I know when we start
2 getting into the questions of the areas that you want to
3 talk about here, today. You will be relaying on your life
4 experience?

5 **MS. TRACY DENNISTON:** Yes.

6 **MS. VIOLET FORD:** And work experiences?

7 **MS. TRACY DENNISTON:** Yes.

8 **MS. VIOLET FORD:** But just so that we are
9 clear, is it correct that any knowledge or opinions you
10 share will be yours?

11 **MS. TRACY DENNISTON:** Yes.

12 **MS. VIOLET FORD:** And not those of the
13 government of Newfoundland and Labrador?

14 **MS. TRACY DENNISTON:** No.

15 **MS. VIOLET FORD:** Thank you. What you refer
16 to the academic degrees?

17 **MS. TRACY DENNISTON:** Yes.

18 **MS. VIOLET FORD:** That you have, and that's a
19 degree in Social Work?

20 **MS. TRACY DENNISTON:** Yes.

21 **MS. VIOLET FORD:** And that is a four-year
22 degree?

23 **MS. TRACY DENNISTON:** 5-year.

24 **MS. VIOLET FORD:** 5 years. 5 years degree?

25 **MS. TRACY DENNISTON:** Hum, mmm.

1 **MS. VIOLET FORD:** Where did you receive that
2 training?

3 **MS. TRACY DENNISTON:** I've done my training
4 in Goose Bay with Memorial University coming in, with
5 professors coming into Goose Bay, who have had Inuit, we
6 had Inuit information brought in a specific social circle.

7 MS VIOLET FORD: Okay. So you were trained
8 in the area of, for example, counselling in Inuit?

9 **MS. TRACY DENNISTON:** Yes.

10 **MS. VIOLET FORD:** Okay. On that, then, Chief
11 Commissioner and Commissioners, based on the knowledge,
12 skills, practical experience, training and education, as
13 described by Tracy, I am tendering Tracy Denniston as a
14 Knowledge Keeper, as well as an expert, in the area of
15 Inuit women and violence, and with life experience in
16 violence against women.

17 CHIEF COMMISSIONNER MARION BULLER: Yes,
18 thank you. Based on the consent of the parties and on the
19 knowledge, skills and experience as described by Ms.
20 Denniston, and as evidence in her CV, we are satisfied that
21 she's qualified as a Knowledge Keeper and expert with life
22 experience in Inuit culture and in the area of Inuit
23 women's experiences, thank you.

24 **MS. VIOLET FORD:** Thank you. Now, getting
25 into the main areas of what you're testifying in today, the

1 three areas that you were comfortable focusing on related
2 to violence against women are poverty, housing and
3 residential school, intergenerational trauma.

4 **MS. TRACY DENNISTON:** Yes. Yes.

5 MS VIOLET FORD: Okay. We will start the
6 questions, I'm the first one. Beginning with you just came
7 from there a few days ago.

8 **MS. TRACY DENNISTON:** Yes.

9 **MS. VIOLET FORD:** In your role, as directive
10 director, and dealing with victims.

11 **MS. TRACY DENNISTON:** Yes.

12 **MS. VIOLET FORD:** Can you give us, give the
13 Commissioners an example of the last time, the most recent
14 time that you have had to either in your role as a
15 frontline's worker or executive director, dealing with
16 Inuit women and violence?

17 **MS. TRACY DENNISTON:** A couple of days ago.

18 **MS. VIOLET FORD:** And what happened then?

19 **MS. TRACY DENNISTON:** Women come to the
20 shelter who are experiencing violence, and we have to,
21 based on the assessment, we either admit them or not. And
22 we deal with that all the time at the shelter.

23 **MS. VIOLET FORD:** What is the criteria for
24 admitting them, or not admitting them?

25 **MS. TRACY DENNISTON:** They have to -- for

1 the assessment piece, the crisis intervention workers do
2 the assessment, they come to check with me for approval,
3 and their criteria is based on they have to be --
4 experience some sort of violence, either physical, mental,
5 or emotional.

6 **MS. VIOLET FORD:** How long did they stay in
7 that transition house before they have to return?

8 **MS. TRACY DENNISTON:** We have a policy up to
9 six weeks but if they leave on the sixth -- like, if they
10 went home on the sixth week, the same day that they
11 returned and they were -- experienced violence again, they
12 could return again the same day if they need to.

13 **MS. VIOLET FORD:** So is it normal that they
14 go back to their home, like, their household?

15 **MS. TRACY DENNISTON:** Yes.

16 **MS. VIOLET FORD:** Their family household?

17 **MS. TRACY DENNISTON:** Yes.

18 **MS. VIOLET FORD:** Where they were abused.

19 **MS. TRACY DENNISTON:** Yes.

20 **MS. VIOLET FORD:** Do you see a number of
21 repeat victims in this type of process?

22 **MS. TRACY DENNISTON:** Yes.

23 **MS. VIOLET FORD:** And how do you know that
24 they are repeat victims?

25 **MS. TRACY DENNISTON:** Because we keep

1 statistics.

2 **MS. VIOLET FORD:** Now, just paint a picture
3 of the other side of the coin. You are the front-line
4 worker. The victim is coming into the transition house.
5 Have you observed how they are feeling at that point?

6 **MS. TRACY DENNISTON:** Yes.

7 **MS. VIOLET FORD:** How are they feeling?

8 **MS. TRACY DENNISTON:** Afraid. They're
9 afraid, but they're also relieved that they have somewhere
10 to go. But in saying that, we try to refer them -- to set
11 them up with different resources in the community to make
12 sure that they get the help that they need.

13 But it's still scary. Like, I see the fear
14 on their faces sometimes because we live in small
15 communities where everybody knows everybody. And even to
16 just go to the store to get your basic stuff that you need,
17 your toiletries and stuff, you may encounter bumping into
18 your abuser, which is very common in our communities, which
19 I think is a barrier that causes tension for our woman
20 victims.

21 **MS. VIOLET FORD:** When you see them in that
22 position, would you say that -- and this is in relation to
23 Inuit culture itself so I'm trying to get to the question
24 of how they're feeling in relation to Inuit cultural values
25 around respect and dignity, some of the fundamental areas.

1 How do you think this type of trauma, or have you spoken to
2 them about how this type of trauma impacts on their sense
3 of self, their dignity?

4 **MS. TRACY DENNISTON:** The way I'm going to
5 answer that question is it's different for different
6 generations. I can't separate -- I can't help but say that
7 there's a difference between generations.

8 Older women who experience violence tend to
9 go home because they really don't have no other place to go
10 to because a lot of times their house that they own is in
11 both names and they really don't -- because of overcrowded
12 and lack of housing, they have nowhere else to go; I find
13 that with older ones.

14 But with younger people who experience
15 violence, they speak out a bit more and they say, "No, I
16 don't want to put up with this." And you see women coming
17 into the shelter who say they charge people -- they're
18 charging them because they know it's wrong. But the older
19 ones sometimes don't want to acknowledge that it's wrong
20 because it's been so normalized in our communities, even
21 from the eighties when I was a child.

22 I'm 43 years old and as a young child
23 growing up seeing it normal, nobody ever talked about it.
24 We just knew that that was what it was like growing up.
25 But as I got educated and left our communities to see

1 violence is something that is wrong, until then, many
2 people are not going to be able to get out of that kind of
3 cycle.

4 **MS. VIOLET FORD:** Your point on it becoming
5 normalized; can you describe other ways that you've
6 observed that it's becoming normalized in the community?

7 **MS. TRACY DENNISTON:** The biggest thing I
8 see is women struggling with knowing that their safety is
9 at risk. Their safety is not important. That becomes a
10 very -- I don't know how to explain it but for me safety
11 would be number one because I know it's not right. But for
12 the women who is experiencing violence, safety is put on
13 the backside, so to her the most important thing would be
14 to make sure she had a home to go to because she has
15 children, she has to take care of her children and the
16 family, even though there is violence going on.

17 **MS. VIOLET FORD:** And do you see that sense
18 of obligation ---

19 **MS. TRACY DENNISTON:** Yes.

20 **MS. VIOLET FORD:** --- part of the ongoing
21 cultural values?

22 **MS. TRACY DENNISTON:** Yes. Family values,
23 making sure you're taking care of your family, like it gets
24 interconnected with their cultural piece of knowing what
25 their role is in the family. But it also is a barrier

1 because it causes them to be in situations where they're
2 stuck.

3 **MS. VIOLET FORD:** Thank you.

4 You mentioned a minute ago about poverty.

5 **MS. TRACY DENNISTON:** Yes.

6 **MS. VIOLET FORD:** The Inuit Realities
7 Report; you've seen that report?

8 **MS. TRACY DENNISTON:** Yes.

9 **MS. VIOLET FORD:** You're familiar with that
10 report?

11 **MS. TRACY DENNISTON:** M'hm.

12 **MS. VIOLET FORD:** You've read it?

13 **MS. TRACY DENNISTON:** Yes.

14 **MS. VIOLET FORD:** That is -- now, moving
15 into the specifics of the root problems related to poverty,
16 and growing up in an Inuit community where the -- where
17 poverty is always there, ---

18 **MS. TRACY DENNISTON:** Yes.

19 **MS. VIOLET FORD:** --- can you expand on how
20 poverty plays into the -- and contributes to the potential
21 violence and creating the vulnerabilities of Inuit women?

22 **MS. TRACY DENNISTON:** One of the big things
23 I noticed as a community member is if you don't have much
24 education, then you're limited to getting certain jobs or
25 you're not qualified to do certain jobs, and this plays

1 into being in -- in Nain and Hopedale there's social
2 housing. I have to explain that part. There's social
3 housing where if you don't make a certain amount of money
4 per year, you're eligible to receive -- you're eligible to
5 apply for a house which you pay \$100 a month for which
6 comes from -- I don't know where the money comes from. But
7 if you were under a certain cap, I think it's \$36,000, I
8 think if you make less than that \$36,000 a year you're
9 eligible to apply for a house. And usually when you have
10 no education and -- you qualify for these houses. And
11 because of the lack of housing, many of our communities
12 have social housing, like, live in social housing.

13 And this is part of the problem because --
14 and our social housing is called Torngat Housing. And the
15 problem with Torngat Housing is something that if you apply
16 as a family, a man, woman, and children involved, they have
17 both the man and the woman's name, or the partners, are
18 listed on the housing agreement.

19 **MS. VIOLET FORD:** Okay. So how do you think
20 in more general terms, and if you could give some examples,
21 how the poverty issue affects Inuit women and their choices
22 in life?

23 **MS. TRACY DENNISTON:** The housing issue --
24 I've seen as a front-line worker, in my experience as a
25 community member, women who experience violence living in

1 the social housing end up going back to live in the house
2 because they have nowhere else to go. This is one of the
3 key reasons I think the women go back because they really
4 don't have nowhere else to go, other than the shelter, and
5 for their children they want to try to do what's best for
6 them and their children, so they go back, even though the
7 risk is very high for being re -- for violence again, which
8 I've seen many times.

9 **MS. VIOLET FORD:** Even though there may be
10 women in that community who've, you know, like made a
11 choice some evening to say okay, I'm getting out of this,
12 right. I want to leave. I want to get out of this and
13 they want to get out of the community itself. Where did
14 they go?

15 **MS. TRACY DENNISTON:** There's a program
16 where they can apply for a transfer but most of the people
17 -- well the majority of the people who are coming to the
18 shelters are below the poverty line, so a lot of them are
19 under income support.

20 So income support is a system that -- where
21 they get their money from and they are allowed to transfer
22 to one place and either they have to go to the closest
23 shelter which is either in Hopedale, which is a newly
24 opened shelter there, or in Goose Bay. And a lot of times
25 the women who want to flee don't want to go into somewhere

1 close like Hopedale or Goose Bay because there's always
2 other family relations connected to it. There's a lot of
3 things that cause them to just say. The system doesn't
4 allow them to move forward.

5 **MS. VIOLET FORD:** Okay. So they, for
6 example, cannot afford to be put on a plane, to go on a
7 plane, to buy a ticket?

8 **MS. TRACY DENNISTON:** Not, they can't afford
9 to pay for a ticket. Cost of tickets in our communities is
10 high.

11 **MS. VIOLET FORD:** Okay. And now moving on
12 to the second area you are speaking about and that is
13 housing, and you hinted to it a few minutes ago that it's
14 linked to poverty as well.

15 **MS. TRACY DENNISTON:** Yes. Inuit families
16 in our communities, there's a lot of overcrowded families
17 living together because there is very few housing available
18 to people to apply to due to either lack of land or no
19 money for houses to be built. Like there's always these
20 issues that cause housing to be a delay after delay. And a
21 lot of times, many people who are in poverty can't really -
22 - you can't apply for a mortgage because you don't have
23 credit or your income is too low. So they can't really get
24 houses themselves without having to have support from an
25 agency like Target Housing to apply for.

1 **MS. VIOLET FORD:** Who normally applies for
2 this house?

3 **MS. TRACY DENNISTON:** The family do, the
4 family.

5 **MS. VIOLET FORD:** Family?

6 **MS. TRACY DENNISTON:** Yeah.

7 **MS. VIOLET FORD:** And whose name does it
8 usually go into?

9 **MS. TRACY DENNISTON:** It goes under both.
10 From the information that I was given, it's -- the names
11 are both in the -- both the mother and the father or the
12 partners, both names.

13 **MS. VIOLET FORD:** So why is it then that
14 when there is abuse by a man towards a woman who is the
15 victim and their names are both on the house that it's the
16 woman who has to normally move out?

17 **MS. TRACY DENNISTON:** One of the biggest
18 reasons I have seen is the woman is usually not the person
19 who is making the money in the house. It's the man and the
20 man feels because he's the one that's making the money and
21 paying the bill that needs to be paid for the house that he
22 has more ownership than the woman does. Or also there's no
23 supports in our communities for men to go to, so they know
24 that there's a shelter there that women can go to.

25 **MS. VIOLET FORD:** Okay. In terms of

1 housing, there are single parents ---

2 **MS. TRACY DENNISTON:** Yes.

3 **MS. VIOLET FORD:** --- who also need housing.

4 **MS. TRACY DENNISTON:** M'hm.

5 **MS. VIOLET FORD:** And there's usually a
6 shortage of housing for single parents?

7 **MS. TRACY DENNISTON:** Yes.

8 **MS. VIOLET FORD:** And that's been indicated
9 in the reports you've read?

10 **MS. TRACY DENNISTON:** Yes.

11 **MS. VIOLET FORD:** Do you think that's
12 another reason there is continued abuse because single
13 mothers are forced to go back?

14 **MS. TRACY DENNISTON:** Yeah. I think it's
15 because of overcrowded. So if you're a single mother and
16 the father is not involved in your life and they have
17 nowhere to go because there's no housing to apply to, they
18 end up going to stay with other families who have their own
19 family which causes more stress in the house because
20 there's so many people and very limited numbers of rooms,
21 that causes stress. So like I think that would be a
22 stressor which could cause potential violence.

23 **MS. VIOLET FORD:** Okay. Now one part of
24 this housing issue you wanted to talk about after talking
25 to you over the last few days in preparing for this

1 testimony, you highlighted the focus on emergency
2 protection orders.

3 **MS. TRACY DENNISTON:** Yes.

4 **MS. VIOLET FORD:** In your work as a social
5 worker and I'm sure you were trained in that area as well,
6 you are familiar with those?

7 **MS. TRACY DENNISTON:** Yes.

8 **MS. VIOLET FORD:** You're familiar with the
9 purpose?

10 **MS. TRACY DENNISTON:** Yes.

11 **MS. VIOLET FORD:** Can you explain what the
12 purpose is?

13 **MS. TRACY DENNISTON:** Emergency protection
14 orders is an order that a judge grants to a woman who feels
15 like she may be at risk of being abused. Like if there's a
16 long history of abuse, then it's usually granted, or
17 sometimes it's not depending on the reason the woman
18 explains in her application I guess to the judge.

19 **MS. VIOLET FORD:** And there has been
20 discussion around the effectiveness of this?

21 **MS. TRACY DENNISTON:** Yes. As a community
22 frontline worker and this has come up in the past in
23 regards to being a support to families of the murdered or
24 missing that a lot of women don't want to use emergency
25 protection orders even though they know it's an option,

1 because we live in such small communities that they don't
2 work for our communities the way it would if they were in a
3 big city or somewhere else and so many times they could go
4 to the store.

5 If they did apply for emergency protection
6 order and it was granted, it still doesn't stop the
7 offender from going to the store and bumping into the
8 victim in the store. So really it kind of -- so they know
9 that it doesn't really work for them. They don't feel safe
10 with that because even though it's granted, women don't
11 feel safe. I've had experiences with that as an outline
12 worker and as a worker in the shelter.

13 **MS. VIOLET FORD:** Can you expand a little
14 bit more for the purposes of the commissioners on the
15 specific connection between the emergency protection orders
16 and the shortage of housing? Can you bring that out a
17 little bit more?

18 **MS. TRACY DENNISTON:** The emergency
19 protection order is a barrier even for the women who are
20 trying to flee violence.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MS. TRACY DENNISTON:** Even though they know
23 it's wrong and they don't want to put up with the violence
24 anymore, they go back because this is the realities in our
25 community. It's easier for them to go back than it is for

1 them to leave.

2 **MS. VIOLET FORD:** Is there more?

3 **MS. TRACY DENNISTON:** I've had many
4 discussions of women who talk about violence, experiencing
5 violence that have said the same thing. I know -- I know I
6 shouldn't get beaten up, I know what he is doing is wrong,
7 but where else am I going to go? I have nowhere else to
8 go.

9 **MS. VIOLET FORD:** Okay. Thank you.

10 Now we have just one more point to cover and
11 I think we're running short on time. And so if you could
12 just spend maybe a few minutes on the residential school
13 issue and the intergenerational trauma and how that's
14 linked to the violence and the contributions of violence
15 towards Inuit women? If you could just spend a couple of
16 minutes. And because time is short, I would need to narrow
17 down that question to, first of all, how many -- you
18 mentioned that your grandparents were residential school
19 survivors, right?

20 **MS. TRACY DENNISTON:** My parents went to --
21 my Dad wasn't educated. He didn't go to school. He had to
22 leave when he was nine. But my Mum, I think, attended
23 boarding school, but all of her children that she borne
24 attended residential school.

25 **MS. VIOLET FORD:** In terms of repeat

1 offenders -- and we all know, I mean, it's recognized in
2 many, many reports, public reports that are available,
3 including the Truth and Reconciliation Commission Report
4 that's publically available and that many people have read,
5 and it's on the news, that residential school is related
6 also to violence.

7 And I'm wondering in terms of the type of
8 offenders that carry out this violence against Inuit women,
9 and a lot of those times it's the men who are doing the
10 offending.

11 **MS. TRACY DENNISTON:** M'hm.

12 **MS. VIOLET FORD:** And we all know that
13 residential schools break a lot of people; a culture is
14 broken because of the residential school. And that
15 includes men and women.

16 **MS. TRACY DENNISTON:** Yeah.

17 **MS. VIOLET FORD:** Would you like to say
18 something about how the trauma is linked -- the
19 intergenerational trauma is linked to the repeat offenders?

20 **MS. TRACY DENNISTON:** I am speaking from my
21 work as a frontline worker and as a community member when I
22 discuss this issue. Because with regard to the residential
23 school, there are many hurts that a lot of families are
24 still struggling with today from the impacts of attending
25 residential school; physical, mental, emotional, sexual

1 violence that they've encountered, that they've heard
2 people talk about stories that they've encountered during -
3 - while attending residential school.

4 And some people are talking about it but
5 there are still some people who are -- like, our
6 communities are at different levels. We cannot -- we have
7 to meet to see where the communities are at different
8 levels in their healing. Some choose not to heal, some
9 choose to use substance abuse to cope, and that's their no
10 fault of theirs because the hurt was just so strong. That
11 part, I feel, is linked to residential schools and the
12 increased risk in violence that happens.

13 But, also, intergenerational trauma, many of
14 the repeat offenders come from families who have been
15 relocated from either Hebron (inaudible) I think you can't
16 help but link those to some of the hurts that they're still
17 encountering, the systemic problems that's been -- the
18 emotions that's been carried on from generation to
19 generation without ever talking about it, sometimes.

20 The repeat offenders are still people.
21 Like, we cannot separate people. Like, even though we know
22 in our communities, repeat offenders are like, sometimes
23 it's scary what they do, but we also have to still remember
24 that they are still people that have a lot of hurts and I
25 think a big part of the issue here is that the repeat

1 offenders don't have the support that they need to get the
2 healing that they need to deal with those issues. As well
3 as the women who are experiencing violence.

4 **MS. VIOLET FORD:** And that is -- what you
5 have just said, that's based on your experience as ---

6 **MS. TRACY DENNISTON:** Yes.

7 **MS. VIOLET FORD:** --- a front-line worker.

8 **MS. TRACY DENNISTON:** Yes, a front-line
9 worker and a community member.

10 **MS. VIOLET FORD:** Okay. Well, I think that
11 wraps up, unless you have another point.

12 **MS. TRACY DENNISTON:** M'hm.

13 **MS. VIOLET FORD:** Thank you.

14 **MS. TRACY DENNISTON:** Thank you.

15 Now, we are moving on now to qualifying Mr.
16 Timothy Argetsinger. I'm sorry; my apologies. I cannot
17 pronounce that word very well.

18 Timothy, what is your full name?

19 **MR. TIMOTHY ARGETSINGER:** Timothy Hadley
20 Argetsinger.

21 **MS. VIOLET FORD:** Can you repeat that?

22 **MS. CHRISTA BIG CANOE:** Chief Commissioner,
23 I note that we have what appears to be an objection from
24 one of the parties with standing. This is Sue Fraser in
25 front of the Commissioners.

1 **MS. SUE FRASER:** Good Morning,
2 Commissioners. I'm here for Families for Justice. My name
3 is Fraser, initial S. And I'm not rising on objection but
4 simply there was material that was referred to in the
5 witness's testimony, both her curriculum vitae and the
6 Inuit Realities Report, and I'm wondering if those are
7 going to be made exhibits before we move forward.

8 **MS. CHRISTA BIG CANOE:** Yes, thank you, Ms.
9 Fraser.

10 On that note, I would ask that Ms. Ford make
11 a motion to request that they be exhibited and that the
12 Commissioners make a ruling on that.

13 **MS. VIOLET FORD:** Yes, can I make a motion
14 to have those exhibits entered?

15 **CHIEF COMMISSIONER BULLER:** Certainly.

16 **MS. VIOLET FORD:** Hang on. The title of the
17 exhibits is the Inuit Realities -- can I see these? Yeah,
18 these two. The first one is the Labrador Inuit Women's
19 Realities Report. It's the Voices of Women and Men --
20 Women in Nain and Hopedale. The second exhibit is the Nain
21 and Hopedale Needs Assessment Increasing Women's Economic
22 Security. And the CVs, the CV of Timothy Argetsinger, as
23 well as the Social Determinants of Health Report, which is
24 an ITK report.

25 **MS. CHRISTA BIG CANOE:** Chief Commissioner,

1 if I might? May I suggest an order in which we mark those
2 exhibits?

3 **CHIEF COMMISSIONER BULLER:** We're just going
4 to back up for a moment. We got ahead of ourselves.

5 For the record, we will have the CV marked
6 as Exhibit 1, and that is the CV of Ms. Denniston. So
7 Exhibit 1.

8 --- **EXHIBIT NO./PIÈCE NO. /PIÈCE NO. A1:**

9 Résumé of Tracy Denniston (four pages)
10 Submitted by Violet Ford, Commission
11 Counsel

12 **CHIEF COMMISSIONER BULLER:** And then
13 following that we have the -- I just want to make sure I
14 get the titles correctly, the Labrador Inuit Woman's
15 Realities Report will be Exhibit 2.

16 --- **EXHIBIT NO./PIÈCE NO. A2:**

17 "Labrador Inuit Women's Realities:
18 Voices of Women in Nain and Hopedale,"
19 AnânauKatiget Tumingit Regional Inuit
20 Women's Association paper, September 17,
21 2013 (14 pages)
22 Submitted by Violet Ford, Commission Counsel

23 **CHIEF COMMISSIONER BULLER:** And the Nain and
24 Hopedale Assessment will be Exhibit 3.

25 --- **EXHIBIT NO./PIÈCE NO. A3:**

1 AnânauKatiget Tumingit Regional Inuit
2 Women's Association yearly report "Nain
3 and Hopedale Needs Assessment:
4 Increasing Women's Economic Security"
5 (project number: NL 11084, 23 pages)
6 Submitted by Violet Ford, Commission
7 Counsel

8 **MS. VIOLET FORD:** Thank you. Now, to
9 continue with qualifying Tim as an expert.

10 Tim, can you describe the work you do or
11 what is your occupation at the moment?

12 **MR. TIMOTHY ARGETSINGER:** I am Executive
13 Political Advisor with Inuit Tapiriit Kanatami. ITK is the
14 national representational organization for Inuit in Canada
15 so the nature of my role is to act as lead drafter on many
16 of the high level reports and documents and products that
17 ITK produces, as well as to advise the organization and its
18 directors on the political direction nationally we take.

19 **MS. VIOLET FORD:** Okay.

20 **MS. CHRISTA BIG CANOE:** As Ms. Ford --
21 before she fully qualifies Mr. Argetsinger, Commission
22 counsel kindly requests that he be promised in, or sworn
23 in.

24 **MS. VIOLET FORD:** Sorry? Oh yeah.

25 **MS. CHRISTA BIG CANOE:** So if you could

1 affirm Mr. Argetsinger in, I would appreciate that.

2 **MR. BRYAN ZANDBERG:** Good morning, Timothy.

3 Timothy, do you solemnly affirm that the
4 evidence you give will be the truth, the whole truth, and
5 nothing but the truth?

6 **MR. TIMOTHY ARGETSINGER:** I do.

7 **TIMOTHY ARGETSINGER, Affirmed**

8 **MR. BRYAN ZANDBERG:** Thank you.

9 **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

10 **FORD :**

11 **MS. VIOLET FORD:** What academic degrees do
12 you have?

13 **MR. TIMOTHY ARGETSINGER:** I earned an
14 Education Master's degree in 2012 and a Bachelor's degree
15 in 2009.

16 **MS. VIOLET FORD:** Can you -- I know you just
17 mentioned your area of work, but can you narrow that down a
18 little in terms of the policy areas?

19 **MR. TIMOTHY ARGETSINGER:** Sure. I can give
20 a -- the work that I do tends to be fairly broad, in the
21 sense that it addresses the priorities that ITK's Board has
22 identified on behalf of Inuit and Canada. But the work
23 that I've -- I do there and have been involved with over
24 the last decade or so has tended to focus on -- as a policy
25 analyst, working on issues related to health and wellness,

1 justice, language, policy.

2 **MS. VIOLET FORD:** Have you authored any
3 reports or any other documents? Can you tell us about
4 those?

5 **MR. TIMOTHY ARGETSINGER:** Sure. So I was
6 the -- I was the lead drafter on a -- on for example, the
7 National Inuit strategy and research, which ITK published
8 this past month, as well as the National Inuit Suicide
9 Prevention Strategy, which ITK released in July of 2016.
10 In addition to that, my work for Nunavut Tunngavik
11 Incorporated, I was the lead researcher and drafter on a
12 number of that organization's annual reports on the status
13 of Inuit culture in society which -- whose topics ranged
14 from language policy, to justice, to research within
15 Nunavut.

16 **MS. VIOLET FORD:** At this point I would ask
17 the Chief Commissioners and the Commissioner, based on Mr.
18 Argetsinger's knowledge, skills, particular expertise,
19 training and education as described by him, and as
20 evidenced in his curriculum vitae, that I Violet Ford, am
21 tendering him as a qualified expert witness in the area of
22 health policy.

23 **CHIEF COMMISSIONER MARION BULLER:** Based on
24 the consent of the parties and on the knowledge, and
25 skills, and experiences described by Mr. Argetsinger, both

1 in his testimony this morning and in his C.V., he is
2 qualified as a knowledge keeper and expert and with life
3 experience, of course. And he's qualified as a health
4 policy analyst and expert. We will mark his C.V. as the
5 next exhibit, thank you.

6 --- EXHIBIT NO./PIÈCE NO. A4:

7 Curriculum vitae of Timothy Aqukkasuk
8 Argetsinger (one page)

9 MS. VIOLET FORD: Because he's going to be
10 referring the social determinants report of health, I would
11 also like to enter the ITK social determinants report as an
12 exhibit, as well as his C.V.

13 CHIEF COMMISSIONER MARION BULLER: That will
14 be marked as the following exhibit, thank you.

15 --- EXHIBIT NO./PIÈCE NO. A5:

16 Inuit Tapiriit Kanatami revised
17 discussion paper (September 2014)
18 "Social Determinants of Inuit Health in
19 Canada" (44 pages)
20 Submitted by Violet Ford, Commission
21 Counsel

22 MS. VIOLET FORD: Okay. Beginning with the
23 first part of the questions, around the report itself, what
24 was the purpose of this report? Can you give us
25 background?

1 **MR. TIMOTHY ARGETSINGER:** The report, it's
2 called, The Social Determinant's of Inuit Health in Canada.
3 It was released by ITK in September 2014. It's really an
4 evolution of what began as a position paper that was shared
5 with the World Health Organization about 10 years -- seven
6 years prior to that. It's intent really, is to build upon
7 the idea of social determinants as public health concept
8 and to put that concept into an Inuit community context.

9 The practical purpose of the report in the
10 day to day work of advocates and governments is to inform
11 the development of policy, of legislation, that pertains to
12 the social determinants.

13 **MS. VIOLET FORD:** Okay.

14 **MR. TIMOTHY ARGETSINGER:** I think there's
15 the visual on the screens here.

16 **MS. VIOLET FORD:** Can you just take a couple
17 of minutes to go through those social determinants. There
18 are 11 of them.

19 **MR. TIMOTHY ARGETSINGER:** Absolutely. So
20 the nature of social determinants of health can actually
21 just provide the World Health Organization definition. So
22 what social determinants of health are, are the conditions
23 in which people are born, grow, live, worked, and include
24 the health system. Now, those conditions are impacted by a
25 range of factors including political factors.

1 So what you're looking at is the Inuit
2 representation of social determinants of health. As you
3 can see they are represented in a circle. That is because
4 social determinants like human rights are interrelated. And
5 they are indivisible in the sense that you can't look at
6 one in isolation without considering the whole. So as you
7 can see, there's Inuit health at the centre, surrounded by
8 food security, housing, mental wellness, availability of
9 health services, safety and security, income distribution,
10 education, livelihoods, culture and language, quality of
11 early child development, and then surrounding that is the
12 environment.

13 So there are a couple -- a few aspects of
14 this visual that make it different from other
15 representations of social determinants as a public health
16 concept, or as it's commonly represented. So the main one
17 being the environment and the role that that plays within
18 our Inuit culture and society, and every aspect of our
19 lives. So that's why it is surrounding the other
20 determinants.

21 Other's include culture and language and the
22 role that culture and language play in health and wellness,
23 including spiritual wellness, livelihoods -- so that's
24 different from employment since the livelihood might be
25 hunters in communities who have an important role to play

1 or people who are involved in production of, whether it be
2 art or other goods within Inuit society that also play an
3 important role. The -- another aspect of this that makes
4 it different from other representations of social
5 determinants of health include, quality of early child
6 development and the role that that -- the importance of
7 access to and the quality of preschool and daycare, access
8 to care for Inuit families.

9 **MS. VIOLET FORD:** Thank you.

10 Just going to one of those determinants, I
11 just want to bring your attention to this one, it says in
12 the report on page 14 that, "Inuit culture and language are
13 seen as a crucial and interconnected determinant of
14 health." Have you found that? Okay. And that "one of the
15 challenges for this determinant is colonization", right?
16 And -- further down the page there. And regarding that,
17 how has colonization impacted or contributed to the safety
18 of Inuit women and girls?

19 **MR. TIMOTHY ARGETSINGER:** Within the context
20 of social determinants, it's a challenging question in the
21 sense that there's so many different variables. The way
22 that I would answer that is that colonization wasn't just
23 something that happened and then ended, but it was a series
24 of decisions that one society imposed on another, which
25 created this social and economic, a certain set of social

1 and economic conditions. And those conditions have
2 impacted the social determinants of health that we see
3 today, and those social determinants then are drivers of
4 social and economic equity within a society. So you can
5 think of the social determinants as drivers of social and
6 economic equity not just within Inuit society but within
7 society at large.

8 So the conditions that were created or that
9 have been impacted by policies, like the imposition of
10 residential schooling on Inuit, relocations of some Inuit
11 families, in some cases forcibly and in other cases through
12 coercion into settled communities, the decisions that
13 governments made about the provision of housing within
14 those communities, the materials that those houses would be
15 made out of.

16 All those factors are interrelated and
17 they're interlinked, and they have an impact on the society
18 as a whole. And that impact, those impacts, in many cases,
19 contribute to the vulnerabilities that the most vulnerable
20 in society, including women and children, too often
21 experienced today.

22 **MS. VIOLET FORD:** So your statement about
23 that last point as contributing to violence, you're
24 reinforcing what has been said at the frontlines level?

25 But moving it into now into a policy area,

1 around the federal funds, federal funding, that flow to
2 Inuit communities, for example, around housing. Can you
3 tell the commissioners about some of the particular
4 challenges that housing funding is a consideration in Inuit
5 communities?

6 **M. TIMOTHY ARGETSINGER:** Sure. Tracy has
7 done a really great job in illustrating many of the
8 challenges related to housing. With respect to policy,
9 there isn't right now an Inuit, a federal Inuit housing
10 policy per say, although one is being developed.

11 The fact of the matter is that the majority
12 of Inuit, unfortunately, live in crowded households. A
13 large proportion of the families who live in crowded
14 household are living in social housing. So social housing
15 has been continuous to be in this country the stopgap
16 measure that governments fund in order to attempt to
17 address the housing crisis within Inuit communities.

18 Now, when it comes to the resources made
19 available for housing, the method of delivery of those
20 resources is equal, as equal important as the sums or the
21 amounts of resources that are allocated.

22 And until quite recently, in fact until
23 federal budget 2016, the manner in which federal housing
24 dollars were allocated to before Inuit regions that make up
25 Inuit Nunangat, is that funds were flowed through

1 provincial and territorial governments, which would then
2 make decisions about often how much of those resources were
3 used for the building of housing within Inuit communities.

4 Now, a positive measure that the current
5 government has taken is to change the way that that
6 happens, so we've seen now in the budget 2016 as well as in
7 the last budget, a move to allocate federal housing dollars
8 to, directly to Inuit representational organisations.

9 And that has a number of impacts, for
10 example, on the speed with which regions are able to access
11 the funds and begin to use them to build houses within what
12 are short building seasons.

13 Whereas before, often the bureaucratic
14 barriers that regions faced, Nordic access, federal housing
15 dollars from provincial and territorial governments meant
16 that some regions were missing building seasons and as a
17 result building fewer houses for the families that needed
18 them.

19 **MS. VIOLET FORD:** Thank you. Regarding the
20 change over to a more direct involvement, can that be
21 explained by what factors? For example, a self-government.
22 Is that one of the ways that that transfer is happening?
23 Or at what policy level is this change happening?

24 **M. TIMOTHY ARGETSINGER:** I think the change
25 is a result of the vigorous lobbying efforts of the four

1 Inuit representational organisations, as well as ITK and
2 uprising federal officials that this policy has many
3 ramifications, pass policy in a way that federal housing
4 dollars were allocated impacts on a number of issues,
5 including family violence.

6 So it's the result in part of those efforts
7 as well as a change and openness and understanding on the
8 part of the current government on that particular issue.

9 **MS. VIOLET FORD:** Great. The next point I'd
10 like to move onto, now, Tim, is the determinant around
11 personal safety and security. It's on page 23 of the
12 report, I think.

13 Can you get into the area to be talked about
14 is how the determinant of this particular area of safety
15 and security is linked to the inequities for Inuit women?
16 And how it's linked to the increased risk of violence
17 towards Inuit women and girls?

18 **M. TIMOTHY ARGETSINGER:** Again, it's a
19 challenge to describe, I suppose, the link between any of
20 these determinants and isolation and violence against women
21 and girls.

22 However, since we've been talking about
23 housing, safety and security, as Tracy mentioned, is linked
24 to things like... the stress that is often more prevalent in
25 household that are crowded, in the ability of people who

1 are experiencing violence to leave and to seek alternative
2 housing, whether that's in their community or elsewhere.

3 It's in part what anecdotally we know is
4 safety and security is a pressure that people talk about
5 when they talk about the reasons why they may have
6 relocated to an urban centre, to seek safety and security
7 elsewhere, which in some cases may... contribute them to
8 becoming more vulnerable or facing other challenges.

9 Safety and security is housing... you know,
10 employment, education, all of these things are
11 interrelated, so if you are living in a crowded household,
12 for example, you may be -- sorry. It shouldn't impact the
13 way in which human rights standards are interpreted. So
14 whether it's the convention on the elimination of racial
15 discrimination, or it's, you know, the universal
16 declaration on human rights, whether it's the international
17 covenant on economic, social, and cultural rights as it
18 deals with things like the right to adequate standard of
19 living, including, food, clothing, and housing. Those
20 don't get to be reinterpreted and applied differently to
21 different populations.

22 So when it comes to Inuit, there shouldn't -
23 - the reality is that Canada has ratified many of these
24 international human rights instruments. But unfortunately,
25 too many people are not experiencing the benefits of living

1 in a country where the federal government, or in some cases
2 where provincial governments have taken it upon themselves
3 to ratify these human rights standards.

4 So that's in my mind, what the linkage is,
5 is really to put it bluntly, a failure in many areas,
6 including on things like housing, and access to medical
7 care, to having the right to access food to feed your
8 family. That there is a shortcoming there.

9 **MS. CHRISTA BIG CANOE:** Chief Commissioner
10 and Commissioners, we wanted to afford you an opportunity
11 to ask questions prior to taking a break. And please feel
12 free to ask either of the two witnesses who have just had
13 their examination in chief, questions.

14 **CHIEF COMMISSIONER MARION BULLER:** I'm going
15 to wait until after we've had cross-examination, thank you.
16 Other Commissioners?

17 **COMMISSAIRE AUDETTE:** Oui, oui, je vais poser
18 ma question en français.

19 Tracy, I became an expert with those
20 things. Doesn't exist in the north, even in my north.

21 Alors, tout d'abord, Nacomis (phon.) merci
22 beaucoup pour... Il n'y a pas de traduction? Numéro un.

23 So I'll try in English while they're... it's
24 good, maintenant? Fren-lish. Alors, bon. Merci beaucoup.

25 Alors, Tracy et Timothy, un gros merci pour

1 votre présentation, et je tiens à vous dire comment je suis
2 impressionnée par votre bagage, vos expériences, qu'elles
3 soient académiques ou sur le terrain. Et je suis fière de
4 dire que même chez nos amis, nos frères et sœurs du peuple
5 Inuit, des gens se sont rendus dans le sud pour apprendre
6 dans un système qui est pas le vôtre, mais aussi de garder
7 votre richesse et votre culture. Alors, ça, un gros, gros
8 merci.

9 Et ma première question serait pour Tracy.
10 Notre exercice est important, tant pour le peuple Inuit,
11 els femmes autochtones, Métis et Premières Nations, et pour
12 les femmes chez vous dans le nord, les femmes Inuits, même
13 celles qui habitent dans le sud pour des raisons de
14 protection. Pouvez-vous me dire comment, me donner des
15 exemples pour me dire que les droits des femmes Inuits
16 n'ont pas été ou ne sont pas encore aujourd'hui protégés ?

17 On parle des droits humains, des droits de
18 la personne. Comment ça se fait qu'en vous écoutant on
19 voit que les droits des femmes Inuits ne sont pas protégés?

20 **MS. TRACY DENNISTON:** That is a very hard
21 question because I think this stems from years and years of
22 colonization and many women have not been able to speak up
23 and they are silenced. And because of that it is hard to
24 speak out, and women don't realize they do have rights, and
25 are afraid to speak out to authority figures and to even

1 the men that abuse them.

2 And I don't know if I'm answering the
3 question correctly, but this is what I see from my view as
4 an Inuit woman and how rights is something that is very
5 minimal to many women still. Was there more I needed to
6 elaborate on? I don't know if you can ask me in a
7 different way, but it's how I see it.

8 **COMMISSIONER MICHELE AUDETTE:** Well, I have
9 to say that I'm not here to judge. I think you do answer
10 the right way because you have that eye, heart, and spirit
11 that I don't, and that expertise and passion. So I
12 believe, I believe you. So thank you ---

13 **MS. TRACY DENNISTION:** Thank you.

14 **COMMISSIONER MICHELE AUDETTE:** --- for your
15 answer.

16 Maintenant, monsieur Timothy. Il y a
17 quelque chose qui m'a fait réagir. Aujourd'hui, en 2018,
18 ici, au Canada, vous avez fait mention de plusieurs
19 conventions et de pactes auxquels le Canada est signataire
20 sur la communauté internationale. Et votre rapport que
21 vous nous avez remis sur les déterminants de la santé, on
22 estime qu'il y a 53% de familles qui vivent plus de sept
23 personnes par unité.

24 Donc, c'est plus de la moitié du peuple
25 Inuit qui a une surpopulation dans les maisons, et vous

1 avez bien expliqué les effets auxquels les familles et les
2 individus et les femmes et les enfants peuvent se
3 retrouver, les effets négatifs.

4 Ce qui me, ce que j'aimerais comprendre,
5 comment ça se fait, encore une fois, ici, au Canada, et
6 évidemment avec le Québec et les provinces et territoires
7 dans lesquels vos gouvernements Inuits se retrouvent, qui
8 n'est pas de politique à matière d'habitation, de politique
9 fédérale en matière d'habitation.

10 On voit que dans les années 2000-2006, il y
11 a eu des initiatives, mais très ponctuelles, très courtes,
12 toujours dans votre rapport, évidemment, mais qu'en 2018,
13 il y ait toujours pas de politique. Pouvez-vous
14 m'expliquer ça?

15 **MR. TIMOTHY ARGETSINGER:** Are you asking
16 with respect to housing in particular, or ---

17 **COMMISSIONER MICHELE AUDETTE:** Yes, housing.

18 **MR. TIMOTHY ARGETSINGER:** The federal
19 government is -- so it's -- we're in the process of
20 developing a national Inuit housing strategy in partnership
21 with officials within agencies within this government. So
22 it's something that's happening. We know that the
23 solutions aren't necessarily just an enormous sum of money
24 to fill the backlog of housing units that need to be built.
25 There's a range of factors, some of which I've talked a

1 little bit about, but there is a need to explore how, for
2 example, you create a private housing market within Inuit
3 communities or within Inuit Nunangat, what supports need to
4 be in place in order to -- for families to be able to own
5 their own homes.

6 So it's something that I can say it's
7 happening, but you know, why it hasn't happened, I mean, I
8 think Tracy spoke to that pretty well.

9 **COMMISSIONER AUDETTE:** Merci. Pouvez-vous
10 dire aux gens qui nous écoutent, et à moi en particulier,
11 nous dire dans les territoires Inuits, il y a combien de
12 village de communautés? Et combien de maisons
13 d'hébergement vous avez?

14 **MS. TRACY DENNISTON:** Me?

15 In our Nunatsiavut Region, there were are
16 Inuit communities. Nain is the biggest populated
17 community, there's about 2,000 people there, and Hopedale
18 is the next biggest, there's about 750 people who live
19 there. And Makkovik, Postville and Rigolet are the next
20 ones in the -- in our communities.

21 In all of those five communities there are
22 three shelters. And one -- Nain is one who had the longest
23 shelter running, and Hopedale has just newly opened their
24 doors, probably within the last year, and in Rigolet is
25 also one of the new opening shelter there -- for their

1 community.

2 Was there another question or ---

3 **COMMISSIONER AUDETTE:** Mr. Argetsinger, what
4 about the other regions? How many communities and how many
5 shelters do you have for women and families?

6 **MR. TIMOTHY ARGETSINGER:** I actually don't
7 know the number. So I don't know the number.

8 **COMMISSIONER ROBINSON:** Okay. Hi.
9 Nakurmiik. I just wanted to -- I have a -- a couple of
10 questions. I'm going to start with you, Tracy, talking
11 about housing in Nunatsiavut and access to housing. And
12 Tim, you talked about social housing being generally a
13 stopgap.

14 But in the Inuvialuit, from what we have
15 heard from many families, social housing isn't exactly a
16 stopgap, it's what -- it's the only option. Is that
17 correct?

18 **MR. TIMOTHY ARGETSINGER:** Yes.

19 **MS. TRACY DENNISTON:** Yes.

20 **COMMISSIONER ROBINSON:** So in a community
21 like Nain or Hopedale, if a woman wishes to flee a violent
22 situation, is she able to -- say she's employed, she's
23 making a good annual income, could she rent an apartment?
24 Are there apartments for her to rent?

25 **MS. TRACY DENNISTON:** No, there are no

1 apartments to rent.

2 **COMMISSIONER ROBINSON:** Could she get a
3 house built?

4 **MS. TRACY DENNISTON:** She probably could.
5 If she had a good income, she -- if -- it's a hard --
6 that's a hard one, because sometimes they do make good
7 money, but there's a big line between people below the
8 poverty line. And there are some in Nain, in particular,
9 because we do have more access to job opportunities, which
10 are in the higher end.

11 So it -- poverty is not so much a big issue
12 in Nain compared to Hopedale because of a lack of jobs.
13 But she probably could, but in fleeing -- if you're wanting
14 to flee a violent -- and live on your own, I don't know if
15 the -- she would be able to stay there knowing that the
16 abuser is there.

17 **COMMISSIONER ROBINSON:** And if she were --
18 for example, if you wanted to build a house in Nain or
19 another community, say in Northern Baffin Island, what is
20 the timeline for that happening? It's not like there is --
21 -

22 **MS. TRACY DENNISTON:** No.

23 **COMMISSIONER ROBINSON:** --- subdivisions
24 being built off of Nain every year, or every five years, is
25 there?

1 **MS. TRACY DENNISTON:** M'hm.

2 **COMMISSIONER ROBINSON:** --- in terms of
3 geography, and all the communities are fly in or ship in;
4 correct?

5 **MS. TRACY DENNISTON:** Yes.

6 **COMMISSIONER ROBINSON:** Thank you.

7 I want to talk -- ask a little bit about --
8 you spoke about emergency protection orders and how those
9 are not generally seen as an option for women in your
10 community. The legislation around EPOs, emergency
11 protection orders, that's provincial legislation; is that
12 correct?

13 **MS. TRACY DENNISTON:** Provincial.

14 **COMMISSIONER ROBINSON:** And in the
15 development of the legislation and the policies and the
16 implementation, are Inuit laws or societal values
17 incorporated at all?

18 **MS. TRACY DENNISTON:** None.

19 **COMMISSIONER ROBINSON:** So the solution that
20 is offered is not one that's Indigenous to Inuit?

21 **MS. TRACY DENNISTON:** No.

22 **COMMISSIONER ROBINSON:** Okay. Thank you. I
23 just wanted to clarify that.

24 I have -- I will probably have more
25 questions, but I want to give time. So I'm going to stop

1 for now. Nakurmiik.

2 **COMMISSIONER EYOLFSON:** I may have some
3 questions at a later point. Thank you very much.

4 **MS. CHRISTA BIG CANOE:** Thank you.

5 I would like to thank the witnesses, but I
6 also -- just for clarity purposes to the Chief Commissioner
7 and Commissioner. Because we are calling these witnesses
8 as a panel, I am just asking for a brief ruling.

9 And the ruling I'm asking for ties to the
10 legal past rules of respectful practise, specifically
11 Rule 48, that advises no counsel, other Commission counsel,
12 may speak to a witness about the evidence that he or she
13 has given until the evidence of such a witness is complete.

14 Given that we are having other panel members
15 on this that may be touching on some of the issues that
16 these two witnessed asked, I ask that we have a ruling that
17 Rule 48 is in place until the chief examination of all four
18 witnesses is complete.

19 **COMMISSIONER BULLER:** Certainly. We make
20 that ruling.

21 **COMMISSIONER AUDETTE:** C'est peut-être la
22 traduction, mais nous devons, nous... We have to ask the
23 question and then the party -- we cannot come back after
24 them?

25 **MS. CHRISTA BIG CANOE:** No, you can come

1 back after them.

2 **COMMISSIONER AUDETTE:** Okay.

3 **MS. CHRISTA BIG CANOE:** I'm just asking for
4 a ruling in relation to Rule 48 that just -- it puts the
5 counsel, the parties withstanding or their representatives,
6 on notice that until all four witnesses are done in
7 examination in-chief that they are not able to have
8 conversations about the evidence they have heard.

9 If we could please have that as a ruling.

10 **COMMISSIONER BULLER:** Certainly. We make
11 that ruling that our legal path Rule No. 48 remains in
12 effect until all four witnesses have completed their
13 examinations in-chief.

14 **MS. CHRISTA BIG CANOE:** Thank you. And just
15 to be clear, there is another part of that rule that we'll
16 touch base on once we are done examination in-chief.
17 Commission counsel will not be allowed to speak about the
18 evidence with witnesses until the parties are done theirs.
19 And we'll approach that at that time.

20 Just one housekeeping issue before we take
21 our morning break, is I kindly request parties withstanding
22 to ensure that they touch-base with Commission Counsel
23 Shelby Thomas or Marie-Audrée. If they have not done so
24 yet to provide them your draw number. And with that, I
25 also ask that we please take a 15 minute break, so that,

1 and we'll try to keep it tight to 15 minutes, so that we
2 can set-up for the next witness and allow everyone a health
3 break and chance to stretch.

4 **CHIEF COMMISSIONER MARION BULLER:** 15
5 minutes.

6 **MS. CHRISTA BIG CANOE:** Thank you.

7 (SHORT PAUSE/COURTE PAUSE)

8 **MS. CHRISTA BIG CANOE:** Chief Commissioner
9 and Commissioners, we would like to call the next witness,
10 I'm cognoscente, however, though, we're a little behind
11 schedule. We're starting when we're anticipating a lunch
12 break, so I would like to suggest that when the next
13 witness, FAY, if we could go for one hour and then have a
14 half-hour break, we could maybe catch up the schedule, a
15 little. And so, I just wanted to, before we start, ask if
16 that's all right?

17 **CHIEF COMMISSIONER MARION BULLER:** Yes,
18 certainly.

19 **MS. CHRISTA BIG CANOE:** Thank you.

20 Chief Commissioner and Commissioners, I'd
21 like to introduce you to the next witness: Fay Blaney.
22 Before FAY actually provides any testimony, she would like
23 to promise on eagle feathers.

24 **M. BRYAN ZANDBERG:** Good afternoon, FAY.

25 **MS. FAY BLANEY:** Good afternoon.

1 **M. BRYAN ZANDBERG:** FAY, do you promise to
2 tell your truth in a good way, today?

3 **MS. FAY BLANEY:** I will.

4 **FAY BLANEY, Sworn**

5 **M. BRYAN ZANDBERG:** Thank you.

6 **MS. FAY BLANEY:** Thank you.

7 **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

8 **CHRISTA BIG CANOE :**

9 **MS. CHRISTA BIG CANOE:** So as noted earlier
10 by other Commission Counsel, I will be qualifying or making
11 a motion to qualify Fay as both a Knowledge Keeper and an
12 expert, and this is with the consent of the parties in
13 attendance the process I'm undertaking to qualify Fay.

14 So I'm just gonna start with some questions
15 and I'll be using leading questions that we can spend a
16 bunch of our time, sort of more on the substance. But I
17 would like to start Fay, by asking you: I understand that—
18 please help me to try to pronounce this, if I get it wrong,
19 I apologize. I understand that you're a Homalco, a member
20 of Homalco, First Nation community, it's a co-Salish
21 nation?

22 **MS. FAY BLANEY:** Yes.

23 **MS. CHRISTA BIG CANOE:** Yes. Do you speak
24 your Indigenous language?

25 **MS. FAY BLANEY:** I do.

1 **MS. CHRISTA BIG CANOE:** And how, has that
2 been your whole life?

3 **MS. FAY BLANEY:** I spoke it when I was born
4 and I learned English at about 7 years old when I went to
5 residential school.

6 **MS. CHRISTA BIG CANOE:** And after residential
7 school, you've continued...

8 **MS. FAY BLANEY:** Yes.

9 **MS. CHRISTA BIG CANOE:** To learn and speak
10 more of your own language? Is that true?

11 **MS. FAY BLANEY:** It is, yes.

12 **MS. CHRISTA BIG CANOE:** It's a very big
13 question, so share with what you're comfortable sharing.
14 Can you share with the Commissioners some of the culture
15 practices such as the puberty rights that you went through
16 with the Commissioners so they can understand a little bit
17 about your cultural knowledge?

18 **MS. FAY BLANEY:** Yes, I'm happy to do that.
19 When I reached puberty- I think I'm going to take this out
20 of my ear, it's very loud.

21 When I reached puberty, I started to do
22 spiritual bathing in the river and I did that for a full
23 year and it taught me so much and it very much shaped who I
24 am today. Each morning, I was up before everyone else and
25 I bathed and did my spiritual ceremony in the river. And

1 after I came out, all of my activities revolved around my
2 roles and responsibilities and relationships in the
3 community.

4 And so, the first thing I did was to light a
5 fire, and this is like out in the bushes (laughs). So I
6 lit a fire and I was not to stand near the fire, and that
7 was for the Elders. And I made food and the food was
8 distributed according to our own Indigenous laws, so the
9 Elders and the children were treated with the outmost of
10 respect so they got the choice foods.

11 And I remember very well being a child and
12 being able to eat bone marrow; that's one of the things I
13 often bring up, I just loved bone marrow. And I was
14 speaking with this Elder earlier, too, and telling her that
15 I used to eat seal meat and seal fat (laughs). I loved
16 seal fat in cubes when it was rendered and it was crunchy.
17 But when I reached puberty, I was not able to have that
18 anymore, and now I'm an Elder and I can have it, but I've
19 been a vegetarian for 22 years, so I can't have it anymore.

20 So it did teach responsibility and it taught
21 me a really solid sense of community and the importance of
22 community, and I have practiced that in my feminism all of
23 my life.

24 **MS. CHRISTA BIG CANOE:** On that last point,
25 is it fair to say that not just that particular set of

1 rights that you said was a whole year, but your experience
2 in culture and tradition actually helps form the way you do
3 things, your knowledge and any of your professional
4 experience? Does that cultural knowledge help shape that?

5 **MS. FAY BLANEY:** Well, in one of the articles
6 that I wrote, I talked about the cultural clash of the
7 amount of talking that we do in western society, and
8 there's a real discomfort of quiet. And that really
9 clashes. I mean, we were quiet a lot and speaking too much
10 was frivolous and silly, it was children that did that.

11 So that sometimes is a challenge when I'm
12 out in the world and trying to practice what I learned in
13 the academy rather than... and then going back, when I go
14 home, going back to the other way. I'm not sure if you're
15 gonna ask me about popular education? Okay, so that stuff
16 feeds into my culture, I believe.

17 **MS. CHRISTA BIG CANOE:** So, I also... before we
18 get into some of your more professional experiences, I
19 understand that you have experienced a great deal of
20 violence in your life. Specifically, I know that one of
21 the papers you wrote about sharing your life story,
22 "Backing out of hell," and it was provided in the materials
23 as Schedule C, under Tab C. And that this, in this you
24 actually share your life story and the generational trauma
25 and harm you've experienced.

1 I'm gonna actually ask that Commissioners
2 accept this as an exhibit, the "Backing out of Hell" story.

3 --- EXHIBIT NO./PIÈCE NO. A7:

4 "Backing out of Hell" by Fay Blaney,
5 published in *Bringing it Home: Women*
6 *Talk about Feminism in Their Lives*,
7 Brenda Lea Brown, ed. (Vancouver,
8 Arsenal Pulp Press, 1996, pp. 19-33)

9 CHIEF COMMISIONNER MARION BULLER: Okay.
10 Certainly, that will be the next exhibit.

11 MS. CHRISTA BIG CANOE: Thank you. Fay, is
12 there anything you would like to say about your experience
13 or the "Backing out of Hell" article?

14 MS. FAY BLANEY: I think one significant
15 parallel, there, is the experience of my mother and my
16 experience and it just seems to carry on through the
17 generations; the ways that women are treated in our
18 communities.

19 I lost my father when I was four, he drowned
20 from a boating accident and he was intoxicated. And my
21 mother was 23 years old, and she had four children, and I
22 was the oldest and there was a newborn, I think she was,
23 like, about 5 months old.

24 And my mom was constantly being raped by the
25 men in the community with impunity. And she had the wives

1 wanting to kill her, because they thought she was trying to
2 steal their husbands so they never held him accountable.
3 And I think that's a prevailing issue in our communities is
4 that men are not held accountable for what they do.

5 And so she fled, she fled from the violence
6 in our community; and at the age of 13, I fled from the
7 violence in my community, from the sexual violence.

8 And some of that story you can find in the
9 film Finding Dawn, about me fleeing violence in my
10 community. I'm not sure if I wrote it in there, but four
11 generations of my family attended residential school, so my
12 great grandfather went first, and he remained in St. Mary's
13 for 10 full years, non-stop. Like, for me at least, I got
14 to go home sometimes in the summer or during the Easter or
15 Christmas holiday. But he remained there for 10 full years
16 and got to grade three and was a good farmer and a good
17 musician, but never got any schooling, or you know, being
18 an illiterate society didn't attain those achievements.

19 What he did come home with was a whole lot
20 of violence and sexual violence. He sexually abused every
21 generation in our family, and the men following him did the
22 same. And so, there's a great deal of sexual violence in
23 my life, and what I would note is that in the years of
24 working in this area, that I'm not alone in that and I
25 think we're very hard pressed to find an indigenous woman

1 that doesn't share my story. So my story is not unique.

2 **MS. CHRISTA BIG CANOE:** Thank you. Thank
3 you for sharing that. One of the things I'd like to do is
4 draw you to your own curriculum vitae. It was included in
5 the materials as Schedule A. At this point I would ask
6 that the Commissioners allow this to be an Exhibit as well,
7 so I can ask Fay a couple questions in relation to it.

8 **CHIEF COMMISSIONER MARION BULLER:** Yes, that
9 will be the next exhibit, the C.V. please.

10 --- **EXHIBIT NO./PIECE NO. A8:**

11 Curriculum vitae of Fay Blaney (five
12 pages)

13 **MS. CHRISTA BIG CANOE:** Thank you. So
14 earlier you were talking about that -- like, the difference
15 between the academy, or like the type of academic education
16 you had, versus the cultural. Can you tell us a little bit
17 about your education?

18 **MS. FAY BLANEY:** Well, I attended Langara
19 College and then I went to Simon Fraser University and it
20 was like, extremely challenging because there wasn't a
21 space for Indigenous students in those places. There were
22 no programs in place at all. When I got to Langara College
23 my high school years were so broken up -- I went to a
24 different high school every year and there was no
25 continuity. And so by the time I got to college and

1 university, there were so many prerequisites to be
2 completed and so it took me three years in college rather
3 than the normal two years.

4 The other thing that I note is that in
5 residential school they imposed on all 350 of us in St.
6 Mary's, they forced us into special needs programs without
7 any kind of assessment. And so I think the issues around
8 the Master Tuition agreement are still at play, because I
9 know that my children were being forced into those special
10 needs classrooms as well, and there's no accountability
11 from the provincial school system to give us an education.

12 So university was quite hard for me, but I
13 didn't settle for what they were offering and I became a
14 student activist, along with some other women. There were
15 a few indigenous women, we found each other at Simon Fraser
16 and we advocated for a native student centre. Well, first
17 we advocated for Native Awareness Day, and we encountered a
18 whole lot of racism. The professors were complaining that
19 we were making too much noise at the native awareness day,
20 and the students were saying that we were in the way
21 because we took up the whole academic quadrangle. And the
22 student society wasn't too friendly with us having this --
23 what they -- they called us a club. We didn't qualify to
24 be a member of the student society, so we were called a
25 club.

1 And eventually we met with the President and
2 we met with a bunch of the professors. We lobbied for a
3 native student centre, a native student coordinator, and a
4 First Nations studies program. And we were there for two
5 years, myself and the other students, and they did
6 eventually offer those things, but they did them when we
7 left. So those wonderful programs are in place there at
8 SFU.

9 My degree was in history and I did a minor
10 in education and in women's studies. And my experience in
11 the history department is that they had one history course
12 on the books, it was the Maritime fur trade, which is like
13 1700s when the fur traders were coming on-boat to the coast
14 of B.C. And there was no contemporary history courses, and
15 there was nothing around like, the history of indigenous
16 children, or the history of education, or anything like
17 that. And so what I ended up doing was being pretty
18 proactive.

19 I don't know where I get the courage to do
20 these sometimes, but I fought for myself and I designed my
21 own courses. So I took directed readings and I got various
22 professors to supervise my research and in that time I
23 learned so much of my own self teaching. Like, I learned
24 about the significance of the 1951 amendment to the *Indian*
25 *Act*, and I find that very few people know what the impact

1 of that is and how it still shaping what we're experiencing
2 today. So that's what I did in university.

3 **MS. CHRISTA BIG CANOE:** Well, I noticed too
4 Fay, when you're talking and telling these stories you
5 might think, well, how long ago was that? I noticed that
6 you actually graduated that degree in 1993, so we're not
7 talking about that long ago.

8 If I could just get you -- I'm just going to
9 ask us to highlight a couple of points in your C.V.,
10 particularly I noticed in all of page 2 you've had a number
11 of teaching. So you've also not only been a student,
12 you've also done some instructing and teaching. What are
13 the areas that you've instructed and taught in?

14 **MS. FAY BLANEY:** Well, I developed the roles
15 of aboriginal women in Canada and brought that to the
16 University of British Columbia, and I taught that course
17 for five years. It was a -- I was a sessional instructor.
18 I also taught at Langara College. I started teaching in
19 the Canadian Studies department. I taught First Nations'
20 Concerns, which is just a snapshot of all different issues.

21 And I taught racism and ethnic relations in
22 Canada, and again, it was the same dynamic of what I saw at
23 SFU, another absence of space for Indigenous students. And
24 so, in one of those summers I took -- got a grant from the
25 college and did a feasibility study and managed to get them

1 thinking about establishing an aboriginal studies program,
2 and so that's running up at Langara now.

3 And in my time, there I was -- was or am,
4 very passionate about community engagement for the
5 students, and so I always had my students, A; going to the
6 annual memorial march. I swear that the Feb 14 march,
7 about half of that crowd were my students. Some from my
8 various classes at Langara and some from UBC and in one
9 semester, I don't know what insanity overtook me, but I was
10 teaching seven courses and all of those students were at
11 the memorial march.

12 In the final semester for those students, I
13 had them go into the community to do primary research and I
14 had a second course that I taught around literature search.
15 And so there were students -- I remember one particular
16 student who of course, grew up in the foster care system
17 and had been quite alienated from her -- not only her own
18 homelands, but from all of us Indigenous Peoples. And
19 going back into the community was a doorway for her and she
20 remained involved with that organization that she did her
21 research in.

22 And honestly, I can say that when I look
23 around in the lower mainland, I see so many of my students
24 in those places. Some of the women that are involved in
25 the memorial march and working in the community are

1 students that I've had that remain involved in the
2 community. So I saw the program as an opportunity, as
3 George Manual (phon.) taught me to be nation building.

4 **MS. CHRISTA BIG CANOE:** And so, I know we're
5 going to get into more detail once we're talking about some
6 of the substantive issues.

7 But if you could just confirm for me, I know
8 that you were -- and we'll talk more about, I promise -- I
9 know that you're one of the founding members of the
10 Aboriginal Women's Action Network. I noticed that page 3,
11 basically half the page talks about your roles and
12 obligations, and on page 4, I note that you had a number of
13 board appointments.

14 **MS. FAY BLANEY:** M'hm.

15 **MS. CHRISTA BIG CANOE:** And so, in terms of
16 both of those experiences, a number of years as first a
17 founding member with AWAN as well as the work you've been
18 doing there, you noted that you personally have had over
19 20 years' experience with the march committee, and all of
20 these board appointments.

21 I just want to ask you: on those
22 professional experiences, particularly as it relates to
23 mobilizing community and raising awareness, how important
24 have, you know, the ability -- how has that formed your
25 knowledge, having just that extensive experience in those

1 professional areas?

2 **MS. FAY BLANEY:** That's a big question. In
3 the Aboriginal Women's Action Network, I'm very much like
4 my two friends here in the front. We sometimes are not
5 funded at all, and often we don't have an office, and --
6 but that doesn't slow us down. We're always out there, and
7 we're doing consciousness raising. That's a really
8 important part of the work that we do in AWAN is -- that's
9 how we started, actually, was a group of us coming into a
10 drop-in, and we're just picking that up again.

11 There were moments when we were funded. We
12 did a Bill C-31 research project. It was at a time when
13 the non-native allies were saying, "But why would you be
14 doing that research? Isn't that fixed already?" And
15 meanwhile, the Indigenous women were saying, "It's not
16 fixed. There's huge problems associated with that."

17 **MS. CHRISTA BIG CANOE:** M'hm.

18 **MS. FAY BLANEY:** And so, it required a lot
19 of proposal writing, time management, report writing for
20 the proposals and juggling the different funding sources
21 that we had. A lot of juggling of the research aspects of
22 the work.

23 For the Bill C-31 research, we brought, I
24 think, like 27 Indigenous women from around the province to
25 the Lower Mainland. We invited some professors to come and

1 talk to us about participatory action research and what
2 that meant and methodology. We had another professor
3 talking to us about the ethical aspects of doing research
4 in our community. And -- so we had three full days, and it
5 was so amazing the experience with those women.

6 And then they went home and conducted -- we
7 asked for five interviews. We were happy when they sent
8 back two, some of them. And -- so we had tons of data, and
9 that was quite the minefield trying to juggle all of that
10 data.

11 And -- so we then ended up having to juggle
12 volunteers because there were volunteers that were
13 transcribing the interviews so that we could do the
14 research. We also had to manage ourselves in terms of
15 coming together and doing the literature review.

16 We designated certain women in our group to
17 do various aspects of identity issues around Bill C-31, and
18 then we came together and talked about that and wrote the
19 chapter on the literature review. We had a student lawyer
20 who did research on all the cases that were happening
21 currently across the country on Bill C-31.

22 So there is quite a bit of management
23 involved in that. And we also did the Journey for Justice
24 research.

25 And with the board appointments, it was

1 always important to represent Indigenous Women's issues and
2 concerns, and it still is today. So I still sit on boards
3 that -- with women's organizations, mainly, just to
4 represent us.

5 **MS. CHRISTA BIG CANOE:** Thank you, Fay.
6 You've covered a lot and I know we're going to cover more
7 when we get into the hardest stuff, including a
8 conversation on different ways and processes to engage
9 community and community mobilization. But -- and I
10 understand you've devoted your -- not just your heart and
11 knowledge but the education to working with Indigenous
12 community to increase this, and I think your CV actually
13 acknowledges that well.

14 On that basis, Chief Commissioner and
15 Commissioners, I would request and put to you that Ms. Fay
16 Blaney, as evidenced in her resume and as she has just
17 talked to us and described, that I would tender her as both
18 a knowledge-keeper and an expert.

19 Specifically, as a knowledge-keeper, her
20 traditional teachings, ceremonial practises and rights,
21 including Indigenous language speaker, assists in her
22 understanding and guidance of such traditional knowledge
23 and how it connects to even her expert knowledge. And as
24 an expert in Indigenous Woman studies, as an Indigenous
25 feminist, and in the areas of Indigenous and allied

1 community mobilization and use of popular education
2 processes with a focus on feminist approach of
3 consciousness-raising and use of Indigenous law and
4 knowledge for engaging with communities.

5 **COMMISSIONER BULLER:** Thank you. Based on
6 consent of the parties, and also the evidence tendered, we
7 certainly qualify Ms. Blaney as a knowledge-keeper in the
8 areas described by Commission counsel and also as an expert
9 in the areas described by Commission counsel. Thank you.

10 **MS. CHRISTA BIG CANOE:** Thank you.

11 So I know, Fay, that we do want to cover a
12 lot of information and get to that popular education
13 process, but because -- that because there are not just the
14 Commissioners or the parties withstanding, but public also
15 watching, I think it's important to maybe take a step back
16 and contextualize some of what you're actually going to be
17 speaking to today.

18 On that note, I did previously forget to
19 say, for the purpose of the record, that on our webpage you
20 can actually go -- so anyone who is watching this live, you
21 can actually click on the "watch the hearing live", and
22 then there's a link to all of the documents we're speaking
23 about, so that anyone watching from the public if you hear
24 us talking about the documents, you can actually go see
25 them. And I -- thank you for letting me explain that.

1 One of the things is to take that step back,
2 the question -- the first question I have for you is in
3 order to look at issues of violence why is it important to
4 look at gendered violence and why in the context of
5 colonialization or colonialism?

6 **MS. FAY BLANEY:** Well, big question. I
7 think it is important to look at gender-based violence. I
8 know that there was a big push coming from some Indigenous
9 men that this Inquiry include men and boys. And when you
10 look at the murders and disappearances of Indigenous men,
11 it's very different, the dynamic is very different. They
12 are not being murdered because they're men.

13 And for Indigenous women, we are very much
14 targeted. We're targeted because of all of the things that
15 the law has done to us through the *Indian Act* and all of
16 the things that the church has done to us to position us in
17 the places that we're at now with such marginalized status.
18 And -- so I think that history is ever so important.

19 In our societies, women held power, we held
20 positions of respect and prestige, and I think all of that
21 has evaporated with the patriarchal *Indian Act* that's in
22 place, with the churches coming in and accusing our women
23 elders, of being witches. They did that with my great
24 grandmother. They said that she was a witch because she
25 had knowledge of healing, of childbirth, of the medicines,

1 and various techniques for healing people with various
2 ailments.

3 And so, the church then appointed watchmen
4 in our community and put men in power. And the *Indian Act*
5 did the very same thing. They denied us the right to vote,
6 to run in Band elections, to participate in any way, shape
7 or form, and -- so we have that dynamic.

8 The other dynamic that we have going on is
9 the incredible amounts of racism that we experience that is
10 very much accepted in Canadian society.

11 I think that we're finally reaching a point
12 with the Truth and Reconciliation Commission to examine
13 ourselves. I think there's still a great deal of
14 resistance coming from Canadian society to look at the
15 Truth and Reconciliation Commission.

16 But because of the racism, we've been quite
17 insular in our communities, in our societies. I have a
18 grand-aunt that was -- she was raped when she was about 12
19 in the early fifties. And she reported, and somehow the
20 guy got incarcerated. And she was forced out of the
21 community because she was deemed to be a traitor; she
22 betrayed our community by going to the police. And I think
23 that pressure is very much at play now in our societies, in
24 our communities.

25 And I can go down the list and give you more

1 examples of how I've seen that play out right within our
2 communities where women have been driven out. And the
3 violence goes into other areas of power and control in our
4 communities as well.

5 And so that's the reality that we live with,
6 and so we're in a really bad place. I think that we have a
7 great deal of internalized sexism and internalized misogyny
8 as well. Whenever I'm out there in the world, speaking on
9 these issues, I have people like Myrna Laplante here
10 saying, "Good job. Good job. I really like what you
11 said." And then I have other women speaking out from the
12 crowd and saying things like, "What about the men?" Or,
13 you know, "Aren't men violent, too?" And these kinds of
14 questions that in my opinion really demonstrate the degree
15 of internalization that has happened where we expect
16 Indigenous women to accept the violence and to normalize
17 the violence, and I would even argue that that permeates
18 right up the ladder to Indigenous folks that are in the
19 helping profession; you know, the alcohol and drug
20 counsellors on our reserves or the social workers on our
21 reserve, there's just very little advocacy for the underdog
22 on our reserves.

23 **MS. CHRISTA BIG CANOE:** Fay, one of the
24 papers that you're a co-author of, the Implications of
25 Restorative Justice for Aboriginal and Children Survivors

1 of Violence: A Comparative Overview of Five Communities in
2 British Columbia, was provided to parties with standing and
3 the Commissioners as Schedule B. What you're talking about
4 right now you seem to be also talking a lot about in this
5 report. And can you just tell us a little bit about what
6 the study was and sort of more broadly or generally what
7 you heard?

8 **MS. FAY BLANEY:** Okay, absolutely. I guess
9 I would preface it by saying that we came apart ourselves
10 in A-1 because it was so, so difficult, and I can really
11 appreciate what the Commissioners are -- the work that
12 you're doing and how difficult it is to hear that
13 testimony.

14 We were opposed to the use of restorative
15 justice, and it was being piloted all over the province.
16 Sharon McIvor was one of the main voices to oppose it
17 before we did in B.C. In her situation she had Indigenous
18 men with power being in charge of those programs and
19 putting their young male relatives through the program.
20 And in one instance a man -- a young man was put through
21 the program three times, supposedly spiritual programs, and
22 I say three times because he sexually assaulted again. And
23 then the third time it was so brazen; he sexually assaulted
24 a woman in public on the -- on a bright, sunny day on the
25 hood of a car.

1 And so it -- what that indicates to me is
2 that people in the community have allowed that to happen.
3 They haven't stepped in before then, and the women in that
4 community contacted Sharon McIvor and she came and she
5 intervened.

6 But for us on the Journey for Justice, we
7 encountered similar things. We heard stories about tribal
8 police being the uncle of an offender and therefore
9 refusing to go to the scene where the violence was
10 happening.

11 One of the success stories that we heard was
12 a young -- she's very young, this woman that came from much
13 further north than where we were starting. We started in
14 Prince George on the rafting journey down the Fraser River.
15 And she had been sexually assaulted about a week before and
16 they were treating her in very much the same fashion as
17 what I described with my grand-aunt that came out of a
18 window in the downtown eastside in 1954. She was thrown
19 out of the window and it was deemed to be a suicide.

20 But this young woman was being ostracized in
21 her community in the year 2000, and she came on the
22 journey. Her aunt convinced her and she thought she'd stay
23 on till Quesnel, and there is so much power in women coming
24 together. And we held a focus group in Prince George and
25 they felt their power. And then we went to Quesnel and we

1 held a rally there and the talking circle. And they were
2 supposed to get off the raft at that point but she decided
3 that she was going to stay on for the whole journey, and
4 she did. And when we arrived in Vancouver and were getting
5 interviews, we put her to the front and she did an
6 interview on the various radio stations, TV stations.

7 So I just -- I fully believe in the power of
8 Indigenous women working together and being able to come up
9 with solutions.

10 So the power dynamic in the community and
11 the other conditions within -- and you'll see it on my
12 recommendation about restorative justice, there's a lot of
13 things that indicate that we're just not ready. We are not
14 in a position to address those cases and we just saw them
15 as the state actors wanting to download at minimal expense
16 and not really have to deal with us.

17 And so in cases of male violence against
18 women, we're just very opposed to the use of restorative
19 justice or alternative justice, and I can cite a whole
20 bunch of other cases similar to this.

21 What I would say is that restorative justice
22 is excellent for youth, though, because youth are --
23 because of neocolonialism the youth really don't have
24 access to our culture, often don't have access to our
25 communities and for the community to embrace that youth and

1 teach culture and tradition is -- can be a lifesaver.

2 **MS. CHRISTA BIG CANOE:** So, Fay, I just want
3 to go back and touch on a couple of things because you've
4 raised a couple of concepts. One of them was the
5 neocolonialism and the other was you were talking about the
6 Journey for Justice. But maybe we can contextualize what
7 was the Journey for Justice and maybe you can talk a little
8 bit more about the context.

9 **MS. FAY BLANEY:** Okay. Well, we did the
10 Journey for Justice as part of the World Women's March
11 2000, and we're in Quebec. The very first march happened
12 here in Quebec in 1995 and it was a march against poverty
13 and violence.

14 And then in the second one, the National
15 Women's March Against Poverty and Violence was organized by
16 NAC, the National Action Committee on the Status of Woman,
17 which I was on the executive. And so the third one was the
18 World Women's March, and we in A-1 wanted to take an action
19 related to restorative justice because they were not
20 listening to us, which is very common.

21 They were consulting with everyone that was
22 in favour of restorative justice, a lot of the Indigenous
23 communities were in favour of it because it meant that they
24 would get more funding in the community where there's no
25 funding for much of anything, restorative justice dollars

1 looked quite enticing, and I was confronted by many of
2 those players saying that I was -- you know, that I was
3 denying those Bands access to the funding. And we were
4 really -- well, I've always been -- like my whole life I've
5 been concerned about male violence against women and that
6 was the angle that I was coming out with.

7 And what we did at the very beginning was to
8 educate ourselves. We didn't want to go in blindly, so we
9 set up a series of, I thought, 12 workshops. My memory is
10 not as good as it used to be but I think in the report it
11 says more than 12 but we did set up workshops with various
12 experts coming in and we worked with the antiviolence
13 agencies in the Lower Mainland.

14 So we had a workshop on children who
15 witnessed violence for example and someone who works in
16 that and then we had the VAWIR Policy, the Violence Against
17 Women in Relationships, and the requirement of the police
18 to charge offenders rather than expecting the victim to do
19 that.

20 We had some folks coming in from elder abuse
21 programs and what is maybe not so ironic is that right in
22 the middle of our workshop series, this incident happened
23 at the Native Education College.

24 There was this young woman trying to flee
25 violence. The man was very brutal towards her and she

1 escaped him and she had all the legal procedures, like, you
2 know, the restraining order and what have you, and he came
3 with a gun and he wanted to shoot her and we were in the
4 building at the time that that happened. And I'm pretty
5 sure the folks in the room that work in the area of
6 antiviolence can tell you that much of these deaths of
7 women happen after they've tried to flee those violent
8 relationships. And so that happened while we were
9 organizing and educating ourselves.

10 I'm not sure what your -- is there more I
11 need to ---

12 **MS. CHRISTA BIG CANOE:** No, that's fine.
13 No, no, you've answered well the clarifications and talking
14 a little bit more about the study.

15 I would just ask that we enter the
16 Implications of Restorative Justice for Aboriginal Women
17 and Child Survivors of Violence as an exhibit on the
18 record, please.

19 **CHIEF COMMISSIONER BULLER:** Yes. The
20 Implications document will be the next exhibit. Thank you.

21 --- **EXHIBIT NO./PIÈCE NO. A9:**

22 "The Implications of Restorative
23 Justice For Aboriginal Women and
24 Children Survivors of Violence: A
25 Comparative Overview of Five

1 Communities In British Columbia," by
2 Wendy Stewart, Audrey Huntley and Fay
3 Blaney (July 2001, 68 pages)

4 **MS. CHRISTA BIG CANOE:** Thank you.

5 So one of the things you've been talking
6 about and it's a language you use because in your area of
7 activism, it's a popular term; it's consciousness raising.

8 **MS. FAY BLANEY:** M'hm.

9 **MS. CHRISTA BIG CANOE:** So can we -- there's
10 two concepts I'm hoping that you can help explain a little
11 bit and I know they're both broad but if you could talk
12 about Indigenous feminism and what is consciousness
13 raising.

14 **MS. FAY BLANEY:** Okay. Before I do that,
15 can I ask that our policy paper be included as well, the
16 restorative justice policy paper maybe in the
17 recommendations or something?

18 **MS. CHRISTA BIG CANOE:** Yes.

19 **MS. FAY BLANEY:** After our report was
20 concluded, we brought all the women back together at a
21 conference and out of that came a policy position paper. So
22 just wanted to make sure you know about that.

23 Indigenous feminism still means we're tied
24 to the land and to our territory and our spirituality that
25 goes without saying I think. For myself, I just -- I feel

1 so invigorated and energized when I go home.

2 **CHIEF COMMISSIONER BULLER:** I'm sorry to
3 interrupt. Just for our record, the restorative justice
4 policy paper will be the next exhibit. And maybe
5 Commission counsel can put us to the tab for that.

6 **MS. CHRISTA BIG CANOE:** This was actually a
7 link, wasn't it?

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **CHIEF COMMISSIONER BULLER:** We have the
10 Implications document marked as an exhibit.

11 **MS. CHRISTA BIG CANOE:** Yes, and I believe
12 that we're referring to another document but it's not
13 actually called "Policy". It's not the same title.

14 **MS. FAY BLANEY:** It's a five-page document
15 and it's our condensed version of the final report. It's
16 our position paper on it.

17 **MS. CHRISTA BIG CANOE:** It's not this?

18 **MS. FAY BLANEY:** No, not that one. No, not
19 that one either.

20 **CHIEF COMMISSIONER BULLER:** Actually, why
21 don't we at one o'clock sort out the paperwork?

22 **MS. CHRISTA BIG CANOE:** We can come back to
23 that point actually when we're discussing it.

24 **MS. FAY BLANEY:** Okay. So I have it as well
25 but I just don't have it right here. So I can bring it.

1 Okay? All right.

2 So I was talking about Indigenous feminism.
3 It's gotten me into a lot of trouble I'll say in the
4 Indigenous community by uttering the "F" word and I uttered
5 the "F" word very often because I am an Indigenous
6 feminist.

7 My belief is very much -- and I was saying
8 earlier that it seems to coincide with my Indigenous
9 beliefs as well that we place women at the centre of the
10 conversation and that did happen in our communities until
11 the colonization process stole that from us. And so
12 feminism means putting women at the centre of the
13 conversation, at the centre of inquiry.

14 In consciousness raising, when I used to
15 teach women studies, one of the tools that I used early on
16 was this triangle and it relates to the consciousness
17 raising concept.

18 In the triangle, we have the personal
19 experiences that we have at one point and the other two
20 points Indigenous women often miss, we think that our
21 personal experiences of the violence we experienced, the
22 poverty we experienced, the theft of our children, the
23 condemnations and putdowns that we have coming at us, and
24 the fact that many of us end up in prostitution or we end
25 up in prison, we blame ourselves for all of that and we

1 think we're such a dismal failure in this Canadian society.

2 But the fact is there are two other parts of
3 that triangle. There are the ideology and the systems at
4 play, the belief systems at play. And so in Canadian
5 society, Canadians justify in their own mind. They put us
6 down as justification for stealing our land and our
7 resources. So they have to put us down. They have to make
8 us feel lesser than in order to feel okay about the
9 egregious crimes that they've perpetrated against us in
10 stealing everything from underneath us.

11 So those belief systems really shape how we
12 live our lives and how we are viewed, the perception of
13 Canadian society. So ideologies and beliefs are very
14 critical.

15 And then third part of the triangle are the
16 systems, the laws, the institutions, the bureaucracies and,
17 in our case, you know, Indigenous women are not represented
18 in the political sphere and we often think it's -- you
19 know, we blame ourselves for that and we don't often look
20 at the fact that the *Indian Act* denied us that right. We
21 were not allowed to vote. We were not allowed to run in
22 band elections and the men did that.

23 And so when our land was being stolen and
24 the men had to vote to ratify that theft, women weren't
25 included.

1 And so those three parts are so critical to
2 our understanding of who we are and what has happened to us
3 and I learned that myself. I learned about my internalized
4 racism. I had a horrendous childhood and I blamed my own
5 family and my own community and a lot of people did that
6 early on when we first started talking about residential
7 school. Folks were saying, "Well, I was better off in
8 residential school compared to what I went through at
9 home". And I did go through some sexual violence and
10 physical violence and abuse in residential school but I too
11 maintained that I was treated better in residential school
12 than I was at home.

13 And it took me a long time to realize that
14 the systems that shaped my grandparents and even my mother,
15 you know, what -- why would she leave us? Why would my
16 mother leave me when I was only 4 years old, knowing what
17 she was leaving me to? And so, it took me doing a research
18 project in one of my women's studies courses to examine
19 those other parts of the triangle to understand what had
20 happened to her.

21 So in our consciousness-raising groups, what
22 we do is we talk, we talk about the things that are going
23 on right now. In our AWAN group, what women were talking
24 about was child welfare issues, for example, child theft
25 issues, I should say, and they were talking about racism

1 with regard to trying to find housing, and people openly
2 saying we don't rent to Indians. And those sorts of things
3 that they were experiencing, they bring that into our
4 talking circle.

5 And like the Inquiry, you know, we did the
6 hearing the stories first, we heard the stories. The next
7 part is examining, you know, you have institutional and
8 expert, we did a scan of the institutions and what systems
9 were impacting us and what could we do about our lived
10 reality.

11 And so, the next part of consciousness-
12 raising, or in education, we call it praxis, in popular
13 education we talk about praxis where you take action. So
14 you don't just sit in a circle and cry on each other's
15 shoulders and complain about what's happening in your life,
16 the next part is the responsibility lies with me and with
17 this group. So with this group, we organize together, and
18 we take action.

19 And that's what we did in AWAN. We took
20 action on a whole number of things, and we always shared
21 experiences, growth, success stories in what we were doing.

22 And so, consciousness-raising, in a feminist
23 context, was effective back in 1995 when we started AWAN
24 and it's very effective today in the work that we still do
25 in the Aboriginal Women's Action Network.

1 **MS. CHRISTA BIG CANOE:** I understand that
2 you have actually prepared a slide presentation. I'm going
3 to ask if we can call that up now.

4 **MS. FAY BLANEY:** While we're waiting for
5 that, I want to speak to some of my earlier works before
6 the pictures even.

7 In 1980, I was pretty green and young, and I
8 got hired by the Union of B.C. Indian Chiefs to coordinate
9 a child welfare study. And in that time, one of the young
10 chiefs in B.C., he -- his younger brother suicided when he
11 came back to the community and their whole family were put
12 into child welfare systems. And he wanted us to organize
13 on child welfare.

14 So being the coordinator of child welfare, I
15 did a lot of organizing around the province in different
16 communities, and I'm really proud to say that by the end of
17 that effort, we mobilized a thousand Indigenous peoples
18 from all around B.C. And they caravanned into the city in
19 their vehicles from all different parts. And we marched
20 from Nat Bailey Stadium and we marched into the Shaughnessy
21 area.

22 And we went to Grace McCarthy's house, she's
23 just passed away now, but back then she was the Minister
24 for Children and Families. There was a different title to
25 that ministry. But there were a thousand of us that

1 mobilized to address child welfare.

2 And I guess the other point I would make
3 about that action is that, similar to what you've been
4 saying, there is a whole lot that the state can do right
5 now with regard to male violence against Indigenous women.
6 They know what the issues are, they know what the problems
7 are, and they know what the solution is, but we need
8 political will for them to do something about it, something
9 about what's been happening to the women's movement across
10 this country.

11 And with the issue of child welfare, they've
12 known all along that they're stealing our kids, they know
13 the level of devastation in our communities, and we've been
14 telling them. And -- yeah.

15 But I guess I'm -- what I'm getting at there
16 is just the state laws, like the human rights law that
17 we're talking about and the levels that they reach. But
18 what's not being spoken about are the natural inalienable
19 rights that we have as human beings to keep our own
20 children, to be supported to keep our own children.

21 **MS. CHRISTA BIG CANOE:** I think your
22 presentation is up, so if you want to start.

23 **MS. FAY BLANEY:** Is it going to start?

24 **MS. CHRISTA BIG CANOE:** Can we get the next
25 slide?

1 (SLIDE PRESENTATION/PRÉSENTATION DE DIAPOSITIVES)

2 MS. FAY BLANEY: Okay. I'm going to keep
3 talking. I have a lot to talk about.

4 MS. CHRISTA BIG CANOE: Or we can -- you can
5 just pull up the next slide, please.

6 MS. FAY BLANEY: So in 1982, I was one of
7 those women that was known as the Concerned Aboriginal
8 Women. Not too many people remember that. There's too
9 many young people these days.

10 But the Concerned Aboriginal Women occupied
11 the regional headquarters of the Department of Indian
12 Affairs. Back then, they didn't have the level of security
13 that they have now. You need those fobs to gain entrance
14 from one level to the next level, you need a whole bunch of
15 fobs, so they don't give us free access anymore. But we
16 were in there for eight days.

17 And one of my supporters that was helping me
18 to prepare for today, she was asking me to remember the
19 women that have impacted me when I'm getting -- oh, my god,
20 I see myself over there -- the women that impacted me when
21 I'm getting scared, when I'm sitting up here and getting
22 scared.

23 And so, when I think of that occupation, I
24 think of Dorothy Jeff (phon.). She was bristly, prickly,
25 tough, but she really woke something up in me when she was

1 talking about the babies in those walls. That's one phrase
2 of hers that I'll never forget.

3 In residential school, she was talking about
4 the forbidden. We were not allowed to talk about what
5 happened to us in residential school, but she was talking
6 about the babies in the walls.

7 Are they going to show the pictures?

8 **MS. CHRISTA BIG CANOE:** Next slide. To the
9 next slide. There we go. Thank you.

10 **MS. FAY BLANEY:** Oh, nice. When we heard
11 that the Inquiry was going to proceed, I worked in
12 partnership with Vancouver Rape Relief and women's
13 shelters. I really raise my hands to them for helping with
14 that effort. And we brought together Indigenous women,
15 mainly from the Lower Mainland but also from other parts of
16 the province and other parts of the country, and I think
17 that's what this picture is about.

18 So we held two meetings. We held one at the
19 Friendship Centre on International Women's Day. It was a
20 three-day, so we met on Friday night.

21 The women -- we were in a talking circle for
22 the very first night, and it went quite long. And they
23 proved me right. I think that we would be hard-pressed to
24 find Indigenous women that don't share the story that I
25 just shared about the levels of male violence that I

1 experienced in my life. It's like every single one of
2 those Native women were talking about the male violence
3 that they experienced in their lives.

4 This is our Journey for Justice. That's our
5 raft. And lucky for us, we have young Indigenous feminists
6 in our midst, and they're always -- they got these ideas
7 about rafting. And the -- and the older women in the group
8 were terrified at the thought of being on that raft.

9 And the two elders that were landlubbers,
10 one was a Cree, never been on the water, and she was just
11 traumatized at the thought of water. The other one is from
12 B.C., but she also is really afraid of the water.

13 And after the strength of the women that we
14 had heard on the journey, in the focus groups, in the
15 rallies, they just were so inspired, and would you believe
16 -- I hope Donna Dickason is watching today as we're talking
17 about this. I think she might be watching online. She was
18 one of them, when they were coming through hell's gate, she
19 was at the front of that raft taking in all the wind and
20 the beauty of that. So she really -- oh, are we on this?

21 **MS. CHRISTA BIG CANOE:** Just go back one,
22 please.

23 **MS. FAY BLANEY:** There are other pictures of
24 action in that -- I don't know what happened to them. One
25 of them, I worked with Angela McDougall here. We worked

1 together to organize the protest for the Cindy Gladue
2 decision. I don't know where that picture is, but there's
3 a photo ---

4 **MS. CHRISTA BIG CANOE:** A few moved here.
5 There we go. Oh, back. There you go. Thanks.

6 **MS. FAY BLANEY:** Oh, this is the women's
7 memorial march. I chaired that committee for two years
8 after Marlene George left and AWAN has been involved in the
9 -- one of us or several of us have been involved in the
10 years since these marches have been happening, and they've
11 been going for I think 26 years now. And we organized
12 around the Cindy Gladue decision and brought out a lot of
13 people. We also organized on the Pamela George case, when
14 that happened, and it was with another group in Vancouver,
15 the WAVAW women helped us to organize that event.

16 **MS. CHRISTA BIG CANOE:** Would you like us to
17 go through the pictures, to go through other pictures? Can
18 you move to the next slide, please? There's this one.

19 **MS. FAY BLANEY:** I don't have my -- oh,
20 there's my glasses. Oh, that one is -- that's my favourite
21 pastime, I think, is trying to teach indigenous feminism
22 101. So we set up a talk at Native Education College, and
23 I just went through the history of the *Indian Act* and the
24 impact that it's had on Indigenous women and why it is that
25 we have marginal status today in our communities. So

1 that's what that was and we had a really good turnout.

2 We had some budding activists that were
3 making their views known about how angry they were about
4 the ways that indigenous women are being treated. So I did
5 that. I also did a series of six workshops on a variety of
6 aspects of the experiences of Indigenous women, I guess
7 that's the beauty of being retired, or being this old. I
8 get to go and do some of those kinds of things.

9 MS. CHRISTA BIG CANOE: I'll put the next
10 pictures up. Can we get the next slide, please?

11 MS. FAY BLANEY: Oh, that's the ---

12 MS. CHRISTA BIG CANOE: Cindy Gladue.

13 MS. FAY BLANEY: That's the Cindy Gladue
14 protest that we had. And the ones at the front, the ones
15 in the image, are the Indigenous women. And who it doesn't
16 include are all the allies and supporters that are on this
17 side of the camera. It was a really good turnout. There
18 were a lot of people that came out, and I know that this
19 happened across the country as well, so that's a really
20 good thing.

21 MS. CHRISTA BIG CANOE: And can we get the
22 last slide up, please?

23 MS. FAY BLANEY: This one is an action by --
24 oh, I can't remember her name. She's talking about food
25 sovereignty. Yeah, Dawn Morrison, that's who it is. And

1 she did a talk on CBC, I just love her politics around food
2 sovereignty and the issues that we face in our Indigenous
3 communities and in the last presentation there was talk
4 about health, and health is really bad in our communities.
5 And she was talking about salmon, which is a topic that's
6 very near and dear to my heart. I love salmon.

7 And so, we did this march with a whole bunch
8 of women, and I really like the picture because the cedar
9 cape is made from my reserve, which is the Homalco First
10 Nation, and my relative Glyda Hanson is the one that
11 brought that into another Indigenous women's group in
12 Vancouver, the Pacific Association of First Nations Women.
13 They have -- they use those cedar robes for the various
14 actions that they undertake. There it is.

15 **MS. CHRISTA BIG CANOE:** Yes, we found it in
16 the interim.

17 **MS. FAY BLANEY:** Oh, okay.

18 **MS. CHRISTA BIG CANOE:** So just as a matter
19 of housekeeping, we have located the AWAN five-page policy
20 that Fay was talking about. We can undertake over the
21 lunch to get copies to provide to parties with standing in
22 the room. I have provided you each one, if we could have
23 it marked as an exhibit. It's titled, "Aboriginal Women's
24 Action Network Restorative Justice Policy".

25 **CHIEF COMMISSIONER MARION BULLER:** Yes,

1 that's the next exhibit. Thanks.

2 --- EXHIBIT NO./PIÈCE NO. A10:

3 Aboriginal Women's Action Network
4 (AWAN) Restorative Justice policy
5 (three pages)

6 MS. CHRISTA BIG CANOE: Just cognisant of
7 time, I've got only one more question and then I'm going to
8 track us to recommendations, yeah?

9 MS. FAY BLANEY: M'hm.

10 MS. CHRISTA BIG CANOE: Thank you.

11 So obviously, I think we could probably talk
12 all day, you're a wealth of experience, particularly on
13 things like Indigenous feminism, or how you mobilize
14 community to conscious -- to consciousness awareness, is
15 really important. So one of the things though, it's -- I
16 know it sounds like a basic question, but I want to tie it
17 back again to this concept of, like, human rights.

18 When we're talking about -- and you had
19 mentioned earlier, you know, racism, and sexism, and all
20 these intersections of what Indigenous women experience,
21 what is part of the purpose of conscious raising in the
22 first place? Is it so that you can share with the rest of
23 society the rights that aren't being met, or the things
24 that should be done? What is the biggest purpose of
25 mobilizing community, besides -- and I'm sure there's more

1 than one reason?

2 So can you discuss what -- why, why do we
3 come together as community, do mobilization as Indigenous
4 women? Is it for us, is it for other? Is there more to
5 it?

6 **MS. FAY BLANEY:** Well, it's for policy
7 change or institutional change, it's for the consciousness
8 raising of the larger society. Yeah, the broader society
9 really need a lot of education about Indigenous issues, and
10 so sometimes we do anti-racism work when it's called for.
11 When we're participating in various organizing groups, we
12 sometimes have to do work on anti-racism. We've done quite
13 a bit around trying to lobby for change in the -- the
14 journey for justice, for example, we did meet with various
15 government people to talk about them bringing restorative
16 justice and other forms of alternative justice into our
17 communities.

18 Today the big issue that we have on our
19 plate is the issue of prostitution. And again, we're in
20 this position where the state have made their decision. It
21 seems like the want to relegate Indigenous women to be
22 prostitutes and they're not listening to us. They consult
23 with the groups that believe in sex work, and I'm sure you
24 know the difference between prostituted women and sex work,
25 and it's the two different positions.

1 And it's been probably one of the worst
2 experience that I've had in working in the feminist
3 movement, because of the violence that we're subjected to,
4 the ways that we're being confronted for the views that we
5 hold. It's like middle class Canada can choose
6 prostitution or not choose it, and some of them have gone
7 and gotten their post-secondary education. But the women
8 that have zero choice in the matter are the Indigenous
9 women.

10 You know, the Canadian society give us no
11 options. We're forced into the poverty that we live in.
12 We're forced into the sexual violence that we experience
13 right throughout our childhoods and into our adulthoods.
14 Indigenous women experience a lot of sexual violence and I
15 am just so frustrated with the large numbers of
16 organizations and other women's groups that are promoting
17 this model of glamourizing this as a profession, and I
18 think that the Indigenous women that are forced into that
19 are -- they're not getting university degrees with the
20 money that they gain. They're not supporting their kids
21 with the money that they're getting out of it. It's
22 something completely different.

23 And I have a whole bunch of family in it.
24 You know, I don't often speak about that, but I have three
25 first cousins that are in it in the downtown east side

1 right now, and I love them dearly, and I visit them quite
2 often.

3 And I have two other cousins that have
4 suicided, and they were both in -- being prostituted as
5 young ones. One of them was being prostituted for alcohol
6 when she was a little girl, and then she did that when she
7 got quite heavily into her addiction, and she struggled
8 with her addiction all her life.

9 And so, it's -- that's what we do with our
10 consciousness-raising groups, is we take action on the
11 issues that are impacting us.

12 I have a whole lot to say about the absence
13 of work around exiting. I have a lot to say about the fact
14 that the law is in place, but the Vancouver City Police
15 refuse to enforce it. They continue to protect the
16 perpetrators of the sexual violence, they protect the men
17 that prey on our young girls, you know.

18 And -- yeah. Yeah, I can say like 10 hours
19 more on that topic. I just -- it hurts a lot. I have to
20 say it really hurts a lot, because, you know, I love my
21 family and I love the women in it, and I want more out of
22 their lives.

23 The three cousins I have there, they've been
24 there since they were little girls, and they're not that
25 much younger than me. And -- like I'm 61, and the level of

1 desperation shows when they're at the age that they're at
2 and they're still doing it. And what have they done with
3 their lives? What memories do they have to share? Yeah.

4 **MS. CHRISTA BIG CANOE:** Yeah. Thank you,
5 Fay.

6 On that basis too, though, I would like to
7 introduce Schedule E and Schedule F. So one is AWAN's
8 statement issued at a press conference. And the other is
9 the Aboriginal Women Action Network's statement on
10 prostitution.

11 I have hard copies if the link wasn't
12 printed off for you and ask that they be added to the
13 record.

14 **COMMISSIONER BULLER:** We don't have copies
15 of those.

16 **MS. CHRISTA BIG CANOE:** I have one I can
17 bring you. It was in the schedule.

18 **MS. FAY BLANEY:** May I add while she's
19 giving you that? I just -- I'm really concerned about the
20 women -- you know, you're talking about wanting to reach
21 all of the women for this Inquiry. I think those are the
22 women that you're not reaching, are the women that are
23 being prostituted.

24 The women from the Pickton Farm, one-third
25 of those women that were murdered there were Indigenous

1 women that were in prostitution. And I knew some of those
2 women.

3 And one of them -- my mentor asked me to do
4 a list of the women that hold me up. I mentioned Dorothy
5 Jeff. There are two other women I have on my list, and one
6 of them was one of the women found, her human remains were
7 found on the Pickton Farm.

8 And she was in the Learning Centre where I
9 was working, and she came in and she said, "Oh, I know I'm
10 Indian. I know I'm Cree, but I just don't know which
11 province I'm from." She was from the child welfare system.
12 And her head was found on the Pickton Farm in the freezer.

13 **COMMISSIONER BULLER:** Just for our
14 recordkeeping, the AWAN statement issued at press
15 conference will be an exhibit, as well as the Aboriginal
16 Women's Action Network paper on prostitution. Thank you.

17 --- **EXHIBIT NO./PIÈCE NO. A11:**

18 AWAN statement (one page)

19 --- **EXHIBIT NO./PIÈCE NO. 12:**

20 AWAN declaration on prostitution (two
21 pages)

22 **MS. CHRISTA BIG CANOE:** Thank you.

23 I'm going to get you to do the
24 recommendations now.

25 **MS. FAY BLANEY:** Okay.

1 **MS. CHRISTA BIG CANOE:** Commissioners, there
2 was recommendations left on your table, like a two-page
3 document.

4 Fay, I understand that you have more than
5 six recommendations, but these are the ones that you want
6 to focus on providing to the National Inquiry today. So I
7 was wondering if you could actually walk us through your
8 recommendations, and then I'll seek to exhibit the
9 document.

10 **MS. FAY BLANEY:** All right. So I was -- the
11 first one is to encourage the Inquiry to approach this from
12 a gendered lens. When the pre-Inquiry was happening, they
13 were constantly talking about colonization, and I don't
14 think there's enough recognition of the fact that
15 colonization impacts us very differently, men and women.

16 Men have been bestowed a whole lot of
17 patriarchal privilege from the *Indian Act* and are --
18 they've been taught very well how to be patriarchal in our
19 communities. And I fear that men may not be willing to
20 give up the patriarchal power that they have, and in fact,
21 some of them have claimed patriarchy to be a tradition,
22 even though we know that that culture comes from a
23 matriarchal tradition. So they reinvent culture to align
24 with what the *Indian Act* says they have, that they have
25 patriarchal privilege now.

1 I guess with that one, I -- mainly to people
2 at the grassroots level. Whenever I we talk about women's
3 issues, they bring up, "Well, what about balance?" And I
4 think that we really need to look at the fact that there is
5 zero balance in our community. Somebody's got to open
6 their mouth and say that, but there is no balance right
7 now.

8 It's -- men control the private sphere and
9 the public sphere, and the private sphere is the family
10 unit where, you know, we have our Indian status because of
11 the men in our lives. I have status because of my husband,
12 and before that, I had status because of my father. And
13 so, in our world, men hold all the cards and we hold none.

14 So I think it's really important to look at
15 what are we talking about when we say balance, and let's
16 bring balance back, I say. Let's decolonize by bringing
17 our matriarchal traditions back.

18 The second one, the abolition of
19 prostitution. I've said a whole lot about that.

20 I think one of the distinctions that's being
21 made with the groups that disagree with us is that they
22 don't see prostitution as being part of male violence, and
23 I believe that it inherently is part of male violence
24 against women. It's legalized rape, you know, when men
25 purchase women for sexual purposes.

1 And the fact that the state has decided to
2 separate out human trafficking from prostitution. And in
3 Vancouver, they have laid charges on the grounds of human
4 trafficking and refuse to arrest anyone under the new
5 prostitution laws of arresting Johns. They don't do that,
6 and they're allowed to get away with that. I don't
7 understand that. And they shouldn't be separated. I mean,
8 human trafficking and prostitution are along the same
9 lines.

10 And yeah, we just call on the city police to
11 enforce the law, *The Protection of Community and Exploited*
12 *Persons Act*, as a way of reducing the demand for paid
13 access to women and girls' bodies.

14 And exiting services, I did talk about that
15 earlier as well. We seriously need exiting services that
16 include detox on demand. We need recovery homes and
17 safehouses. I had no clue how difficult it was for
18 Indigenous women to escape prostitution, and more recently,
19 I've been talking to them about that and finding out how
20 difficult it is to get out.

21 And so, there is Christian services, exiting
22 services in Vancouver, but there is -- when you think about
23 the numbers of Indigenous women that are in prostitution,
24 there isn't a safe place for them to go, programs and
25 services for them to attend to. There is the exiting

1 service that's there, but it doesn't include the elements
2 that I've spoken about.

3 The third one is on restorative justice, and
4 I won't spend too much time on it because you do have the -
5 - our position paper. I guess we would just highlight the
6 power imbalance within our communities, the utter denial
7 that there is a problem with male violence against women in
8 our communities.

9 The things that happened to me, I never
10 learned that it was male violence against women, it wasn't
11 articulated. I wasn't allowed to say it. When I did speak
12 it when I was maybe -- three was the first time I spoke it,
13 I got in trouble for saying that I was being sexually
14 abused. I got in trouble. And then I said it again when I
15 was nine and I got in trouble. And I think that's pretty
16 common.

17 So there's a denial that there is any issue
18 of violence in our communities. And we really lack the
19 capacity in our communities to address the issue of
20 violence. There aren't enough services to address.

21 When I was working with my Band, I tried to
22 get funding for an anti-violence worker, and they just said
23 there's no money. Sorry, we can't help you, there's no
24 money. And I'm trying to say to them, look, there is gang
25 rapes, there is women landing in hospitals, and I just

1 ended up getting pushed out of my community because of what
2 I was saying. I was speaking the wrong things.

3 I think the next point is so critical, the
4 substantive equality that's guaranteed to us under the
5 *Charter of Rights and Freedoms*. We have that guarantee,
6 and it is a federal obligation. But this government and
7 other governments before it have decided to view women's
8 issues as a service issue, and they've tried to do that
9 with anti-violence work as well.

10 And that's why I am so fond of the women in
11 Vancouver Rape Relief because they don't see it as a
12 service issue, you know, and they see it as a place where
13 you -- the consciousness-raising happens, and women begin
14 to understand what they're going through.

15 And my friend, Sherry Smiley, actually a
16 couple of days ago was talking to me about the parallels
17 between battered women and battered wives and how they
18 decide to stay, you know, and why they decide to stay, and
19 the issue of prostitution and why they decide to stay. And
20 she was doing the compare and contrast and that really
21 opened my eyeballs.

22 But yeah, it is -- I think that the treating
23 of transition house workers as service providers, as a
24 program, is highly problematic, and I really believe that
25 we need to politicize that work and recognize that it is an

1 issue of women's equality. And so, what I'm recommending
2 here is that the federal government reinstate funding for
3 women's programming for women's centres.

4 And within those women's centres there's a
5 whole lot that we can get done, you know. We can identify
6 -- you know, we are the experts of what's happening to us
7 and we can do the similar kind of work that we do in AWAN,
8 you know, just understanding what are the issues and doing
9 our own research and doing our own political lobby.

10 And right now, we're -- like the Cree women
11 here, we operate without an office, without funding,
12 without staff. I mean, we still do the work. And it
13 shouldn't be that way. So I say to the feds, they better
14 get busy and reinstate our funding.

15 Women only spaces in women's healing. I
16 have been through that route myself. I went to a treatment
17 centre when I first sobered up. I have been sober for
18 35 years now, and I -- hard to believe from where I came
19 from with the drugs and alcohol that I did when I was
20 young.

21 I was in one program, it was actually a
22 training program. It was supposed to be a sexual abuse
23 counsellor training program. We were unfacilitated for one
24 full month of talking circles. We were sitting with men
25 that were offenders. They were raving about their offences

1 in the guise of healing, and us survivors were cringing and
2 being triggered and falling apart. And I fought, and
3 fought and fought, and eventually they kicked me out of the
4 program.

5 So I just think that women only spaces are
6 so important that we don't have co-ed healing like
7 currently exists, when you go to a treatment centre,
8 there's always men there. And detox, currently, the
9 detoxes in Vancouver they're in short supply, but what's
10 worse is that women are put into the same detoxes as the
11 men.

12 Oh yeah, and then the politics. Me and my
13 politics. I'm saying that within those healing centres,
14 that they have to give some understanding of the
15 oppression, the systems and institutions and beliefs that
16 oppress them. Because invariably we blame ourselves for
17 our -- "our failures", you know. And those things that
18 happen to us come from the dominant society and yet we're
19 to carry that burden.

20 So I think that any new programs have to
21 move away from the Western model of individualizing our
22 problems. You know, we are Indigenous people, we're
23 communal people, and why aren't we looking at our healing
24 as a communal process?

25 So -- and then the last one is the *Gladue*

1 decision where I think far too often it's being used in
2 these cases of male violence against women where they take
3 into account men's colonization. They say, oh, the guy
4 went to residential school.

5 And you have it in your -- from your
6 testimony in Vancouver, my cousin gave her statement. Her
7 niece was very young, had a little girl. She was murdered,
8 like a couple of years ago, three years ago, maybe. And
9 the guy was being sentenced, and the *Gladue* decision came
10 into play and they were listing all the impacts of
11 colonization on him and why he should have a reduced
12 sentence.

13 But what about her? Like the niece is dead.
14 That child is never going to see mom again. And so I don't
15 think that these lenient sentences on the basis of *Gladue*
16 should be done on the backs of Indigenous women who are
17 experiencing male violence.

18 **MS. CHRISTA BIG CANOE:** Chief Commissioner
19 and Commissioners, that actually will conclude the
20 questions I have for Ms. Blaney.

21 And I would request at this time -- it's now
22 1:25, I would like to request a 30-minute lunch. I believe
23 lunch is being provided in Room F. And it's mostly because
24 I'm aware that people have also been waiting, so for the
25 health purpose break and the need for sustenance and food.

1 And when we return, I will have Ms. Blaney here if you have
2 questions before we call the next witness.

3 **COMMISSIONER BULLER:** Thirty (30) minutes,
4 please.

5 **MS. CHRISTA BIG CANOE:** Thank you.

6 --- Upon recessing at 1:26 p.m.

7 --- Upon resuming at 2:13 p.m.

8 **FAY BLANEY, Resumed:**

9 **MS. CHRISTA BIG CANOE:** Thank you.

10 If I could ask if we can restart.

11 As you'll recall, I have knowledge-keeper
12 and expert, Fay Blaney with me. I have finished asking the
13 questions in examination in-chief but wanted to ask the
14 Commissioners if they had questions before we call the next
15 witness.

16 **COMMISSIONER BULLER:** I'm going to wait
17 until after cross-examination. Thank you.

18 **MS. CHRISTA BIG CANOE:** Thank you, Chief.

19 You'll need your headset for this.

20 **COMMISSIONER AUDETTE:** Merci beaucoup,
21 Me Big Canoe. En effet, je vais avoir une question pour
22 notre témoin, Mme Blaney. D'abord, avant de commencer, je
23 veux dire un gros merci pour venir nous partager ici votre
24 expertise, vos connaissances et, évidemment, vos
25 recommandations. Good. À quelques reprises, vous avez

1 mentionné la loi sur les Indiens, la loi C-31, le projet de
2 loi C-31; donc, on parle ici des amendements apportés à la
3 loi sur les Indiens. Dans l'histoire, pour ceux et celles
4 qui vont avoir décortiqué la loi sur les Indiens, on
5 comprend qu'en 1951 arrivent certains amendements puis on
6 va parler dans une perspective féministe, une perspective
7 « femme » ou d'égalité et d'équité. La loi C-31 est
8 supposée corriger une discrimination basée sur le sexe et,
9 ensuite, plus tard, la loi C-3, dont une femme de votre
10 territoire de la Colombie Britannique, Mme McIvor.

11 Pourriez-vous me dire, et aussi aux gens qui
12 nous écoutent, comment ces lois-là ont-elles eu un impact
13 sur les femmes autochtones et quel est, encore aujourd'hui
14 s'il y a un, l'impact sur la violence faite aux femmes?
15 J'essaie de voir s'il y a un lien avec la loi sur les
16 Indiens et la violence faite aux femmes.

17 **MS. FAY BLANEY:** I know that there is a huge
18 impact from Section 12.1(b), because Indigenous women no
19 longer had our own status. Like, we had status by virtue
20 of our father, or our husband, the men in our lives. And
21 the other aspect of it was the membership aspect under
22 12.1(b) where Indigenous women were compelled to go to a
23 community where their spouse was from. And when they
24 brought in the amendment in '85, it was really bizarre
25 where women were being reinstated in communities where

1 their ex-husband was from and they weren't accepted in
2 those communities.

3 When I talk about the matriarchal tradition,
4 this is where it really comes into play. My late aunties
5 were telling me that a long time ago the women -- the
6 sisters always stayed together. And she said the sister's
7 children were all your -- they were her children too, and
8 so they were all my brothers and sisters instead of being
9 first cousin like the way the current kinship system works.
10 And she said that the brothers went and lived with the
11 women that they married, and so those cousins were not as
12 closely related, they were a little more distantly related
13 to you.

14 And we did carry our -- the clan in our
15 culture, like, Indigenous women were the head of the clans.
16 And so then when you think about the *Indian Act* and the
17 fact that women no longer carried the clan, instead now
18 you're following a patriarchal system of going along with
19 the man's name. And I alluded to men controlling the
20 private and the public sphere, men were in charge of the
21 family. Men were the head of the family under this new
22 system, but under the old system women kept the families
23 together.

24 And we continued to carry on that tradition
25 even though, like, the *Indian Act* has done all these things

1 to us, it's still very much underneath it all, a
2 matriarchal tradition where women hold families together.
3 And families really struggle after the -- their Elder
4 passes away, the woman in the family.

5 Nineteen eighty-five (1985) was -- well, I
6 know the whole history. I'm not sure which part you're
7 asking me about. I know about the Mary Two-Axe Earley,
8 right at the beginning from the Six Nations really fought
9 for this, for the change, and then after her was Jeanette
10 Lavalle, and then Sandra Lovelace, like, it's a really long
11 history. And I was involved with the Indian Homemaker's
12 Association and they were a group that marched to Ottawa in
13 around 1982 to address this issue.

14 It went through all kinds of contortions. I
15 know that in upper and lower Canada they had -- it used to
16 be called the *Gradual Civilization Act*. How insulting is
17 that, hey? So yeah, it's always been -- I think that has
18 been like, one of the keys to the colonization process, and
19 it's also been quite the significant piece that has
20 resulted in the levels of male violence that we experience.

21 Because women's status are, you know they're
22 -- in terms of our status in society, it's negligible at
23 that point, you know, when the *Indian Act* says you don't
24 matter and the only way you do matter is by virtue of being
25 related to these men. And yeah, and our family system has

1 been turned upside down. I have big issues with the
2 nuclear family that we supposedly have these days. It's
3 very different from what we had.

4 I know that in 1951 when that amendment
5 happened, they began to post, publicly post the names of
6 people that were on the Band membership list, and it gave
7 people, or members in the community an opportunity to
8 contest someone on that list. And I know some of the
9 people that were contested as children, you know, they come
10 forward and say, "Even though this woman is not married,
11 the father of that child is non-status." And so that child
12 would be struck off of the membership list. I have a
13 friend like that.

14 **COMMISSIONER MICHELE AUDETTE:** Est-ce que
15 vous... (Rires) Mme Blaney, est-ce que vous croyez
16 aujourd'hui qu'en deux mille dix-huit (2018), la
17 discrimination à laquelle vous avez fait référence est
18 réglée, aujourd'hui, avec tous les amendements ou est-elle
19 encore présente dans la Loi sur les Indiens?

20 **MS. FAY BLANEY:** Well, Sharon McIvor fought
21 this case in the Courts and I think it's still a big issue.
22 And I love the way that she brought out the fact that men
23 gained status or bestowed status pre-1985, and those
24 descendants from those families where men had status and
25 bestowed it, they held onto status longer than the women.

1 Usually need a diagram to show people, but I guess it's
2 enough to say that under Sharon McIvor's case, her
3 grandchildren lost their status and her brother's
4 grandchildren, they still had status.

5 So there was a residual discrimination and I
6 know that there was a huge protest coming out of the
7 Indigenous community and I'm not sure where it's at exactly
8 today.

9 **COMMISSIONER MICHELE AUDETTE:** Je crois
10 qu'elle a déposé une pétition aux Nations Unies pour
11 dénoncer le projet de loi C-3 qui n'a pas réglé la
12 discrimination entre les hommes et les femmes, que les
13 femmes sont encore affectées par... même avec les
14 amendements. C'est la compréhension, à la lecture des
15 documents.

16 Ma dernière question est plus : qu'est-ce
17 qu'on pourrait, comme commissaires, mettre dans un rapport
18 important, pour l'Enquête nationale? En vous écoutant, on
19 sait qu'il y a une discrimination systémique ; vous avez
20 fait mention de la Loi sur les Indiens et ses lacunes ou
21 justement, la Loi graduelle d'émancipation des sauvages.

22 Et ensuite, le pouvoir des hommes, qu'ils
23 soient dans la sphère publique ou privée; dans nos
24 communautés, on se retrouve avec ces hommes, au quotidien,
25 que ce soit nos pères, nos frères, nos fils ou nos petits-

1 fils. On nous parle aussi... vous nous parlez de cette loi-
2 là, la Loi sur les Indiens. Comment on peut amener des
3 recommandations, comme commissaires, pour enlever la
4 discrimination systémique et faire en sorte qu'il y a un
5 meilleur partage et un meilleur équilibre entre les hommes
6 et les femmes dans nos communautés? Quelles seraient vos
7 recommandations?

8 **MS. FAY BLANEY:** More fairness? So are you
9 referring to the *Indian Act*? Should we have one, or
10 shouldn't we?

11 **COMMISSIONER MICHELE AUDETTE:** No, I'll try
12 in English.

13 **MS. FAY BLANEY:** Okay.

14 **COMMISSIONER MICHELE AUDETTE:** You mention
15 about the discrimination because of the *Indian Act*, and
16 also power of the men in private and public sphere. As
17 women in our communities, we're facing the lateral violence
18 or the systemic violence.

19 **MS. FAY BLANEY:** M'hm.

20 **COMMISSIONER MICHELE AUDETTE:** What would
21 you recommend that we put in the report, so we can break
22 those -- the reality that women are not equal in our
23 community.

24 **MS. FAY BLANEY:** Okay. Okay. Thank you for
25 that.

1 Well, one of -- I think it was the third or
2 the fourth recommendation, I was talking about the
3 importance of the Independent Women's Movement, and I think
4 that is so critical. Indigenous women often don't have a
5 voice, and I think we can go around the room and have long
6 lists of women that we know that don't have a voice. We
7 have this dynamic where we're forever breaking the silence.
8 That's why so many reports are called "Breaking the
9 Silence", because we keep breaking it and then we keep
10 getting shut down again and again and again.

11 And so I think that Indigenous men are not
12 prepared to give up privilege. I really -- I highly doubt
13 they're willing to give up privilege, and I think we need
14 to organize amongst ourselves as Indigenous women.

15 And the other part of that is the importance
16 of alliance building with non-Indigenous women. I think
17 that's where we find the most solutions.

18 I was at another event this past weekend in
19 Ottawa, and there was this legal expert from the
20 international arena, and she was saying when you look at
21 the progress that's been made, it has consistently been
22 made from women organizing with women. Like, we can't
23 stress that enough. All these actions of trying to pass
24 international human rights declarations, they don't --
25 they're not effective because they don't have the machinery

1 in place to enforce or to monitor or anything like that.

2 And so meaningful change comes from women
3 organizing with women.

4 And the recommendation that I left out -- I
5 had to leave some out because I had too many -- I was
6 saying that we're in a -- we're still in that dark age
7 after all the gains that we made in the Women's Movement,
8 you know, where we had women centres. We had NAC, National
9 Action Committee on the Status of Women. And NAC was
10 implementing an affirmative action policy where they were
11 bringing in Indigenous women, women of colour and just
12 trying to be inclusive, women with disabilities, lesbians.
13 Like, they just were really working hard at their
14 affirmative action policy.

15 And so, yeah, that's number one in my mind
16 is women working in alliance with other women.

17 And if I look at my history, that's where my
18 work has been done. You know, I mentioned earlier about
19 organizing with Angela. I've organized with rape relief,
20 and I organized with WAVA (phonetic). Before that, it was
21 the Women and Indian Homemakers. It's women in the
22 communities.

23 In '95 I did a research project that we were
24 submitting to the Royal Commission on Aboriginal Peoples.
25 Women in those communities are so willing to come forward.

1 One from Bernie's community there, we went to Haida Gwaii,
2 and the women just came forward in large numbers to make
3 sure that we had the space to be able to talk about male
4 violence in our lives.

5 So, yeah, women need to be supported. We
6 need to be protected as well, I think. We face
7 discrimination too when we start to do this. There's a
8 huge push to silence us, and the push is not just coming
9 from the men. It does come from our own women that believe
10 that men should be the patriarchs that we follow. And it's
11 very difficult to unlearn. You can't blame women for that.
12 I mean, we Native people struggle with the very same thing
13 around the superiority of white people. It took me a while
14 to overcome that. You know, for a time I thought I was
15 such a bad person -- in my teens.

16 **COMMISSIONER QAJAQ ROBINSON:** Thank you.

17 I have a question, and it's very similar to
18 what Michele has asked, but I want to ask it anyway because
19 I think it might be a little bit nuanced.

20 You spoke about in the context of
21 restorative justice. I think the words you used were
22 "We're just not ready to take on those kinds of, I guess,
23 responsibilities". And we've heard from a number of
24 families across the country who have struggled with systems
25 that have been delegated to their communities, whether it's

1 child welfare or policing, and the challenges they face are
2 numerous. We hear some accounts of nepotism, some blatant
3 exploitation of their positions of power. But we also hear
4 from families and survivors talking about the need for
5 community to -- and I think what I've heard is we need to
6 be given the space and the ability to do things our way.

7 How do we get from "We aren't ready" to
8 being able to do things our way. Like, those two, I don't
9 think there's a contradiction there, but there's a bit of a
10 tension.

11 **MS. FAY BLANEY:** M'hm.

12 **COMMISSIONER QAJAQ ROBINSON:** And I was
13 hoping you could share some thoughts you have about how we
14 move past not being ready?

15 **MS. FAY BLANEY:** M'hm. Oh, absolutely.

16 The Royal Commission on Aboriginal Peoples
17 in 1996, in their report they told us that overwhelmingly,
18 the university degree holders were women, Indigenous women,
19 and yet you look at the presidents of societies, the
20 executive directors, the chiefs, you know, all of the CEOs,
21 they're mostly men. How did we get there? Like, how in
22 the heck is it that women are so well educated and yet
23 can't reach any level of having any power and control over
24 the things that affect our lives?

25 And if you ask the youth like my son, he'll

1 say, "It's the baby boomers; they're the problem." And the
2 baby boomers are buying into the Chief-in-Council stuff.
3 You know, in B.C., as Audrey -- there she is back there --
4 about what the chiefs are doing to our resources and the
5 decisions that they make under the *Indian Act* system is
6 such a dismal failure. The *Indian Act* makes the chief
7 accountable to Indian Affairs. And who is accountable to
8 the people now?

9 And so that really teaches a hierarchal
10 model of decision making which is so contrary to what it is
11 that we adhere to, but when you talk to the women, I mean,
12 it's a whole different ball game. And we never reach
13 positions of power and authority and decision making.
14 We're kept out.

15 Even with the level of my education, I can't
16 get hired anywhere. It's because I'm a woman with an
17 opinion, and nobody wants a woman who has something to say.
18 If it's a guy with no education and he has something to
19 say, you bet he'll get hired. And it's like that in our
20 communities.

21 The level of grossness amongst those men in
22 that leadership is really disturbing. When I was managing
23 treaty with my band, they were making rude jokes about the
24 illegitimate children that they were having. What kind of
25 joke is that? I'm just so offending. I was disgusted, and

1 I couldn't express my disgust because I was in a room full
2 of men. We were at a Fisheries meeting. They were trying
3 to negotiate how are we going to bring the people from the
4 north. And one guy said, "Oh, I've got kids up there."
5 They have kids all over the place and they don't bother to
6 take any responsibility for them.

7 But I think when you empower women, we take
8 on the roles that we had in our traditional society of
9 caring for our family and community. And I think that's
10 what my puberty rights were about, was caring for family
11 and community. And women know how to do that when we're
12 not caught up in trying to survive.

13 So the answer is the same, autonomous
14 Indigenous women groups.

15 **COMMISSIONER QAJAQ ROBINSON:** You talked
16 about the *Indian Act* governance model, and there's a lot of
17 people calling just for the complete abolishment of that.

18 How do we change the systems of power and
19 control, whether it's chief and councils established under
20 the *Indian Act* or even municipal governments, provincial
21 governments and federal? Do you have thoughts on how those
22 institutions could be reformed?

23 **MS. FAY BLANEY:** I don't know about those
24 institutions. What I've recommended is that anything that
25 impacts us that they talk to us. We need to be consulted.

1 You know, the Native community are so big right now on the
2 duty to consult and to accommodate and we're completely
3 left out of that equation. And so before we get ourselves
4 elected in those places, I think we need to have our
5 authority recognized that we do have authority.

6 You know, we have authority by virtue of
7 what we've done to keep our communities surviving and I
8 think much of the survival of the First Nations can be
9 attributed to us and there is that -- the Cheyenne proverb
10 about the hearts of the women on the ground. You know,
11 they believe it. They believe that we hold power as life
12 givers and we hold power as leaders in our communities.

13 **COMMISSIONER QAJAQ ROBINSON:** Thank you.
14 Those are all my questions.

15 **COMMISSIONER BRIAN EYOLFSON:** I just have
16 one sort of follow-up question I guess.

17 You had mentioned and you referred to racism
18 and resistance in Canadian society and I think as well you
19 referred to -- when you were talking about belief systems,
20 justifications and ---

21 **MS. FAY BLANEY:** Oh, the triangle.

22 **COMMISSIONER BRIAN EYOLFSON:** Yes, and you
23 referred to justifications and Indigenous people being put
24 down and that sort of thing. So I was just wondering if
25 you had any thoughts based on your experience and education

1 or otherwise about how one can go about combatting,
2 challenging or changing those attitudes in broader Canadian
3 society and any views towards recommendations on that?

4 **MS. FAY BLANEY:** Well, I work with a friend
5 who is watching me right now, Kysa (phon.), and we're
6 organizing a reconciliation circle and before that I was
7 organizing similar reconciliation circles, Bright New Day
8 Reconciliation Circles.

9 And what we do there is we unseat settlers
10 from their positions of power first of all by way of them
11 coming into our space. So before the event starts, they're
12 outside. When they enter the space, they have to enter it
13 according to our protocols and we have long protocols. You
14 know, it takes the whole half day for us to get through the
15 protocols of calling, you know, asking to come in first of
16 all, whose place are we in, and then the leadership
17 welcoming you and blanketing you and getting witnesses.

18 Like you guys did that in Vancouver and
19 yours was probably half an hour while ours goes for half a
20 day. We make sure that they -- when they're entering the
21 space, they get the history of the nation that's there as
22 well.

23 And so you can't just walk in and stake a
24 territory by putting your person, your coat on. It's not
25 your space to stake a claim here.

1 And so that's really effective by starting
2 on that footing where settlers are uncomfortable, you know,
3 and then we go into telling our stories. So we tell our
4 stories and it's not just us, residential school survivors,
5 telling our stories but the settlers have to tell their
6 stories too, like how did you land here in my territory and
7 what have you been doing here. You know, and how did you
8 benefit from settling here for two or three generations,
9 you know, and it's not like well they -- sometimes they
10 say well, I've been on that farm for five generations and
11 I'm now an Indigenous citizen of Canada. You know, it
12 doesn't work that way. Whose territory are you on?

13 And so we do that and often it's the first
14 engagement that they've had with Indigenous peoples. So I
15 really like that process. I didn't believe in it much when
16 I first started doing that work but now I really see the
17 difference that it makes in bit by bit reaching out to
18 settlers to get them to have -- you know, have, as my aunt
19 would say, a rude awakening into where they are and how
20 they got there. So educating through those circles I think
21 is one way.

22 **COMMISSIONER BRIAN EYOLFSON:** Thank you very
23 much.

24 **MS. CHRISTA BIG CANOE:** Commissioner
25 Audette, I understand you have another question?

1 **COMMISSAIRE MICHÈLE AUDETTE:** Oui, merci
2 beaucoup. Merci, Maître Big Canoe.

3 J'avais oublié de vous dire merci d'avoir
4 mentionné les femmes du "Downtown Eastside", des femmes et
5 des familles qui ont été affectées par le tueur en série et
6 évidemment de nous rappeler que l'enquête aurait pu aller
7 beaucoup plus loin pour aller entendre les témoignages de
8 ces femmes-là aux prises par la prostitution.

9 Alors ça je vous l'accorde et nous espérons
10 pouvoir justement rejoindre le plus de gens possible dans
11 des situations de vulnérabilité.

12 Et dans un de nos exercices, l'industrie du
13 sexe, la prostitution fait partie de vos questionnements
14 puis de nos préoccupations et vous avez entendu parler des
15 femmes qui ont recours à la prostitution non pas par choix.

16 Alors est-ce que cela constitue une
17 violation des droits humains? Si oui, lesquels?

18 **MS. FAY BLANEY:** I think we have a natural
19 right, an inalienable natural right to safety and security
20 of the person and I think when women are being sold, their
21 bodies are being sold, they're being paid for to be legally
22 raped. It's not safe and secure.

23 **MS. CHRISTA BIG CANOE:** Thank you,
24 Commissioners. At this point, I want to thank the witness
25 Fay Blaney for her examination in-chief and I would just

1 ask for a couple minutes so we can reset to have the next
2 witness Naiomi Metallic.

3 **CHIEF COMMISSIONER MARION BULLER:** Five
4 minutes, please.

5 --- Upon recessing at 2:42 p.m.

6 --- Upon resuming at 2:51 p.m.

7 **MS. CHRISTA BIG CANOE:** I have the pleasure
8 of introducing you to Professor Naiomi Metallic.

9 Mr. Registrar, Ms. Metallic would like to
10 affirm in, please.

11 **MR. BRYAN ZANDBERG:** Good afternoon,
12 Professor Metallic.

13 **MS. NAIOMI METALLIC:** Good afternoon.

14 **MR. BRYAN ZANDBERG:** Do you solemnly affirm
15 to tell the truth, the whole truth, and nothing but the
16 truth?

17 **MS. NAIOMI METALLIC:** I do.

18 **NAIOMI METALLIC:** Affirmed

19 **MR. BRYAN ZANDBERG:** Thank you.

20 **MS. NAIOMI METALLIC:** Thank you.

21 **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

22 **CHRISTA BIG CANOE:**

23 **MS. CHRISTA BIG CANOE:** So once again, just
24 so it's noted on the record, I am going to make a motion to
25 qualify Professor Naiomi Metallic as an expert. In doing

1 so, the parties in attendance consent to the process I'm
2 undertaking before I actually make the motion. So I'm just
3 going to actually start right away.

4 Is it okay if I call you Naomi?

5 **MS. NAIOMI METALLIC:** Yes.

6 **MS. CHRISTA BIG CANOE:** Thank you. So
7 Naomi, a couple of things I just want to start with. Can
8 you tell me a bit about your background?

9 **MS. NAIOMI METALLIC:** Where I'm from?

10 **MS. CHRISTA BIG CANOE:** Where you are from?

11 **MS. NAIOMI METALLIC:** Sure. I am from the
12 Listuguj Mi'gmaq First Nation which is in Gespe'gewa'gi,
13 otherwise known as the Gaspé Coast of Quebec.

14 **MS. CHRISTA BIG CANOE:** Excellent. And so I
15 understand you speak a couple of languages at least and are
16 working on a third.

17 **MS. NAIOMI METALLIC:** I speak both English
18 and French fluently and I am working on the Mi'gmaq part,
19 so (speaking in Mi'gmaq language). It means I speak
20 Mi'gmaq a little bit.

21 **MS. CHRISTA BIG CANOE:** Excellent, thank
22 you.

23 So I'm going to actually start with a couple
24 things but I want to start with your CV in particular and
25 I'm going to actually just ask that we enter the curriculum

1 vitae of Naomi Walqwan Metallic as the first exhibit.

2 **CHIEF COMMISSIONER MARION BULLER:** The CV is
3 the next exhibit. Thank you.

4 --- **EXHIBIT NO./PIÈCE NO. A14:**

5 Curriculum vitae of Naomi Metallic
6 (March 14, 2018, 12 pages)

7 **MS. CHRISTA BIG CANOE:** Thank you, Chief
8 Commissioner.

9 Just doing an overview, obviously we see
10 with your professional history you're currently teaching at
11 Dalhousie.

12 **MS. NAIOMI METALLIC:** That's right.

13 **MS. CHRISTA BIG CANOE:** Can you just tell me
14 a little bit about that?

15 **MS. NAIOMI METALLIC:** Sure. I've been at
16 the Schulich School of Law at Dalhousie since June of 2016
17 and I also hold in that regard a chair position, the
18 Chancellor's Chair in Aboriginal Law and Policy, and I
19 teach constitutional law, Aboriginal peoples and Indigenous
20 governance.

21 **MS. CHRISTA BIG CANOE:** Excellent. Thank
22 you.

23 I also understand that prior to that you
24 were also a practising lawyer?

25 **MS. NAIOMI METALLIC:** Yes. Before I joined

1 Schulich, I was at a firm -- and still have a connection to
2 a law firm called Burchells LLP in Halifax, and I continue
3 to have a counsel relationship with them.

4 **MS. CHRISTA BIG CANOE:** And I also note that
5 you have been a law clerk at the Supreme Court of Canada?

6 **MS. NAIOMI METALLIC:** Yeah. I clerked with
7 Justice Bastarache in 2006 and 2007.

8 **MS. CHRISTA BIG CANOE:** So in terms of -- I
9 mean, obviously, I think anyone can look and see that you
10 have a large amount of professional services indicated on
11 page 2 and 3 of your CV, but I also noticed you have some
12 professional and academic recognition and awards, a number
13 of those. Are there any that you want to tell us a little
14 bit about?

15 **MS. NAIOMI METALLIC:** Oh. Well, I got a
16 teaching award this year from the students at Schulich, so
17 that made me quite pleased since I had only been there for
18 a couple of years, so that was very nice. And some
19 recognition in the best lawyers in Canada in the area of
20 Aboriginal law.

21 **MS. CHRISTA BIG CANOE:** Excellent. Now,
22 when we say Aboriginal law, what are we talking about?
23 We're not talking about Indigenous legal practice, per se,
24 we're talking about the way Canadian law is looking at
25 Aboriginal laws. What's the way you would contextualize

1 that?

2 **MS. NAIOMI METALLIC:** Right. So the
3 distinction I make, and I try to make this pretty clear
4 these days when I teach students, is that I see Aboriginal
5 law as Canadian law or settler law as it applies to
6 Indigenous people. And that can be even, you know, some
7 people just think it's section 35 Aboriginal treaty rights,
8 but it's really the intersection of a number of areas of
9 law as they relate to and touch on Indigenous people. And
10 then there are Indigenous laws which are the laws of
11 Indigenous people. So Anishinaabe law, Mi'kmaq law, so
12 that's the distinction.

13 **MS. CHRISTA BIG CANOE:** Okay. That's
14 helpful. I also understand that you -- you're currently
15 working on some research or that you have some research
16 designations. Can you share a little bit about that?

17 **MS. NAIOMI METALLIC:** Oh. That was simply
18 that -- I'm in a period -- or in the process of sort of
19 transitioning to have a lawyer CV to a -- an academic CV.
20 I'm getting used to sort of what goes into -- a lot more
21 goes into the academic one.

22 So something that wasn't in here that's
23 listed is that in -- now, in my new role as a academic, I'm
24 involved in a number of research projects, and it's not
25 necessarily reflected in here. I do have other documents

1 that I can send, if that's necessary.

2 But one of them which may be relevant to
3 what my evidence is going to be is that last year, over the
4 course of about a year-and-a-half, I was involved with a
5 team of researchers looking into how social assistance in
6 First Nations communities in the Maritimes worked.

7 **MS. CHRISTA BIG CANOE:** Excellent. So in
8 addition, one of the -- in addition to your academic work,
9 what are some of the considerations or some of the things
10 that helped you have knowledge about the areas you'll be
11 speaking to us today?

12 **MS. NAIOMI METALLIC:** Okay. So I have the -
13 - several years of experience as -- in being a
14 practitioner, and really that's -- some of the cases that I
15 was involved with and exposed to sort of translated
16 directly into what became my large interest areas. There
17 is a case that's noted in my CV that I was involved in for
18 over six years called *Simon*, and it was about social
19 assistance. In that research -- it was actually also
20 related to the research project I spoke about earlier, but
21 that was about social assistance on Reserve.

22 And it's through having had that case for
23 about six years, it went to the Federal Court, Federal
24 Court of Appeal, we even sought lead to appeal to the
25 Supreme Court of Canada. We were denied.

1 But through that case is how I became really
2 -- or how I got to learn about this area and realized how
3 important it was and not really well-known, and it really
4 is what drove me to academe so that I could talk about it
5 and write and research more about it.

6 **MS. CHRISTA BIG CANOE:** I understand when
7 you -- can we talk a little bit about your LLM and the work
8 you did on that, because that's the paper we're actually
9 going to be discussing a bit today too?

10 **MS. NAIOMI METALLIC:** Sure. So this was the
11 major paper that I wrote. We -- I wrote a number -- I did
12 one of these -- I -- more paper-based LLM, it's not just
13 one thesis. But this -- if I was to -- you would say --
14 call it a thesis, it would be this, which is about
15 100 pages, but it was the major piece of work that I did.
16 I believe the course that I wrote -- yeah, I wrote it for,
17 I believe, an -- no. I forget exactly what class it was,
18 but my supervisor was Bruce Ryder at Osgoode.

19 And -- yes. I -- what I wanted to do was to
20 -- *The Caring Society* decision had recently come out, and
21 having read it, I really felt that it responded to and
22 addressed I think a lot of the issues and concerns that I
23 had coming out of the case that I referenced a moment ago
24 and other things that, you know, over the course of being
25 involved with that case had become so much more aware of

1 the problems in service delivery on Reserves.

2 So this was an attempt to showcase and
3 highlight what those problems were and also talk about how
4 I think *The Caring Society* starts to give us tools to
5 address some of those problems.

6 **MS. CHRISTA BIG CANOE:** Excellent. And I
7 note that the full title is *The Broad Implications of the*
8 *First Nations Caring Decision Dealing a Death Blow to the*
9 *Current System of Program Delivery Reserve and Clearing the*
10 *Path to Self-Government.*

11 I know it's a bit of a mouthful, but Chief
12 Commissioner and Commissioners, may I have that entered as
13 the next exhibit?

14 **COMMISSIONER BULLER:** Yes. Certainly.

15 --- **EXHIBIT NO./PIÈCE NO. A15:**

16 "The Broad Implications of the First
17 Nation Caring Society Decision: Dealing
18 a Death-Blow to the Current System of
19 Program Delivery (CSPD) On-Reserve &
20 Clearing the Path to Self-Government,"
21 unpublished work by Naomi Metallic
22 written as a major paper for her
23 Master of Laws (100 pages)

24 **MS. CHRISTA BIG CANOE:** Chief Commissioner
25 and Commissioners, based on the knowledge, skills and

1 education, as well as the teaching experiences and legal
2 practice that Professor Metallic has described and is
3 evidenced in her curriculum vitae, I am tendering Naomi
4 Metallic as an expert, specifically in the areas of
5 Aboriginal law and policy, settler law, as it relates to
6 Indigenous people, with specific knowledge and practise in
7 human rights, constitutional law, federalism and the
8 delivery of essential services.

9 **COMMISSIONER BULLER:** Could you repeat that
10 please?

11 **MS. CHRISTA BIG CANOE:** I'm sorry. I said
12 it too fast, didn't I? My apologies.

13 Did you want me just to -- to the areas of
14 specificity or the whole motion?

15 **COMMISSIONER BULLER:** Areas of specificity.

16 **MS. CHRISTA BIG CANOE:** Thank you.

17 So tendering Naomi, specifically in the
18 areas of Aboriginal law and policy, settler law, as it
19 relates to Indigenous people, with specific knowledge and
20 practise in human rights, constitutional law, federalism
21 and the delivery of essential services.

22 **COMMISSIONER BULLER:** Based on the consent
23 of the parties, as well as the evidence tendered in
24 support, we do declare that Ms. Metallic --
25 Professor Metallic is qualified as an expert to give

1 opinion evidence in the areas outlined by counsel.

2 **MS. CHRISTA BIG CANOE:** Thank you.

3 So in doing the examination in-chief, Naomi
4 has actually prepared, and it's true that you prepared, a
5 slide presentation. And so rather than her just do a
6 presentation, or me just ask questions, we're going to
7 actually walk through it together.

8 So Naomi, it's true that you prepared this
9 slide presentation; correct?

10 **MS. NAIOMI METALLIC:** Yes.

11 **MS. CHRISTA BIG CANOE:** Okay. Thank you.

12 And we would like to have it, as well,
13 exhibited?

14 **COMMISSIONER BULLER:** Yes. Is there a hard
15 copy?

16 **MS. CHRISTA BIG CANOE:** Yes. I have one for
17 you.

18 **COMMISSIONER BULLER:** Okay. That will be
19 the next exhibit, please.

20 **MS. CHRISTA BIG CANOE:** Thank you.

21 --- **EXHIBIT NO./PIÈCE NO. 16:**

22 Slideshow presented during Prof.
23 Metallic's testimony comprising 28
24 slides (hardcopy, 14 pages)

25 **MS. CHRISTA BIG CANOE:** Did you just want to

1 start?

2 **MS. NAIOMI METALLIC:** Sure.

3 (SLIDE PRESENTATION/PRÉSENTATION DE DIAPOSITIVES)

4 **MS. NAIOMI METALLIC:** Okay. So my paper is
5 an exploration, as I said, first of all about the nature of
6 service delivery on Reserve. And by that, I mean, all
7 matter of essential services. So I'm talking about,
8 broadly, child welfare, social assistance, assisted living,
9 housing, sort of the -- the main sort of day-to-day
10 essential services encompassing that broad lot.

11 And one of the first things that really is
12 important to learn about this area is how different it is
13 from areas -- these same areas in terms of how they're
14 delivered in the provinces, right, by provincial
15 governments.

16 So for a moment, let's just talk about how
17 it works in the provinces. You know, generally, under the
18 Constitution, they're recognized to have primarily
19 jurisdiction over essential service areas. They -- so
20 they, in that regard, come up with the rules, they, you
21 know, pass legislation and policies and regulations, and
22 they also fund it, and they also have, you know, civil
23 servants who provide these services; right. So it's all
24 within one house, the province's house, but when we talk
25 about essential services on reserve, it's a really

1 different picture, and so very briefly, it's funded by the
2 federal government. There's a bit of nuance on that, but I
3 can talk about it -- but primarily funded by the federal
4 government.

5 Then when it comes to the rules that are
6 applied, generally, it's provincial or territorial rules
7 that inform the delivery of these services. But in a -- it
8 can either be in a couple different ways. It can either be
9 indirectly, through the federal government choosing to
10 apply these laws; or in a few cases, primarily child
11 welfare and policing -- and I'll explain it a bit more
12 after -- it's directly through the application of
13 provincial laws. But then when it comes to who delivers
14 the service it tends to be First Nations who are delivering
15 these services through -- we'll get into this more --
16 agreements, generally with the federal government and
17 sometimes the provinces as well.

18 So a really different picture where you have
19 three different jurisdictions involved as opposed to sort
20 of, one -- in one house, like the province is.

21 **MS. CHRISTA BIG CANOE:** Yes. And to -- I
22 know you had already said that you're talking about
23 different types of services. Essential services, maybe
24 just for the purposes -- I know you gave the example of
25 child welfare, but what are other services that you might

1 be talking about?

2 **MS. NAIOMI METALLIC:** Sure.

3 So Social Assistance, assisted living, which
4 is generally sort of viewed as service for persons with a
5 disability. It can also be emergency services, so any
6 fires in the community and other sorts of things, policing,
7 education, health, water, other infrastructure, housing.
8 You know, sort of the -- as I say, it's basically the gamut
9 of the day to day services that people are usually provided
10 by levels of government.

11 **MS. CHRISTA BIG CANOE:** And so, can you give
12 us some context for how the services -- and how did this
13 system, this three different jurisdiction system come to
14 be?

15 **MS. NAIOMI METALLIC:** Okay. So the model
16 that we've had, and had for about 50 years really, started
17 post-world war two. Prior to that, and I'm not an expert
18 so much in how it went before this, somebody who wrote a
19 book called "Enough to Keep Them Alive" and it talks about
20 how sort of, pre-world war two was primarily just rations
21 and other things that were given to First Nations.

22 But in the post world war two era, there was
23 more of a concern about human rights and citizenship, and
24 there was at this point, sort of a change in how the
25 Canadian government saw Indigenous People. And when it

1 came to a First Nations on a reserve, a joint committee of
2 Senate and House of Commons was struck to sort of study the
3 issue of poverty in Indigenous -- in First Nations
4 communities. And so they did study it, and there was a
5 realization that they were not receiving any of the same
6 services which had now started to be offered by provinces,
7 and even to some extent, by the federal government. The
8 federal government offers Old Age Security as an example of
9 an essential service.

10 So these started -- so it was recognized
11 that they were not receiving any of the same amounts of
12 services, and so the committee gave a -- thank you --
13 recommendations about how to move forward on this. And
14 because the ethos at this time was, it was informed by a
15 sense of equality, but a sense of equality in the sense of
16 formal equality. Like, everybody should be the same, you
17 know, this everybody is colour blind sort of approach. And
18 so the committee at this time identified that, you know, it
19 thought that the problems that Indigenous People faced was
20 because of the special rules that were in place, like the
21 *Indian Act*, and Treaties, and reserves.

22 And the recommendation was that it would be
23 better if these First Nations people were entered into the,
24 you know, sort of has more service provided by the
25 provinces and territories, and wouldn't it be great if

1 they, you know, kind of absorbed into the mainstream. So
2 that was the sort of thinking at the time. And the
3 recommendation, yes, was for the federal government to try
4 to work with the provinces, in order for them to see about
5 providing the services to First Nations on reserve.

6 So if I take you to my next slide, so what
7 Canada first did, and we've already talked a little bit
8 this afternoon about the amendments to the *Indian Act* in
9 1951. But one of the first things Canada did when it got
10 this recommendation was to insert what is now Section 88
11 into the *Indian Act*, which some of you may know. It says
12 that provincial laws of general application apply to
13 Indians, except if there is a term in the *Indian Act* or a
14 term in a Treaty that's inconsistent with that.

15 And there's, you know, there was not a lot
16 of -- or not a tonne of discussion about what was
17 motivating exactly, Canada in adding this in. But there's
18 been some speculation that they were trying to do, sort of,
19 precisely what the committee had suggested, which was to
20 get the provinces and territories to take over these
21 services. So that was their, sort of, first attempt. But
22 it didn't work exactly as intended, because it's really
23 hard for the federal government to just unilaterally tell
24 the provinces to take over a service, especially when that
25 service involves spending money.

1 So the initial reaction of the provinces
2 was, well yeah, you may have put Section 88 there, but
3 we're not going to expend the dollars. And so what that in
4 fact then translated to was that Canada had to try to
5 negotiate with the provinces to sort of, take over these
6 services. And most of the provinces initially refused,
7 right? The only province to agree sort of wholeheartedly
8 or entered into an agreement around this time was Ontario
9 in 1965. So they actually agreed to extend their laws on
10 reserve, with respect to Social Assistance and then other
11 services followed; so long as there was a cost-sharing
12 agreement. So I believe the Ontario-Canada cost-sharing
13 agreement is 90 percent the federal government, 10 percent
14 Ontario.

15 The rest of the provinces never entered into
16 such an agreement, except for some particular areas. So
17 what we see in the sort of late -- or early '60s is the
18 feds talking with the provinces about extending their laws
19 with respect to child welfare. So over a course of time in
20 the '60s is when many provinces agreed to a cost-sharing
21 arrangement with the federal government.

22 Now, it was in this time with respect to
23 child welfare, this is sort of, we say is the beginning of
24 the Sixties Scoop. Because that's what's happening, the
25 provinces are agreeing to apply their child welfare

1 legislation. But it was only primarily to apply the
2 apprehension provisions with respect to physical abuse and
3 neglect, and the rest of the, sort of, services with
4 respect to prevention services and these other services
5 that might exist within the province, were not really being
6 extended. That was still viewed primarily by the provinces
7 as something for Canada to address.

8 The other area that's a little bit like
9 this, but I won't go into massive detail unless there is
10 some questions, is policing as well. That there -- it is
11 sort of recognized that provincial policing legislation
12 does apply, but also it is pursuant to cost-sharing
13 arrangements between the provinces and the federal
14 government.

15 So yes, what we see is sort of the classic,
16 sort of hot potato model of, you know, the provinces and
17 the federal government going back and forth about who has
18 any responsibility over these groups of people. And so
19 Canada was left, primarily with respect to all these other
20 service areas, with a dilemma of what to do, and there was
21 -- continued to be pressure about the conditions of
22 Indigenous People in their communities.

23 So in 1964 the Department put a proposal to
24 Treasury Board to be able to provide similar services to
25 what is provided in the provinces, in areas like Social

1 Assistance. And then that got extended into other areas,
2 but yes, there was a Treasury Board authority that was
3 approved, that said something to the effect that similar
4 service will be provided on the basis of rates and
5 standards similar to the province.

6 And there was -- so and around that time
7 there was another little directive that went out to the
8 department saying, it may not be possible to exactly mimic
9 what they're doing in the provinces around rates and
10 standards, but try your best, although we recognize a
11 little bit of flexibility. But what came from this period
12 is essentially this idea of the comparability standard,
13 that standards are going to be delivered by Canada, or
14 funded by Canada to First Nations using provincial rules
15 and standards -- comparing to provincial rules and
16 standards. So it's called the comparability standard and
17 we still have that today.

18 Okay. My last slide into how this came to
19 be. So that's how we got comparability, the comparability
20 standard, for the most part. And then initially it was
21 simply the Department of, now, Indigenous Affairs, or
22 whatever they're called now, providing the service
23 directly. But following, in particular, the sort of fall
24 out from the White paper -- I will just explain that
25 briefly, although I'm sure you all know what that is. But

1 it was, you know, the proposal by Trudeau and Chretien to,
2 you know -- it was along again this idea that it was
3 reserves in the *Indian Act* and other special treatment for
4 Indigenous people that was the problem, so in this sort of
5 era of formal equality by simply getting rid of all these
6 things, that will be the solution.

7 So as you know, Indigenous people in Canada
8 reacted -- you know, there was a very intense reaction
9 that, you know, that fuelled an Indigenous resistance
10 movement, which, you know, moved us in a whole other
11 direction. And we do have the federal government at this
12 time formally distancing himself from the whitepaper
13 policy, and at this time, we have Indigenous people asking
14 for, you know, greater community-based programming.

15 So what we have after this -- the federal
16 government, is more of an interest in funding agreements
17 that are allowing Indigenous communities more control over
18 the programs and services they have. So this gets
19 translated into now funding agreements between the federal
20 government and First Nations communities where they will
21 provide the services pursuant to a contract or an agreement
22 with the federal government.

23 Now, these agreements are usually quite
24 detailed. We'll talk a little bit more about them, but
25 it's primarily the federal government that determines the

1 content of these agreements and the standards that the
2 Indigenous group is going to follow. I can talk a bit more
3 about that after.

4 **MS. CHRISTA BIG CANOE:** Yes. So -- now, I
5 think you referred to it as the hot potato, the hot potato
6 model, and then it kind of evolves a little more of that to
7 the -- to this devolution you're talking about.

8 **MS. NAIOMI METALLIC:** M'hm.

9 **MS. CHRISTA BIG CANOE:** In terms of the last
10 slide you have up and this devolution and the types of
11 funding agreements you're talking about, in your opinion
12 what has this resulted in, this new like devolution, but
13 here's the money but it's going to be on a contract-base,
14 and we're going to put in the stipulations? So where are
15 we now? What ---

16 **MS. NAIOMI METALLIC:** Right.

17 **MS. CHRISTA BIG CANOE:** --- what has it
18 resulted in?

19 **MS. NAIOMI METALLIC:** Okay. So that's my
20 segue into talking about the various problems.

21 So if you take me to the next slide. In my
22 paper, I identify about 10 problems with this area, which I
23 am going to propose to take you through, some in more depth
24 than others.

25 But I guess -- just to tell you what -- the

1 main point of my presentation of today, is that often when
2 we're talking about these areas, like child welfare and
3 some other similar areas, people now know it because of the
4 *The Caring Society* case about underfunding, but there are
5 so many more problems. And the point of my presentation in
6 going through that is to sort of lay bare all of the other
7 problems, because they all work together to create an
8 extremely dysfunctional system.

9 So the first problem that I want to address
10 is just a very simple one, and we'll get into, I think,
11 more of the details around it, but even when you just look
12 at -- and we know this sort of intuitively from all of the
13 social and the socioeconomic statistics that we hear about
14 First Nations people -- is that, you know, there hasn't
15 been a real improvement in living conditions. In, you
16 know, in 2014 in the Special Rapporteur, I believe, said
17 that, you know, the socioeconomic position of Indigenous
18 people in Canada was at a crisis point.

19 And this simply is just something that was
20 in the Minister's -- the ministerial transition book, so
21 provided to Minister Bennett when she started her job.
22 This is an online source that you can look at, but the
23 department tracks our community well-being index, and it
24 reaches that by -- it looks at a composite index comparing
25 results for education, employment income and housing among

1 non-aboriginal communities and on Reserve First Nations and
2 Inuit communities.

3 And what you see by looking at it -- so the
4 gold line are First Nations -- is that -- and it tracks
5 over a 30-year period, up to 2011, and there's generally
6 been an increase in well-being for everybody, but you see
7 that there's a persistent gap that hasn't closed for First
8 Nations on Reserve of 20 points over a 30-year period. And
9 I argue that, you know, this -- service delivery and the
10 way that it works is a big part of the problem.

11 And I guess that's my other point, is that
12 when we talk about First Nations communities we often talk
13 about inter-generational impacts, you know, and the toll
14 that it's taken. And certainly, that is a cause, but it's
15 not the only cause. I think that this is an active system
16 that continues to this day that is exacerbating the harms;
17 right? So it's not just something that happened in the
18 past that is causing this; it's something that is actively
19 going on under our noses every day.

20 So if I take you to the next problems, the
21 next three -- next slide, please.

22 **COMMISSIONER BULLER:** Sorry. One moment.

23 **COMMISSIONER AUDETTE:** Désolé, professeur
24 Metallic, juste pour bien comprendre votre diapositive CWB
25 Score, qu'est-ce que c'est, CWB?

1 **MS. NAOMI METALLIC:** Ça veut dire Community
2 Well-Being Score.

3 **COMMISSIONER AUDETTE:** Thank you.

4 **MS. CHRISTA BIG CANOE:** Okay.

5 **MS. NAIOMI METALLIC:** Okay.

6 **MS. CHRISTA BIG CANOE:** I was going to ask
7 you one quick question. If you can go back one slide.

8 **MS. NAIOMI METALLIC:** Yeah.

9 **MS. CHRISTA BIG CANOE:** I apologize.

10 **MS. NAIOMI METALLIC:** Yeah.

11 **MS. CHRISTA BIG CANOE:** So -- and you're
12 talking about the ministerial transition book, which is a
13 publicly available, but I see you have the link there as
14 well, the gap that exists that's shown there as well about
15 Inuit communities.

16 This morning, when we heard -- so you just
17 contextualized for us in terms of essential services, but
18 we heard Mr. Argetsinger also talking about the social
19 determinants of health.

20 So the connection between social
21 determinants of health ---

22 **MS. NAIOMI METALLIC:** M'hm.

23 **MS. CHRISTA BIG CANOE:** --- and the type of
24 essential services you're talking about, can you give us a
25 little context on that?

1 **MS. NAIOMI METALLIC:** With respect to Inuit
2 communities?

3 **MS. CHRISTA BIG CANOE:** No. I'm sorry. I
4 said I see this one has Inuit communities as well, you
5 didn't address that. But in general, there is a gap still
6 between the two Indigenous compared to the non-Aboriginal.

7 **MS. NAIOMI METALLIC:** Yes.

8 **MS. CHRISTA BIG CANOE:** So -- but -- and I
9 was -- actually, that was a segue to introduce what
10 Mr. Argetsinger talked about.

11 **MS. NAIOMI METALLIC:** Right.

12 **MS. CHRISTA BIG CANOE:** What I'm asking
13 specifically of you is that -- what is the connection? So
14 we heard this morning about the social determinants of
15 health, and you're now talking about essential services and
16 the way that the province said exist. What's the
17 connection between those social determinants of health and
18 service or service delivery, to help contextualize?

19 **MS. NAIOMI METALLIC:** I do have some slides
20 that I will be getting into later in the presentation, but
21 I think there's a -- quite a direct connection. That this
22 is a system that -- well, again, go back to underfunding,
23 the underfunding has a direct link to people's
24 socioeconomic, you know, their day-to-day ability to live
25 and eat and live in housing.

1 And I think there -- there's the
2 underfunding, but if we're going to see -- the rest of this
3 whole system sort of operates to allow that to persist in a
4 really pernicious way. So that will be -- and I will get
5 to some specific examples.

6 **MS. CHRISTA BIG CANOE:** Right. And I -- and
7 I think -- you know, is it fair to say it's basic -- a --
8 basic enough to understand that essential services, and I
9 know I'm just kind of rolling it back ---

10 **MS. NAIOMI METALLIC:** Yeah.

11 **MS. CHRISTA BIG CANOE:** --- to like a higher
12 level here - essential -- like when we see the social
13 determinants of health like -- like what was addressed this
14 morning ---

15 **MS. NAIOMI METALLIC:** M'hm.

16 **MS. CHRISTA BIG CANOE:** --- and the issues,
17 those 11 factors we looked at, it's fair to say all of
18 those factors rely on having services ---

19 **MS. NAIOMI METALLIC:** Absolutely.

20 **MS. CHRISTA BIG CANOE:** --- delivered to
21 meet those needs?

22 **MS. NAIOMI METALLIC:** Yes.

23 **MS. CHRISTA BIG CANOE:** And I know it's a
24 step back, but I just want to make sure there's a bit of
25 context ---

1 **MS. NAIOMI METALLIC:** These are ---

2 **MS. CHRISTA BIG CANOE:** --- as you move
3 forward.

4 **MS. NAIOMI METALLIC:** These six fundamental
5 services, that if -- you know, people are not able to live
6 off the land entirely and need to live in homes today and
7 go to the grocery store to buy food, all -- and all of
8 these things, then you need all of these services to live.

9 **MS. CHRISTA BIG CANOE:** Yes. Okay. Thank
10 you.

11 **MS. NAIOMI METALLIC:** So going on to the
12 next slides that I had.

13 So the next three go back to this
14 comparability standard that I was talking about earlier,
15 and it sort of fleshes out some of the problems with it.
16 So the first thing that we saw is that the comparability
17 idea sort of came out of the feds trying to get the
18 provinces to take over services, and it was based on this
19 recommendation from that joint committee that wouldn't it
20 be great if the provinces took over services in this
21 regard.

22 And sort of jump a little bit forward to
23 1969 and the whitepaper and the reaction to it, we have
24 Canada actually dismissing or distancing itself from the
25 whitepaper policy. But yet, you know, the -- what lies

1 behind the way services are delivered, and particularly the
2 comparability standard of simply taking whatever provincial
3 rules apply and applying that to the Reserve context, is
4 still in that same vein of assimilative thinking. So to my
5 mind, the comparability standard is still very much based
6 in a very assimilative approach.

7 And -- I mean -- so it's -- but it's not
8 just a matter of something -- a matter of principle or
9 symbolic, it actually has real impacts. So -- and this
10 gets to my point number 3.

11 Which the way that the system works, it
12 largely leaves Indigenous people, First Nations people here
13 out of policy development. So just to explain it a little
14 bit better. If you have the feds who say we're going to
15 offer welfare services, or we're going to use provincial
16 standards in order to do that.

17 So what they've done -- what they did in --
18 where I studied, in particular, in the East Coast, what
19 Canada did in '64 after it got this authority to provide
20 services, it went and it looked at the -- or the social
21 assistance policy of the different provinces and then
22 developed their own policy and then started providing these
23 services.

24 And since then, as the provinces have
25 changed rules, they've sometimes gone and adapted the rules

1 to reflect that. Not always at the same time period, but
2 that's -- that's what they're supposed to do, or they say
3 they're supposed to do.

4 But when they have done this -- so they
5 simply -- the feds simply just emulate whatever the
6 provincial rules are and that really -- you know, the
7 provinces generally, especially in the areas where they
8 have no connection with First Nations, where their laws do
9 not directly apply, they have no cause to go to the First
10 Nation and say, "Look, I know the feds apply their rules to
11 you but how do you feel about how our rules apply to you?"
12 They never do that. Why would they do that?

13 So you have a situation where First Nations
14 don't have any involvement in this policy development
15 particularly where the feds are simply just borrowing
16 provincial rules and just plopping them into the First
17 Nations context.

18 In the few instances where I said like child
19 welfare and policing where there are these sorts of
20 agreements and the provincial law does apply more directly,
21 it's only in some times in some provinces and only in more
22 recent times where the provinces have actually started to
23 even think about accommodating First Nations' interests in
24 their legislation.

25 Some provinces still don't have anything in

1 their legislation about recognizing First Nations' children
2 or accommodating that. And beyond that as well, and I
3 touch a little bit on this in my paper, there might
4 actually be some constitutional restrictions or restraints
5 around the provinces fully accommodating the interests of
6 First Nations in their legislation because of rules around
7 federalism and singling out.

8 It's getting a little technical legal but it
9 is -- you know, really this whole model really -- my point
10 is it really leaves First Nations largely out of policy
11 development and it's certainly not a coherent system of
12 developing policy for Indigenous people, the most
13 vulnerable Indigenous people, some of the most vulnerable
14 people in Canada.

15 The other point to make about this is simply
16 -- this is my next slide, please -- with this system is
17 that, you know, because First Nations people have so little
18 input into the rules that apply to them and, you know, most
19 of these rules are based in, you know, your Canadian values
20 is that they're really not culturally appropriate.

21 And you know, I mean some of the values
22 where we differ with Euro-Canadian values are, you know,
23 it's a capitalist system. We're not so much a capitalist
24 system, hunter, gatherer, kinship models. You know, the
25 Euro-Canadian system is based on liberalism and

1 individualism and when it comes to ideas around family, we
2 look at it in terms of the nuclear family. All of those
3 sort of rub up and are intentioned with, you know, First
4 Nations value systems and can really sort of come to the
5 fore when you're applying provincial child welfare policy
6 to a First Nation.

7 So for example, one of the examples that's
8 often given is that, you know, the nuclear family model is
9 very different from a kinship-based model and so it will
10 create differences when it comes to child welfare. So
11 parenting values can be denigrated or devalued. There's
12 also that often the provincial systems and laws don't
13 account for the poverty and the systemic issues that exist
14 already in First Nations communities and so there can be
15 certainly negative impacts.

16 To go back to child welfare again, you know,
17 one of the examples I will often give is that, for example,
18 in order to be a foster parent in a community, the rules
19 that provinces have is that you have to have something like
20 one room per 1.5 child or something like that. You have to
21 have enough space.

22 But if you live in a First Nations community
23 and we've already heard about housing and I'm going to talk
24 about housing a bit more after, but if you're living in an
25 extremely overcrowded place where you have, you know, maybe

1 four or five people per room or maybe less, but if you have
2 a lot of people, then you can't be a foster parent because
3 you don't have the space.

4 So these are how these interactions do not
5 work and, you know, Cindy Blackstock has talked about it
6 and it was actually recognized in the child welfare
7 decision from the Canadian Human Rights Tribunal that First
8 Nations' children are actually being taken because of
9 reasons of neglect more so than abuse and that's because I
10 think also provincial child welfare rules often don't, you
11 know, specifically consider the socioeconomic position and
12 children again are taking for abuse that is -- oh, sorry,
13 for neglect that is outside of the control of the parents.

14 So, you know, I think -- and one thing I
15 argue in my paper around this is that there are -- a lot of
16 the academic literature and there's also been studies and
17 even the department in some cases has recognized that what
18 makes more sense in this context are rules and control by
19 the Indigenous peoples themselves, right, and there's not a
20 tonne of examples but there are some examples that are out
21 there.

22 One that I'm quite proud of because it's
23 where I live right now but for example, in Nova Scotia,
24 since 1999 they've had a sectorial self-government
25 agreement around education in First Nations community. So

1 they control education from K to 12 and that's been now for
2 over almost two decades now, if not more, and because of
3 this, the graduation rates at the Mi'gmaq on-reserve
4 schools is two or three times the graduation rates at other
5 schools in other First Nations in the country.

6 **MS. CHRISTA BIG CANOE:** You anticipated
7 actually the question I was going to ask you which is that
8 concept of well why does cultural appropriateness matter in
9 terms of, you know, either social terms as health or
10 success. Again, I'm just thinking of what we heard this
11 morning from Mr. Argetsinger about the impact the poverty
12 issues have.

13 But the example you're giving is when
14 there's culturally appropriate services and direction and
15 input by the Indigenous community or the First Nation,
16 you're seeing increased success and outcomes. Can you
17 maybe -- that's the one example. Are there other examples?

18 **MS. NAIOMI METALLIC:** Yeah. In the paper
19 and this is somewhere around page 34 to 37, you'll have to
20 go find it but there's tonnes of scholars who now have
21 cited a bunch of literature that support that, you know,
22 the community determining its own rules is really -- and
23 what is culturally appropriate and what is necessary and
24 will improve conditions in communities.

25 Another example I give but I preface this by

1 saying that I don't want to, by any means, downplay the
2 situation in Inuit communities as well but there has been
3 some research that because most Inuit communities are under
4 land claim agreements, there has been some improvement
5 although it's even mentioned in some of those papers that
6 because still services are underfunded and under some of
7 these land claim agreements, there's still not enough
8 control. But there is some evidence to suggest that even
9 with some more improvements that have been made with
10 certain land claim agreements, there's been some
11 improvement because there's been more control. But that is
12 not to suggest in any way that there's still not huge
13 significant problems, not to take away from what previous
14 witnesses had said.

15 Okay, next one. So now I want to turn to
16 some of the problems that exist because of the contribution
17 agreement model. So this is the devolution model. This is
18 the federal government agreeing or through agreements
19 allowing the First Nations community to deliver the
20 programs directly themselves.

21 Some of the problems that I canvassed in the
22 paper is that essentially these are really not agreements
23 in the sense of their being equal bargaining power. It's a
24 sort of take it or leave it. Indigenous communities or
25 First Nations governments don't really have a choice when

1 they're presented with, you know, these agreements to
2 provide various services. "It's at this amount and this is
3 what you're going to receive" is generally the approach.
4 That's even been recognized in a few court cases that are
5 cited in my paper.

6 So yes, beyond that, another area that I
7 touch on is that although over time some of these funding
8 agreements have been tweaked in certain ways with the hope
9 or intent to allow more flexibility, there's different
10 models but all these funding agreements are in the nature
11 of what's called a contribution agreement. And there have
12 been tweaks on that over time. Some of them allow the
13 community to keep if there's -- within any of the budgets
14 let's say there's a surplus in education or there's a
15 surplus in social assistance, they might be able to take
16 that surplus and move it over to this budget.

17 So over time, the government has tried to
18 redesign these different funding agreements to allow that
19 in some cases. I'm really generalizing here but one of the
20 problems is that these agreements are significantly
21 underfunded, so you're not really going to have much of a
22 surplus in any of these budgets and there's nothing to move
23 around from one to another.

24 So efforts to sort of give more control to
25 First Nations by just trying to make these agreements

1 slightly more flexible while not increasing funding hasn't
2 changed anything.

3 Also during the last administration under
4 the government of Stephen Harper, his government really
5 tried to rein these in and make them not very flexible at
6 all and there were changes made and sometimes always
7 unilaterally and there was even some litigation that
8 occurred where First Nations were trying to, you know, sue
9 the government for making changes to these agreements
10 without their consent.

11 Anyway, so it goes to show that there's also
12 a lot of discretion that the government has continuously in
13 terms of reaching these agreements and often the
14 communities really don't have much sway or ability to
15 change the cost of these agreements.

16 Another problem with these which does impact
17 on the day-to-day delivery in a very important way is that
18 these agreements impose inordinate reporting requirements
19 on Indigenous communities, First Nations communities.

20 An Auditor General's report from 2002 found
21 that the average community had to fill out something like
22 168 forms per year. They've apparently tried to bring it
23 down in some cases. More recent reports that I had read
24 for the paper said in some cases only 37, but sometimes
25 those are reports that still have to be filled on a

1 quarterly basis, so massive amounts of reporting.

2 In some communities, staff have actually
3 said that they spend most of their time filling out reports
4 rather than actually providing the services they're
5 supposed to be providing.

6 There's also some -- so a lot of the stuff
7 that I read for this Master's paper were grey reports, and
8 they're really interesting. So that's sort of
9 intergovernmental reports. It even talked about how
10 sometimes INAC would lose reports, and then there would be
11 a delay in the community receiving funding and could delay
12 services.

13 So there's a number of problems with this
14 reporting -- with reporting but also this contribution
15 agreement model. And that's what some reports have said,
16 several studies, pretty much dating back to the '80s, the
17 first one being the Penner Report has suggested that this
18 is a really inappropriate vehicle for a nation-to-nation
19 relationship. And some have pointed out that, you know,
20 when you look at the agreements -- because there's funds
21 transferred between the federal government and the
22 provincial and territorial governments, some have pointed
23 out that they have very different funding agreements.
24 They're either intergovernmental agreements or grants.
25 There's far less sort of the federal government maintaining

1 all this control and all these reporting requirements, but
2 those have generally not been looked at as models.

3 These reports that I've referred to earlier
4 like Penner and RCAP and others have said that we have to
5 seriously look at moving to a model that is going to allow
6 the communities to have more control over this and without
7 all those strings attached and all those tight controls
8 from the federal government.

9 However, the federal government has been
10 extremely resistant to look at this. There's a quote in
11 the paper from an INAC report that actually considers the
12 possibility of getting into these types of grants,
13 agreements or intergovernmental agreements that look more
14 like the provinces, and it's kind of just dismissed out of
15 hand on the basis that, well, they wouldn't be able to
16 manage their affairs in this way. It's very paternalistic
17 and it also talks about the fact that within the provinces,
18 the provinces are accountable to taxpayers, but on
19 reserves, Indians don't pay taxes so they wouldn't hold
20 their governments as accountable. So very problematic,
21 obviously, but that is sort of the reasoning.

22 There's more recently been, in 2017, there
23 was a MoU signed between INAC and AFN, and they are
24 studying it. I've read the joint report that came out, and
25 it looks like they are -- it's not entirely clear. There's

1 still going to be more work that's coming. It looks like
2 they do want to make these agreements more flexible. They
3 want to have less reporting, but I didn't see a lot there
4 indicating that they're considering a different model. I
5 don't know if they're still in the mindset of it's still
6 going to be contribution agreements. But these are very
7 problematic agreements, in my view.

8 **MS. CHRISTA BIG CANOE:** I know that you've
9 shared five with us and you said you had ten. I do want to
10 talk about the next one, which is talking about
11 contextualizing the problems with the system as it's
12 violating the rule of law specifically.

13 And I have a specific question in relation
14 to that type of violation before we get too into the legal
15 nitty gritty. I'm curious if you could help me understand,
16 and I think it applies at this point. When we're talking
17 about violating the rule -- because I don't think people
18 understand when we're talking about services or people's
19 wellness or health that we're always talking about rights.

20 **MS. NAIOMI METALLIC:** Yes.

21 **MS. CHRISTA BIG CANOE:** And so one of the
22 issues, though, too is when we're doing any type of
23 analysis through a lens -- and we're talking about a legal
24 lens here and violation of the rule of law -- doing an
25 analysis through the human rights lens, what are some of

1 the common mistakes or incorrect assumptions that people
2 are making?

3 And I'm going to suggest, and I think that
4 your argument supports this, that there is a violation of
5 the rule of law, that the things that are not being done
6 because of this model is actually a breach of human rights.

7 But can you help me understand, maybe
8 clarify the problem with what we need to do when we're
9 looking at this to understand?

10 **MS. NAIOMI METALLIC:** Right. So this goes
11 back to my comment earlier about there now does seem to be
12 growing awareness about the problems a little bit in these
13 areas of essential services because of the *Caring Society*
14 case, but the emphasis is always just on funding.

15 Now, don't get me wrong, funding is a huge
16 problem, and I'm going to get to that, but there is this
17 whole system, the way it works, really allows for that
18 underfunding to perpetuate and for a bunch of other
19 problems to happen.

20 So most Canadians and most -- I didn't know
21 this until I was sort of deep in it as a lawyer with a case
22 on my lap that I needed to address, but that's when I found
23 out how different and problematic this whole area is. And
24 the major problem is that this whole system is created
25 where there's very little accountability placed on the

1 Government of Canada in particular, also a little bit
2 provinces, but more so the Government of Canada. This
3 whole system allows the government to run a program that
4 receives less attention and less care than it should and
5 for it to go unnoticed and uncriticised.

6 **MS. CHRISTA BIG CANOE:** Yeah.

7 **MS. NAIOMI METALLIC:** And that's why I see
8 this as a really huge major human rights issue.

9 **MS. CHRISTA BIG CANOE:** And if I'm
10 understanding you correctly too -- and please feel free to
11 make sure I am understanding you correctly -- but it's kind
12 of built on a number of the false assumptions when you were
13 talking earlier about RCAP and the reports, and it seems to
14 me that when you talk about violating the rule of law,
15 though, that this is the status quo and it's okay that it
16 keeps going because you just showed us earlier that this,
17 you know, starts in the '60s, and here we are in 2018.

18 And so, you know, with that in concept, can
19 you explain a little more what you mean when you say it is
20 violating the rule of law?

21 **MS. NAIOMI METALLIC:** Sure. So in some
22 Supreme Court of Canada cases, the Supreme Court gives a
23 definition. There's lots of different definitions of the
24 rule of law. Generally it's that, you know, government
25 actors are following legislation, and that's true. That's

1 one definition of it, but there's this other idea of rule
2 of law in that when governments act and in order to hold
3 them accountable, they should be acting in accordance with
4 rules that everybody knows and that everybody can easily
5 find and see, and how they're acting is sort of set out in
6 those rules. And if you think that they're not following
7 those rules, you can then use those rules to, you know,
8 take them to court and say, "Look, see, they're not doing
9 what it says right there at Number 5." It's a sort of
10 really basic concept that there are prescribed rules of law
11 that government is accountable as much as the sort of
12 regular person. And, you know, it's not just sort of an
13 academic thing. If you don't actually have laws written
14 down, it is much harder to hold governments accountable.

15 So maybe I'll just take you through this
16 slide to help explain that a little bit. I'm not the only
17 person who's been saying that. The Auditor General of
18 Canada -- and I'll take you to some quotes in a bit -- has
19 been raising the red flag about the lack of any sort of
20 legislative structure in this area since at least, from
21 what I found, the mid '90s.

22 The only piece of legislation -- so let me
23 just back up because something you might be thinking,
24 "Well, what about the *Indian Act*?" So there's nothing in
25 the *Indian Act* on delivery of essential services.

1 The last major time, aside from some
2 amendments around status, that the *Indian Act* was amended
3 was 1951, and the only thing that the government did in
4 1951 was put in section 88, which I already talked about.
5 But besides that, there's nothing when it comes to
6 essential services delivery.

7 Now, Canada could have done something about
8 it, but it chooses not to and instead does this sort of
9 policy funding agreement approach.

10 And so the only other piece of legislation
11 besides the *Indian Act* that's relevant is the *Department of*
12 *Indian Affairs Act*, which just simply creates the
13 Department, and it gives a bare sort of jurisdiction to the
14 government -- or to the Department over Indian Affairs.
15 That's really the only piece of legislation that you can
16 actually link what the government does with respect to
17 essential services, aside from 88, back to the Department.

18 So there isn't, like in the case of the
19 provinces, you know -- in the province, let's go back to
20 social assistance, but there will be a *Social Assistance*
21 *Act*. There's going to be regulation and there's going to
22 be policies. So we don't have those things in place.

23 And so what's the matter when there's not
24 those things in place is that it allows the government a
25 lot of discretion, which is the ability to sort of change -

1 - you know, make decisions but also make decisions
2 sometimes that are not -- you cannot then point to a piece
3 of legislation to say, "Okay, you have the authority to
4 make that decision."

5 So discretion happens all the time, and it's
6 not necessarily always a bad thing, but it is a bad thing
7 when it's abused or there's too much of it, and that is my
8 argument about how the system works, is that it just gives
9 the government too much discretion to change its mind, to
10 change how it interprets funding agreements or how it
11 interprets its program terms, or how it monitors, you know,
12 the reports and these sort of things, because as
13 administrations change as different governments come into
14 power, they may have certain different ideological bents,
15 but they can sort of change all of this without, you know,
16 much happening or being seen at the surface.

17 And so that can create situations where
18 there can be abuse. And so in my paper I give some
19 examples of this. During the last part of the Harper
20 administration's time in office, there were some cases
21 that, you know -- there were all these different
22 interpretations that the government was giving to the
23 comparability standard. So in the case that I was involved
24 with on social assistance, they said that comparability
25 meant, you know, strictly, strictly mirroring whatever the

1 rate was in the provinces and following them very, very
2 strictly but in such a way that the First Nations would be
3 receiving even less than they had been receiving before and
4 in a way that even some of the Department staff -- and I
5 still have some of the records from the court case -- but
6 even where the Department staff recognized that it would
7 have a very significant impact on the amount that people
8 would be getting. And there was concerns that that might
9 even increase child welfare apprehensions in the community
10 and caused violence against staff in the community. There
11 is actually such a document where the staff recognized
12 this.

13 So they took this in that particular
14 instance, a very narrow interpretation of comparability.

15 Then on the other side of it they were
16 litigating the child welfare decision, where Cindy
17 Blackstock was arguing that comparability meant offering
18 and funding, at the very least the same level of services
19 in the provinces. And in that case they were saying,
20 "Well, no, comparability doesn't exactly mean that." So in
21 two cases going on at the same time, they were arguing two
22 different sort of standards. And there was no legislation
23 to go back to to say "This is what comparability means."

24 And so you have different lawyers and people
25 from the Department trying to argue all these different

1 things, and it just -- it really leads to a lot of
2 confusion and a lot of malleability.

3 And so that is one of my big problems with
4 the fact that there are no laws that really encapsulate
5 this.

6 There are other cases that are discussed in
7 the paper. And also too, this area, as I say, it really is
8 difficult to challenge this area because there's no
9 legislation. When you have a law, you can actually go to
10 court and say, "Hello, Court, they're not following this
11 particular provision." But where you don't have that and
12 you have funding agreements and policies, it's a lot harder
13 to make that case before the Court. The documents provided
14 are much more sort of bigger. The case production is huge.
15 And also, it's just really hard to very clearly establish
16 what it is the government is supposed to be doing and
17 there's different arguments on both sides.

18 And there have been some cases, for example,
19 where, you know, even arguments get made -- there's been
20 some administrative law decisions where these things have
21 been challenged and government lawyers have said, "Well,
22 this, you can't even bring in administrative law arguments
23 because what we're talking about here is just a contract
24 between the Government of Canada and the First Nations and
25 you can't challenge those types of arguments here. It's

1 just a contract and they can sue under the contract." So
2 sort of trying to get away from all the public law aspects
3 of what was going on here.

4 So it is very difficult to challenge this
5 area. So I actually think this area -- the lack of
6 legislation also creates access to justice issues in a
7 major way. There really hasn't been much challenge of this
8 area except for the last 10 years or so, and the only real
9 first successful case has been the *Caring Society* case,
10 maybe a few others, but it is a very difficult area to
11 challenge. I go into more detail about this.

12 And I guess the last thing about this that
13 I'll raise is that the system -- and this has been raised
14 by the Auditor General -- because there's no legislation,
15 it never gets before Parliament and parliamentarians to
16 actually debate what the policy ought to be. And so, you
17 know, it's all happening at the bureaucratic level, and so
18 not much comes up to the surface to be debated. So when we
19 see parliamentarians debating Indigenous policy, it always
20 tends to be after there's been a rash of suicides or a
21 shooting or something. It's always reactive. And this
22 whole system really doesn't lend itself to a proactive
23 actually addressing of Indigenous issues.

24 Now, I just want to underline something to
25 be really clear. I am not urging or arguing here for

1 unilateral federal legislation in all these areas. I do
2 think there needs to be legislation that clearly sets out
3 lines of accountability, but it has to be with Indigenous
4 people as partners. And I'll talk more about that after,
5 but I just want to make that clear.

6 So those are there to read. We can just
7 quickly go to the next slide. I won't read all of them,
8 but essentially what I've just been saying has been
9 repeated by the Auditor General. So he or she, at whatever
10 time period, talks about lack of substantive legislative
11 authority undermines parliamentary control, does not
12 provide instruments for Parliament to hold the Department
13 accountable.

14 In 2011, Auditor General said that the lack
15 of structural -- or the structural impediments severely
16 deliver the delivery of public services and hinder the
17 improvement of living conditions on reserve. So that's a
18 real link about how this whole system is impacting on
19 Indigenous people.

20 **MS. CHRISTA BIG CANOE:** I think we're going
21 to go to the one that keeps saying is not the only problem
22 but technically a big problem.

23 **MS. NAIOMI METALLIC:** Which is the severe
24 underfunding, right? But I guess what I'm trying to say is
25 all these other problems help this bigger problem of the

1 underfunding kind of go under the radar or has allowed it
2 to go under the radar for as long as it has.

3 **MS. CHRISTA BIG CANOE:** If we could just --
4 oh, there we go.

5 **MS. NAIOMI METALLIC:** Thank you.

6 And we know from the *Caring Society* decision
7 -- sorry, I'm not trying to be too loud -- that INAC in
8 fact knows that it doesn't provide a comparable level of
9 services, and this is something that the Auditor General
10 too has suggested that INAC doesn't even really study
11 properly whether it is providing comparable services. It's
12 referenced in some Auditor General reports, and in the
13 *Caring Society* decision, they do actually quote some
14 internal INAC reports.

15 And there was one from 2006 where INAC
16 specifically says that if current social programs were
17 administered by the provinces, meaning if the provinces
18 were paying for it, this would result in significant
19 increases in cost for INAC.

20 So it does seem that there is this knowledge
21 that generally, social services are being underfunded.

22 You know, and something that has exacerbated
23 the underfunding, of course, has been the 2 percent cap
24 that was in place from 1996 to 2016. I don't know how much
25 you wanted me to go into that, but it is detailed there,

1 and there are some good resources cited in the paper that
2 can talk about how the cap ended up getting put in place
3 and how it stayed there for so many years.

4 My next slide, please. So to, I think,
5 corroborate the fact that there is, you know, a significant
6 underfunding to the point where First Nations feel they
7 have to go to the Human Rights Commission, I just pulled
8 this slide out -- or found this quote. This was from last
9 year. The Canadian Human Rights Commission was reporting
10 to a UN body on different things, but one of them was
11 talking about the *Caring Society* case, and essentially what
12 this quote says is that it's not the only case. Yes, it
13 was the first case of its kind to argue a systemic
14 underfunding of services, but the quote basically ends by
15 saying that there are a number of other complaints that are
16 currently before the Commission like the *Caring Society*
17 case now in the areas of special education, health
18 services, assisted living, income-assisting benefits and
19 policing. So those are all ongoing complaints now.

20 Next slide. Did you want to ask a question
21 on this? No? Just go?

22 So here, I do so in my paper, but, you know,
23 we've already talked about this a little bit, but you know,
24 I do think that there's a pretty obvious link between
25 chronic underfunding and these other problems, social

1 problems and other tragedies that we see in our
2 communities, and I think it is directly linked to the
3 vulnerabilities that our women and girls experience.

4 So in the paper, at one point I just go
5 through about a year's worth of newspaper articles that all
6 talk about how underfunding of services were somehow
7 responsible for various tragedies, house fires, disease,
8 violence and murder, drug-related crimes. So anyway, if
9 you go to this part of the paper, it's around page 62 or
10 63. You can take a look at that.

11 I was involved, as I mentioned at the
12 beginning, in a research project for a couple of years
13 around social assistance in the Maritimes, and this was in
14 the last couple of years. And through that we looked at
15 how it was actually being -- how the program was being
16 delivered in communities in the Maritimes. And one thing
17 that we noticed was that -- and it's talked about in my
18 paper too -- the rates for welfare services, at least in
19 the Maritimes, have not gone up since 1991.

20 So if you think about, for example, you
21 know, in the provinces, the rates for social assistance do
22 actually -- you know, are increased at least every couple
23 of years, I believe, in order to reflect inflation. So we
24 found there that, you know, in some provinces it's 82\$ per
25 week that people are getting, and that hasn't changed for

1 about 25 plus years.

2 And again, I think my point is that the
3 system allows for this to sort of happen under the radar,
4 and there really needs to be more accountability.

5 And I also want to link this, you know, to
6 the really low rates that we're seeing for social
7 assistance. We heard, when we interviewed people, they
8 talked about food insecurity, about how they couldn't
9 afford healthy diets, how sometimes they ran out of food.
10 Some people actually linked the fact that they, you know,
11 felt sometimes they had to resort to illicit activities in
12 order to supplement their income, so drugs, other issues.

13 But, you know, other times we heard more
14 positive stories that communities would come together
15 because of food insecurity and do things like bottle drives
16 and stop people on their way out of the community to
17 fundraise. But it goes to show that, you know, a lot of
18 these programs are not providing sufficient means for
19 people to support themselves.

20 And we heard from people talking about --
21 especially people who are on assistance -- you know, how it
22 affected their self-esteem and their sense of self-worth,
23 and some people talked, you know, how -- the sense of
24 desperation that they felt.

25 So all of these things link back to -- you

1 were talking about, you know, the lived experience of
2 people, food insecurity and housing insecurity, that I'll
3 get to in a second. And I have here linked this proof of
4 food insecurity. I didn't do a tonne of research, I have
5 to say, on the links, but you know, this food -- this
6 policy research institution body, the paper that I pulled
7 up, you know, links food insecurity with impacts on
8 physical, mental and social health, and I think that we
9 intuitively get that.

10 One paper, though, that I really wanted to
11 bring to the Commission's attention -- it's really
12 interesting to find at the same time that we were doing
13 this research -- comes from the New Brunswick Aboriginal
14 Peoples Council who are an off-reserve, non-status
15 organization. They represent the off-reserve and non-
16 status in New Brunswick.

17 **MS. CHRISTA BIG CANOE:** This was provided in
18 the schedule, the Nidap Wiguag ---

19 **MS. NAIOMI METALLIC:** M'hm.

20 **MS. CHRISTA BIG CANOE:** --- Engaging
21 Aboriginal Youth in Addressing Homelessness, and it's the
22 New Brunswick Aboriginal Peoples Council and it's on the
23 summary as Schedule C. And so I would request that we do
24 actually enter it as an exhibit.

25 **CHIEF COMMISSIONER MARION BULLER:** I'm not

1 going to try to pronounce the name.

2 **MS. NAIOMI METALLIC:** Nidap Wiguag.

3 **CHIEF COMMISSIONER MARION BULLER:** But it is
4 the next exhibit, please.

5 --- **EXHIBIT NO./PIÈCE NO. A17:**

6 New Brunswick Aboriginal Peoples
7 Council report (April 2016) "Nidap
8 Wiguag: Engaging Aboriginal Youth in
9 Addressing Homelessness" (39 pages)

10 **MS. NAIOMI METALLIC:** I came across this
11 report. It was shared by me around the same time that we
12 were doing some of this research in New Brunswick and Nova
13 Scotia about social assistance, but it's talking about
14 homelessness, but it was -- it just was confirming a lot of
15 the things that we were finding too, but I think it's a
16 really interesting report for a couple of reasons. One,
17 it's, like I said, by an off-reserve, non-status
18 organization that decided it wanted to study the impacts of
19 homelessness on Aboriginal youth aged, I think 12 to 30 is
20 their age range. And they interviewed 43 homeless youth,
21 and they have definition of homelessness as a variety of
22 things. But they interviewed 43 in three cities in New
23 Brunswick, so Saint John, Fredericton and Moncton.

24 And the really interesting finding is 95
25 percent, so 41 out of 43 of the youth, were youth that had

1 left First Nations communities. So 41 of 43 homeless youth
2 said that they had left a First Nations community in either
3 New Brunswick or Nova Scotia. So they conclude as part of
4 this that data indicates that homelessness of the
5 Aboriginal population is disproportionately coming from the
6 reserves.

7 And one of the biggest factors that they
8 talk about in the report that caused a lot of these youth
9 to leave was lack of housing, primary factor, as well as
10 family, drug and alcohol abuse, and also physical and
11 sexual abuse. So if you want just page references, I'm
12 looking at page 12 and 13, just for your own notes. So
13 they said about 65 percent of the participants were male;
14 35 percent were female. But most of them had stories about
15 living in really overcrowded conditions and there were also
16 stories of sexual abuse, of both young men and women, and
17 often they linked it to having to live in really
18 overcrowded situations. So that's in the report as well.
19 So I think that's very telling. Some also discussed having
20 experienced abuse in foster homes as well.

21 But it does -- I think this report shows the
22 link between homelessness in the off-reserve community,
23 linking it to problems in First Nations, including
24 inadequate housing, which is, I think, a big part of what
25 this whole service delivery quagmire creates.

1 **MS. CHRISTA BIG CANOE:** Excellent.

2 So I know that we've been talking a lot
3 about particularly First Nation child services and care. I
4 know that one of the problems with the system that you
5 identify is on the next slide, and it's resulting in a
6 significant overrepresentation of First Nations' children.

7 But I note the statistics are actually
8 talking about Aboriginal children, so I'm assuming, looking
9 at the jurisdictions as well, seeing that the Northwest
10 Territories and Nunavut are up on this slide, that it's
11 likely not just First Nation-specific but rather
12 statistics.

13 But, you know, can you just share briefly
14 with this problem -- you know, I think one of your earlier
15 slides said, "Well, we know it's not improving the
16 conditions" but then we also know it's not improving the
17 state of child welfare or foster care in the country, based
18 on these numbers.

19 **MS. NAIOMI METALLIC:** Yes, that's right.

20 So this comes from a Premier's report from
21 2015, and you're correct that they were looking at
22 Aboriginal children more broadly. So it includes both the
23 Inuit and Metis, as well as First Nations children.

24 But yes, the stats from this -- I mean, it's
25 funny; sometimes we talk about the '60s scoop as if it's

1 somehow the past tense, but it certainly is not. I mean,
2 it did happen starting in the '60s and there was this, you
3 know, massive scooping of children into the foster care
4 system, but the problem is still existent today.

5 So I had pulled these slides from the -- or
6 the 1977 statistics showing, you know, the
7 overrepresentation in some of the bigger Prairie provinces,
8 but if you compare them from the numbers that were put
9 together for this 2015 report, they're higher. So it just
10 goes to show that, you know, the problems in the system, in
11 particular with respect to child welfare, is still
12 resulting in massive overrepresentation in every province,
13 every single province.

14 **MS. CHRISTA BIG CANOE:** If we can move to
15 the next slide, this is like we kind of heard some of the
16 issues today from other witnesses on, you know,
17 intersections of the different isms, like racism and
18 sexism, and I see that your next problem with the system
19 actually talks about the whole -- like, looking at the
20 system and where we are now with the devolution of services
21 that it actually fuels stereotypes and hate.

22 **MS. NAIOMI METALLIC:** Yeah.

23 **MS. CHRISTA BIG CANOE:** Can you explain that
24 a little to us?

25 **MS. NAIOMI METALLIC:** So this is -- I liked

1 Fay's triangle reference earlier, and so I've been talking
2 about it. She said there's personal experience, systems,
3 laws and institutions, and then the Canadian society's
4 ideology and beliefs. And I think I've been talking about
5 the systems, but now I'm going to talk about that other
6 corner, I think, which is the ideology and beliefs. But I
7 think these two feed into each other.

8 So as I said before, I really don't think
9 that most people, aside from now underfunding because of
10 Cindy's case, but don't know about -- or don't understand
11 how the system's service delivery works in First Nations
12 communities. And if you were to go to your local Tim
13 Hortons and ask your average Joe, he will probably say,
14 "Well, you know, those First Nations, those Indians get
15 pots of money thrown at them." This is a pervasive
16 narrative that gets thrown around. And what people do not
17 understand is that this is money for essential services
18 that people in the provinces are also getting, not from the
19 federal government but from the provincial government. And
20 some of the quotes that I like to sometimes throw around is
21 Bob Canoe has this video where he, you know, talks about
22 how the fact that we get -- you know, First Nations on
23 Reserve gets funding for services and they're a population
24 about the size of New Brunswick. But people in New
25 Brunswick get far more from their governments for the

1 services. Or Cindy says it in another way, but she says we
2 get less and get blamed for getting more.

3 But people don't understand that this --
4 these are monies for basic essential services that
5 everybody gets in this country; right? Because we have a
6 social safety net and we believe in it, and it's almost
7 like a fundamental -- it is a fundamental right.

8 But people don't understand that. They see
9 it as buckets of money on the one hand, and then they still
10 see, despite their beliefs that there are these buckets of
11 money, that there are still this poverty -- this crushing
12 poverty and social problems.

13 And one might question that if the money is
14 sufficient, but sometimes where people's minds go instead
15 is that there's this bucket of money, but yet they're still
16 living in this extreme poverty. So what's the cause of it?
17 Oh, it's their leadership, their leadership is corrupt, or
18 they're -- you know, they're incompetent and are not able
19 to handle the money.

20 So we get these narratives that really
21 persist in -- you know, that either are -- we are corrupt
22 or we're incompetent and that's why these problems persist.
23 So we're scapegoated for these problems, and I think that
24 that's a really big persistent stereotype. And this system
25 allows that -- perpetuates that in a very, very negative

1 way.

2 **MS. CHRISTA BIG CANOE:** Can we move on --
3 let's move to your 10th point.

4 **MS. NAIOMI METALLIC:** Yeah. So my last
5 point in the paper talks about how another part of this
6 problem is itself primarily -- I mean, there's other
7 departments involved, but the Department of Indigenous
8 Affairs and how it fits into this whole system I've been
9 describing to you this afternoon, how it, you know, is a
10 part of the problem.

11 A big part of the problem goes back to my
12 point about there being no legislation. If you look at
13 sort of modern legislation for the delivery of services,
14 one of the first points you're going to get to, usually
15 section 2 or section 3, is objectives of the program. And
16 under objectives, it's going to tell you that the objective
17 of providing social assistance to a population is to
18 benefit their well-being or to do X or Y.

19 But that gives a direction to the civil
20 servants who are working in a department offering this
21 service about what they're trying to -- what they're
22 ultimate objective is. And it's important when you take
23 people -- or governments to court, you know, often the
24 courts will try to interpret whatever they're -- you know,
25 they're doing in light of those objectives.

1 Well, we don't have that. The *Indian Act*
2 has no objectives. I mean, we kind of know what the
3 objectives of the *Indian Act* are, but -- but there are --
4 you know, with respect to service delivery, there is no
5 mandate document.

6 And so, a lot of the Gray reports that I
7 refer to earlier talk about -- and the Pinner (phon.)
8 Report also talked about the fact that DIAN's (phon.)
9 really -- or INAC is really confused about what its
10 objective is, and it has two sort of conflicting mandates,
11 and at various points in time one's been stronger than the
12 other. And the lack of legislation sort of allows that not
13 to be resolved.

14 And so, the conflict is between sort of
15 monitoring, which is, you know, accounting for every penny
16 spent on Indians. So you know, getting all those reports
17 and making sure every single dollar is accounted for,
18 that's the sort of monitoring objective. And then we could
19 say that the other objective is, you know, more about, you
20 know, you know, promoting the well-being of Indigenous
21 people or maybe it's promoting the well-being to the point
22 of self-government or self-determination.

23 And so, because there's no objective set out
24 anywhere in law, there is always this tension between the
25 two. And the pendulum swings; right? And I argue in the

1 paper that certainly under the Harper Administration the
2 pendulum had swung pretty far to the monitoring; right?
3 And -- where there was statements made by the government
4 about how that is their -- their bread and butter is to
5 monitor and to make sure that, you know, First Nations
6 communities are held accountable to the Canadian taxpayer.

7 Yeah. And so -- I go on a bit about that at
8 length, and also, how, you know, it is very difficult in
9 trying to come up with a solution that this is not
10 addressed. And that at various points the department has
11 grown in size. At certain points, they tried to -- the
12 federal government tried to shrink the size of the
13 department, but in more recent years it's been increasing.
14 And if there's more staff, they tend to be, I think, a bit
15 more focused on sometimes monitoring.

16 So it's a part of the -- it's a piece of the
17 puzzle that is this larger problem that has to be
18 addressed.

19 **MS. CHRISTA BIG CANOE:** Sorry. I just
20 wanted to check in with Naomi before I requested a short
21 break.

22 We have been running a little behind
23 schedule, and we acknowledge that, and we will be trying to
24 make up some time by either sitting a little late or
25 starting a little early.

1 But I'm going to ask you for a 10-minute
2 break now, and I can tell you that I anticipate -- Naomi's
3 been speaking for about approximately an hour and five
4 minutes, and we had originally planned for an hour-
5 and-a-half, so I'm going to suggest that I will be able to
6 complete my chief in about 20 minutes when we return. And
7 then we'll ask for another break pre -- to meet with
8 parties and make sure we can have cross-examination set.

9 So on that basis, I'm going to ask -- and
10 please -- I know I keep saying this, if we can keep the
11 time where we're losing time is we're not coming back from
12 the breaks with a sufficient amount of time to actually
13 move the material forward. So if it could be a strict
14 10-minute break. Thank you.

15 So it is now 4:06. So at 4:16 we are back
16 here and rolling.

17 --- Upon recessing at 4:09 p.m.

18 --- Upon resuming at 4:23 p.m.

19 **NAIOMI METALLIC, Resumed:**

20 **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MS. BIG**
21 **CANOE (Cont'd):**

22 **MS. CHRISTA BIG CANOE:** Okay. Ready to rock
23 and roll?

24 Okay. And so Chief Commissioner and
25 Commissioners, if we can recommence. I'm still here with

1 the expert witness, Professor Naomi Metallic, and we're
2 just going to continue.

3 Can I have AV put up the -- thank you.

4 So while it's coming up -- and we'll go the
5 next slide -- while it's coming up, I know we keep talking
6 about and we keep hearing you talk about specifically the
7 *First Nations Child and Family Caring Society*. In fact, we
8 know now, because it's in evidence, that this is really the
9 big case you use in your paper and in your arguments to
10 talk about the problems with the system and that this is a
11 case that can offer some solutions.

12 So on that basis, I'm going to ask you to
13 carry on in your presentation to contextualize for us,
14 particularly, how is it that this case can assist us in
15 understanding or making some of the changes that are
16 required to deal with the 10 problems you just listed?

17 **MS. NAIOMI METALLIC:** Great. Okay. Yeah,
18 so in the last third of my paper I talk about the
19 importance of this case. It's a fairly well-known case. I
20 won't go into the details around it too much, we have
21 already talked about it to a certain extent.

22 Cindy Blackstock and the Assembly of First
23 Nations challenged the underfunding of Child Welfare
24 Services, in particular, saying that it was probably
25 somewhere between 22 to 37 percent less than what children

1 in provincial programs get funded for similar programming.

2 And it was started quite some time ago. It
3 had quite a long -- a procedural history. It was
4 challenged at a few points. Some of that is detailed more
5 in the paper.

6 Going on to the next slide. This is just a
7 really brief introduction. We have on January 26th, 2016,
8 the tribunal found that Canada and Indigenous and Northern
9 Affairs Canada had been knowingly underfunding -- had been
10 knowingly underfunding child welfare services. The
11 decision -- the tribunal maintained a -- some supervisory
12 control over the remedy, but ultimately, it ordered that
13 Canada immediately cease discrimination and ultimately seek
14 to reform the program.

15 Canada did not appeal the 2016 ruling.
16 There have since been some compliance orders about whether
17 Canada has been fully implementing the decision. The
18 latest one called on Canada to fully fund the cost of
19 prevention services and provide funding for actual costs of
20 least destructive measures.

21 I'm not going to get into very big detail
22 around the remedial orders, although it's clear that there
23 continues to be some -- you know, discussion, dispute
24 between the parties about full implementation. But I want
25 to talk primarily about the important aspects of the main

1 decision from 2016.

2 So moving on to my next slide. I think
3 there is three real key things that help from that decision
4 addressing these broader issues around all service
5 delivery. The first being that in this case, and in many
6 other cases, Canada -- INAC, in particular, argued that the
7 provision of these services is not mandated by
8 section 91.24 of the Constitution, it is something that the
9 government simply does as a matter of good public policy.

10 And -- so that argument has been used in
11 many cases, and even in some more recent cases there was
12 one more recently in the Quebec Courts on policing, where
13 again, Canada says, "Yes, we fund some of this stuff
14 through funding agreements, however, we have no
15 constitutional mandate. We are not required. We do not
16 have a fiduciary duty to provide these services. We do so
17 out of the goodness of our hearts."

18 Now, this was argued in the decision itself
19 and anyway, a really important aspect that came out of this
20 was the tribunal finding that when it comes to the child
21 welfare services, Canada indeed is exercising its power
22 under Section 91.24. And in fact, Canada also tried to
23 argue here that because the provinces have a role and
24 because some province the legislation applies, that really
25 it's actually more -- here it was a provincial

1 responsibility. And the tribunal concluded that although
2 Canada may choose to delegate aspects of its responsibility
3 to the provinces, at the end of the day it is Canada as the
4 primary responsibility in terms of providing these
5 services.

6 So what the -- I will go a little bit
7 through the findings. It was found that INAC's funding
8 significantly shapes child and family services delivery and
9 that INAC provides policy direction and oversight, it
10 negotiates and administers the agreements with the
11 provinces and the territories, and First Nations. It
12 found, in fact, that it wasn't a passive player, as it
13 seemed to present itself as, but rather it is the
14 government entity that has the power to remedy inadequacies
15 in the programming, ultimately. And that -- yeah.

16 Based on all of these things, the tribunal
17 dismissed the argument that Canada did not have a more
18 robust role, simply than just one of funder. And in fact,
19 the tribunal, although it concluded that Canada was on the
20 hook because of the *Canadian Human Rights Act*, and that
21 funding was a service, it also has a part of the judgement
22 dedicated to looking at this question around whether Canada
23 had a fiduciary duty in the circumstances because it
24 exercises such significant discretion over this area. And
25 the -- I'm not getting into the law on what constitutes the

1 fiduciary duty, but to summarize briefly the analysis, the
2 tribunal looked at the fact that the specific Indigenous
3 interests are affected by child welfare because kids can
4 get taken into care and placed in foster families, and
5 potentially lose their language and their link to their
6 culture.

7 So the tribunal actually found the
8 aboriginal and Treaty rights of the children to their
9 language and culture was at risk. Because of that, that
10 specific Indigenous interest was at stake and because the
11 government exercises extreme discretion -- a lot of
12 discretion in this area, there was potentially an argument
13 for fiduciary duty as well as the human rights finding.
14 But they didn't have to ultimately conclude on that,
15 because they were deciding under the *Canadian Human Rights*
16 Act. But that's all really important findings that ground
17 Canada's duty much more securely in the law than previous
18 decisions had. So that's really important for future cases
19 about essential services.

20 The next big thing that the tribunal found
21 was, in many ways it found that the delivery of child
22 welfare services in Canada today mimics what happened with
23 residential schools. And so basically, I'm not going to
24 get into all the details, but it's in the paper about how
25 the mechanics of the funding around child welfare services

1 worked under these funding agreements. But basically, what
2 was found was that because prevention services were not
3 funded, or very minimally funded, this system created
4 incentives to take children into foster care. So by that
5 way it was perpetuating the residential school system.

6 But the decision also goes on beyond that
7 and also comments on the fact that removing children into
8 foster families where they might lose their language and
9 their culture, again perpetuating the residential school
10 system. And then even more broadly, this is the quote at
11 the last bullet, the tribunal says:

12 "Similar to the residential school era,
13 today, the fate and future of many
14 First Nations children is still being
15 determined by the government..."

16 So there's this broader statement about how
17 much control the government has over their lives is also
18 perpetuating or mimicking the residential school system.

19 And that sort of leads into the final point,
20 which I think is a -- the most important aspect of this
21 case. When a lot of people talk about this case, they
22 think it's just that the tribunal said, Canada is
23 underfunding when you compare it to the provinces. But
24 that's not exactly what the decision stands for. Yes, it
25 says, you have to bring them at least up to this level, but

1 they said that this -- the provincial level is not the
2 measure -- is not the measuring stick. It's actually the
3 needs and circumstances of the community that dictate how
4 much services -- and the funding, not this arbitrary
5 setting it at whatever the provinces decide to do.

6 Why? Because First Nations are different.
7 They're different. They have different needs and
8 circumstances. The history of colonialism has impacted
9 them. They also have different cultures and different
10 needs, and those -- and to be a responsive program that
11 reflects substantive equality, Canada actually has to
12 provide services on that basis and not simply just the
13 formal level.

14 And so, going back to that comparability
15 standard which I referenced at the beginning, this idea
16 that we just take the provincial standards and that's what
17 we can apply on reserve. This suggests, and actually quite
18 specifically says, that the comparability standard -- they
19 call it there the reasonable comparability standard -- is
20 discriminatory. Because it's trying to make circumstances
21 on reserve mirror circumstances in the province, and
22 they're different, and the Commission -- the tribunal
23 recognized that. So I'll just read this quote. It finds
24 that -- so the tribunal found that both domestic and
25 international human rights law require:

1 "...the distinct needs and
2 circumstances of First Nations children
3 and families living on-reserve --
4 including their cultural, historical
5 and geographical needs and
6 circumstances [be considered] in order
7 to ensure equality in the provision of
8 child and family services to them."

9 So I think that that's really key. Because
10 it's about that the communities are entitled to services,
11 and services that are funded, that meet their needs and
12 circumstances, and their culture, and their geographical
13 circumstances.

14 So essentially, it's not said as directly,
15 but it's obvious from that quote that any sort of program,
16 or any funding that is solely based on mirroring what the
17 provinces do is a violation of human rights. So that, I
18 think, is a really big key finding. Again, Canada did not
19 appeal it, and we now have a number of other cases that are
20 going forward that are making somewhat similar arguments, I
21 understand.

22 **MS. CHRISTA BIG CANOE:** So one of the
23 articles that was cited in the summary was done by
24 Sebastien Grammond, and he was talking about federal
25 legislation on Indigenous child welfare in Canada. I don't

1 have a hard copy. There is a link and we will ensure that
2 we provide it in hard copy. And the only reason I'm
3 raising it is because I know that there's a point in terms
4 of what Mr. Grammond is suggesting, about the federal
5 legislation. And you touched on it a little earlier,
6 saying you know, I'm not saying that we want there to be
7 this unilateral and it has to be in partnership.

8 I want to return to the -- and I know this
9 is gearing towards recommendations to the Commissioners,
10 but I -- that you want to present, but I want to return to
11 that concept of what do you mean by, you know, federal
12 legislation, but with -- in partnership with First Nations?
13 What does that look like? And I referenced Mr. Grammond's
14 article, because I know that that was one of the points
15 that you raised, his argument is as well.

16 **MS. NAIOMI METALLIC:** Yeah. So we finally
17 are now -- particularly with this government, now starting
18 to have conversations about legislation, and there is some
19 trepidation, at least that I've heard a little bit, because
20 we don't have a very good history in Canada of a government
21 responsibly legislating First Nations' policy issues. But
22 it is something that happens in other places. In the
23 United States, for example, they have actually -- they have
24 a significant amount of legislation that recognizes the
25 inherent jurisdiction of American Indian's tribes and

1 actually, what it does is set out accountability of the
2 governments.

3 And that's a really -- I think for me, the
4 most important part about legislation. It's not about the
5 federal government, or any government, telling First
6 Nations what they have to do, rather, but it's setting out
7 accountability mechanisms, and also sort of helping to
8 implement, I think, inherent rights. So in the U.S. a lot
9 of it is about recognising and implementing the inherent
10 rights of those tribes to determine their own programing,
11 but at the same time setting out rules for how other
12 governments are to interact with them.

13 And so, one of the things that is now being
14 floated, post the tribunal's decision on child welfare, is
15 looking at -- there is a child welfare legislation in the
16 U.S. that does recognize the inherent jurisdiction over it.
17 It's not perfect. It's an older piece of legislation. But
18 nonetheless, it does set out the accountability mechanisms
19 and sort of, helps implement a system -- the -- an
20 appropriate system for recognition. There's people who
21 have done more work on that. Sebastien has written a paper
22 about it. So I think that these are things to look at. I
23 think that too long that this system has allowed for very
24 little accountability of other governments, and we need to
25 figure out ways to do it. And there can be governments

1 that come in -- see, my biggest fear is that governments
2 come in, they say we're going to change things, we're going
3 to do things that are better, but they only pass policies.

4 I can give you a million examples in Canada
5 of where the government just creates a policy; a policy on
6 self-government; a policy on this or that. But then
7 another government can come in and ignore that policy.

8 And so I feel that there needs to be some
9 more accountability to hold the Federal government
10 accountable. And, you know, there has been calls for
11 legislation around accountability, around how it funds and
12 how it provides other services.

13 **MS. CHRISTA BIG CANOE:** And so it's safe to
14 say that one of your recommendations -- and I understand
15 you're wary like others are, in terms of saying, you know,
16 legislate more on the rights of Indigenous people, but at
17 the same time really the parameters around that
18 recommendation speak to the accountability or the
19 frameworks and functions to ensure that you're achieving
20 substantive equality instead of just, you know, putting
21 into place a bunch of rules that may continue or foster the
22 stereotypes or those other problems. Is that fair?

23 **MS. NAIMI METALLIC:** Yeah. If I could just
24 ask the fellow with the PowerPoint power, could you go to
25 Slide 27 for a sec?

1 So in this echoes something that Fay said
2 earlier in response to, I think, one of the Commissioner's
3 questions about how to move forward. And so there are
4 three broad themes, but the last one is a phrase -- I think
5 it's better than consultation because consultation now
6 under, you know, Supreme Court of Canada decision sometimes
7 has a very particular, almost narrow meaning.

8 But the better way forward, I think, and I
9 think this is more in keeping with the U.N. Declaration on
10 the Rights of Indigenous People, but you'll have experts
11 talk on that, is nothing about us without us, right? And
12 so it's this idea that if there's major, you know,
13 decisions that are being made that are going to impact on
14 communities, they have to be done in partnership.

15 And the Auditor General, to go back to some
16 of the reports that came out, some of them from the mid-
17 nineties, has been saying this; that, you know, so here's
18 one from '94:

19 "Given their fundamental need to
20 preserve First Nations values and
21 culture, it would be unlikely that
22 their problems could be adequately
23 addressed by solutions imposed on them
24 from the outside." (As read)

25 Right? So the Auditor General is talking

1 about how there has to be this partnership. And it's the
2 same from other recommendations. It has to be with -- you
3 know, fully -- with full participation and consent, I
4 think, of Indigenous communities when it comes to stuff
5 like this.

6 **MS. CHRISTA BIG CANOE:** So I just want to
7 make sure I get the opportunity to ask you if you have any
8 recommendations that you want to suggest to the
9 Commissioners.

10 **MS. NAIOMI METALLIC:** Sure. So one is, you
11 know, I'm not in a position to dictate the needs of
12 communities in particular. I just think that there are
13 these, you know, sort of basic principles that should
14 inform away for. One is that we need something to hold
15 other governments more accountable. The other I think is -
16 - if I can get your fellow again to go to my Slide 24.

17 This is where I set out the sort of
18 generally three themes, right? So I think this is really
19 basic, and I use this in other contexts but one is that
20 there needs to be space, right? First Nations need to be
21 able to -- and I think this is what comes from the Caring
22 Society, and maybe I didn't articulate it specifically but
23 I think an implication of the decision is that only
24 Indigenous people, if they're going -- if Indigenous people
25 have a substantive equality right to services and programs

1 that reflect their needs, circumstances, and culture, then
2 they have to be the ones determining what they are because
3 there really is no way around it. You cannot have another
4 level of government determining what you need for your --
5 you know, in terms of your culture, your geography, if
6 another government's trying to determine it, then they're
7 not going to get it because they're not from the community.

8 So there was a quote -- and it's in the
9 paper a few times but I think it really encapsulates what I
10 think is sort of the main principle coming from the
11 decision, which is, "The principle is simple..." This is
12 from Carrier Second Tribal Council member back from 1981,
13 so the language is a little bit dated but he says:

14 "Only Indian people can design systems
15 for Indians, anything other than that
16 is assimilation." (As read)

17 And so I think that that really is a key
18 principle and it comes into this number one, this making
19 space; that in a way forward we need to make space for
20 First Nations communities in order to come up with, you
21 know, the rules that make the most sense for the basic
22 programs and services that affect them.

23 And so it can be through agreements but I
24 really think that there needs to be something more robust
25 holding governments accountable, in that sort of space.

1 So that's where I think that legislation has
2 a role to play.

3 The other one obviously is resourcing. And
4 so that gets back to Cindy's case, right? I mean -- and in
5 Canada's case, that is about resourcing First Nations
6 programming appropriately, and Inuit programming
7 appropriately. I don't know how it is that Canada can get
8 away with knowingly underfunding a service, a basic
9 fundamental service that, you know, other people or other -
10 - people who have received province -- services from the
11 province can take for granted.

12 And so in that regard I would point to the
13 Caring Society's own what they call the Spirit Bear Plan
14 wherein there's five calls within in it. I will not read
15 through all of them but essentially, at the end of the day,
16 it's calling on Canada to implement the Canadian Human
17 Rights Tribunal Decision to cost any shortfalls in
18 federally funded public services and to fix it; to consult
19 with First Nations in order to develop programming that
20 meets their needs in order to develop programming that
21 meets their needs; and to do sort of a 360 evaluation to
22 identify ongoing discriminatory ideologies and policies.

23 So I think this is a good starting point
24 although -- and excuse the pun -- I do think it is sort of
25 the bare minimum.

1 (LAUGHTER/RIRES)

2 **MS. NAIOMI METALLIC:** I know, cheesy.

3 But beyond that, I do think that there are
4 some broader structural changes that really need to be
5 looked at so it's not just adding -- I mean, it definitely
6 is addressing the resourcing but there's bigger, broader
7 structural changes that have to be focused on.

8 **MS. CHRISTA BIG CANOE:** On that basis, too,
9 I did provide the Commissioners each a copy, and counsel
10 received a copy, too. Can we please ensure that that's
11 marked as an exhibit.

12 **CHIEF COMMISSIONER BULLER:** That's the next
13 exhibit, please.

14 --- **EXHIBIT NO./PIÈCE NO. A18:**

15 Spirit Bear Plan (one page)

16 **MS. NAIOMI METALLIC:** I think that's sort of
17 it. Just go to the last slide, to make sure we covered it.
18 I think we ---

19 **MS. CHRISTA BIG CANOE:** Yeah, we did.

20 **MS. NAIOMI METALLIC:** Yeah, good.

21 **MS. CHRISTA BIG CANOE:** And so I know these
22 are very broad recommendations you're giving, and they're
23 really looking more at principles than specific
24 recommendations. Just so we're clear moving forward,
25 anything that came up that you didn't get to address in-

1 chief today but that was in your paper or references to
2 other questions or things that you can answer moving
3 forward, in that way I know that for me I have no further
4 questions in examination in-chief.

5 I understand that the Commissioners are all
6 deferring their questions until after cross-examination; is
7 that correct?

8 **CHIEF COMMISSIONER MARION BULLER:** Yes.

9 **MS. CHRISTA BIG CANOE:** Excellent.

10 So just keeping in mind the time, it's now
11 4:45. I understand that the Commissioners are available to
12 sit until 5:30, 5:45. And so I'm going to ask for a 15-
13 minute break so that counsel can meet the parties with
14 standing and return to start, just to begin the cross-
15 examination process.

16 So if we can take -- and I know we're going
17 to keep this within 15 minutes. It's now 4:45. We'll be
18 back at 5:00.

19 --- Upon recessing at 4:46 p.m.

20 --- Upon resuming at 5:20 p.m.

21 **MS. CHRISTA BIG CANOE:** Commissioner,
22 Commissioners, hi. So I just want to go over a couple of
23 quick things in terms of housekeeping before we actually go
24 into cross-examination.

25 So earlier I had asked for a ruling on Rule

1 48 and I just want to touch for a moment on the record to
2 read in the last part of that rule.

3 So earlier it had been indicated that during
4 the examination in-chief that no counsel other than
5 Commission counsel was allowed to speak with the witness
6 about the evidence that he or she has given until the
7 evidence of the witness is complete.

8 The last part of this rule says:

9 "Commission counsel may not speak to
10 any witness about her or his evidence
11 or the witnesses being examined by
12 other counsel." (As read)

13 So that it's clear, it's not a prohibition
14 on talking with an individual. It clearly is a prohibition
15 about not talking about their evidence. And so Commission
16 counsel will not be able to talk to any of the witnesses
17 about their evidence during the duration of the cross,
18 which is going to commence today with the calling of the
19 first party that we'd like to cross.

20 Just so it's also on the record, there will
21 be 14 of the parties that will actually be using their
22 participatory right pursuant to Section 25 to actually do
23 cross-examination.

24 The first party who has asked to do cross-
25 examination is the Inuit Tapiriit Kanatami. And so I will

1 ask counsel to please come to (inaudible)

2 (SHORT PAUSE/COURTE PAUSE)

3 **MS. CHRISTA BIG CANOE:** Before you commence,
4 could you just please introduce yourself. And I'll just
5 remind you, the clock's here. Once you ask your first
6 question, the clock will start.

7 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

8 **ELIZABETH ZARPA :**

9 **MS. ELIZABETH ZARPA:** My name is Elizabeth
10 Zarpa; I'm counsel with Inuit Tapiriit Kanatami.

11 So I want to thank all witnesses today who
12 provided their testimony.

13 I specifically want to zero in a little bit
14 more on the issue relating to -- I guess the social
15 determinants of health within Inuit Nunangat, and also the
16 experience of living in northern regions.

17 So one of the main findings of the Labrador
18 Inuit Women's Realities Report emphasize the importance of
19 sort of a stable income, and the recognition within
20 Hopedale and Nain of the lack of diversity and sort of at
21 the same, the wage economy.

22 I wanted to do a follow-up and ask you,
23 Tracy, the experience of EI payments and income assistance,
24 is -- are these payments adjusted to northern living?

25 **MS. TRACY DENNISTON:** Are they what?

1 **MS. ELIZABETH ZARPA:** Is this on?

2 **MS. TRACY DENNISTON:** Can you hear me? Can
3 you say the question again? Are they...?

4 **MS. ELIZABETH ZARPA:** So when an individual
5 goes on Employment Insurance or income assistance, are
6 these types of income adjusted to living in Nain or
7 Hopedale or Nunatsiavut?

8 **MS. TRACY DENNISTON:** No. I think it's
9 pretty much the same back from years ago. It's the same
10 amount, even though our communities have very high costs of
11 living, the income don't match what they really need to
12 survive on.

13 **MS. ELIZABETH ZARPA:** And to talk a little
14 bit about how to adjust that, would you make sort of a
15 generalization that the cost of living, say -- for
16 instance, in the report also it mentioned the experience of
17 paying for types of electricity. So in Nunatsiavut, it's
18 predominantly heated with oil?

19 **MS. TRACY DENNISTON:** Yes, oil and wood.

20 **MS. ELIZABETH ZARPA:** Okay.

21 **MS. TRACY DENNISTON:** So a lot of homes have
22 wood stoves because they can't afford all oil.

23 **MS. ELIZABETH ZARPA:** Okay. And in the
24 report it mentions -- in the Labrador Inuit Women's
25 Realities Report it mentions that approximately for the

1 cost of heating oil throughout the winter months is
2 approximately \$1,000?

3 **MS. TRACY DENNISTON:** Yes.

4 **MS. ELIZABETH ZARPA:** Okay. And with your
5 experience with relation to Inuit women going to the
6 shelters who experience violence within the community,
7 would you make the assumption that -- or from your
8 experience would you say that many of them are living below
9 the poverty line?

10 **MS. TRACY DENNISTON:** Yes.

11 **MS. ELIZABETH ZARPA:** Okay. And what would
12 you see as different ways to adjust to making a wage, a
13 living wage for living in Nunatsiavut, would it be levels
14 of, like, Tim Hortons or access to like, say, women's
15 cultural sewing programs to ---

16 **MS. TRACY DENNISTON:** Yeah, accessibility to
17 different programming to make them educated -- like I find
18 education is a big key to lacking women for skills. So if
19 they were able to bring programs into the communities
20 versus having to get them to leave the communities it would
21 probably be more sustainability for them to receive jobs
22 later.

23 **MS. ELIZABETH ZARPA:** Okay. And in your
24 experience also you mentioned that you had a Bachelor in
25 social work with a specific ---

1 **MS. TRACY DENNISTON:** Yes.

2 **MS. ELIZABETH ZARPA:** --- focus. Did you
3 obtain that education in Nain or Hopedale?

4 **MS. TRACY DENNISTON:** In Goose Bay.

5 **MS. ELIZABETH ZARPA:** Okay. And is there,
6 like, a university in Nunatsiavut?

7 **MS. TRACY DENNISTON:** No. Memorial
8 University is where I got my Bachelor's of social work
9 degree from but they came in -- they done a specific Inuit
10 program that came to Goose Bay, so we were able to move our
11 families to Goose Bay even though it was still in
12 Nunatsiavut region, we still had to move but they made it
13 more accessible. This is part of the reason why I have a
14 degree is because they were able to understand that these
15 programs are hard for families to leave and more major
16 centres like City of St. John's or other bigger cities.

17 **MS. ELIZABETH ZARPA:** And so when you say
18 that you had to move, did other Inuit who are part of the
19 Bachelor of social work program that lived in Labrador,
20 like Nunatsiavut or Nain or Hopedale, did they also have to
21 move to Goose Bay to do a program?

22 **MS. TRACY DENNISTON:** It was just the one
23 program that they found that there was a need for Inuit
24 social workers in our communities, and they came up with a
25 program, and that they wanted to make it easier for us to

1 go out, to be able to attain our degrees, which is what
2 they done.

3 **MS. ELIZABETH ZARPA:** Okay. And to talk a
4 little about the housing, too. Like, in the report it
5 outlines that some Inuit who want to obtain an education,
6 who have to leave their communities, sometimes, like
7 housing programs, if they're gone for a certain amount of
8 time, they lose their spot in the house?

9 **MS. TRACY DENNISTON:** Yes. Depending on the
10 length of the education program they want to do, sometimes
11 they get approval to leave for education purposes. But
12 sometimes if they're gone longer than what they had
13 initially planned or wrote to the Torngat Housing to say
14 that they were wanting to stay longer, they sometimes lose
15 their house or they're saying they can't come back to the
16 house.

17 **MS. ELIZABETH ZARPA:** So in the
18 circumstance, if an Inuit woman wants to get a higher
19 education to obtain different levels of jobs, they'll
20 probably most likely, possibly, lose access to their house
21 if they want to go back to the community.

22 **MS. TRACY DENNISTON:** It's a possibility.

23 **MS. ELIZABETH ZARPA:** And would you make any
24 -- not recommendations but would you make sort of a
25 generalization that having a college or university in, say,

1 Labrador, in northern Labrador, would be beneficial to
2 increasing the quality of life for Inuit?

3 **MS. TRACY DENNISTON:** Yeah, I think it would
4 depending on the needs that women -- like, which programs
5 that they would like. I think based on the needs -- if
6 Inuit women were to decide what kind of training that they
7 wanted, just going back and seeing which was most important
8 that they would like to see, to come back and do that with
9 the communities would work.

10 **MS. ELIZABETH ZARPA:** And I might go back
11 and forth between you and Tim a little bit, if that's okay.

12 So with Tim, I just want to ask you, is
13 there a university in Inuit Nunangat?

14 **MR. TIM ARGETSINGER:** No, there is no
15 university within Inuit Nunangat, and Canada is the only
16 jurisdiction with Arctic territory that does not have one.

17 **MS. ELIZABETH ZARPA:** So the experience of
18 what Tracy mentioned is kind of analogous or similar to
19 other regions within Inuit Nunangat?

20 **MR. TIM ARGETSINGER:** Yes.

21 **MS. ELIZABETH ZARPA:** And would you -- in
22 the experience of an individual who has to leave their
23 community, their family, their home for, say, a university
24 degree, do you think there's an effect on sort of that
25 experience that the individual has to endure; do you think

1 that stops people from pursuing a post-secondary education?

2 **MS. TRACY DENNISTON:** Yes, big impacts, I
3 find. Because our communities are so small, its people end
4 up leaving and going to bigger centres to go to school, and
5 they end up having culture shock because they're not used
6 to living in a city. Like, one example being St. John's,
7 and Memorial University. Even though St. John's is still
8 in our province of Newfoundland and Labrador, it's so much
9 way bigger than what their communities are used to living
10 in. So we're so rural and isolated that, our outlying
11 communities, it's very hard to adjust to vehicles all year
12 round. So that's just one example would be that.

13 **MS. ELIZABETH ZARPA:** Okay. And just to
14 build up on the experience of having to leave a remote
15 community to pursue, for example, post-secondary education,
16 is there like a hospital or a doctor or a dentist in
17 Nunatsiavut or Nain or Hopedale that's permanent?

18 **MS. TRACY DENNISTON:** A dentist comes in.
19 It's a fly-in position that comes back and forth to do
20 contract work.

21 Who else did you say?

22 **MS. ELIZABETH ZARPA:** Is there like a
23 hospital, like, a doctor where you can go give birth or...?

24 **MS. TRACY DENNISTON:** No. All women have to
25 leave our communities a month before their due date to go

1 to Goose Bay to have their babies.

2 **MS. ELIZABETH ZARPA:** Okay. So what if the
3 weather is bad and they're -- they can't fly for one week,
4 two weeks?

5 **MS. TRACY DENNISTON:** I've seen instances
6 where the Ground, Search and Rescue helicopter has had to
7 come in because of bad weather, where some cases they had
8 to go on that, but those were a few. But the weather
9 usually can be bad sometimes, but sometimes when it's not,
10 they usually get out on a medi-vac, where the hospital
11 determines if they have to get as soon as possible. So the
12 flights end up coming in to take them to go either to Goose
13 Bay or to St. John's based on the need.

14 **MS. ELIZABETH ZARPA:** So Inuit women can't
15 give birth in their territory?

16 **MS. TRACY DENNISTON:** No. They do if --
17 it's like if they're a way in their labour -- like - see --
18 like if it's in middle of the night and -- because in Nain
19 the planes can't get in during the night, it's only during
20 the day. Because we can only have flights in during the
21 day, daylight hours.

22 In Hopedale and other communities around
23 Nunatsiavut, Hopedale and Makkovik, there are lights that
24 can work throughout the night, but in Nain we can't because
25 of the way the hills are laid out in the community. So

1 sometimes when they give in birth in Nain because they
2 can't get out because they're in labour, like mid-morning,
3 3:00 or 4:00 in the morning.

4 **MS. ELIZABETH ZARPA:** And is there like a
5 24-hour doctor there that could ---?

6 **MS. TRACY DENNISTON:** No. They call a
7 doctor in Goose Bay.

8 **MS. ELIZABETH ZARPA:** Okay.

9 And Tim, you might have some idea around if
10 this is sort of a similar experience throughout the other
11 regions or you may not, but is this sort of a common theme
12 with living in different areas in the 53 communities, 54
13 communities?

14 **MR. TIMOTHY ARGETSINGER:** I'd say it's a --
15 it's common. I -- so Iqaluit, for example, has a hospital
16 where it's possible to give birth. There -- potential
17 complications, though, that are foreseen, a woman would
18 typically give birth in Ottawa, for example.

19 **MS. ELIZABETH ZARPA:** And would you state
20 that universal healthcare access for Inuit living in the
21 North is a reality?

22 **MS. TRACY DENNISTON:** Yes.

23 **MS. ELIZABETH ZARPA:** So access to universal
24 healthcare, is that sort of -- is that something that is --
25 like can you access universal healthcare living, say for

1 instance, in Nunatsiavut?

2 **MS. TRACY DENNISTON:** No.

3 **MS. ELIZABETH ZARPA:** And Tim, do you have
4 anything to add?

5 **MR. TIMOTHY ARGETSINGER:** (Non-verbal
6 response).

7 **MS. ELIZABETH ZARPA:** Thank you for that.
8 So I know -- I know that throughout the -- throughout your
9 testimony this morning, we -- there was a lot of emphasis
10 around the inter-generational trauma that has been
11 perpetuated due to relocation and residential schools.

12 And I know you mentioned also, Tracy, about
13 the importance of traditional healing. Do you have any
14 examples of sort of training that's taken place throughout
15 Nunatsiavut for Inuit?

16 **MS. TRACY DENNISTON:** Yeah. We do have some
17 traditional healers, which sadly aren't really recognized
18 by our communities because -- this is hard to say --
19 because I think this is where some of our healing needs to
20 happen within our communities is from traditional healers.

21 And there were a few that -- I've trained
22 with a couple of them, but one of them, in particular, used
23 to travel back and forth to Nunatsiavut communities and do
24 healing, like sharing circles. And -- like some of the
25 core trauma issues of sexual abuse, relocation, those

1 things came up during the healing circles, and those were
2 some of the areas I felt were the areas that our
3 communities needed to go to in order for us to heal. But
4 based on traditional knowledge, they didn't have the
5 degrees to back up their credentials as a healer.

6 So the -- the government and the -- the
7 government and the ones in positions of decision-making for
8 our communities are not from the community who make
9 decisions for our Inuit people, and I'm seeing it to the
10 point where it's been not helping our communities,
11 community members. So the people, the majority of the
12 people who are in positions of power are not Inuit people.

13 **MS. ELIZABETH ZARPA:** And if they're not
14 Inuit, where do these people who are in positions of power,
15 who are they?

16 **MS. TRACY DENNISTON:** They are people who
17 have the credentials according to university degrees, a
18 masters, thesis workers who come into our communities
19 because they have these credentials to say that they can
20 give a strategy which helps -- supposed to help our Inuit
21 people, but they're not Inuit people.

22 **MS. ELIZABETH ZARPA:** So the standards are
23 set by other types of outside Inuit legislation or
24 Nunatsiavut legislation, their credentials for setting up
25 healing programs are set by provincial, the province?

1 **MS. TRACY DENNISTON:** Not by province, by
2 community.

3 **MS. ELIZABETH ZARPA:** Okay.

4 **MS. TRACY DENNISTON:** For -- from my
5 experience, it's by community around the Nunatsiavut
6 region.

7 **MS. ELIZABETH ZARPA:** Okay. And would it be
8 fair to say, in your opinion, that in order for like
9 traditional healing or Inuit-specific traditional healing
10 that incorporating Inuit ways of healing is important in
11 that process?

12 **MS. TRACY DENNISTON:** Yes, very important.
13 Because how -- who are you if you don't know who -- if your
14 Inuit culture is not part of what you're doing? Like
15 that's the biggest piece I find is missing, and this is a
16 piece that in order for Inuit to heal like we need to
17 recognize and acknowledge our history.

18 Like we can't separate our history from our
19 current issues that we're dealing with, but -- and a big
20 part of that is also recognizing our past of colonialism
21 and passing information on about people from away having
22 more education are more valued than who we are. That is
23 very prevalent still today in our communities.

24 **MS. ELIZABETH ZARPA:** And so, if a person
25 feels as though they're -- say if they're -- they're having

1 a really deep experience with inter-generational trauma,
2 where would they obtain sort of treatment? Is there
3 treatment centres in Nunatsiavut?

4 **MS. TRACY DENNISTON:** No.

5 **MS. ELIZABETH ZARPA:** Okay. So if a man or
6 a woman are experiencing difficulties, do you know if
7 there's programs that they attend in the province, or do
8 you know where they go?

9 **MS. TRACY DENNISTON:** The closest one that I
10 can remember -- sometimes, we do have Nunatsiavut frontline
11 workers who are from the communities that come in to do
12 specific programs around trauma and inter-generational
13 trauma, which is helpful, they -- but they do a limited
14 number of programming.

15 But like for the more in-depth therapy,
16 counsellors are hired. Newfoundland and Labrador Health is
17 one organization who is considered higher -- they're
18 trained -- they're the best in our community who can deal
19 with the heavy healing work that needs to be done, but most
20 of those positions are filled by, again, people who have
21 the credentials of masters or those kinds of degrees.

22 **MS. ELIZABETH ZARPA:** And are they usually
23 like permanent residents of the community or are they ---?

24 **MS. TRACY DENNISTON:** No, we have a lot of
25 turnover, we have a lot of turnover. So it's -- the

1 services are not being provided that needs to be provided
2 because how can you trust a person when you know they're
3 not going to be here for very long.

4 **MS. ELIZABETH ZARPA:** And Tim, you mentioned
5 in your testimony also that throughout the 53 or 54
6 communities in Inuit Nunangat, the only treatment centre or
7 mental health healing that you've seen are -- was in
8 Kuujjuaq?

9 **MR. TIMOTHY ARGETSINGER:** Yeah, I should
10 qualify that. It's the only physical structure with a
11 treatment centre that is Inuit-specific. I'm aware of this
12 in Kuujjuaq. I understand that in Cambridge Bay there is,
13 on the land, an addictions treatment program, but not in
14 the same way as a physical structure residential treatment
15 centre in the same way.

16 **MS. ELIZABETH ZARPA:** So you may or may not
17 know the answer to this question, but do you know if Inuit
18 who are living through different communities, if they want
19 to receive substance abuse treatment, if they have access
20 to that in the north, or do they have to travel to sort of
21 an urban setting?

22 **MR. TIMOTHY ARGETSINGER:** They'd have to
23 travel to an urban setting, for example, Edmonton,
24 Winnipeg, Ottawa. It's all determined by the arrows. So
25 the air link to the closest hub community or large city

1 centre is where you would typically go to access treatment.

2 **MS. ELIZABETH ZARPA:** I recognized earlier
3 also too -- Tracy, I don't want to pick on you too much,
4 but I was wondering, you mentioned before that generations
5 who had family members that were relocated from Okak and
6 Hebron, there's sort of a pattern of recidivism or just
7 continuous going into the criminal justice system again and
8 again.

9 When individuals, say Inuit men for example,
10 have to be flown away to prisons, is there one in the
11 Nunatsiavut?

12 **MS. TRACY DENNISTON:** Is there a prison in
13 the Nunatsiavut?

14 **MS. ELIZABETH ZARPA:** Yeah.

15 **MS. TRACY DENNISTON:** Goose Bay is the
16 closest one.

17 **MS. ELIZABETH ZARPA:** Okay. And if these
18 individuals have to receive sort of rehabilitative training
19 or rehabilitative kind of access, do you know if that's
20 available for Inuit-specific?

21 **MS. TRACY DENNISTON:** Yeah, in Goose Bay I
22 know there was one. I think she's just recently retired.
23 There was a prison liaison officer who used to do some --
24 she was one of our traditional knowledge trainers that I
25 worked with who was working in Goose Bay with some of the

1 inmates.

2 **MS. ELIZABETH ZARPA:** And do you sense that
3 maybe the access to sort of Inuit-specific rehabilitative
4 services as being something that's important to help heal
5 the individual from that intergenerational trauma?

6 **MS. TRACY DENNISTON:** Yes.

7 **MS. ELIZABETH ZARPA:** Okay. Earlier, I
8 tabled -- well, I never tabled, but I passed along a CBC
9 news article that was relating to the experience of a
10 Gwich'in man who was -- you know, who offended and was
11 charged, convicted, and then he was sent to a faraway
12 federal institution. And in that experience, he was in the
13 Prairies, but he was actually Gwich'in from Inuvialuit
14 Region, I think, or Inuvik.

15 Do you kind of recognize or see a lot of
16 Inuit who sort of get involved in the criminal justice
17 system and then have to be flown to foreign regions outside
18 of Labrador, outside Nunatsiavut? And if they are, do they
19 have access to Inuit-specific rehabilitative programs
20 outside of Goose Bay?

21 **MS. TRACY DENNISTON:** I know for the federal
22 sentences they have to go to bigger centres. I'm not sure
23 which, if it's New Brunswick or Nova Scotia, but I know for
24 the federal, heavier, longer sentencing, they -- when they
25 get federal sentences, they go out there. And I know there

1 is services, but it's not Inuit-specific. It's probably
2 somebody who is of culture in that area. It could be
3 somebody First Nations, but it's not specific to
4 Nunatsiavut.

5 **MS. ELIZABETH ZARPA:** So the rehabilitative
6 programming that they might get will likely be sort of
7 analogous or similar to the Indigenous culture that they're
8 sort of living at that time, other than it being Inuit-
9 specific?

10 **MS. TRACY DENNISTON:** Living at that time,
11 like, they're there for the sentence that they've done, but
12 it's because they were forced to go, but it's kind of like
13 forced upon them, whoever is there at the time, to deal
14 with who's working there.

15 **MS. ELIZABETH ZARPA:** Okay. So I'm
16 cognizant of the time. I have four minutes left. I wanted
17 to highlight a little bit about the idea of food
18 sovereignty a little bit, so accessing to the different
19 types of food and the experience of having accessibility to
20 healthy, nourishing, non-perishable foods on a yearly
21 basis. I wanted to know if that was something that is a
22 reality in Nunatsiavut?

23 **MS. TRACY DENNISTON:** Yeah, it is, but it's
24 getting better. Like, we do have a food subsidy program
25 that, probably in the last 10 years, has been implemented

1 into our stores, where we do get flown-in fruits and
2 vegetables, which is something that we would not normally
3 get all the time. But depending on weather again --
4 weather could be a factor or it could be -- we could end up
5 sometimes getting last week's fruits and vegetables for
6 this week, which are rotten by the time they get there or
7 moldy, like things -- we end up having to go without
8 sometimes because of the weather, the flights.

9 **MS. ELIZABETH ZARPA:** And, Tim, would you
10 kind of generalize that maybe that's a common theme
11 throughout living in northern regions or do you have a
12 different idea?

13 **MR. TIMOTHY ARGETSINGER:** You mean access to
14 healthy and nutritious store-bought foods or just ---

15 **MS. ELIZABETH ZARPA:** Well, non-perishable -
16 - healthy foods, maybe traditional foods? They're two
17 different things, but if you want just ---

18 **MR. TIMOTHY ARGETSINGER:** Yeah, I would say
19 that's a true experience of a lot of communities, linking
20 it back to the social insurance of health, income. I
21 mentioned the gap in median individual income earlier, the
22 way that that impacts your access for both store-bought and
23 harvested foods as money is required in both scenarios. So
24 if you want to access country food, you want to go and hunt
25 it, you have to buy gas. You have to buy equipment. So

1 there's cash involved with that process as well. So these
2 are all interrelated, interlinked challenges in that way.

3 **MS. ELIZABETH ZARPA:** Would it be fair to
4 say that Inuit have the highest cost of living in Canada?

5 **MR. TIMOTHY ARGETSINGER:** Yes, for sure.

6 **MS. ELIZABETH ZARPA:** And just to elaborate,
7 Tim, I wanted to ask you directly, the *Indian Act* is not
8 applicable to Inuit, right?

9 **MR. TIMOTHY ARGETSINGER:** No.

10 **MS. ELIZABETH ZARPA:** And so did you want to
11 quickly do the last point and elaborate, like if the *Indian*
12 *Act* doesn't apply, what does apply?

13 **MR. TIMOTHY ARGETSINGER:** Inuit in Canada
14 have settled for comprehensive land claims agreements in
15 each of the four Inuit regions, so the Inuvialuit
16 Settlement Region in the northern part of the Northwest
17 Territories. I think there our agreement was signed in the
18 early '80s, I think in 1982. James Bay and Northern Quebec
19 Agreement for Nunavik and in '75. Nunavut was in '93, and
20 then Nunatsiavut was 2005 or '06 -- 2005, I think. So
21 those agreements were negotiated between Inuit and
22 representational organizations at the time and the federal
23 government, in some cases with provincial governments. And
24 so they are agreements that are comprehensive in the sense
25 that they affirm specific rights and they deal with things

1 like access to resources and that stipulate, for example,
2 impact benefit agreements and the royalties that would be
3 expected to be paid to Inuit in some cases.

4 **MS. ELIZABETH ZARPA:** Okay. And I want to
5 keep asking questions, but I think I have to stop now.

6 **(LAUGHTER)**

7 **MS. CHRISTA BIG CANOE:** Ms. Zarpa, I'm
8 sorry, as a matter of housekeeping, no objection of any
9 sort, you spoke to an article and you asked a question to
10 Ms. Denniston. I know that the Commissioners have a copy
11 of that. Are you asking or requesting that to be put into
12 an exhibit or was it just for the purposes of a
13 demonstrative aid?

14 **MS. ELIZABETH ZARPA:** I was hoping that it
15 would be passed along as an exhibit.

16 **MS. CHRISTA BIG CANOE:** You would like it to
17 go in as an exhibit?

18 **MS. ELIZABETH ZARPA:** Yes, please.

19 **CHIEF COMMISSIONER MARION BULLER:** This the
20 article entitled "Why does the Canadian justice system
21 treat Aboriginal people as if they're all the same?" will
22 be the next exhibit, please.

23 **--- EXHIBIT NO./PIÈCE NO. A6:**

24 CBC article "Why does the Canadian
25 justice system treat Aboriginal people

1 as if they're all the same?" by Kris
2 Statnyk, posted January 1, 2019 08:00
3 AM CT, last updated January 5, 2015
4 (three pages) Submitted by Elizabeth
5 Zarpa, Counsel for Inuit Tapiriit
6 Kanatami

7 **MS. CHRISTA BIG CANOE:** Commissioners, Chief
8 Commissioner, for today, we're asking for an adjournment
9 and we're asking to actually recommence tomorrow morning at
10 8:00 a.m. in this same space where we will continue the
11 cross-examination, and the next party that will be
12 crossing, just so that you're aware first thing in the
13 morning is the Eastern Door Indigenous Association.

14 At this point, I please request the
15 adjournment.

16 **CHIEF COMMISSIONER MARION BULLER:** Thank
17 you. We will adjourn until tomorrow morning at 8:00 a.m.
18 --- Upon adjourning at 5:53 p.m.

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LEGAL DICTA-TYPIST'S CERTIFICATE

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5 I, Nadia Rainville, Court Transcriber, hereby certify that

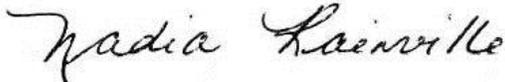
6 I have transcribed the foregoing and it is a true and

7 accurate transcript of the digital audio provided in this

8 matter.

9

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12 Nadia Rainville

13 May 14, 2018