

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 & Murdered Indigenous Women & Girls

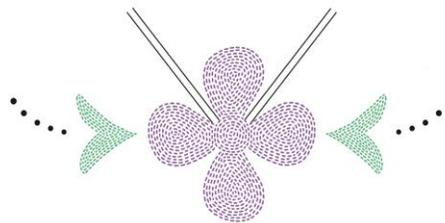
Truth-Gathering Process - Parts II & III

Institutional & Expert/Knowledge-Keeper Hearings:

“Child & Family Welfare”

Fort Garry Hotel, Grand Ballroom

Winnipeg, Manitoba



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Thursday October 4, 2018

Panel IV: “A Voice for Children and Youth”

Dr. Mary Ellen Turpel-Lafond

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II

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VI
TABLE OF CONTENTS

Truth-Gathering Process
Parts II & III Volume XIII
Institutional & Expert / Knowledge-Keeper Hearings:
"Family & Child Welfare"

Panel IV: Dr. Mary Ellen Turpel-Lafond

Topic: "A Voice for Children and Youth"

Chair: Christa Big Canoe, Commission Counsel

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Velma Orvis, Mary Crate & Agnes Spence & Dawnis Kennedy

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VII
TABLE OF CONTENTS

| | PAGE |
|--|-------------|
| Opening Remarks | 1 |
| <u>Panel IV: Dr. Mary Ellen Turpel-Lafond</u> | |
| In-Chief Examination by MS. CHRISTA BIG CANOE | 8 |
| CROSS-EXAMINATIONS OF PANEL IV BY PARTIES WITH STANDING | |
| Cross-Examination by MR. ROY STEWART | 150 |
| Cross-Examination by MS. ALISA LOMBARD | 157 |
| Cross-Examination by MS. VIRGINA LOMAX | 162 |
| Cross-Examination by MS. ERICA BEAUDIN | 169 |
| Cross-Examination by MS. CAROL MARTIN | 174 |
| Cross-Examination by MS. SUZAN FRASER | 180 |
| Cross-Examination by MS. ELIZABETH ZARPA | 187 |
| Cross-Examination by MS. CAROLINE WAWZONEK | 192 |
| Cross-Examination by MS. KELLIE WUTTUNEE | 202 |
| Cross-Examination by MS. SUMMER RAIN BENTHAM | 206 |
| Cross-Examination by MS. STACEY SOLDIER | 215 |
| Cross-Examination by MS. JESSICA BARLOW | 221 |
| Cross-Examination by MS. KATHERINE HENSEL | 226 |
| Cross-Examination by MS. NATALIE CLIFFORD | 236 |
| Cross-Examination by MR. STUART WUTTKE | 242 |
| Cross-Examination by MS. KRISTYN ORDYNIEC | 249 |
| Cross-Examination by MS. CARLY TEILLET | 256 |
| Cross-Examination by MS. AMANDA LEBLANC | 262 |
| Cross-Examination by MS. BETH SYMES | 276 |
| Cross-Examination by MS. WHITNEY VAN BELLEGHEM | 281 |
| Cross-Examination by MR. DARRIN BLAIN | 291 |
| QUESTIONS BY THE COMMISSIONERS | |
| Questions by COMMISSIONER QAJAQ ROBINSON | 297 |
| Questions by COMMISSIONER BRIAN EYOLFSON | 308 |
| Questions by COMMISSIONER MICHÈLE AUDETTE | 316 |
| Questions by CHIEF COMMISSIONER MARION BULLER | 329 |

**VIII
LIST OF EXHIBITS**

| NO. | DESCRIPTION | PAGE |
|--|--|-------------|
| <u>Panel IV: Dr. Mary Ellen Turpel-Lafond</u> | | |
| 34 | Exhibit 34: CV of Dr. Mary Ellen Turpel-Lafond (15 pages) | 15 |
| 35 | "Overview of the Child Critical Injury and Death Investigation and Review Process in British Columbia," February 2008 (12 pages) | 22 |
| 36 | "Final Progress Report on the Implementation of the Recommendations of the BC Children and Youth Review ('Hughes Review')," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, November 29, 2010 (60 pages) | 26 |
| 37 | "Aboriginal Children and Youth in Canada: Canada Must Do Better," Canadian Council of Provincial Child and Youth Advocates, June 23, 2010 (14 pages)28 | 30 |
| 38 | Special Report "When Talk Trumped Service: A Decade of Lost Opportunity for Aboriginal Children and Youth in B.C.," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, November 2018 (92 pages) | 44 |
| 39 | Aggregate Report "Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, October 2016 (62 pages) | 76 |
| 40 | "Paige's Story: Abuse, Indifference and a Young Life Discarded," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, May 2015 (80 pages) | 105 |
| 41 | Special report "Approach With Caution: Why the Story of One Vulnerable B.C. Youth Can't be Told," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, May 2016 (18 pages) | 107 |

IX
LIST OF EXHIBITS

| NO. | DESCRIPTION | PAGE |
|--|--|-------------|
| <u>Panel IV: Dr. Mary Ellen Turpel-Lafond</u> | | |
| 42 | British Columbia's Provincial Domestic Violence Plan, second annual report, Provincial Office of Domestic Violence, 2016 (40 pages) | 110 |
| 43 | "On Their Own: Examining the Needs of B.C. Youth as They Leave Government Care," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, April 2014 (61 pages) | 120 |
| 44 | Investigative Report "Lost in the Shadows: How a Lack of Help Meant a Loss of Hope for One First Nations Girl," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, February 2014 (116 pages) | 124 |
| 45 | Investigative Report "Children at Risk: The Case for a Better Response to Parental Addiction" by Mary Ellen Turpel-Lafond, Representative for Children and Youth, June 2014 (60 pages) | 130 |
| 46 | Aggregate review "Trauma, Turmoil and Tragedy: Understanding the Needs of Children and Youth at Risk of Suicide and Self-Harm," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, November 2012 (66 pages) | 133 |
| 47 | "Fragile Lives, Fragmented Systems: Strengthening Supports for Vulnerable Infants - Aggregate Review of 21 Infant Deaths," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, January 2011 (82 pages) | 135 |
| 48 | "Not Fully Invested: A Follow-up Report on the Representative's Past Recommendations to Help Vulnerable Children in B.C.," by Mary Ellen Turpel-Lafond, Representative for Children and Youth, October 9, 2014 (48 pages) | 142 |

X
LIST OF EXHIBITS

| NO. | DESCRIPTION | PAGE |
|-----|---|------|
| | <u>Panel IV: Dr. Mary Ellen Turpel-Lafond</u> | |
| 49 | "A By-Law for the Care of Our Indian Children: Spallumcheen Indian Band By-Law # 3 - 1980" | 150 |

1 Winnipeg, Manitoba

2 --- The hearing starts on Thursday, October 4, 2018

3 at 8:21

4 **MS. SHAUNA FONTAINE:** Okay. Good morning.
5 Thank you for joining us once again, we are on day 4 of
6 our expert, institutional and knowledge keeper hearings on
7 the family and child welfare. To begin with this morning,
8 I just wanted to bring everybody's attention to what today
9 represents across the nation.

10 So, for the past 13 years, October 4th has
11 grown to become a national movement to honour missing and
12 murdered Indigenous women and girls through the Sisters in
13 Spirit vigils which was started by the Native Women's
14 Association of Canada. Last year, here in the province of
15 Manitoba, there was an act passed called the Missing and
16 Murdered Indigenous Women and Girls Honouring and
17 Awareness Act to officially honour the lost mothers,
18 daughters, sisters, aunties, grandmothers and
19 granddaughters.

20 So, we are honoured to be here today, this
21 October 4th, to support families in their local events and
22 vigils, and we encourage you all to also take time today
23 to attend some of these local events. There will be two
24 events, which will be hard for the Commissioners to attend
25 at lunch time of course, but anybody in the public, if you

1 have time, just sneak out at lunch. At the Legislature,
2 they will be having a feast and a pipe ceremony. This
3 evening, at the forks, there will be a vigil starting at
4 7:30 at the monument, at the Missing and Murdered
5 Indigenous Women and Girls monument. So, I encourage you
6 to attend these events, support local families as they
7 gather to honour and remember their loved ones.

8 So, on that note, I am going to ask our
9 Elder Mary Crate, if she can come over and start us with
10 an opening prayer.

11 **MS. MARY CRATE:** (Speaking in Indigenous
12 language).

13 (MUSICAL PRESENTATION)

14 **MS. SHAUNA FONTAINE:** Meegwetch. Thank
15 you, Mary and Sarah. We would now like to ask Annie
16 Bowkett if she would please light the qulliq.

17 **MS. ANNIE BOWKETT:** ((Speaking Inuktitut)).

18 **COMMISSIONER QAJAQ ROBINSON:** Good morning.

19 **MS. ANNIE BOWKETT:** Beautiful morning.

20 **COMMISSIONER QAJAQ ROBINSON:** Good morning.
21 (Speaking Inuktitut).

22 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

23 **COMMISSIONER QAJAQ ROBINSON:** I do not have
24 a lot of time, but there are some things I want to share
25 with you.

1 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

2 **COMMISSIONER QAJAQ ROBINSON:** Thank you,
3 Commissioners.

4 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

5 **COMMISSIONER QAJAQ ROBINSON:** Yesterday,
6 the topic of family services was discussed and this has
7 been a system that has impacted me greatly.

8 **MS. ANNIE BOWKETT:** (Speaking Inuktitut),
9 me and my husband, we were fosters for so many long years.
10 (Speaking Inuktitut).

11 **COMMISSIONER QAJAQ ROBINSON:** What I want
12 to share is the experience of my husband and I, who were -
13 - who have been foster parents for many years in the
14 communities of Pangnirtung in Nunavut, as well as Iqaluit
15 in Nunavut.

16 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

17 **COMMISSIONER QAJAQ ROBINSON:** When we moved
18 to the province of Manitoba, to Winnipeg, we wanted to be
19 foster parents here as well for Inuit children, and we
20 tried to do that.

21 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

22 **COMMISSIONER QAJAQ ROBINSON:** Two children,
23 two little boys, seven months old and a newborn were put
24 in our care.

25 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

1 **COMMISSIONER QAJAQ ROBINSON:** What I
2 quickly learned was the way the system worked, and the way
3 foster parents were supported or worked with, I learned
4 very quickly that this was something that did not work for
5 my husband and I.

6 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

7 **COMMISSIONER QAJAQ ROBINSON:** I know of
8 many Inuit children here who are apprehended.

9 **MS. ANNIE BOWKETT:** (Speaking Inuktitut).

10 **COMMISSIONER QAJAQ ROBINSON:** I ended up --
11 we ended up having to return the children and weren't able
12 to keep them anymore because of how difficult it was to
13 work with CFS and because of my recognition of how
14 improper and how wrong it was, the way kids were being
15 apprehended.

16 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

17 **COMMISSIONER QAJAQ ROBINSON:** I really
18 witnessed the failures by CFS to care for these children
19 and to do what was needed for these Inuit children that
20 were being apprehended.

21 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

22 **COMMISSIONER QAJAQ ROBINSON:** I witnessed
23 mothers weeping. They weren't permitted to see their
24 children, the children that had been apprehended. They
25 were prohibited -- forbidden from seeing their children,

1 and I witnessed their struggle.

2 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

3 **COMMISSIONER QAJAQ ROBINSON:** I believe
4 that the system of CFS as it relates to Inuit children
5 really needs to be examined, and there needs to be
6 tremendous reform in terms of how they are doing their
7 work.

8 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

9 **COMMISSIONER QAJAQ ROBINSON:** My husband
10 and I ultimately adopted one of our foster children, our
11 daughter, and we struggle, and we have our challenges, and
12 CFS is not a resource for us. They do not know how to
13 take care of Inuit children and work with Inuit.

14 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

15 **COMMISSIONER QAJAQ ROBINSON:** Children who
16 are taken into care or who are apprehended need tremendous
17 care. They need to be taken care of and nurtured. What I
18 am seeing is that that is not happening, and that Inuit
19 children apprehended here in this jurisdiction are not put
20 with Inuit families. They are put wherever there is room,
21 and it's not meeting their needs.

22 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

23 **COMMISSIONER QAJAQ ROBINSON:** I am also
24 witnessing Inuit children who are being divided, siblings
25 who have been divided. One of the children we cared for

1 had a younger sibling that was in another home. This
2 can't happen.

3 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

4 **COMMISSIONER QAJAQ ROBINSON:** Thank you for
5 listening. I just need to emphasize how difficult it is
6 to try and be someone who -- a foster parent to be someone
7 who wants to fill that role and be that support to the
8 kids with this system here outside of Inuit Nunangat in
9 southern Canada because of what I just spoke about.

10 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

11 **COMMISSIONER QAJAQ ROBINSON:** I have a
12 friend here in the city, a fellow Inuk who has two
13 children in care here. She lives here in the city. The
14 kids were placed in Gimli. She doesn't get to see them.
15 She sees them once a year in Polar Park, a long distance
16 for all of them.

17 **MS. ANNIE BOWKETT:** (Speaks in Inuktitut).

18 It's so sad. So sad for us Inuit. So sad for these
19 little Inuit people who are helpless. (Speaks in
20 Inuktitut). We who have been fostered for so long. Think
21 of us. Think of one another. (Speaks in Inuktitut).
22 Thank you.

23 **COMMISSIONER QAJAQ ROBINSON:** Annie's going
24 to light one of the flames, and then work it -- allow it
25 to spread and she'll -- also would like to say a prayer

1 before we start.

2 --- PRAYER

3 MS. ANNIE BOWKETT: (Speaking Inuktitut)

4 MS. SHAUNA FONTAINE: Thank you, Annie.

5 What we're going to do now is we're going
6 to take a quick five minutes to allow Mary Ellen Gabriel
7 to get settled and Commission Counsel to get settled.

8 Thank you.

9 --- Upon recessing at 8:44 a.m.

10 --- Upon resuming at 8:52 a.m.

11 MS. CHRISTA BIG CANOE: If everyone could
12 grab a seat, we're about to get started momentarily.

13 Chief Commissioner, Commissioners, good
14 morning. (Speaks in Indigenous language) Treaty 1.

15 Thank you. I just introduced myself as
16 Wind Changing Woman. My name is Christa Big Canoe. I am
17 Commission counsel. I am from the Otter Clan from
18 Georgian Island First Nation in Ontario, and I just took
19 the time to thank the Creator, the grandmothers, the
20 grandfathers, and the members of the Treaty 1, as well as
21 the Métis Nation, for having us in their territory, so
22 that we can do the good work we're doing.

23 It's with great pleasure today that I get
24 to lead Dr. Turpel-Lafond in testimony, and before we
25 begin today, Commissioners, I am going to kindly ask that

1 Dr. Mary Ellen Turpel-Lafond is affirmed in on the eagle
2 fan.

3 **DR. MARY ELLEN TURPEL-LAFOND, Affirmed:**

4 **MR. BRYAN ZANDBERG:** Good morning, Dr.
5 Turpel-Lafond. Do you solemnly affirm to tell the truth,
6 the whole truth, and nothing but the truth?

7 **DR. MARY ELLEN TURPEL-LAFOND:** I do.

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

9 **--- EXAMINATION IN CHIEF BY MS. CHRISTA BIG CANOE:**

10 **MS. CHRISTA BIG CANOE:** So, Dr. Turpel-
11 Lafond, do you mind if I call you Mary Ellen?

12 **DR. MARY ELLEN TURPEL-LAFOND:** I don't mind
13 at all. Thank you, Christa.

14 **MS. CHRISTA BIG CANOE:** Thank you. It's my
15 intention to actually have Mary Ellen qualified as an
16 expert today. And, on that basis, I would just like to
17 invite her to offer some of her background. So, if you
18 could share with us a little bit of your background, that
19 would be helpful.

20 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, thank
21 you. First of all, I, too, want to recognize the First
22 Nations territory that we are gathering on here today.
23 And so, my name is Mary Ellen Turpel-Lafond or Akikway
24 (phonetic). I was actually given that name by an elder
25 named Mary Roberts from Roseau River First Nation here in

1 Manitoba. And, I originally come from Norway House Cree
2 Nation on my father's side. My mother is from Thunder
3 Bay, Ontario. And, I am a mom. I just want to make a
4 point about that. I have four children, and I've raised
5 three other children. And, I currently am a Professor of
6 Law at University of British Columbia, Allard Law School,
7 and I am the Director of the Indian Residential School
8 History and Dialogue Centre, and I am a practising lawyer.
9 That's my current situation. I'm happy to go through some
10 of my background if you'd like, Christa.

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

12 **DR. MARY ELLEN TURPEL-LAFOND:** So, my
13 background includes being a professor in the past. So, I
14 got my law degree in 1985 at Osgoode Hall Law School, and
15 then went on to do a master's in Cambridge, England, and a
16 Ph.D. in Harvard Law School. And, I was a member of the
17 Saskatchewan, Nova Scotia, and New Brunswick bars. And, I
18 practise law on my First Nation. Married my husband,
19 George Lafond, from the Muskeg Lake Cree Nation, and my
20 membership transferred there. And, practised law on the
21 reserve, the urban reserve in Saskatoon, and also taught
22 at the University of Saskatchewan.

23 In my law practice, did extensive work
24 representing chiefs and children, family issues, including
25 representing them in courts to get their children back in

1 their communities. I also worked in the areas of custom
2 adoption. I handled as a lawyer back in the 1990s one of
3 the first custom adoption -- Cree custom adoption cases in
4 Saskatchewan.

5 And then I was appointed to the Provincial
6 Court of Saskatchewan in 1998 as the first treaty Indian
7 to be appointed to the court, and I served on that court
8 for approximately 10 years, including as the
9 administrative judge for the largest judicial centre in
10 Saskatoon. And, in that capacity, I was extensively
11 involved in building bridges between the First Nations
12 community and the justice system, which included creating
13 the first circle court in Canada, which was created with
14 the elders, primarily from the Saskatoon Tribal Council,
15 where we changed the nature of the courts so that we could
16 have circles and have more probing discussions about the
17 needs of the community.

18 And, I worked on youth justice, and also
19 working to change the justice system to be more supportive
20 toward young people, and in particular, young women who
21 were doing survival sex work, and who were having some
22 very difficult experiences in the criminal justice system.

23 Then, I was appointed in 2006 as British
24 Columbia's first representative for children and youth,
25 which is an independent officer of the Legislative

1 Assembly of B.C., and I served that role for two terms or
2 10 years. And, in the context of that work, with a small
3 staff, I covered lots of areas with child welfare, special
4 needs issues, issues around domestic violence and access
5 to services. And, over the decade, was involved in
6 approximately 17,000 child welfare cases, and conducted
7 investigations and reviews of child injuries and deaths
8 and reported on that with powers of inquiry. So, produced
9 approximately 90 reports of different kinds in relation to
10 that.

11 And so, as I said, when that was finished,
12 I briefly returned to the court and have retired from my
13 role as a judge, and have returned to the world of
14 practice and teaching. So, I think that gives a bit --
15 summary of a few of the highlights along the way.

16 **MS. CHRISTA BIG CANOE:** That's very
17 helpful. Thank you. I just want to turn your attention,
18 in your materials at Schedule A is your curriculum vitae.
19 And, I notice that it's a very academic looking one in
20 terms of it's the University of British Columbia
21 curriculum vitae for faculty members. And, you have
22 already walked us through a number of the large positions
23 that you've held over the years.

24 However, I wanted to ask you, I note you
25 had stated that in your investigative power that you

1 produced over 90 reports, but in your academic work, I
2 can't help but notice, and I'm not asking you to go
3 through all of them, the immense amount of writing you've
4 done, as well, in terms of published works. And, I
5 believe that starts -- there's a number of them.
6 Specifically, under -- sorry, I've lost the page. There
7 we go. Sorry. Page 10, that you have a number of
8 refereed publications, that you've authored a book, that
9 you have a number of conference proceedings as well as a
10 number of non-refereed publications.

11 It looks, as you go through this very long
12 list, that you've focused on a couple of areas. I notice
13 in your academic work, there's a lot of focus on treaty
14 rights, self-determination, inherent jurisdiction. So,
15 sort of some practice -- legal practice based on treaty
16 rights. But, then, also,
17 ...there are, as you have mentioned, a lot of works on the
18 family, child welfare and then of course your
19 investigative reports. Out of all of these works, are
20 there any in particular, other than the ones we will be
21 talking about today, that are worth highlighting?

22 **DR. MARY ELLEN TURPEL-LAFOND:** I think the
23 -- there is a range, and as you indicated, these are --
24 this is kind of like an academic CV in particular. The
25 publications do focus a significant amount on issues

1 around children and women, and inherent treaty and
2 Aboriginal rights. And, as well as some of the issues
3 around *Indian Act* challenges that First Nations
4 communities in particular have experienced in terms of
5 trying to establish proper governments. So, a fair amount
6 of work in that area around sort of the impact of colonial
7 policies on First Nations and Indigenous governments,
8 human rights and child welfare and family issues. So, I
9 would say those are sort of the -- some of the core areas
10 of those works that I would highlight.

11 **MS. CHRISTA BIG CANOE:** And, you have told
12 us about your academic journey through three levels, but
13 you also have a number of honorary degrees, I have
14 noticed, from various universities in Canada.

15 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I do.
16 I am very pleased that -- I have a -- someone once said,
17 you have more degrees than a thermometer. But, in any
18 event, I am very pleased to have received a number of
19 honorary doctorates, in particular, I think, for
20 leadership with respect to work for First Nations children
21 and families.

22 **MS. CHRISTA BIG CANOE:** Yes. And, I know a
23 lot of our witnesses are modest and do not like this part
24 where I go over the awards, but I do put it in simply for
25 the purpose of when we are talking about what you can

1 speak to. I notice you have also received just recently
2 the Lifetime Achievement Award from International Society
3 of Adoptable Children for achievement in promoting
4 adoption and kinship placement in B.C.

5 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, that is
6 a significant and important achievement that I feel very
7 proud of, because it is an international society. And, I
8 think I am the first Indigenous recipient in particular,
9 because most of my work has been kind of against old
10 school adoption, and to promote the greater awareness of
11 custom adoption and placement of children within kinship
12 placement and travel communities.

13 **MS. CHRISTA BIG CANOE:** Chief Commissioner
14 and Commissioners, can I please have Mary Ellen's
15 curriculum vitae marked as an exhibit?

16 **CHIEF COMMISSIONER MARION BULLER:** The CV
17 will be Exhibit 34.

18 **--- Exhibit 34:**

19 CV of Dr. Mary Ellen Turpel-Lafond (15
20 pages)

21 Witness: Dr. Mary Ellen Turpel-Lafond

22 Counsel: Christa Big Canoe, Commission
23 Counsel

24 **MS. CHRISTA BIG CANOE:** Now, Mary Ellen, we
25 see all of the academic achievement and the leadership you

1 have demonstrated, but I have a question for you, because
2 all of this absolutely is important and means something,
3 but in terms of balancing your knowledge and awareness, is
4 it fair to say that your lived experience in the community
5 you come from actually drives the work you do and is
6 valuable in terms of knowledge as, say, the degrees that
7 you have now obtained?

8 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I
9 certainly would say -- although I am, like, you know,
10 pleased with the academic achievement, I would say that,
11 to use the saying, my, kind of, karma has ran over my dog
12 many times, which is my lived experience as a parent and a
13 community member, and also as just an individual who has
14 worked extensively with families, including my own, is
15 really very significant and very humbling because of the
16 fact that all of that education, while it is extremely
17 significant, it also sometimes fails to equip you to deal
18 with some of the most important issues, which are
19 hopefully some of the issues we will be able to talk about
20 today, which are about making sure there are children and
21 families that are supported and have their needs
22 understood and met inside Canadian society and inside each
23 of the provinces and territories of Canada, and, in
24 addition, inside their own communities, and sometimes even
25 inside their own families.

1 **MS. CHRISTA BIG CANOE:** Thank you. Chief
2 Commissioner and Commissioners, based on the knowledge,
3 skills, practical experience, training and education as
4 described by Dr. Mary Ellen Turpel-Lafond, and as
5 evidenced in her curriculum vitae, I am tendering Dr. Mary
6 Ellen Turpel-Lafond as an expert specifically in the areas
7 of law, legal and investigative practice, with specific
8 expertise in child and family services, child welfare,
9 custom adoptions, treaty rights, circle court process,
10 domestic and sexual violence against women and girls, and
11 investigational practice, specifically investigative
12 reporting.

13 Before you make your determination, I look
14 out to my colleagues, the parties with standing, to see if
15 there are any objections in relation to qualifying Dr.
16 Turpel-Lafond as an expert. Seeing no such objections, I
17 ask that you make a determination in relation to the
18 qualification.

19 **CHIEF COMMISSIONER MARION BULLER:**
20 Certainly. We are satisfied that Dr. Turpel-Lafond has
21 more than enough experience, education and training to be
22 qualified to give expert opinion evidence in the areas
23 outlined by counsel. Thank you.

24 **MS. CHRISTA BIG CANOE:** Thank you. So,
25 Mary Ellen, when I looked first -- I think we are probably

1 going -- it is fair to say we are going to spend a lot of
2 time today mostly in your role as the provincial advocate
3 and the reports you have created, but I know you will be
4 drawing from your other experiences and awareness. And
5 so, I thought a good starting point, when I first went to
6 the website, I was actually quite impressed of the dearth
7 of reports that are available on the British Columbia
8 Provincial Advocate's website, and exploring and learning,
9 and just coming across some terms I was not even familiar
10 with.

11 One of the places I started, and I realize
12 it is not the first Hughes report, but that in February
13 2008, there was done -- it is commonly called the Hughes
14 report, but it is called the Overview of Child Critical
15 Injury and Death Investigation and Review Process in
16 British Columbia. It is at Schedule B. I do understand
17 there was one report -- the 2006 report, and actually,
18 that is when you begot the first appointment. So, maybe
19 if we can just start with when you get appointed in 2006
20 and why they created the position, that would be helpful.

21 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So,
22 there was an arms-length review of the child welfare
23 system in British Columbia for a number of reasons,
24 including the fact that there had been a number of deaths
25 of children. And, one particularly tragic -- many tragic

1 deaths, but one that garnered a lot of attention because
2 the parents and grandparents, especially the grandparents,
3 brought it to public attention was the death of a child
4 named Sherry Charlie who is Nuu-chah-nulth, and was on
5 Vancouver Island.

6 And, her grandparents, Harvey and Rose
7 Charlie, worked to draw attention to the fact that not
8 only was her situation, but there was over 900 deaths of
9 children and youth in British Columbia who had files that
10 had not been examined. And, they were sort of sitting in
11 a coroner's office, in a box, and they had not been
12 appropriately reviewed and investigated.

13 That created a significant degree of
14 concern in British Columbia, leading to the creation --
15 after a report by a very distinguished individual, the
16 Honourable Ted Hughes, who was formerly a judge in
17 Saskatchewan, and a Deputy Attorney General, and a very
18 significant thinker in terms of public policy, did a
19 review calling for an independent advocate, and he wanted
20 an independent officer of the legislative assembly that
21 would conduct investigations and reviews, and a statutory
22 power so that there would be the ability to compel all of
23 the records needed, but also that there would be reports
24 prepared that are public reports. So, there would be a
25 degree of transparency and a commitment to look into the

1 circumstances of whether or not children and youth, and
2 somehow known to government services -- we say known to
3 the ministry, whether or not their deaths or injuries were
4 in any way preventable or connected to the services they
5 did or did not receive.

6 So, as a result of that review, my
7 appointment, we began a process of very thoroughly
8 beginning to build a system. So, that first report that
9 you highlight is one of the early attempts from when I
10 became representative to actually get all of these players
11 in one room: the coroner for British Columbia, the ombuds-
12 person, the provincial health officer, the director of
13 child welfare, to try and create a table, not only where I
14 would do my piece of the job, if you like, or work, but
15 where we would have lead officials begin to make these
16 issues more visible and make them more accountable.

17 **MS. CHRISTA BIG CANOE:** And, I notice that
18 the Honourable Ted Hughes actually does lay out the
19 different departments that should be having a role in the
20 table. And, on page 7, there is a brief discussion of the
21 need for the collaboration. I note the last paragraph on
22 that page, the RYC, that's your office, also has a
23 Memorandum of Understanding with MCFD. Who would that be?

24 **DR. MARY ELLEN TURPEL-LAFOND:** That's the
25 Ministry for Children and Family Development in British

1 Columbia, which is the ministry that has responsibility
2 for child welfare, adoptions, special needs, youth
3 justice, and a few other -- adoption as well. And so it's
4 a kind of an overarching large ministry in British
5 Columbia.

6 **MS. CHRISTA BIG CANOE:** And so I note that
7 at -- by 2008, at least, there was an MOU in place to
8 ensure that information sharing protocols were in place to
9 allow you to accomplish your mandate working
10 collaboratively to strengthen the system of supports for
11 vulnerable children and youth. That was the intent, and
12 was it also the reality?

13 **DR. MARY ELLEN TURPEL-LAFOND:** Yeah. So
14 one of the things that was created pretty quickly after I
15 began that role was to have a proper children's forum
16 where we would be able to have periodic meetings and
17 review these matters, and bring together the coroner, the
18 ombudsman, the public guardian and trustee, director of
19 child welfare and others at a senior forum. And
20 underneath that kind of accountability process where we
21 are able to hold each other to account for the various
22 roles.

23 And my role was to kind of animate and make
24 sure in a way that those difficult conversations that
25 might be needed with agencies that maybe had files sitting

1 for a long time could be -- could occur in a very
2 professional forum, but also would be deeper discussions
3 about the apparent need for some very significant change
4 in British Columbia.

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

6 Chief Commissioner and Commissioners, I ask
7 that this be entered as the next exhibit, the Overview of
8 the Child Critical Injury and Death Investigations and
9 Review Process in British Columbia, February 2008.

10 **CHIEF COMMISSIONER MARION BULLER:** Yes.

11 Exhibit 35 is Overview of the Child Critical Injury and
12 Death Investigation and Review Process in British
13 Columbia, February 2008.

14 **--- EXHIBIT NO. 35:**

15 "Overview of the Child Critical Injury
16 and Death Investigation and Review
17 Process in British Columbia," February
18 2008 (12 pages)

19 Witness: Dr. Mary Ellen Turpel-Lafond

20 Counsel: Christa Big Canoe, Commission

21 Counsel

22 **MS. CHRISTA BIG CANOE:** And I note in
23 Schedule C, we have the final progress report on the
24 implementations of recommendations of the B.C. Children
25 and Youth. This is the -- this is, again, is the Hughes

1 Report, it's the final progress report. Can you just tell
2 us a little bit about this?

3 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So
4 after I was appointed in 2006, there had been this very
5 significant review of the child welfare system, and the
6 unmet needs were identified around children and youth, and
7 in particular, the issues around adequately providing
8 supports to children and family, looking at cases in
9 detail around situations where there were tragic outcomes
10 or injuries for children.

11 But my other role was there had been this
12 massive important public report, and like every public
13 report that we see, certainly in my professional life,
14 frequently there will be very valuable recommendations
15 made, but making sure those recommendations are
16 implemented is another fact. And because we have in our
17 modern government the executive roles in terms of cabinet
18 and ministers, we have the administrative branch of
19 government which can be very complex and divided, we have
20 the legislative side, which, you know, has its agendas,
21 and of course, the judicial side, but it's sometimes very
22 difficult to have recommendations implemented to say the
23 least.

24 So between 2006 and 2010 when this report
25 came out, not only did I perform these functions, but one

1 of my roles was really to look and see was this report and
2 its recommendations, were they taken up. Because
3 frequently, you will have a report that is really endorsed
4 on the day it's released, and then kind of loses
5 attention, and it loses traction on the ground.

6 And so this report tells us how did it go.
7 Well, it took 4 years, and the report had to say there was
8 some good progress, but there was still work to be done.
9 Even -- and I guess it's an example of even a province
10 that had a very clear understanding that there would need
11 to be significant change in its systems, it took some
12 time, and it took focusing on whether or not those changes
13 were being implemented.

14 So the role that I played, not only made
15 recommendations myself, investigated matters, but also
16 tracked whether or not government in all of its
17 components, that administrative side, public bodies, were
18 implementing those recommendations. So lots of care goes
19 into crafting recommendations, monitoring the
20 implementation of recommendations, and with a strong lens
21 on whether or not children and families are receiving the
22 services that they need to receive, and whether or not
23 their issues are appropriately visible and understood at
24 all of those sort of levels of public works and public
25 service.

1 **MS. CHRISTA BIG CANOE:** Is there anything
2 in particular that you wanted to point out in this report?

3 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
4 think one of the important things in this particular
5 report to note is, and particularly in child welfare,
6 there can be a very strong disconnect between the high
7 level reporting and recommendation and the frontline of
8 the system. And so much of this report goes into how,
9 although the Hughes Review is extremely valuable and taken
10 up at one level, it was in fact -- there was a lot of
11 challenges at the frontline of the system.

12 And you'll see, I note, for instance, at
13 page 43 about how frontline staff were still trying to
14 respond to requests for service, and they're confused,
15 they didn't understand what was happening. They were
16 identifying the lack of prevention services as being a
17 very big barrier in not being able to respond to the needs
18 of families that were coming in, and certainly, they were
19 kind of left guessing often.

20 So the whole idea of shifting a child
21 welfare system to more accountability, more prevention is
22 a really important concept, which I'm sure you've heard
23 much of in -- with respect to other witnesses that have
24 been here, but the challenge of doing it takes a type of
25 coordination at the frontline, meaning, child protection

1 needs to change to become more prevention oriented.

2 So in this report, I'm already detailing
3 the work of the frontline where even the frontline social
4 workers are saying we really want to do this, and our
5 superiors are telling us to do this, but actually, we
6 don't have the resources, the coordination, or the focus
7 to do it. And overwhelmingly, that was with respect to
8 First Nations and Métis and Inuit children and youth.

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

10 At this time, I would kindly ask, Chief
11 Commissioner and Commissioners, if we could enter this as
12 an exhibit.

13 **CHIEF COMMISSIONER MARION BULLER:** Yes.
14 Exhibit 36 will be the Final Progress Report on the
15 Implementation of the Recommendations of the B.C. Child
16 and Youth Review (Hughes Review), November 29th, 2010,
17 Representative for Children and Youth.

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

19 **--- EXHIBIT NO. 36:**

20 "Final Progress Report on the
21 Implementation of the Recommendations
22 of the BC Children and Youth Review
23 ('Hughes Review')," by Mary Ellen
24 Turpel-Lafond, Representative for
25 Children and Youth, November 29, 2010

1 (60 pages)

2 Witness: Dr. Mary Ellen Turpel-Lafond

3 Counsel: Christa Big Canoe, Commission

4 Counsel

5 **MS. CHRISTA BIG CANOE:** Mary Ellen, you
6 have helped explain a little bit about sort of the role
7 you've had, and I will get a little more into that before
8 we dive into particular reports. But during your time a
9 provincial advocate in B.C., I also understand that you
10 were at some point the President of the Canadian Council
11 of Provincial Child and Youth Advocates. Can you tell me
12 a little bit, first about the organization, and then
13 second, about your role?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I was
15 the President of the Canada Council of Child and Youth
16 Advocates. I was a member and a -- the president of it.
17 So for the -- during the 10 year period I was an
18 independent officer of the legislature, approximately half
19 of that time, I was the president of that organization.

20 And that organization consisted of either
21 independent advocates or those who were working inside
22 systems as advocates, because not every province and
23 territory had an independent advocate.

24 And the idea was to have a national
25 organization, for two reasons. One, because we don't have

1 a national children's commissioner, and there is a very
2 significant gap in terms of looking how things work
3 together, and there are differences, but there are big
4 gaps. We also have a lot of situations where we have
5 children that move interprovincially.

6 I'll just the give the example because I
7 did lots of my work in Saskatchewan and British Columbia.
8 Saskatchewan is considered a sending province, A lot of
9 people come to British Columbia; and British Columbia is
10 like a receiving province; and then children are often
11 moving back and forth, either because the Director of
12 Child Welfare sends them, or because they have needs in
13 different jurisdictions.

14 So a national council is important because
15 we have cases that are national in scope. We also have
16 issues that are national in scope and fall within the
17 federal level and area of responsibility and for which
18 there is no point of leadership. So issues with respect
19 to First Nations, Inuit children, and Métis children;
20 issues with respect to immigrant refugee children, and
21 other matters that fall more within the federal
22 responsibility have this vacuum.

23 So we created a national council to try and
24 work in that vacuum to see how we may be able to share our
25 experiences and offer that before, for instance,

1 parliamentary committees, and be an advocate body
2 ourselves to promote as indicated in this one report that
3 we produced as the Canada Council on issues, such as
4 issues for Aboriginal children and youth, and taking a
5 very strong human rights focus, so looking at the
6 conventional rights of the child, looking at the United
7 Nations Declaration on the Rights of Indigenous People as
8 it applies to children and families, but also practically
9 and pragmatically looking at just the practice gaps.

10 And, many of the challenges -- again I will
11 identify the *Indian Act* having destabilized First Nations
12 families and communities and, you know, having very
13 limited bylaw powers for things like beekeeping, but not
14 actually having a proper government status and not having
15 proper ability for those communities to engage right with
16 their children. So, creating all of these complexities,
17 but the problem was at the national level.

18 So, this report really focuses on the fact
19 that we were promoting to government that there was this
20 humanitarian crisis happening in Canada when you looked at
21 the international definitions around the human rights of
22 children. And so, that organization was trying to fill a
23 gap, if you like. And, it continues to function, and I
24 think it continues to have to fill that gap because there
25 is not a clear national point of leadership on those

1 issues.

2 **MS. CHRISTA BIG CANOE:** So, Mary Ellen,
3 just so everyone is aware, at Schedule D, we are talking
4 about the council's document, Aboriginal Children and
5 Youth in Canada: Canada Must Do Better. We had a
6 provincial advocate before us at the human rights hearing,
7 Corey O'Soup, and this document did go into evidence at
8 that time. But, for ease of reference, I would kindly
9 request that this document be marked the next exhibit to
10 Mary Ellen's evidence.

11 **CHIEF COMMISSIONER MARION BULLER:**
12 Certainly. Exhibit 37 is the Canadian Council of
13 Provincial Child and Youth Advocates, June 23rd, 2010,
14 Aboriginal Children and Youth in Canada: Canada Must Do
15 Better.

16 **--- Exhibit 37:**

17 "Aboriginal Children and Youth in
18 Canada: Canada Must Do Better,"
19 Canadian Council of Provincial Child
20 and Youth Advocates, June 23, 2010 (14
21 pages)

22 Witness: Dr. Mary Ellen Turpel-Lafond
23 Counsel: Christa Big Canoe, Commission
24 Counsel

25 **MS. CHRISTA BIG CANOE:** And, Mary Ellen,

1 this particular document, as you said, was identifying a
2 crisis that all of the provincial and child youth
3 advocates, whether they are independent or not, agreed as
4 a statement was important to make. Who was this document
5 aimed to? Was it only to, like, a federal concern or was
6 it more broad? Was it so they could use this document in
7 each of their jurisdictions? How were they trying to use
8 this 2010 document?

9 **DR. MARY ELLEN TURPEL-LAFOND:** So, the
10 purpose of the 2010 document was really a reflection of
11 where all of the advocates were in their various provinces
12 and territories. And, the focus was, really, at the
13 federal government.

14 And, in particular, we submitted the report
15 to the Prime Minister and the Minister for Aboriginal --
16 then called Aboriginal Affairs. And, the point of it was
17 to really draw attention to the fact that this was a bit
18 of a national issue, and that, in our opinion, in our
19 extensive work in provinces and territories advocating and
20 supporting First Nations, Métis and Inuit children and
21 families, that there were these very significant problems
22 that needed to be addressed.

23 And, hence, you know, our recommendations
24 in that report were recommendations geared to federal
25 government. And, we would have met with certain federal

1 leaders around this report and submitted it to them, and
2 engaged in discussion with some members of the House of
3 Commons and Senate on it as well.

4 **MS. CHRISTA BIG CANOE:** And, I understand,
5 you know, Mr. O'Soup, when he brought this to us, he
6 highlighted some of the issues, like the poverty -- the
7 acute poverty and a number of other things. But, one of
8 the things, and I am paraphrasing, not citing directly
9 from him, was a big push or need to really highlight
10 Aboriginal children being disproportionately involved in
11 the child protection system. And, he gave us some
12 shocking statistics in Saskatchewan. But, he said that,
13 really, this was one of the big first -- this was one of
14 the first documents in 2010 that this council actually
15 really prioritized Indigenous children's issues and
16 flagged it.

17 That was in 2010. And, Corey said -- and I
18 want to know if you agree. Corey O'Soup said we have the
19 same issues in 2018.

20 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
21 that it is fair to say that the issues continue to be
22 serious issues. And, while they have a greater degree of
23 visibility today than they maybe had in the run up to when
24 we produced this national report, I think what was
25 happening was there were more independent officers being

1 appointed. So, some of those children's advocate offices
2 were expanding, and they were, to some extent, taking the
3 role of the British Columbia model to be looking at deaths
4 and injuries of children, and then beginning to see the
5 magnitude and seriousness of the issue.

6 Many of them have come on sort of into
7 functions since 2010, and so we see more depth of
8 understanding in particular cases or aggregates of cases
9 about how the real experiences of children are. But,
10 certainly in 2010, the evidence and the statistical
11 information is somewhat uneven across Canada, and it
12 continues to be uneven.

13 Certainly in British Columbia, the best
14 estimate that I had, which was looking at how many
15 Aboriginal children are involved in some way in the child
16 welfare system, namely they are subject of an
17 investigation or whatever, it was really one in five
18 Aboriginal children would have some involvement of the
19 child welfare system in their life at some point. In
20 terms of the alarming numbers of Indigenous children in
21 care, we were certainly trying to document that.

22 And, as president, I was really promoting
23 amongst my colleagues that they dig deeper to get better
24 information. And so, the report is imperfect because it
25 does not give you everything, and I think it probably

1 understates the difficulty, and I think we probably
2 continue -- my expertise would tell you that we continue
3 to understate the magnitude of the difficulty and the
4 extent of challenge that First Nations, Métis and Inuit
5 children, youth and families, and women experience in this
6 social serving area, in terms of trying to get support
7 when they need it and get it before it is a crisis, and
8 then having to respond to the crisis of removal of
9 children, and, in some instances, sort of systematic
10 removal of children from their families and their
11 communities.

12 **MS. CHRISTA BIG CANOE:** So, although -- is
13 it fair to say, although there is that understating, that,
14 you know, as early as 2010, nationally there is an
15 awareness amongst the provincial advocates of the crisis?

16 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
17 the Canada Council of Child and Youth Advocates really
18 started to ring the bell louder and louder, and promoted
19 with the federal government a stronger need and urge to
20 address it. And so, that report, again, I will just
21 complete my thoughts on it by saying, you know, we were
22 talking about there being a national planning, and
23 particularly around Aboriginal children and youth, a
24 proper active national plan to respond to it, as opposed
25 to leaving it all into various provinces and territories,

1 and leaving to some extent those jurisdictions to
2 flounder, which they were. And then, of course, leaving,
3 in desperation, First Nations, Métis and Inuit children
4 and families trying to seek support which they could not
5 find.

6 **MS. CHRISTA BIG CANOE:** Thank you. If we
7 can turn your attention to, like, back to the
8 representative for children and youth in your office. I
9 am going to jump us sort of to November 2013 when you
10 issued a special report. Now, I realize, when you write
11 these reports, you have been spending a lot of time on
12 them. I am sure it did not start in 2013.

13 But, before we get right into the report,
14 you have explained quite well sort of some of your bigger
15 aspirations in some of the things that you wanted to see
16 done, but can we actually talk just a little bit of the
17 nuts and bolts about what you do as an investigator? As
18 the representative, what were your investigative roles?
19 What were you able to do when you put together any type of
20 report or a special report or an aggregate report?

21 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So,
22 in order to effectively do the work in this area, it was
23 very important, at least for me as -- when a person who
24 has been experienced in sort of justice processes and
25 other processes, it is very important to have access to

1 all of the information. So, powers to be able to compel
2 all the material and information is critical.

3 So some of the functions I performed were
4 like to audit services, whether or not they were
5 effective. And you can't do that unless you can compile
6 all the files and you can review them; or you have all of
7 the data that government has, or if it's a case, as an
8 example, you have access to everything.

9 So I needed to have access to police
10 records, if there were police records, child welfare
11 records, health records, education records. And
12 essentially, my approach to that function was to be
13 thorough and to do very deep dives in terms of what was
14 available.

15 In the past, when there had been reviews --
16 and we see this across Canada -- sometimes they can be
17 very superficial. And I certainly felt that there needed
18 to be proper -- I mean, the nature of the issues command
19 us to do thorough and complete investigations and ensure
20 that we have access to everything. So -- I mean, right
21 down to court files, at times I reviewed.

22 So I really went and I had confidentiality
23 and privacy protections, which are needed to do that, but
24 you have to be able to have that investigative scope, or
25 you simply will not be able to produce investigative

1 reporting or public reporting that is as meaningful as it
2 can and should be and that is consistent with what is
3 required by a subject as serious as the subject I was
4 dealing with.

5 **MS. CHRISTA BIG CANOE:** Thank you. So one
6 of the reports that you did in 2013 was a special report.
7 It's entitled, When Talk Trumps Service: A Decade of Lost
8 Opportunity for Aboriginal Children and Youth in British
9 Columbia.

10 Can you just give us a little background on
11 the need for this report?

12 **DR. MARY ELLEN TURPEL-LAFOND:** Yeah. This
13 is a very extensive piece of work, and in fact, it was
14 about 4 years in the process. And it was one of the
15 bigger reports I did, simply because I think it was in
16 excess of maybe 50,000 documents that were reviewed.

17 And what it looked at was there -- in
18 British Columbia, there were different efforts to address
19 Aboriginal child welfare, and there was a lot of
20 discussion of Aboriginal child welfare which was extremely
21 valuable and important in terms of making it visible. But
22 there would be sort of continual announcements of an
23 initiative that was going to solve a problem.

24 Yet in my work as a representative on the
25 frontlines advocating directly with First Nations and

1 Métis children, their lived experience was completely
2 disconnected from the public announcement about the we've
3 solved whatever aspect of the child welfare system would
4 be announced on any given day. So this report was driven
5 by wanting to understand how is it that there are these
6 announced innovations, yet we appear to have this
7 disconnect between the actual experience on the ground.

8 And so really did a deep dive on what was
9 the government trying to do over a period, in fact, it
10 looked at a 10-year period. Was it actually fundamentally
11 changing the basis of child welfare in British Columbia
12 and working with First Nations and Métis leaders, for
13 instance, and communities, or what was going on?

14 So what the report looked at was that
15 period, and it was called When Talk Trumps Service for a
16 reason, which was a lot of announcements, a lot of small
17 amounts of money were being announced with very overstated
18 and inflated kind of claims being made about what was
19 being accomplished. And actually, where they were putting
20 their resources was very disconnected from where children
21 and youth were.

22 At the same time, I recognized that they
23 had created very big expectations that First Nations
24 communities -- and in British Columbia, there is more than
25 200 NANS and that's the *Indian Act* term that there are a

1 number of nations -- those nations were wanting
2 desperately to have their own authorities recognized, to
3 have their Indigenous laws and practices recognized, and
4 the government was sort of announcing that they were going
5 to do it, but it was never happening.

6 So this report really looked at everything
7 and identified the fact that the policy was far from
8 clear, the legal basis wasn't clear. They actually hadn't
9 made a commitment to do any fundamental change; it was a
10 very superficial commitment to talk about the idea of
11 change as opposed to actually execute a program of change.

12 And in particular, what I did, which was
13 somewhat controversial but I think very important, was I
14 actually listed sort of who got money to do what, and how
15 many children were served. And that's a really
16 significant piece because what we find in these systems is
17 sometimes there can be sort of an industry, if you like,
18 particular in relation to Aboriginal people, generally,
19 resources are announced and nothing changes, you know.
20 Like what has happened here? So this is why oversight and
21 accountability is important.

22 So I looked at where the resources went.
23 Not that it wasn't important to give resources, it is, but
24 how many actual files there were with actual children that
25 got service. And what I discovered was despite -- you

1 know, it was about 60 million, which I appreciate is
2 really not a lot when we look at how much annual budgets
3 are for child welfare systems in provinces and
4 territories, but there really wasn't a single file of a
5 single child. And I would have expected to see that.

6 So there was a lot of talk, and it was
7 maybe pre-contemplation, but the claim that the system was
8 under change and it was a dramatic change was simply
9 inaccurate.

10 So it was just really doing that careful
11 look at what are you saying, what are you doing. There
12 was no clear leadership in the government, there was no
13 accountability, there were small amounts of money given
14 out, and not surprisingly, things weren't changing. And
15 in fact, things appeared to be exactly the same.

16 So the recommendations were really speaking
17 to providing, not only that clear platform and policy, but
18 also making sure that the technical support and other
19 supports are there, and not to create this kind of false
20 expectation, particularly for Indigenous governments that
21 were wanting to do this work.

22 Also recommended that the Attorney General
23 of British Columbia actually have a proper policy, prepare
24 a proper policy so that jurisdiction can be recognized.
25 So where First Nations wanted to have their own Indigenous

1 laws and practices and occupy the field of child welfare
2 and child services, you know, although there was a lot of
3 talk about it, there was actually no framework.

4 And I would say to this day, and even
5 though British Columbia is considered to be one of the
6 more progressive jurisdictions in engagement, there
7 remains no framework. So it still was a command and
8 control child welfare system under the command and control
9 of the province.

10 So this one is just looking at all of these
11 various small policies and whether or not they were
12 actually coherent or effective or responsive.

13 **MS. CHRISTA BIG CANOE:** If I could just for
14 a minute -- the figures you were talking about, like
15 actually calling out the contract amounts and the monies
16 spent, that can be located on page 51 of the report. And
17 your recommendations begin at page 57 through to 62 before
18 you get to the conclusions.

19 And I found when looking at the
20 conclusions, the very last page of them, at 65, before you
21 sort of give a point form of what needs to be done,
22 there's a paragraph there, the Ministry needs to refocus.
23 And you've already really spoken to that. But a big thing
24 that jumped out at me was:

25 "The program must be based on an understanding of the

1 needs of Aboriginal Children and Youth and Families, be
2 grounded in evidence based strategies and practices and
3 collaboration, not governance." (As read)

4 Can you just explain a little bit about
5 that?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So one
7 of the concerns in -- with respect to child welfare is it
8 appears from a sort of 10,000 foot view as being super
9 complex. It's really not that complex, but it has been
10 organized in such a chaotic way.

11 So you have these provincial systems that
12 are, like I say, command control. You have one officer,
13 generally a director of child welfare, which is a public
14 officer who holds incredible power and authority and only
15 shares it, if at all, in very legalistic ways. So you
16 have to have very clear structure.

17 Then we've had the creation of a range of
18 delegated Aboriginal agencies at different levels of
19 services they provide. Some of them were just in
20 planning. They've been in planning for 10, 15 years.
21 They have never provided a service, they're planning for
22 service, yet they're called an agency. So it's very
23 confusing.

24 Others have what we call C6 or high-level
25 delegated services to do child protection and

1 investigations. They're still all under that command
2 control system of the province and all delegated by that
3 one superior public officer called a director of child
4 welfare.

5 Then the government in this report was
6 funding other things, but you're funding things over here
7 with a little bit of money, but fundamentally you still
8 have this command control system.

9 So in terms of evidence based, rights-based
10 approaches, it's this complete disconnect. So really this
11 is your system, this command control system, and this
12 other dialogue is just off the side of the desk. So, the
13 -- but from the Indigenous people's experience, this was
14 the most important conversation, was transforming the
15 system to be more consistent with Indigenous practices,
16 laws, customs, involvement and ensuring that Indigenous
17 children have a right to belong to their families.

18 So, it just really tracks how these
19 fundamentals were not in place. And, I would suggest
20 probably -- I am not currently in the role, but I would
21 say probably in most jurisdictions in Canada, when you
22 look at it from that real structural, legal, political
23 lens, they are all command control systems with little
24 inroads where a director may give a little power to
25 someone. But, they are not based on recognizing and

1 working with other governments, namely Indigenous peoples'
2 governments, because, in fact, they do not recognize
3 Indigenous peoples as having governments in the first
4 place or having the power to exercise their own authority.

5 So, this report really made it evident that
6 these changes will be needed, but it was a bit -- kind of
7 a bit of truth telling around what was going on, because I
8 think there was a high level of confusion.

9 **MS. CHRISTA BIG CANOE:** Chief Commissioner
10 and Commissioners, may I ask that this be marked the next
11 exhibit?

12 **CHIEF COMMISSIONER MARION BULLER:** Yes.
13 Exhibit 38 is When Talk Trumped Service: A Decade of Lost
14 Opportunity for Aboriginal Children and Youth in B.C.,
15 Special Report, November 2013, by the Representative for
16 Children and Youth.

17 **--- Exhibit 38:**

18 Special Report "When Talk Trumped
19 Service: A Decade of Lost Opportunity
20 for Aboriginal Children and Youth in
21 B.C.," by Mary Ellen Turpel-Lafond,
22 Representative for Children and Youth,
23 November 2018 (92 pages)
24 Witness: Dr. Mary Ellen Turpel-Lafond
25 Counsel: Christa Big Canoe, Commission

1 Counsel

2 **MS. CHRISTA BIG CANOE:** And, we are going
3 to turn to another report that you authored, and it was in
4 October 2016, it is an aggregate review. Can you just
5 help us briefly explain what is the difference between
6 something like a special report and an aggregate review?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Well, this
8 report would have come out of the fact that I would
9 receive, like, for instance, on a daily basis in that
10 role, reports of injuries to children and youth. And so,
11 very large class of injuries that children and youth
12 experience that are involved in someway with the child
13 welfare, child serving system relates to sexualized
14 violence. So, a report of a child having been sexually
15 abused or touching or -- I do not want to say the word
16 "assault" because it sounds like it is something under the
17 *Criminal Code*, although it would be indicative of an
18 assault.

19 So, I would, you know, virtually every week
20 receive multiple reports of sexual violence toward
21 children and youth. And so, what I would do -- I mean, it
22 would be, unfortunately in the system we are in,
23 impossible to report on all of them because they are so
24 pervasive. What I would do is I would take groups of
25 these and I would put them together to try and understand

1 if we are seeing some patterns, and then analyze in depth
2 what happened with those children and youth, and what kind
3 of children and youth were they, what were their life
4 experiences and what were the services.

5 And so, this is an aggregate report looking
6 at a cohort of reports of children and youth who were
7 sexually assaulted or sexually abused, and trying to think
8 about prevention. Is there something we can learn from
9 their common experience to think about what are we missing
10 or what we might be able to surface and recommend that we
11 pay attention to?

12 **MS. CHRISTA BIG CANOE:** so, Mary Ellen, and
13 I am just going to actually let everyone -- remind
14 everyone in the audience or watching at home, when we talk
15 about these topics, I want to remind you to protect your
16 spirit. Although we are talking at them from a place of
17 report, I know for some people, even having conversations
18 about this type of content can be triggering. So, please
19 protect your spirit as we are going through this and the
20 next reports coming up.

21 I also want to ask a question before we get
22 into this report. Often when you are looking at your
23 reports, you will see a little call-out box or stories you
24 are sharing about youth. But, I just wanted to be clear
25 to anyone watching or listening, when I see a youth's

1 name, is that their real name?

2 **DR. MARY ELLEN TURPEL-LAFOND:** No. So, I
3 use acronyms. Occasionally, I will use the actual name of
4 a child, and I think we may talk about one of those
5 reports today, but that is in very exceptional
6 circumstances, and generally only because the family has
7 really asked me to do that, and I felt that it was
8 appropriate.

9 So, I will just use other names, so I make
10 sure that we are not revealing private information about a
11 child's experience.

12 **MS. CHRISTA BIG CANOE:** Thank you. I am
13 going to ask the A/V team to help me out and call up
14 Figure 1, please.

15 Actually, just for reference, for those
16 following along with the materials, on page 4. And, the
17 reason I wanted to pull the term up, Mary Ellen, is just
18 so we can contextualize. When you are talking about
19 sexual violence in this particular report, you know, you
20 defined, when you are talking about the methodology, which
21 terms are used and why. Can you just give us a little
22 explanation about this?

23 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
24 mean, I think terminology is extremely important, and how
25 you see and define what is sexual violence requires care.

1 And, the definition that I embraced, which I feel is an
2 evidence-based definition that I worked on pretty closely
3 with a number of others who have expertise in this field,
4 and as well as a number of children and youth who shared
5 with me their views.

6 So, it is an umbrella term. So, it refers
7 to sexual assault, sexual abuse and sexual exploitation.
8 And, sexual assault is, of course, this violence
9 perpetrated by one, I say, adult – it can be peer-to-peer
10 as well – on another. And, in particular, it also
11 includes exploitation of those who are young, meaning
12 exploiting, or preying upon, or victimizing, or using a
13 child for sexual gratification of an adult. And, that
14 does not have to include actual touching. It can be just
15 the intent to sexualize a child. It can include -- sexual
16 violence can include inappropriate words and language with
17 a sexual purpose toward a child, and I still -- I cover
18 that under the umbrella of "violence," because I think the
19 word "violence" is really important in terms of sexualized
20 violence and what it refers to.

21 It also can include taking images and
22 sharing images through websites and social media. And,
23 also it includes all those categories that are sometimes
24 referred to -- and I am very cautious about the expression
25 called "survival sex". It is a very complex and a very

1 loaded expression because it is mired in sexual violence.
2 Namely that an individual girl, boy, male, female has to
3 exchange a sexual favour or act to receive those items
4 which are sort of essential for life: food, shelter and
5 other things. Sometimes with respect to kind of being
6 abused is part of kind of a process of abuse, but there is
7 generally violence.

8 So, even if it is exchanging sexual favours
9 or sexual acts for protection or for money, so I do not
10 call that -- like, sometimes the terms used are
11 prostitution and other things, I do not use those terms.
12 I use the terms sexualized violence to understand the full
13 piece of it. And, you will see there that it is like --
14 it is called "sexualized" rather than "sexual," because it
15 is important, very important in the reporting and the work
16 that I have done to be very cautious not to shift the
17 blame to the victim.

18 And, one of the challenges we have with
19 respect to working with children and youth that have been
20 sexually abused and adult women and men, particularly in
21 my experience, Aboriginal youth, children and adults, is
22 this really pervasive construct of being sort of a willing
23 victim, or having somehow placed yourself in a position of
24 vulnerability so that, well, what did you expect? So,
25 again, the research I did and the evaluation -- because I

1 saw so pervasively in those files that mentality as
2 somehow they are kind of putting themselves in a position
3 where it happens. So, it was really significant to be
4 clear that this is the -- not doing a victim blaming
5 construct is critical for the reporting that I did.

6 And, also be really clear that this is not
7 consent. Like, someone who has been groomed to -- a child
8 that has been groomed to essentially provide sex to the
9 gratification of an adult is not someone who is a
10 consenting participant in that process. They are a
11 victim, that is a blameless victim.

12 So, I cannot emphasize that enough, just
13 because when you do the deep work with children and youth
14 and you see the experience, you will often see that they
15 have developed this concept that somehow they are to
16 blame. And it's really important to be absolutely clear
17 where the responsibility is, and that they are not
18 responsible for their victimization.

19 Hence, I use that expression, "sexualized
20 violence", and I use it consistently because it is
21 sexualized. It's not just about a sex act, it's about a
22 kind of culture, almost, of sexualization that can occur
23 and does occur, in fact, for particular cohorts of
24 children and youth.

25 **MS. CHRISTA BIG CANOE:** Thank you. I note

1 in the report -- I'm just going to hit a couple of
2 highlights before we get into some more particulars. On
3 page 6, and I'll call it blocks, it talks about -- and
4 this would have been, you know, back in 2016 -- that the
5 most recent B.C. adolescent health survey estimated that
6 13 percent of female youth in B.C., or 1 in 7, reported
7 ever being sexually abused, including being forced into
8 sexual activity against their will.

9 So -- and that's a number looking
10 adolescents, not Indigenous specific. And the statistic
11 that's cited in your report for Aboriginal children and
12 youth, rates of reported of sexual abuse were 23 percent
13 for females and 7 percent for males. So the general
14 population, 13 percent, the Aboriginal children and youth
15 population, 23 percent.

16 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So the
17 important thing to note about that is over the years as
18 representative, I would provide funds to a very good
19 research institute called the McCreary Institute in
20 British Columbia, which did youth focused research. So I
21 partnered with them, and they did a comprehensive
22 adolescent health survey.

23 So they survey all children and youth --
24 well, all the youth at certain stages, if not annually,
25 every few years, and then they have information. So

1 that's the self-report survey. Really critical because
2 information from youth is important. It's not like some
3 telephone survey.

4 However, in doing that what's kind of
5 shocking I think in this piece, and I hope people remain
6 shocked at some level and haven't become so complacent to
7 this, is the fact that for Aboriginal youth who are
8 responding to that adolescent survey, 23 percent of the
9 females are reporting that they've had unwanted sexual
10 contact, and in terms of the males, it's 7 percent.

11 Now, put that in the concept of this is
12 someone sitting, you know, in a classroom filling out a
13 survey. Not really the most safe environment,
14 necessarily, and of course, I -- this is done very
15 carefully and thoughtfully by McCreary, but I note in the
16 report, sort of at the bottom of that page, that many
17 children and youth do not report sexualized violence
18 because they have been normed to it.

19 So what I found in this report was there --
20 you know, I may have found a group of youth who report,
21 well, I'm not really the victim of sexual violence. And
22 you're like, excuse me, the police have been there eight
23 times because your partner has, you know, committed an act
24 of sexual violence or another peer has. So how do you see
25 that?

1 And so just understanding that this is a
2 matter that's very significantly underreported, and the
3 context of reporting the pressure not to report. So
4 reported, 23 percent of Aboriginal women.

5 And again, I would put that in the context
6 of I'm not claiming some great bragging rights for British
7 Columbia, but British Columbia has some of the best health
8 outcomes in Canada. It has, in fact, some of the lowest
9 levels of sexual violence. If you look at crime stats.
10 Not that they're all reliable. But it has some of the
11 very -- good life expectancy, it has some of the most
12 positive pro social attitudes among youth and others. So
13 in that context, it's quite stark.

14 There's nothing equivalent to the
15 adolescent health survey that I've seen in other
16 jurisdictions, unfortunately, but just that alone tells
17 you that there is a pervasive issue, if it is in fact 1 in
18 4 that self-reports. So how broad based that is.

19 And again, the McCreary Society with
20 funding from myself, as a representative for children and
21 youth. The provincial health officer, we usually got them
22 to contribute, so they would do these surveys. But these
23 are not mandatory government surveys that are done
24 regularly or supported. They're very -- we kind of piece
25 together resources to try and keep good information about

1 the lived experiences of children and youth. But that
2 points to some important evidence that we did find.

3 **MS. CHRISTA BIG CANOE:** The report talks
4 about a number of things, including, as you've already
5 kind of explained in the definition, things like peer-
6 to-peer reviews and the vulnerability to sexualized
7 violence.

8 One of the things that jumped out at me is
9 on page 9 is sexual assault is a criminal offence. And
10 the report actually takes the time to explain to a reader
11 in fairly plain language sort of this issue.

12 I would ask that we pull up Figure 2
13 please.

14 And as it's coming up, you know, in terms
15 of the -- pointing out that sexual assault is a criminal
16 offence. What drives that? Is it that a number of the
17 youth or children reporting don't understand the context
18 of what's happening to them because of their -- not their
19 vulnerability, but the vulnerability of being exposed to
20 the sexualized violence?

21 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So I
22 think, of course, for the report and for public
23 information, it's really significant to do ongoing work
24 with children and youth, especially Aboriginal children
25 and youth, around safe relationships and to do very well

1 developed and appropriate education work.

2 But just as a point of fact, I put in -- I
3 will frequently put in my reports things like, oh, by the
4 way, it is an offence to engage in sexualized violence,
5 and I list some of the offences. And as we know in the
6 *Criminal Code of Canada*, the class of sexual offences is
7 often changing, and it's not necessarily changing to
8 reflect the circumstances of the subjects I'm talking
9 about in the report, it's -- there's all different types
10 of pressures happening, right, the evolution of social
11 media, or whatever.

12 But really looking at sexual offences in
13 the *Criminal Code* around the experience of Aboriginal
14 children and youth, Aboriginal men and women, girls and
15 boys, and then as you noted in the report, looking at
16 who's particularly vulnerable.

17 And looking at LGBTQ youth, they're
18 overrepresented in terms of victims of violence. Looking
19 at children and youth who have neurodevelopmental
20 challenges and disabilities and need for health supports
21 that might be particularly vulnerable, and in fact,
22 sometimes even preyed upon. Looking at youth in care.
23 Looking at it from a gender lens.

24 Of course, we know women and girls are
25 disproportionately reporting sexualized violence. And

1 then of course, looking at the correlation between of
2 those who are reporting, sexualized violence, what about
3 the intersection of poverty and difficult circumstances,
4 material circumstances in their lives or the lives of
5 their family.

6 And in some of these cases, in this report
7 and other reports I did, I would actually look at
8 intergenerational. Like there would be four generations
9 where mom -- like great grandma, grandma, mom, child were
10 all involved in survival sex work to some extent to
11 survive, and all of whom were -- experienced sexual abuse
12 and violence across the generations, not only stranger
13 violence, but familial violence.

14 So really looking at who's vulnerable, what
15 are their circumstances, why. Statistics only tell you
16 one big number, that inside it, you come down and you
17 actually see the lived experience and you begin to
18 understand that supports should be very targeted to those
19 that most need them.

20 And -- so in this aggregate report, looking
21 at, you know, well why are there not a lot of
22 prosecutions. If there is this much sexualized violence
23 against Aboriginal youth in British Columbia, 23 percent
24 of the girls, well how many prosecutions are there? How
25 many complaints are there?

1 And then again, in my role as
2 representative, advocating for children and youth,
3 actually sitting in courtrooms with the children who have
4 been sexually abused who decided to go forward with a
5 police prosecution of sexual assault against a
6 perpetrator. So I have that really -- privilege to be
7 able to do that to support those like young women and see
8 their path through a court process.

9 And of course, having been a judge, I have
10 seen it from that view, but I really saw it from a
11 different view when I had to and had the privilege of
12 supporting, for instance, a young woman who, you know,
13 through six years went through a process, ultimately
14 leading to a conviction of a caregiver that had sexually
15 assaulted her, but also seeing just, you know, the damage
16 that that caused over time.

17 So it is a criminal offence. It's
18 important to talk about it. It's not prosecuted a lot,
19 and when it is prosecuted, it's extremely hard on these
20 particular kids, like kids in care. That one case, that
21 girl aged out of care at 19, and the verdict wasn't even
22 released yet in the court and she's just thrown to the
23 curb and has to go get the verdict in a sexual assault
24 matter and deal with everything in her life.

25 So it really gave me that up close personal

1 understanding of how those systems respond to real victims
2 in real time in real courtrooms. And that's one piece,
3 but there's many -- lots of room for improvement, I will
4 put it respectfully. At the same time, they are like a
5 miracle. It is like a miracle moment. Like, oh, my
6 goodness, there was a conviction after a horrific sexual
7 abuse and -- you know, even myself sitting there in the
8 court room with this young woman, thinking, "If this does
9 not go for a conviction, I hope she is going to make it
10 because she is in really tough shape." And then even
11 having a conviction is not going to address all of the
12 issues in her life, because she will be very vulnerable
13 having been a victim of sexualized violence in a recurring
14 basis in her life, being a 19-year old looking into her
15 adulthood and thinking about what supports will be needed.

16 So, these aggregate reports allow you to
17 look at groups of experiences and allow you to look a bit
18 more at the course. It is not one; right? But, every
19 person has a unique and individual experience that has to
20 be honoured and respected. But, you do begin to see that
21 the level of vulnerability is so apparent for Aboriginal
22 girls, and yet they are also not receiving the kind of
23 response that we would expect in a society that has
24 established processes, like a criminal justice process.

25 **MS. CHRISTA BIG CANOE:** So, I understand

1 the overview of the sexualized violence in this particular
2 report. It was looking against 121 children and youth in
3 care. If I could ask the A/V to pull up Figure 3. The
4 question that the report answers at one point is, who were
5 the victims? And, when our next figure comes up, we will
6 see one of the figures -- Figure 1 in your report
7 demonstrates the age and gender at first-reported
8 incident.

9 So, first-reported incident is the first
10 time they had sexualized violence?

11 **DR. MARY ELLEN TURPEL-LAFOND:** That is
12 right. So, what this is trying to graphically represent
13 is to understand when is a report of sexualized violence
14 made. So, there might be a lot of sexualized violence in
15 their lives prior. This is just what I am receiving a
16 report on and I am reflecting.

17 So, what I learned in this cohort of 121
18 children -- so, there were 109 girls and 12 boys. So, the
19 age at which sexualized violence was reported to have
20 first occurred ranged from the age of 3 to the age of 18.
21 So, 23 of the children were 12 or younger. So, like,
22 early experiences of sexualized violence. Ninety-eight of
23 the children were between the ages of 13 and 18. And then
24 of course, looking at male/female, you see very elevated
25 female victimization, and male victimization looks kind of

1 similar in the early period, but then female victimization
2 just really does a big uptick into early adolescence. So,
3 high degree of vulnerability during adolescence.

4 So, the range, the age range, again, the
5 age at first-reported incident is, you know, to have that
6 many under the age of 12 is pretty significant.

7 **MS. CHRISTA BIG CANOE:** It is. And, the
8 composition, whether -- you know, looking at the cohort,
9 the Aboriginal status, if we could have Figure 4 pulled
10 up, please. The Aboriginal status. So, knowing out of
11 this group, you already talked about how many are female
12 and how many are male, how many of the group are
13 Aboriginal?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So,
15 in that group, 79 of the 121 children and youth were
16 Aboriginal. And, for this cohort in this study, that
17 would be for this. In terms of all the reports of
18 sexualized violence that I would have received over a
19 decade, the percentage of Aboriginal versus non-
20 Aboriginal, it would be overwhelmingly more Aboriginal
21 children and youth than anyone. That is over the whole
22 10-year period of all reportables.

23 For this one, of the 121, 79 were
24 Aboriginal. And, you can see that 5 of the 79 were girls
25 and the remain -- or boys, pardon me. And, the remainder

1 were girls. So, 74 were girls. And then this just
2 graphically shows you kind of who they are. And, the
3 purple, the dark purple colour is the Aboriginal female.
4 And so, again, you can see that, disproportionately, the
5 Aboriginal female is jumping out as significant. The
6 light purple is little pieces of non-Aboriginal sort of
7 male and non-Aboriginal female, but the dark purple is the
8 Aboriginal female, which is very high.

9 So, of the birth to 12, that is 57 percent,
10 and of the 13 to 18, that is 62 percent. So, again, we
11 are seeing incredible overrepresentation of Aboriginal
12 girls and adolescent Aboriginal girls as victims of
13 sexualized violence in this aggregate study.

14 **MS. CHRISTA BIG CANOE:** I think -- and I
15 said this yesterday when we were talking with Dr.
16 Blackstock, the people in the room today, the parties with
17 standing that represent organizations, our Commissioners,
18 none of these statistics are new per se. But, why is it
19 so important to contain this information in the type of
20 reports and work you do? What purpose does it serve in
21 terms of pushing forward when we do get to
22 recommendations? Is it just a knowledge base? Should it
23 be shocking? Where is the value in raising the sort of
24 empirical evidence?

25 **DR. MARY ELLEN TURPEL-LAFOND:** Right.

1 Well, I do not think that anyone prepares a report knowing
2 what the results will be; right? So, that is the first
3 point. The second point is, I have not travelled the
4 journey that this Inquiry has travelled to hear everything
5 that you have heard. But, the contribution that I can
6 make is to say, there should be very good work done.

7 And, this report is an example of something
8 that was never reported on. And, I mean, that is 2016.
9 It took me about nine years to be able to even report on
10 this in this fashion, first of all to have McCreary do
11 adolescent health surveys, and to engage with Aboriginal
12 children and youth, and to see their full files, and then
13 sometimes to get those police files and see what happened.

14 It takes time, and it is not something that
15 is done, and it is not something that has been done well.
16 And, by well, I mean really thoroughly looked at. And, I
17 am not talking about looking at it in a cold, detached
18 fashion, but I mean really looking at the evidence and
19 evaluating it, considering what the experiences are, and
20 revealing that.

21 So, I found two things. One, sort of like,
22 oh, we cannot talk about it because it is too
23 traumatizing. Well, yes, it is traumatizing for the
24 victims. Believe me, we are outlining some horrific
25 trauma that they have experienced without a doubt, but we

1 are also outlining the fact that they're left after
2 they're victims. So, not only have they been traumatized,
3 but they have experienced incredible levels of
4 professional indifference from these core social serving
5 systems.

6 And then when you look at who the
7 perpetrators are, this is really significant to determine
8 who are the perpetrators of violence. Because your
9 response to violence needs to be driven by who is
10 perpetrating violence that will affect your vulnerability.
11 And, I think the point that I would say about Aboriginal
12 girls and boys, in my experience, and like this report,
13 that the exposure to violence is very acute. The
14 frequency and dose of violence, and the frequency and dose
15 of sexual violence in their lives is the most acute of all
16 categories. That is what we find here.

17 But, then, when we look at the
18 perpetrators, the perpetrators are, really, two big
19 categories. People that are known to them or family
20 members, so, an acquaintance. It could be a boyfriend,
21 girlfriend, partner. So, the known to category is a huge
22 category. And then a child or youth in care in a foster
23 home or a group home. So, the foster arrangement or the
24 residential services is a site in which they experience
25 sexual vulnerability to sexual violence. So, those are

1 two big categories.

2 Stranger violence is there for sure. Like,
3 you know, seven percent. But, actually, they are in known
4 places. So, that is a really critical piece about the who
5 are the perpetrators and what do we know about that
6 information. And, including, you know, siblings; right?
7 4.5, almost 5 percent were the victims of sexualized
8 violence by a sibling, which suggests some very
9 significant issues in the family and whether or not the
10 family situation or kinship situation is able to address
11 sexualized violence. And, I think, again, we all
12 understand the intergenerational issues that have emerged
13 around residential schools and extreme levels of exposure
14 to sexualized violence in those institutional settings.

15 The point is, we are seeing overrepresented
16 still in families. But, those who are particularly
17 vulnerable, who are actually out of the family are maybe
18 being victimized again and again and again. So, it is a
19 really unfortunate situation, but it tells the story of a
20 trajectory of violence. As opposed to an episode, it is a
21 trajectory, meaning a course. So, some sexual violence
22 appears to be related to greater vulnerability, to more
23 sexual violence, and that is important to note because it
24 also presents the opportunity to break that path, to
25 interject in that path and stop it.

1 And so, the report looks at, you know, if
2 your sexual violence is occurring in foster care, well, we
3 can address that, actually. There are ways to respond to
4 that. And, if the sexual violence is happening in
5 relationships, like young adolescence, we need to improve
6 safe relationships, and we need to work on that, and we
7 have to address it.

8 If it's happening at different places and
9 different times, if there's the online issues and social
10 media, we can address it. It's not a perfect world, but
11 we can make our efforts more focused on where the needs
12 are.

13 **MS. CHRISTA BIG CANOE:** You've helped
14 explain the various perpetrators. The incidents occurring
15 in the care placements, your report actually looked at 145
16 reported incidents of sexualized violence, and in that
17 review, there were 28 that occurred in the child or youth
18 care placement setting, and that's the graph we have up
19 here in front of us now. And, this, I understand, is a
20 breakdown in those 28 circumstances. And, as you've
21 explained, more like a trajectory, not just single
22 incidents. This is who the perpetrators are?

23 **DR. MARY ELLEN TURPEL-LAFOND:** That's
24 right. So, this kind of gives you the, kind of, graphic
25 understanding of the extent or risk that's there. And,

1 again, that looks at -- you know, there is this category
2 that everybody recognizes, which is, like, normal sexual
3 experimentation by children and youth; okay? Human
4 sexuality is not where all sexuality is sexualized
5 violence. These are all outside the realm of, kind of,
6 normal sexual exploration by young people which would be
7 considered sort of clinically in the range of normal.
8 This is more -- this is violence-related unwanted sexual
9 activity and sexual violence.

10 **MS. CHRISTA BIG CANOE:** I'm not sure if you
11 wanted to add anything before we kind of look at some of
12 the recommendations that came out of this report. Was
13 there anything else that you wanted to highlight, Mary
14 Ellen?

15 **DR. MARY ELLEN TURPEL-LAFOND:** The only
16 other issue I really would pay attention to was for the 79
17 Aboriginal children and youth in the review who
18 experienced sexual violence, when I really look at their
19 experience, many of them had no cultural plan. They're
20 supposed to have comprehensive care plans, and they didn't
21 have a cultural plan of care, which is a really
22 significant thing. I mean, it's more than paperwork to
23 have a plan. It's about being connected to family, those
24 natural supports that are kinship supports, cultural
25 supports, family supports.

1 So, not having that planning means they may
2 not have that dimension of being able to report abuse
3 within a supportive and understanding environment. So, I
4 just make note of that, that how child welfare systems
5 work, because they're often removing children from their
6 natural cultural kinship supports, and then the ones that
7 have been abused and experience sexual violence are
8 children that do not have this.

9 So, it's an indicator to me of a
10 dislocation from an Aboriginal family and community. And,
11 I see again -- I saw again and again in my work, why
12 wasn't that there? But, that's a very fixable thing;
13 right? Because you can come back and say, "Excuse me,
14 like, you're responsible. You're the parent here, so
15 where is the cultural plan? Why does this young person
16 have no family?" Like, I'm sure they have a family. And,
17 in point of fact, they are telling me they have a family
18 that they haven't seen forever, and they don't understand.

19 So, even if someone can't be living in
20 their particular family home at the time, the kinship
21 connection. So, I just really emphasize that, because
22 that's a dimension of when you look at it. So, this is
23 one of the few reports that you will find in, I think,
24 Canada that actually looks at that relationship between
25 who experiences sexual violence and who has cultural

1 plans.

2 So, I think it's meaningful. I can't say
3 that it represents everything, but it does indicate to me
4 that that's an area that should really be focused on as a
5 protective factor, that probably has created more risk.

6 So, the system, by not keeping the cultural
7 continuity and connection, has likely elevated the risk
8 for these kids, and that's a point of learning, which is,
9 you know, the responsibility to keep children safe and
10 supported is more than just the roof over their head or
11 food on the table. It's also the cultural supports and
12 family kinship supports.

13 **MS. CHRISTA BIG CANOE:** And, I know the
14 report goes into great detail on a number of issues that
15 you're addressing, like the value of stable homes,
16 different child protection responses. I do note that on
17 page 24, there is discussion of promising practises. And,
18 I couldn't help but notice in the Turtle Talk Program, you
19 know, the primary focus is on teaching children safety and
20 prevention skills. And, you had said earlier, you know,
21 part of this is having the ability to have kids,
22 particularly vulnerable kids who are placed into
23 protection or are away from home, to have an understanding
24 of prevention skills against sexualized violence and what
25 is, you know, their rights.

1 Is something like Turtle Talk Program, even
2 when there's not plans in place, something that also is a
3 protective factor for youth who are at risk from the
4 system?

5 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. And, I
6 think that what I outline in the report are there are
7 promising practises, and they should be promoted, and they
8 should be given stable resources, and then they should be
9 evaluated. So, you know, these tend to come and go.

10 So, Turtle Talk is run by what was formerly
11 called the Mary Manning Centre, which is a centre that
12 supports victims of sexualized violence, particularly if
13 they're going through the court system, and they offer
14 counselling. And, they expanded to do -- it's not an
15 Indigenous agency, but they've expanded to run some
16 Indigenous programs with support from Indigenous people in
17 the surrounding community, which is in South Vancouver
18 Island. And, that's a great initiative, because it does
19 one very important thing, which is it helps with
20 revictimization.

21 So, most of the kids in that will have
22 already been a victim, but what it does is it helps create
23 boundaries. So, one of the challenges with those who have
24 had sexualized violence in the early years is there's a
25 lot of challenges with boundary setting, and boundary

1 setting meaning in relationships, physical boundaries,
2 emotional boundaries, even family boundaries.

3 So, boundaries become really challenging
4 for our kids to be able to understand what boundaries are.
5 And, I'm sure you've heard lots of information about that
6 and seen many examples, including, you know, young people
7 that grow up and say, "I didn't know I was so compliant.
8 I didn't know I could say 'no.'" And, "I didn't realize I
9 had an option." And, that's a recurring theme if you work
10 closely with victimized children and youth, is the "I
11 didn't know I could say 'no,' and someone would respond."

12 Like, sometimes it will be profound anger
13 in adolescents saying, like, "Where were the social
14 workers and police when I needed them when I was being
15 repeatedly sexually abused? Because no one helped me."
16 And, again, I'm not shifting the blame to the victim. I'm
17 saying the services that they receive -- including because
18 of many challenges that communities have faced with the
19 intergenerational impacts of residential schools and
20 sexual violence, boundary setting is so critical for their
21 immediate physical, emotional and cultural safety.

22 So, Turtle Talk is a brilliant program,
23 because it's really a child-friendly way to talk about
24 boundaries. And, you know, the Red Cross has programs.
25 There are other program that are offered. These are --

1 like, innovative little programs are great. They're here
2 and there. But, do we have a comprehensive program? And,
3 again, you know, my reports speak to the absence. So, a
4 very small number of children would get the Turtle Talk
5 Program, but those that do would probably have the benefit
6 of being able to set those boundaries and know how to get
7 support when something happens in the future, and it's
8 protective.

9 So, my view is, if you can't, like, you
10 know, immediately prevent all sexualized violence, given
11 the society we live in and the incredible victimization
12 that Aboriginal girls and boys experience, we can begin a
13 process of reducing victimization. I mean, obviously we
14 want no victimization, but let's be realistic. Like,
15 you're not going to go from zero -- from 100 to zero. How
16 are you going to get there? So, these are examples.

17 The other one is child and youth advocacy
18 centres. Canada has supported a range of child and youth
19 advocacy centres. Some of them, I would say, are more
20 effective than others in terms of do they have an
21 Indigenous focus? Sometimes they'll have an Indigenous
22 program, but do they have an Indigenous focus? And, you
23 know, they might be established by people who have been
24 victims, and they're really important spokespersons for
25 addressing victimization, like maybe a former NHL player,

1 or a very significant person who has taken this on, and I
2 have a high degree of respect ...for the work that they
3 do. I think the issue is this isn't sort of like a
4 celebrity issue for Indigenous people. So the idea of
5 child advocacy centres that really focus on those
6 childhood and adolescent experiences of sexualized
7 violence and work effectively to recover and respond to
8 those.

9 So I outline a couple, and in fact, the
10 Mary Manning Centre was wanting to become one of them, but
11 I mean, these are not funded and supported. But there are
12 many good people who would like to see these processes in
13 place and feel they would be very effective. Early
14 evidence tells us that boundary setting, safety training,
15 safe relationship training is really important for
16 children and adolescents.

17 It's offered also in schools, I would say,
18 but that's sort of -- depending on if in the public school
19 system if there is someone who can facilitate it and teach
20 it. It's not part of the curriculum. So there'll be
21 special programs.

22 In the case with Indigenous kids, I find
23 that people are really nervous to run those programs
24 because they're worried about disclosures. And it's a bit
25 of a bad thing happens, which is the kids make disclosures

1 in the school, then the Ministry for Children and Families
2 is there, and then they might be removed from their
3 family.

4 So it gets you into just that Orwellian --
5 we want kids to be safe and talk about it, but when they
6 do talk about it -- boom. What happens is their family is
7 blown up in a horrific way and then they may be abused in
8 care. So our responses are not quite what they should be
9 looking specifically at sexualized violence.

10 **MS. CHRISTA BIG CANOE:** Were there any
11 recommendations that you want to highlight in relation to
12 this report?

13 **DR. MARY ELLEN TURPEL-LAFOND:** Just again,
14 I mean, again, British Columbia is -- again, I'm taking
15 bragging rights for them, I don't represent the Government
16 of British Columbia, but they're one of the more
17 progressive jurisdictions in talking about these issues,
18 but then again, they don't actually have a strategy.

19 You know, so not even having a specific
20 strategy, or even a lead minister, like who's in charge of
21 it? Like everybody and nobody? I mean, who's responsible
22 for this incredible issue and how do they respond to it?

23 So I think the idea about even in
24 investigations, and you'll see in this report some
25 instances I highlight which concern me. Again, having a

1 very strong degree of training in law, and it's not all
2 about, like, you know, sort of mainstream legal approaches
3 but justice approaches are important. Seeing that the
4 police response, when there was a reported sexual abuse,
5 sexual assault.

6 And I detail one case, an emblematic case
7 here of like a young woman who was like basically placed
8 in a jail cell and interviewed about the -- there's two
9 prisoners on either side, and she's in there by a junior
10 officer who has no sexual abuse and sexual violence
11 training, and he's questioning her about this.

12 And we're supposed to have an integrated
13 unit that can respond, but they can't respond because it's
14 a rural or remote location. Meanwhile, she's in a jail
15 cell, like basically being questioned about an incident of
16 sexual violence. And she's so traumatized by the
17 questioning that she's never going to call the police.

18 And so those sorts of practices are very
19 fixable, and they are the sorts of issues where you're
20 like not only is it poor -- are poor investigative
21 practices unacceptable in sexual violence of Aboriginal
22 children, and all children, but also if you have poor
23 practice, which I saw repeatedly, that impacts a victim's
24 circumstance and their likelihood to not report. And so
25 these are factors.

1 Exhibit 39 is Too Many Victims: Sexualized Violence in the
2 Lives of Children and Youth In Care, An Aggregate Review,
3 October 2016, Representative for Children and Youth.

4 **--- EXHIBIT NO. 39:**

5 Aggregate Report "Too Many Victims:
6 Sexualized Violence in the Lives
7 of Children and Youth in Care," by
8 Mary Ellen Turpel-Lafond,
9 Representative for Children and Youth,
10 October 2016 (62 pages)
11 Witness: Dr. Mary Ellen Turpel-Lafond
12 Counsel: Christa Big Canoe, Commission
13 Counsel

14 **MS. CHRISTA BIG CANOE:** And Commissioners,
15 I think now is probably an opportune time for the morning
16 break before we go into the next report, which is Paige's
17 Story. I kindly request a break until -- it's now 10:22,
18 I kindly request a break until 10:35.

19 **CHIEF COMMISSIONER MARION BULLER:**
20 Certainly; 10:35.

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

22 --- Upon recessing at 10:26 a.m./L'audience est suspendue
23 à 10h26

24 --- Upon resuming at 10:43 a.m./L'audience est reprise à
25 10h43

1 **DR. MARY ELLEN TURPEL-LAFOND, Resumed:**

2 **MS. CHRISTA BIG CANOE:** Chief Commissioner,
3 Commissioners, if we could continue with Mary Ellen's
4 examination in-chief.

5 **---EXAMINATION IN-CHIEF BY PAR MS. BIG CANOE (Cont'd):**

6 **MS. CHRISTA BIG CANOE:** What I would like
7 to discuss with you next, Mary Ellen, is Paige and Paige's
8 Story. And Paige's Story can be found at Schedule G for
9 any of the parties with standing and for the
10 Commissioners.

11 And I know this is a fairly substantial
12 report, and I think it's an important one because a lot of
13 the concepts you've already talked about today, and the
14 need to focus on the last report and sort of set up some
15 foundations moving forward through the next report. So
16 it's helpful.

17 But maybe you can just tell us about
18 Paige's Story?

19 **DR. MARY ELLEN TURPEL-LAFOND:** Yeah. So
20 first of all, this is one of those exceptional cases where
21 I actually did use the name of the child, and I put her
22 picture on the cover. And that was with the urging of her
23 family as well so that her story would be under her name
24 with her experience.

25 So it's always really important to

1 recognize the courage of the family to do that, and her
2 family -- I really learned a great deal working with her
3 family about the experience of their family.

4 And so this is a comprehensive
5 investigative report about a girl named Paige, who came in
6 and out of the child welfare system. And essentially, the
7 story of Paige's life is that she moved around Vancouver,
8 and particularly, in the downtown east side, and she aged
9 out of care in a way that many youth age out of care. And
10 I certainly heard and worked with them extensively, which
11 is essentially given sort of their belongings in a garbage
12 bag and being sent, in British Columbia, kind of to the
13 curb at 19.

14 So Paige aged out of care, and she had a
15 place to live. The only place she had to live was in the
16 downtown east side. And she died, tragically, of a drug
17 overdose at 19 years old in the downtown east side.

18 And so Paige's Story is really about
19 looking in -- I'm not going to say granular detail, but
20 really looking in what was her -- what was happening in
21 her life over a period of time. Was this a preventable
22 death? Because the lens that I have under the statute in
23 terms of conducting inquiries was to see whether or not
24 there could be recommendations to prevent similar
25 tragedies from happening, and so forth.

1 So Paige's Story is a significant one.
2 It's her story, but also, I would say in the role that I
3 had, there is a very large cohort of extremely vulnerable
4 girls in the downtown east side in Vancouver. And despite
5 the, you know, apparent efforts of a variety of social
6 serving agencies, there continue to be very vulnerable
7 Aboriginal girls and boys, but girls in particular, in the
8 downtown east side. And so, the story of Paige is really
9 about all of the places that she was. And, it is -- it is
10 a small area for -- I know the hearings have been here, so
11 I am sure staff and Commissioners, and I know
12 Commissioners will be very familiar with the area, but it
13 is probably one of the most heavily resourced areas in
14 terms of social services in Canada. It is an intensively
15 resourced area.

16 So, the interesting thing about Paige's
17 story is that she was basically homeless in the Downtown
18 Eastside in -- under the nose of all of these social
19 serving agencies, and she was well known to police and
20 everyone else, yet the story of her life was -- as you
21 will see in this report, the story of her life was one of
22 really never receiving the basic level of support that any
23 child would need to grow and develop, let alone her. And,
24 she had some complex health needs that were well known.
25 She was supposed to be followed by the children's hospital

1 regularly. She was not followed and supported.

2 But, again, I think what is significant is,
3 this is a story of a young woman who died in the Downtown
4 Eastside and who had this path. And, her path, which we
5 really carefully reconstructed about what happened in her
6 life, including visiting every SRO, which is called a
7 single room occupancy, where she lived – where they are
8 not supposed to have any kids, by the way – shelters where
9 she was placed, and on kind of like the streets she was
10 on. And, the report tries to make more visible the life
11 that she had.

12 And, as I said, the lens is on how do we
13 prevent these tragedies from happening, which is a really
14 important lens. The findings in this report were
15 different than other findings in reports I made, because
16 not only did I find that this was preventable, but
17 actually the finding in this report was that it was
18 predictable. And, that is a very significant finding, I
19 think, for kind of like a statutory officer to make, which
20 is it isn't that we can learn to prevent. Actually, the
21 system appeared to accelerate her circumstance to the
22 point where she died.

23 And, tragically, a short period after she
24 died, her mother also died of a drug overdose in the
25 Downtown Eastside. And, she lost her grandmother. And,

1 all of them had incredible stories, and we could never do
2 justice to their life stories. But, this isn't in an
3 attempt to tell the story about sort of that walking in
4 her shoes for a period of time.

5 **MS. CHRISTA BIG CANOE:** Mary Ellen, while
6 you're walking through and you had just mentioned, you
7 know, all of the different services, there is some
8 concepts that you've raised in this report that I think
9 are helpful for everyone to understand when someone is
10 navigating or going through these systems, the different,
11 sort of -- different tools or things that could be put
12 into place that we know from your report did not work for
13 Paige, but maybe we could understand them. And, I ask A/V
14 to pull up Figure 6.

15 And, I mean, you could add -- definitely,
16 please feel free to add more context as you would like
17 before we get to a stage of something like a youth
18 agreement with Paige. But, you know, for people who are
19 not familiar with the system or those that are
20 experiencing, what is a youth agreement in B.C.?

21 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So,
22 what happens is, a child comes into care and they're under
23 the age of 16, they are generally placed in -- it is
24 supposed to be a substitute family, so a foster family,
25 although they are also placed in institutional or

1 residential care, group homes.

2 A youth agreement is an agreement in which
3 the Ministry for Children and Families has kind of, like,
4 a social assistance agreement with someone between the age
5 of 16 to 18. And, basically, it provides a bit of
6 resources, like financial resources to live. They have
7 shifting criteria over time. Sometimes you have to be in
8 school or you have to have the capacity to live
9 independently. It is a very poorly regulated area and
10 they are very fluid constructs, so not everyone who is 16
11 will get a youth agreement. And, youth agreements do not
12 necessarily work for everyone. But, it is a way -- for
13 instance, for youth that are in the system, if they have
14 been in, like, long-term foster care and never had
15 permanency, they will frequently graduate to youth
16 agreement and then have independence.

17 Now, the issues with youth agreements, and
18 you will see this with Paige's report as an example, is,
19 is a 16-year old in our kind of contemporary society,
20 let's take Vancouver as an example, going to be able to
21 live independently? Like, is it realistic to think that
22 they can live independently? Because just the concept of
23 independence sounds like you are fully on your own. So,
24 are they ready? And, I think most of us who have children
25 and grown children know that, you know, they do not leave

1 home till quite significantly later in life, and nor
2 should they. We do not want people to ever leave home,
3 certainly from the Indigenous world view. But, the fact
4 of the matter is, demographics and evidence tells us that
5 most young people are not really ready for independence
6 until, you know, well into their 20s for a variety of
7 reasons.

8 So, the fact that we have youth agreements,
9 which is you are 16, you are independent, here is a bit of
10 money, you are on your own. And, that is a category of
11 concern that is flagged in this report, not -- because of
12 Paige's experience and possibly how systems, when they
13 enter into agreements with people, can create separation
14 of that individual from the supports that they may
15 obviously need.

16 **MS. CHRISTA BIG CANOE:** There are some
17 other processes, and one of the other ones is taking
18 charge. Taking charge of a child or youth. And, I would
19 kindly ask Figure 7 to be pulled up. What is taking
20 charge?

21 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So,
22 what happens in child welfare generally is that you have
23 crisis. So, a child is on the street and they have no
24 parent. There has to be the authority for someone to take
25 charge of that child for their immediate safety and

1 immediate decision making.

2 So, in the provincial -- in B.C., in the
3 child welfare legislation, there are a couple of
4 provisions of the community family -- *Child Family*
5 *Community Service Act* that allows the ministry, namely the
6 Director of Child Welfare, so a social worker, if they
7 find a child without supervision or the child is a runaway
8 or refuses to go home, you take immediate command. And,
9 that is a really important role because it is so critical
10 for immediate safety. And, there are two aspects of the
11 child welfare system that I would say are so critical
12 around safety, but they are overlooked.

13 And, in Paige's report, one was the duty to
14 report a child in need of protection. So, in Paige's
15 report, you will see, I raise very serious issues about
16 the fact that Paige was clearly in need of protection, but
17 they were not reporting her grave circumstances to the
18 authorities. And, it is, in fact, in British Columbia,
19 under the *Child Family Community Service Act*, an offence
20 not to report. And, in fact, a number of jurisdictions,
21 it is an offence not to report a child in need of
22 protection. In British Columbia, there has never been a
23 single prosecution under that provision. It has never
24 been enforced. And, essentially, they have indicated they
25 will never enforce it.

1 So, that is a really serious issue for
2 Indigenous children. Because what happens is, systems
3 become normed to just not reporting. Like, oh, that is
4 what happens to Aboriginal girls. They are in the
5 Downtown Eastside. They are living in shelters. They are
6 on the streets; that is just what happens. So, you will
7 see in this report the professional indifference, I call
8 it, to the circumstance becomes a really important piece
9 of child welfare exposing a frailty in the child welfare
10 system when it comes to Indigenous children.

11 The other side is taking charge. So, you
12 need to report if you are not in the child welfare system.
13 And then when you do report, and it is an immediate
14 emergency, someone needs to take charge. And, you take
15 charge just like a parent would. If you have a crisis
16 with your child, you know, you take charge. You have a
17 crisis with your grandchild, you take charge. This is the
18 concept of someone has to stand in the place and make some
19 immediate safety decisions.

20 **MS. CHRISTA BIG CANOE:** I could not help
21 but note on this particular report that the very back
22 cover actually cites the legal duty to report, Section 13
23 of the *CFCS*, 14(1). And, it speaks to the punitive
24 provision of not reporting, 14(6); that a person who
25 commits an offence under this section, so a person who has

1 reason to believe that a child needs protection under
2 Section 13, must promptly report the matter to a director
3 or person designated by the director. And, if you fail to
4 do that, it is up to a fine of \$10,000. So, you obviously
5 found the legal duty to report substantial enough that you
6 actually put it on the back cover.

7 **DR. MARY ELLEN TURPEL-LAFOND:** I did. And,
8 also, this report caused a lot of reporting. So -- and it
9 was one of those situations where the Ministry for
10 Children and Families was somewhat annoyed with me,
11 because they were like, give me a break, we have 25
12 percent uptick in reportables because of your report.
13 But, I'm like, well, that -- because you should have.
14 And, what you should be concerned about is the fact that
15 you haven't had reports. And, when you walk through the
16 Downtown Eastside and you meet Aboriginal girls living on
17 the street, like, why hasn't every single person who saw
18 them that day report it?
19 And, I think we see that across Canada, the fact that it's
20 just, like, well, it's kind of normed. So, it was a piece
21 of advertising that was important, and it's just not
22 people on the street. It was the Emergency room
23 responders, it was police, it was others, and hospital
24 staff, and those who are running these agencies who were
25 encountering Paige.

1 So, it's not all about, you know, ringing
2 an alarm and reporting, but it is sort of about when you
3 don't see child abuse and recognize that it's child abuse.
4 So, Paige, being in the situation she was in, was a clear
5 and obvious example of abuse and neglect, yet not
6 reported.

7 So, there was no prosecution. There was a
8 criminal review, prosecutorial review and police
9 investigation, but no one is charged, because,
10 essentially, you know, child welfare, although it's some
11 of the most extensive powers of any statute in any
12 province, namely, the power to knock on a door to remove a
13 child, power to get every medical record of every parent -
14 - now, the powers are more extensive than anything in the
15 *Criminal Code*, more extensive than anything I would ever
16 authorize as a judge in a warrant, incredible powers, yet,
17 there's no enforcement when it comes to actually
18 reporting.

19 So, I continue to identify that through the
20 Paige Report. When it comes to Aboriginal children and
21 youth as being a very significant issue, possibly, as I
22 said in this report, which led to a fair amount of
23 conflict, I would say, identify that it would appear to me
24 that there is a systemic level of race discrimination with
25 respect to Aboriginal children. And, that was a very

1 sensitive point for everyone, but I think it's well
2 supported on the evidence of this report.

3 **MS. CHRISTA BIG CANOE:** Earlier, you had
4 briefly talked about a single-room occupancy or an SRO.
5 Can we please have Figure 8A up? What is a single-room
6 occupancy used as, and how is that related to Paige's
7 story?

8 **DR. MARY ELLEN TURPEL-LAFOND:** A single-
9 room occupancy in the Downtown Eastside are -- is
10 particularly, like, very -- they're sometimes regulated by
11 a non-profit organization, sometimes they're for profit,
12 but it's where you rent, literally, a room, and you don't
13 have, like, a kitchen and a bathroom or whatever. You
14 rent a room. A lot of people live in them. They
15 represent in many ways, in Vancouver, in particular,
16 places where people go because they have nowhere else to
17 go for a variety of reasons. They may be recently out of
18 jail; they're experiencing sever drug addiction.

19 And SRO tends to be not a particularly nice
20 place in terms of they're frequently shuttered. We just
21 had one shuttered in Vancouver. There's often a lot of
22 prosecutions under the safety rules in the municipality
23 about how they're operated. So, it might be like a
24 smaller building in the Downtown Eastside where maybe
25 occupancy could be, like, 40, but there's 200 people.

1 And, there's someone at the front desk.
2 Occasionally, it's a parolee, who regulates who goes in
3 and out, and you're not supposed to have kids there, but
4 it's a place where a lot of things happen. A lot of sex
5 work occurs. A lot of drug trade happens. It's a place
6 where there's a lot of challenges for the individuals who
7 live in SROs, but it's also a place that is not
8 appropriate for a child to be raised.

9 **MS. CHRISTA BIG CANOE:** And, can you make a
10 connection for us between SRO and Paige's experience?

11 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So,
12 what happened with Paige is Paige comes into the Downtown
13 Eastside with her mom; and I have to say some really
14 significant things about her mom. Paige's mom struggled
15 with being a victim of sexual violence herself. She was
16 experiencing addiction. She kind of had been thrown out
17 of her home community for a whole variety of factors:
18 shunning, abuse, everything that leads on that sort of
19 pathway that many Aboriginal women experience to the
20 Downtown Eastside, which is the idea that that's got to be
21 better than where I was.

22 So, she has this young child, Paige. And,
23 she comes into Vancouver, and actually thinking she's
24 going to get service. And so, she was not in a good state
25 of health, and she had incredible issues that she

1 experienced in her life. And, she had this child, though
2 they had this very strong bond, this mom and child bond
3 which is so important and significant, no matter what the
4 life circumstance.

5 And so, mom was living in SROs, and Paige
6 was living with her mom in SROs, and they bounced around.
7 And, mom was frequently thrown out of SROs because her
8 behaviour was considered challenging because she had
9 untreated mental illness. She was occasionally in the
10 hospital. She had really significant untreated mental
11 health issues and trauma and so forth.

12 And, I talk about the mom in a very
13 different way in the report, because when I read the files
14 about the mom, they were, like, so offensive. So, really
15 denigrating mom as the problem. And, I found that to be
16 really difficult. Like, you know, mom's an alcoholic,
17 mom's this, a lot of labelling about mom, and not
18 understanding the extent to which mom receiving support is
19 support for the child.

20 So, Paige's mom got no support, so Paige
21 had no support. So, she bounced around. And, I put
22 pictures, actually, in the report. It was kind of
23 controversial, because they were, like, "You can't take
24 one of our pictures of our SRO and put it in your report."
25 We also went into the SROs just unannounced to see, like,

1 who was actually there. You know, the frontline kind of
2 work that you need to do to have the real picture, because
3 this isn't just about pieces of paper; it's about
4 someone's life.

5 So, we tried to walk the path that Paige
6 walked, including sometimes where, you know, Paige's mom
7 would be allowed in the SRO and Paige would be told at the
8 front, "You can't come." And, there's the 15-year-old on
9 the street. Mom's in there, and there's the 15-year-old.
10 What does she do? And, she's not reported, and she's left
11 on the street.

12 So, explaining kind of how the system works
13 in actual real lived experience. There's how things work
14 on paper, there's how you think things work from the
15 movies or from whatever socialization you've had, and then
16 there's the experience on the ground. And, Paige's story
17 talks about the experience on the ground of her and a
18 cohort like her.

19 So, SROs were part of her life. She was
20 clearly being physically abused, and she was abused by her
21 mom, because her mom was in no shape. She was so ill. I
22 mean, she was incredibly erratic. And, in fact, she
23 became her mother's guardian. So, unlike -- or like,
24 excuse me, many Aboriginal families' experiences where the
25 parent is in really bad shape for a whole bunch of

1 reasons, and the child becomes the parent.

2 So, she was a young carer to her mother,
3 trying to keep her mother safe. So, her mission in life,
4 even when she was doing survival sex work, Paige herself
5 would take her money and give it to her mother so her
6 mother would eat. So, you really see the dynamic of the
7 child is trying to take care of the mother.

8 So, she was very bonded to her mother for a
9 whole variety of reasons, but she was the caregiver and
10 the manager of her mother in this place, like, Vancouver's
11 Downtown Eastside, which, again, as I point out, it's like
12 millions of dollars each kilometre of public services that
13 are invested, but still have these circumstances.

14 **MS. CHRISTA BIG CANOE:** I understand Paige
15 spent some time as well in shelters. I know we have
16 Figure 9 is actually an example from a picture of the
17 First United Church's homeless shelter.

18 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

19 **MS. CHRISTA BIG CANOE:** If we could have
20 Figure 9 pulled up? So, Paige spent time, too, often in
21 shelters while she was ---

22 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So,
23 this was a picture -- this is a pretty typical picture,
24 and I think, you know, many people connected with the
25 Inquiry will not be unfamiliar with what it is like to

1 come to a major urban centre and face being in a shelter.
2 I included the picture of the shelter for a few reasons,
3 is it's not an appropriate place to raise a child. And,
4 sometimes you have to have a picture because, actually,
5 society becomes so insulated from it.

6 And, in this particular shelter, there are
7 some mornings when the lights come on and someone doesn't
8 get up because they didn't make it through the night. So,
9 it is a very difficult place for a child to be raised.

10 So, Paige, because her and her mom had
11 nowhere else to go, they were sent to this shelter. And,
12 again, this was a child in need of protection that should
13 have had services and appropriate supports, but she was in
14 a shelter. And, when she was in this shelter, which was
15 in about 2011 as an example, it was about the same time
16 there were reports coming in that she was trading sex with
17 older men for alcohol. And so, again, when you realize
18 who is in that shelter on a given night, they tend to be
19 males. There's a lot of males who are experiencing
20 addiction.

21 So, in terms of her own sexual predation
22 and being the victim of sexualized violence, if you want
23 to prevent sexualized violence to adolescent girls,
24 Aboriginal girls, please don't put them in shelters,
25 because the pressure on her to do that would be enormous.

1 And, it's already being reported that this is happening.
2 And so, she's trying to survive, and she's in this
3 environment. So, not only does she have an acute degree
4 of vulnerability, but, actually, she's being redirected by
5 a social-serving system to stay at a shelter.

6 So, I just talk about that in the report
7 around, you know, how it's somewhat staggering. And then,
8 of course, when I had the opportunity to talk to her
9 extended family, all of this time she had a very close
10 relationship with an aunt and uncle that lived in one of
11 the suburbs of Vancouver, and they always wanted to have
12 her. Now, they had a one-bedroom apartment, and she would
13 come and have a shower and stay on their couch, and they'd
14 take care of her. And, they, of course, like any aunt or
15 uncle loved her, and they really wanted to have her. And,
16 they were deemed an unacceptable home by the Ministry for
17 Children and Families, because there was an uncle, a
18 relation, that came in and out that had some criminal
19 behaviour. But, you know, they kept her underground,
20 basically, but they couldn't really keep her because they
21 had such a small apartment. They needed a bigger
22 apartment. They were ruled out.

23 And, again, that's very important, because
24 when you think about that picture of the shelter, it's
25 probably better to be on your aunt and uncle's couch than

1 in a shelter by a long shot. And so, one of the reasons
2 why I included that picture -- I didn't include a picture
3 on the aunt and uncle's apartment, although I was tempted.
4 But, they were really sweet. They were, like, "Well, I
5 don't want a picture of my house in your report," which I
6 can understand. They had a wonderful, loving home. But,
7 the issue is really how the system makes choices. And,
8 the system can make choices that can create such poor
9 outcomes. And, when you step back in Paige's life and
10 think about the many issues that she's experiencing, and
11 she's getting this. And then while she's in that youth --
12 or that shelter, they're saying, "Well, we'll give you a
13 youth agreement." Well, if she's living in a shelter with
14 her mom and she's caregiving for her mom, how will giving
15 someone like that a youth agreement actually respond?

16 The other issue I would just note is Paige
17 became labelled in the Downtown Eastside as a young
18 person, because she herself was being found places where
19 she'd be intoxicated, slumped, you know, over on the
20 street. One time when she was 14, the police responded to
21 a call, and she was naked and covered in blood. She went
22 to the Vancouver General Hospital Emergency, and she was
23 released to someone's friend, like not to a parent. I
24 mean, she was in incredible vulnerability and stress, but
25 when you look at what she was experiencing, all of these

1 individuals who were encountering her, yet it was just
2 sort of normal.

3 And, I think that that part of Paige's
4 story is so important, is the idea that even in this
5 service-rich area, it became too normal for Paige to
6 experience these horrific things. So, I mean, in another
7 place, in another time, if the police responded to an
8 event where there was a completely naked 14-year-old girl
9 covered in blood, I don't think they'd just say, "Okay,
10 go. Go ahead." You know, "It's all good. It's all good
11 here. Go ahead. You can just leave with whomever."

12 First of all, they don't verify if it's a
13 parent, if it's a relation, what's the follow-up the next
14 day? I mean, it's -- I appreciate for the people in this
15 Inquiry it might be something you've heard a lot about,
16 but for British Columbians, it was important to tell
17 Paige's story in detail. And, very hard for her family to
18 hear those things, because her family didn't know what she
19 was going through, and that aunt and uncle didn't know,
20 because if they would have been called, they would have
21 engaged in a different way. So, it's that whole part of
22 just happening on the ground without proper engagement
23 with a family.

24 **MS. CHRISTA BIG CANOE:** And, I'm going to
25 call up Figure 10. When Paige eventually ages out of

1 care, her life becomes constant turmoil, and I know in the
2 report, you talk about 50 moves in two and a half years,
3 from September 2009 to May 2012, and we have a map that
4 you produced in the report up on the display there, and
5 it's contained at page 35 of the report. Do you want to
6 tell us a little bit about this constant turmoil?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So,
8 first of all, what's going to jump out -- and literally, I
9 wanted to map where she was, you know, and sort of say,
10 where was this girl? And, this is, again, one of our
11 wealthiest cities in Canada, Vancouver. Right? It's one
12 of our shining star beautiful global cities. And, here,
13 she moved 50 times in two and a half years. Probably, I
14 would say, there's probably another 20 I couldn't
15 document.

16 So, 50 moves, and you can see that's
17 everything from a transition house, to SROs, to safe
18 houses. She's just moving and moving and moving. So, the
19 degree of instability -- and think about that. Like,
20 she's 14 to 16 years old. And so, she's really -- no
21 person could ever, like, cope with that.

22 So, actually, when you think about it and
23 when I thought about Paige's life, what was amazing was
24 how resilient she was. She had a very significant health
25 problem, and she didn't have proper eyesight, and she

1 didn't have her glasses. So, she couldn't always see
2 well, but she was able to navigate, and she was a really
3 great student. She did really well at school. She was
4 described as being particularly brilliant, and she liked
5 school. But, it's pretty hard to be in school when you
6 move 50 times in two and a half years. It's pretty hard
7 to know where your next -- like, your immediate needs
8 become the priority. Not only her immediate needs, but
9 she was also the primary caregiver to her mother who would
10 deteriorate overtime, would also be abusive toward her or
11 have partners that were abusive toward her.

12 So, this experience of what she went
13 through is very significant. And, when you think about
14 it, and you think about the fact that, you know, she
15 begins to show signs of she has anxiety, she can't sleep,
16 she's going to get help and she says, "I can't cope. I'm
17 so anxious all the time." She's given at a walk-in
18 clinic, like, some psychotropic meds. "Well, here, this
19 will help you sleep." Well, I mean, obviously, I think --
20 I don't think there's a person in this room or this
21 country that would be really sleeping very well if they
22 moved 50 times in two and a half years, and were living --
23 officially living in shelters.

24 So, this is youth. This is a picture of a
25 youth, an Aboriginal girl in, again, one of our wealthiest

1 cities. So, what's really staggering is where she was.
2 And, what is life like on the street? And, I know we need
3 to engage. And, I, as representative, have engaged a lot
4 with young people. And, this doesn't shock me because I
5 work with them, but Paige had that experience where, you
6 know, then she now has drug debts, and she has to work off
7 her drug debts by doing sex work. She has to be a drug
8 mule because she can't survive, because she's also working
9 off her mother's drug debts. And, the whole complexity of
10 her life is all these older males that are also basically
11 owning her. They physically, literally own her. So, she
12 has to do what they say, because she has a debt to them,
13 and there's no real police for her. There's no family for
14 her. She is in this Mad Max world where she doesn't have
15 personal agency. She doesn't have an experience of
16 respect for her body. She doesn't have an experience of
17 cultural respect. She is in a city, as well, that has a
18 glittering city of enormous wealth, and she is absolutely
19 destitute.

20 So, how does she find her way out of that?
21 Well, she doesn't. And, unfortunately, in her 18th year,
22 she has a short stable period in foster care where she is
23 connected with an Aboriginal foster mom who she connects
24 well with. She cleans up. She's getting support. And,
25 before you know it, she's out of care with her garbage bag

1 on the street. And, even the foster mom was very
2 traumatized saying, "You know, I was constantly calling
3 the Ministry saying we cannot let this kid age out of
4 care. Like, give me a contract or give me something.
5 I'll keep her. A couple more years, she's going to be
6 okay. She has a lot of resilience. She's got a lot of
7 strength." And, they're, like, "No. On her 19th birthday
8 she's done, and if you, foster parent, try to keep her, we
9 will delist you as a foster parent. So, stop advocating
10 for this child and get back to business," which is the
11 next child. So, it really demonstrated that professional
12 indifference, which was acute.

13 **MS. CHRISTA BIG CANOE:** During your
14 analysis in that report, a couple of things that you have
15 to say about child protection practice really stood out
16 for me. One was at page 54, right under the subheading,
17 "Child Protection Practice". You talk about "the
18 Ministry's perception that Downtown Eastside SRO hotels
19 were in any way appropriate living conditions for a child
20 was nothing less than shocking. The representative's
21 investigation found that there was an element of norming
22 of these deplorable living conditions by social workers
23 assigned to this child's case."

24 And, on the next page, you also say, "The
25 use of transition houses and shelters as a sole protection

1 response in isolation of primary risk factors was wholly
2 inadequate and continued to leave this child at risk."

3 Now, you've already explained quite well to
4 us what these are, but you keep talking about a
5 professional indifference. Professional indifference
6 where people who should be sort of making these decisions
7 or taking charge aren't. But, when is it, you know, just
8 a case-by-case issue and when is it systemic harm, this
9 type of professional indifference?

10 **DR. MARY ELLEN TURPEL-LAFOND:** Right. And,
11 I think you've -- the question really goes to the
12 circumstance around the child protection practice. So,
13 ...we have a child welfare system to protect children who
14 are in need of protection because they experience abuse
15 and maltreatment. She experienced abuse and maltreatment,
16 yet did not receive child protection. So, how can it be,
17 we have child protection and there is no child protection?
18 And, that was, sort of, the Orwellian component to Paige's
19 story.

20 And, part of that is recognizing that
21 within our provincial systems for child welfare, there are
22 these sort of underground realities. One is that there
23 are kids like Paige, that are homeless, in SROs, and they
24 are on the street. And, in fact, in the Downtown Eastside
25 at the time of Paige -- and I had quite a set too with the

1 government about this. I said, I know 125 cases. And,
2 they said, well, there is only one Paige. And, I said, I
3 know there is 125 kids. And, we had a challenge -- it was
4 a bit of a power showdown, but it was in the end healthy,
5 which was having to hold them to account, to say you
6 actually have not paid attention to those children and you
7 do not know where they are.

8 And, furthermore, we have children in
9 hotels. How many children are in hotels? Well, we do not
10 have any. Well, we ended up having quite a few in British
11 Columbia as well, because there is this underground
12 component to how services are used and where children are
13 temporarily placed when a system is in crisis. And, not
14 perhaps ironically, systemically, your question is, where
15 is this systemic component? Well, they are almost all
16 Aboriginal children and they are often Aboriginal girls
17 who are really at risk of street involvement.

18 The other way that the system norms this
19 indifference is they have a label for these kids that is
20 really problematic. And, it was actually a phrase that
21 was prohibited in my office by me because I found it to be
22 so offensive, which was, they would say that the kids are
23 "service resistant". That's the quote, "service
24 resistant". Like, Paige is resisting services. But,
25 Paige was never actually offered any meaningful services

1 with Indigenous lands, with a kinship connection, with a
2 cultural component, so how could she be service resistant
3 when there is no services?

4 So, this very -- this way this system gets
5 off the hook is to say, service resistant, does not want
6 any help. It sounds a little bit like victim blaming,
7 which, well, you were sexually assaulted, but what did you
8 expect, you know? You had a drink and you were on a date
9 with a big guy. Like, these are myths around blaming
10 victims for their behaviour. So, Paige's experience was
11 really one about shoring up and revealing how systemic and
12 endemic that indifference was.

13 As a result of Paige's experience and her
14 story being told, there was an emergency response team put
15 in the Downtown Eastside, and lo and behold, there are
16 about 200 kids that they found. So, actually, I under-
17 reported. And, they began to do more work. And then I
18 wanted them to go back to review all the files that were
19 connected to the Downtown Eastside and see where those
20 kids are now.

21 So, it also spoke very much to the need, as
22 Paige's circumstance does, of you cannot just age out of
23 care at 19 when you have been this traumatized and you
24 have had this poor level of service. You really need to
25 improve service, 19 to 25, or whatever, so you can provide

1 protection.

2 So, the issue of service resistance is one.
3 And, not surprisingly, the issue I highlight in the
4 recommendations in this report, and there are a number of
5 them, was just how we have normed these unacceptable
6 outcomes and this indifference. And, in part -- and I am
7 not saying I am blaming social workers, because I am not.
8 I mean, social work is a very important profession, but
9 systems develop cultures and mentality, and there is no
10 service. There is no social workers that are actually
11 trained doing the work. And, furthermore, in the Ministry
12 for Children and Families in British Columbia, only about
13 four percent of the staff are Indigenous. So, there is
14 not very many Indigenous social workers, and they are not
15 connected to their community.

16 Yet, again, in Vancouver, I would say,
17 there is, like, very strong First Nations. There is
18 Musqueam. There is Squamish, Tsleil-Waututh. Vancouver
19 is a city that has Indigenous people from all over Canada,
20 in fact, all over the world. There is a very strong
21 Indigenous culture in Vancouver and somehow it was absent
22 in that entire system.

23 So, that is a stark contrast of, you have
24 this child welfare system missing in action with a lot of
25 indifference, with very poor representation or involvement

1 by Indigenous people, and then you have the clients who
2 are all these Indigenous kids who are needing support from
3 school and child welfare and other. So, that is systemic.
4 But, Paige's life story talks about what it is like to be
5 a child in that system.

6 **MS. CHRISTA BIG CANOE:** Chief Commissioner
7 and Commissioners, I would like to request that Paige's
8 Story: Abuse, Indifference and a Young Life Discarded is
9 marked as the next exhibit, please.

10 **CHIEF COMMISSIONER MARION BULLER:** Yes.
11 Paige's Story: Abuse, Indifference and a Young Life
12 Discarded, May 2015, Representative for Children and Youth
13 is Exhibit 40, please.

14 **--- Exhibit 40:**

15 "Paige's Story: Abuse, Indifference
16 and a Young Life Discarded," by Mary
17 Ellen Turpel-Lafond, Representative
18 for Children and Youth, May 2015 (80
19 pages)

20 Witness: Dr. Mary Ellen Turpel-Lafond
21 Counsel: Christa Big Canoe, Commission
22 Counsel

23 **MS. CHRISTA BIG CANOE:** Thank you. I am
24 going to ask you a question about the next report, but I
25 am not going to actually focus any detail on it. But, I

1 think in your materials at Schedule H, there is, I think,
2 the fact that this report actually exists is a point in
3 and of itself. And so, the report is called, Approach
4 with Caution: Why the Story of One Vulnerable B.C. Youth
5 Can't be Told, and this is a special report. Can you
6 please tell us what this report is about?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Well, the
8 report is about a youth who is in the very same situation
9 as Paige, who was repeatedly injured in the Downtown
10 Eastside, and there was a decision made not to name or
11 release the report, because the view was it would be too
12 damaging to her by the Director of Child Welfare. So,
13 they did not want the report released. So, there is a
14 high-level summary of that report.

15 But, in particular -- although I exceeded
16 to their request not to release the report and I agreed I
17 did not want to do anything that would harm or bring
18 attention to the child or the youth, particularly because
19 she was so vulnerable, but I also wanted to document in
20 that report the fact that they also would not appoint
21 legal counsel for her. I felt that she was in an unsafe
22 setting. I said someone needs to have -- I can't as
23 representative act as legal counsel. I felt that she
24 should be entitled to legal counsel.

25 And, while they don't want her report and

1 her story told, they also won't give her independent
2 counsel. So, the report -- I reported that I could not
3 report, but in the context of reporting that I could not
4 report, I wanted to make the point that there is something
5 very wrong about the fact that this cannot be reported on
6 and it cannot also be treated with a very high degree of
7 priority. And, that again was an Aboriginal youth.

8 **MS. CHRISTA BIG CANOE:** And, was it -- how
9 well received was this report?

10 **DR. MARY ELLEN TURPEL-LAFOND:** It was -- I
11 might have been taken off a few Christmas lists after that
12 one.

13 **MS. CHRISTA BIG CANOE:** And, you are happy
14 to answer any questions if my colleagues have them in
15 relation to that report?

16 **DR. MARY ELLEN TURPEL-LAFOND:** I am, yes.

17 **MS. CHRISTA BIG CANOE:** On that basis,
18 Chief, can we please have it marked as the next exhibit?

19 **CHIEF COMMISSIONER MARION BULLER:** Yes.
20 Approach with Caution: Why the Story of One Vulnerable
21 B.C. Youth Can't be Told, special report, May 2016,
22 Representative for Children and Youth, Exhibit 41, please.

23 **--- Exhibit 41:**

24 Special report "Approach With Caution:
25 Why the Story of One Vulnerable

1 B.C. Youth Can't be Told," by Mary
2 Ellen Turpel-Lafond, Representative
3 for Children and Youth, May 2016 (18
4 pages)

5 Witness: Dr. Mary Ellen Turpel-Lafond
6 Counsel: Christa Big Canoe, Commission
7 Counsel

8 **MS. CHRISTA BIG CANOE:** Now, Mary Ellen,
9 British Columbia has a provincial domestic violence plan.
10 It is a relatively new one and I know that you don't
11 author it, but you are familiar with it. So, under
12 Schedule I, we have the second annual report 2016. I just
13 want to afford you an opportunity to speak to the domestic
14 violence plan as it exists.

15 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. Thank
16 you. Yes, the existence of a domestic violence plan and a
17 report -- the creation of the Provincial Office of
18 Domestic Violence happened in British Columbia because of
19 a report I did into homicide of children and their mother
20 by father, and I also investigated a lot of domestic
21 violence homicides. And, British Columbia didn't have a
22 Provincial Office of Domestic Violence or a minister for
23 domestic violence, and the issues of family violence were
24 huge.

25 So, this is a report of an office that was

1 created in part because I urged them to create something,
2 which they did. However, I think this report is valuable
3 because it speaks to -- on page 11, it speaks to the fact
4 that even though they have an office finally and they are
5 starting to do some work on family violence, they are not
6 getting in sufficiently to the issues of Aboriginal family
7 violence.

8 And, given the fact that those in the child
9 welfare system and requiring support from the child
10 welfare system are largely Aboriginal children and youth,
11 and they do have a new unit that is doing work, which I
12 was very happy to see, they are still not hitting it.
13 And, I think it is important to just point out that they
14 report, as an example, that they spent \$2 million. So,
15 again, in British Columbia, there is 204 First Nations,
16 there is large Métis communities, there is large urban
17 communities, so that would have been, you know, \$1.5
18 million to 24 partners, and then a bit of money to
19 transition houses, a very small amount. But, it just
20 gives you the idea the work is -- the work is before us,
21 not behind us in that area, and I certainly found it very
22 challenging to see the type of investment that is needed
23 in responding to domestic violence and family violence in
24 terms of the experience of Aboriginal families and victims
25 in B.C.

1 **MS. CHRISTA BIG CANOE:** And you're
2 comfortable if any of my friends have questions for you in
3 relation to your knowledge of this report?

4 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

5 **MS. CHRISTA BIG CANOE:** On that basis, may
6 we please have this also marked as the next exhibit?

7 **CHIEF COMMISSIONER MARION BULLER:** Yes.
8 Exhibit 42. British Columbia's Provincial Domestic
9 Violence Plan, Second Annual Report 2016, Ministry of
10 Children and Family Development.

11 **--- EXHIBIT NO. 42**

12 British Columbia's Provincial Domestic
13 Violence Plan, second annual report,
14 Provincial Office of Domestic
15 Violence, 2016 (40 pages)
16 Witness: Dr. Mary Ellen Turpel-Lafond
17 Counsel: Christa Big Canoe, Commission
18 Counsel

19 **MS. CHRISTA BIG CANOE:** Mary Ellen, when
20 you were talking about Paige's Story and her aging out
21 without resources, it raised issues that this Commission
22 has been looking at. And before we go to your next
23 report, I do have a videoclip I'd like to show you.

24 While we were in Vancouver, during our
25 community hearings, which is where people shared their

1 truths and their stories, we actually held a youth panel
2 specifically on aging out. And there's a clip here, I
3 think it's helpful if you get a chance to see it and
4 comment in relation to your report too.

5 So when AV's ready, if we could please play
6 that.

7 --- VIDEO PRESENTATION

8 MS. CHRISTA BIG CANOE: So those three very
9 brave young people had aged out of care and they had
10 shared with us, in particular, Commissioner Robinson, the
11 trials they had gone through and experienced, not just in
12 foster care or in care, but what happened the day they
13 aged out, and moving forward, and what supports they
14 needed. And yeah, they were amazing young group of
15 people, but what they're saying I hear you say over and
16 over again in reports about supporting the parents.
17 Yesterday, we had Dr. Blackstock here, and she talked
18 about -- and I know your reports also talk about
19 comprehensive risk assessments, and we can talk more about
20 that later, but one of the points that Cindy raised was
21 that there's often not on the other side of the
22 comprehensive risk assessment, an assessment done about
23 where a child is going to.

24 So, there's this big assessment done about
25 where a child is leaving and what the risk factors are,

1 but not on the other side. So, you can't really actually
2 weigh which one is going to harm the child more. But, you
3 know, the three strong young women that shared their
4 stories and what I hear over and over again in your
5 reports is they're leaving circumstances that might not be
6 ideal, but they're put into far riskier circumstances, and
7 then they go through a system without the supports they
8 need, and they age out without proper supports.

9 And so, that brings us to your report On
10 Their Own: Examining the Needs of B.C. Youth as They Leave
11 Government Care. And, I was wanting to offer you the
12 opportunity to respond to what you've just heard in that
13 testimony, and if there's anything you want to add to it?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
15 of all, I think it was a very good step for the Inquiry to
16 have an opportunity to have a panel of young people, and
17 having spent a lot of time on an ongoing basis with young
18 people and hearing about their experiences, no one can
19 speak better about that than them themselves.

20 And, I think that what the three young
21 people identified in their comments in the video in
22 response to the question from the Commissioner was really,
23 like, the lack of protection in their families for shocks
24 that families go through. Like, all families face an
25 illness. You know, there could be an illness of a

1 relative, but they don't lose their children. All
2 families can face a sudden economic downturn. Someone
3 loses a job or whatever, but they don't necessarily lose
4 their children. And, all families can experience parental
5 mental illness. It's common. But, you don't lose your
6 children.

7 But, I think what I'm hearing is they're
8 saying their parents and their mothers, in particular, as
9 Aboriginal women are not able to get the support that they
10 require. And, I was really struck by the one young person
11 that was talking about her mother working long hours.
12 And, again, that's something I certainly saw extensively
13 in my work, and, of course, I'm aware of in my various
14 roles and work is the extreme load of caregiving that
15 Aboriginal women bear.

16 And so, to work, take care of children and
17 take care of other children, whether they're parents,
18 grandparents, aunties and others without support in the
19 system, and that one little shock that we all have to be
20 prepared in life for different shocks, but one shock
21 happens to them and it's out the door. Whereas in other
22 situations, people have insulation or cushion against the
23 shocks of life because they have more economic stability;
24 they have more respect in the system; they're able to
25 command attention of the healthcare system; they're able

1 to command attention of services. But, for these kids, as
2 I heard, and I've heard a lot, they can't get that
3 attention.

4 And, also, your question about transitions,
5 and this report is, in fact, on the issue of not planning
6 for transitions. We all know in life there are
7 transitions, and we have to be prepared; right? And, we
8 all try to prepare as best as we can, knowing things
9 happen. But, when you're a parent, you know that a child
10 will walk, that's in crawling, and then the child will go
11 to school, and the child will have all of these incredible
12 experiences, and you prepare, like, as best as you can.

13 And, in the system, I think as probably Dr.
14 Blackstock talked about it, and I certainly found in my
15 reporting, is a lack of transition planning, and
16 transition planning with families and with communities,
17 and especially not planning for good things to happen.

18 You know, like, that whole idea of that
19 report about leaving care caused me to begin a campaign in
20 British Columbia that there would be tuition waivers for
21 all kids that were in care at all schools. I got a few,
22 and eventually I got all 25, which was great. So, if
23 you've been in foster care or been in child welfare,
24 adoption, there's tuition waiver. And, I know that people
25 would say to me, "Well, why, Mary Ellen? Like, no one is

1 going to go to UBC. I mean, these kids are in care.
2 They're on the street, like Paige."

3 And, I was, like, "Well, no, actually, I
4 think if we prepare a different path that we expect."
5 Like, I expect my kids to get educated. Well, why
6 wouldn't I expect all kids? But, if you prepare a
7 different path, the different path happens. And, in
8 particular on that one, just on kids in care going to
9 post-secondary, there's all kinds of kids in care going to
10 post-secondary in B.C. now. Hundreds.

11 And, I talked to them, and they're, like,
12 "Well, I failed every single year of high school. And,
13 they put a thing on my report card saying, like, you know,
14 'You're the biggest loser of all time. You'll never
15 succeed.' And, by the way, now I'm at school and I'm
16 doing really well." Because, actually, if you think
17 about, like, those kids that were talking, or of Paige, or
18 others, even if a tragedy happened in their life, their
19 incredible resilience. And, we don't want any child to
20 have these adverse horrible experiences they've had. But,
21 actually, a lot of people have them and they do really
22 well. Because, in part, they recognize you can survive.
23 And, there's good ways to survive if you have culture, if
24 you can build community, if you can build family. If you
25 can find those supports around you or rebuild them, good

1 outcomes happen. But, if you have no one helping you and
2 you're 19, it's pretty tough.

3 And then the only other issue I'll just say
4 culturally is although different Indigenous peoples have
5 different concepts of childhood and stages of childhood,
6 in the broader society, I think people recognize something
7 now called "late adolescence", which means that you're not
8 really ready. I don't think in tribal societies anybody
9 throws anyone out anyway, but I think non-tribal societies
10 are recognizing what tribal societies knew for a long
11 time, which is there's different stages. There's a lot of
12 pieces.

13 And, late adolescence is a really important
14 time. It's a really important opportunity to repair
15 trauma. It's a really good time to reconnect. And, if
16 anyone has raised teenagers, which I've had a few, you
17 know, they can be a handful, and they train you, and they
18 can have challenging behaviours sometimes. And, they send
19 messages to us. And then, all of a sudden, it's like,
20 where did that come from? Look at this person? I
21 remember what they used to be like, and they're like that.
22 And, our job as the parents, and grandparents, and aunts
23 and others is to be that bigger person that sees
24 transitions in life, and doesn't just see a bad person
25 doing a bad thing.

1 And, what we see in this child welfare
2 system and these kids is how one single episode, and
3 that's it. "My mom fell asleep and didn't get me to
4 school that day." Or, "My mom had cancer and got sick."
5 It just -- the turn in the road that they experience
6 doesn't have that concept of a plan, and have a life
7 course that sees people as more than just, like, a file or
8 a moment. It has to see them more as a person developing
9 with an identity.

10 **MS. CHRISTA BIG CANOE:** There was one
11 moment, and I like that you've actually said, you know,
12 you've looked at the tuition. One of the three witnesses
13 actually talked about accessing that program to go to
14 post-secondary. But, a really poignant moment, I think,
15 for a lot of people working within the Inquiry is the next
16 clip I want to show you. And, you've actually already
17 talked about this today, too, that day that you transition
18 out, that garbage day, and if we could please show the
19 next clip?

20 --- VIDEO PRESENTATION

21 **MS. CHRISTA BIG CANOE:** Yes. So, that was,
22 I think, a fairly profound moment for a number of us. I
23 don't know if you want to add anything to it.

24 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
25 that is a very common experience, what she talked about,

1 and that I think it, kind of, symbolizes everything wrong
2 with the system. I also think that that young person,
3 like from her earlier comment -- I know I am not here to
4 tell people what to do, but when I think about what
5 recommendations you might come to -- like, when she talked
6 about getting her file, you know, like there is something
7 just obscene about a young person being mailed a file, you
8 know, and having to interpret that file.

9 And, now, in some of my work as the
10 director of the Indian Residential School History and
11 Dialogue Centre at UBC, one of the roles of the centre is
12 to make sure survivors can come and get their information
13 and receive it in a more trauma-informed way. We are
14 building that, it is not perfect yet. Because the idea
15 that anyone gets a folder mailed to them, with that kind
16 of powerful information about their life, that is so
17 traumatizing.

18 And so, I really think among the issues you
19 should reflect upon, is all of the harm and all of the
20 damage that has been done in this child welfare system for
21 these young people, that they want to know what happened
22 to them, they want to be able to interpret it and
23 understand it, and they should not be left alone. There
24 should be people that can sit down with them and say, this
25 is the best of what I can help you understand what it

1 means, because they want a report card, they want to have
2 a picture, they want to know about heir mom, they want to
3 know about their community.

4 And, their private information in various
5 systems, especially for the Aboriginal children and
6 families, it is really important because their families
7 have been blown up, and so they do not know exactly how to
8 put them back together, but they want to know and they
9 have a right to know.

10 So, I just would say that. Like -- and it,
11 kind of, is a book end to the garbage bag. Like, you are
12 thrown out of the system in a garbage bag, and if you are
13 really insistent, you can get a file mailed to you. I
14 mean, it is just completely obscene at every level of
15 humanity to have a system like that. And, to repair that
16 system, to bring the care back into it and the family
17 concept back into it requires a really different kind of
18 support on a one-to-one basis.

19 So, I do not care if you are 40-years old
20 and you want to get your file, look at it and have it -- I
21 am not saying interpreted, but have support to understand
22 what that means by real people that have a trauma-informed
23 approach with cultural supports and respite, and a real
24 good understanding of strength and resilience, and a very
25 positive mentality. And, that is so critical.

1 Like, the idea that that person would be in
2 a room somewhere with a file and actually having to put
3 her file in another garbage bag and move around with it.
4 Like, I mean, it is just unimaginable that someone would
5 have that kind of, you know, experience in Canada and not
6 to identify how damaging that would be to have. You know,
7 it is just such an indignant way to let people, A,
8 experience it, and B, have to learn about it.

9 And, I really think very strongly that is
10 part of the, kind of -- not just healing response, but
11 accountability piece is that they know what happened, and
12 that they receive that information and it is dealt with
13 appropriately. And, we have seen that around kids that
14 have been removed in the Sixties Scoop and others, but we
15 need it for the generation that is coming out of the
16 system now.

17 **MS. CHRISTA BIG CANOE:** Chief Commissioner
18 and Commissioners, I am going to ask that this be marked
19 the next exhibit, the On Their Own report.

20 **CHIEF COMMISSIONER MARION BULLER:** Yes. On
21 Their Own: Examining the Needs of B.C. Youth as They Leave
22 Government Care, April 2014, Representative for Children
23 and Youth is Exhibit 43.

24 **--- Exhibit 43:**

25 "On Their Own: Examining the Needs of

1 B.C. Youth as They Leave Government
2 Care," by Mary Ellen Turpel-Lafond,
3 Representative for Children and Youth,
4 April 2014 (61 pages)
5 Witness: Dr. Mary Ellen Turpel-Lafond
6 Counsel: Christa Big Canoe, Commission
7 Counsel
8

9 **MS. CHRISTA BIG CANOE:** So, Mary Ellen, I
10 am going to, kind of, do a drive-by on this next report,
11 Lost in the Shadows: How a Lack of Help Meant a Loss of
12 Hope for One First Nations Girl. Now, we have seen
13 special reports, investigative reports, aggregate reports,
14 this is one of your investigative reports and it was in
15 February 2014.

16 And, I just want to ask if you can give us
17 just a little background or information into the Lost in
18 the Shadows report.

19 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. Well,
20 this report is an example of a suicide death of a young
21 Aboriginal girl on a First Nations community in British
22 Columbia. The dimension that is important about this
23 report is it was a community where the community got so
24 tired of child welfare that they prohibited social workers
25 from coming to the community. And, in fact, they shot at

1 social workers. They did not hit anybody, but they
2 threatened to shoot them if they came on the reserve
3 because there was a really fractious relationship between
4 the ministry and that community.

5 And, what the report looks at is what
6 happens to kids when these incredibly big conflicts
7 happen. So, because we have not had an appropriate child
8 welfare system for First Nations children and Inuit and
9 Métis, but especially the First Nations component is
10 evaluated here, it doesn't mean that people do not need
11 services and supports. But, when the community gets so
12 angry for good reason and they do not want -- but then no
13 one does child welfare. And, this is an example of a
14 child who had unmet mental health needs, and was also
15 again sexually abused, had sexual violence, she had --
16 there was no social workers. And, not only did they have
17 a conflict with the particular First Nation, but they also
18 just did not have anybody working in the local
19 communities. So, it is about rural child welfare.

20 So, just this piece of, we have massive
21 jurisdictional fights in Canada over who is there, people
22 do not want social workers in the Indigenous community,
23 there is a lot of issues. These issues need to be worked
24 out, but while all of this happen, there is real people,
25 and what happens to the real people is pretty terrible.

1 In her case, she did not get support and she really had a
2 terrible outcome.

3 I would say on this report -- I would just
4 make a note saying, you know, the social workers and the
5 ministry said, we cannot work with that community, they
6 are too extreme, there are too violent -- there is a lot
7 of labelling. Actually, we work very closely with the
8 community. We went in. It was just the whole question of
9 how do you build bridges with community. You know, we
10 were able to work with family and everyone. It was just
11 the point of contact had become so bad and there had been
12 no effort to build a relationship, and that is something
13 we see again.

14 But, if these services do not build
15 respectful relationships that can put children at the
16 center, then children suffer. And so, you know, from a
17 political viewpoint, it is okay to have political fights
18 and, you know, many people like to have big political
19 fights, but behind it are real people that need help and
20 services, and putting children at the front has to be part
21 of it.

22 So, that story is really that story which I
23 think we will probably see elsewhere across Canada, where
24 people just say, no more child welfare in our community.
25 And, you know, I understand the authority to do that, but

1 just what is going to happen on the ground? Let us not
2 forget, this is not just making an announcement, there are
3 real people that need support.

4 **MS. CHRISTA BIG CANOE:** And, you are
5 comfortable answering questions should any of the parties
6 with standing have any in relation to this particular
7 report?

8 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

9 **MS. CHRISTA BIG CANOE:** Chief Commissioner
10 and Commissioners, can I have this marked the next
11 exhibit?

12 **CHIEF COMMISSIONER MARION BULLER:** Yes.
13 Lost in the Shadows: How a Lack of Help Meant a Loss of
14 Hope for One First Nations Girl - Investigative Report
15 (February 2014), Representative for Children and Youth is
16 Exhibit 44, please.

17 **--- Exhibit 44:**

18 Investigative Report "Lost in the
19 Shadows: How a Lack of Help Meant a
20 Loss of Hope for One First Nations
21 Girl," by Mary Ellen Turpel-Lafond,
22 Representative for Children and Youth,
23 February 2014 (116 pages)
24 Witness: Dr. Mary Ellen Turpel-Lafond
25 Counsel: Christa Big Canoe, Commission

1 Counsel

2 **MS. CHRISTA BIG CANOE:** Thank you. The
3 next report I am going to draw your attention to, Mary
4 Ellen, is about Children at Risk, and the Case for a
5 Better Response to Parental Addiction. You know, you have
6 already, kind of, contextualized when there are not
7 appropriate mental health supports for parents but, you
8 know, in terms of parental addictions and how that has an
9 impact on the child welfare apprehension, this report, I
10 think, is quite helpful in that respect. Did you want to
11 share some information about this particular report?

12 **DR. MARY ELLEN TURPEL-LAFOND:** Right.
13 Well, this one is about a situation where you have
14 parental addictions, and the degree of risk that children
15 face when there are serious parental addictions and how
16 are some of the -- what are some of the strategies to
17 cope. So, it is not just for the child's well-being, but
18 parental assistance is important to support the child's
19 development, as well as the parent, but this report also
20 speaks about how aunts, uncles and grandparents are
21 affected.

22 And so, the grandparent that steps in to
23 raise the child because the parent is struggling with
24 addiction, it is a really hard position for them to be in
25 because they have to set boundaries with the relative and

1 the loved one, and those boundary setting behaviours may
2 be challenging because of their own violence, and their
3 own history, and their own addiction history and their own
4 sense of guilt about how they raised their children.

5 So, these complex factors that work
6 together, and also how addictions responses in programming
7 are not tailored -- this again is an Aboriginal family.
8 Not tailored to meet the needs of Aboriginal women who
9 experience addictions and not tailored to meet families.
10 So, the idea that that family structure especially as a
11 plan. Everybody needs a plan. If there's a parent that
12 has a serious addiction, you need to have a where does the
13 child go? How does a child keep attached to parent but
14 they cannot be under the care of parent?

15 So, it examines those issues and, again,
16 finds that not a lot of thought has been put into these
17 issues. And, in the Aboriginal community, among the
18 presenting factors that parents experience for reasons why
19 children are involved in the child welfare system, the top
20 three, of course, are they're over-profiled for poverty.
21 That's one big one. I'm sure Dr. Blackstock spoke to it.
22 Violence, family violence is a very significant factor,
23 and parental addiction. So, they're among the key
24 presenting issues. And, see that the prevention lens is
25 not there. So, it's very easy to remove. It's very easy

1 to have the harsh intervention, but there are often not a
2 lot of supports around addictions.

3 And, that addiction support, it can be
4 short-term and very helpful, but it's really to support
5 the family, to be able to address those issues in a
6 positive way, as opposed to having to kind of shun and
7 shut down members of the family.

8 **MS. CHRISTA BIG CANOE:** And, I couldn't
9 help but think of -- based on what we've heard from other
10 experts and knowledge keepers -- and this is that point I
11 raised earlier about the comprehensive risk assessment and
12 what Dr. Blackstock was talking about in terms of we're
13 not looking at risk assessment on the other side of
14 removing children, and, in this case, as you talk about,
15 the whole family -- it seems that the -- some of the risk
16 assessments are absent of looking at what strength and
17 resiliency the rest of the family has to offer. And, when
18 we don't look at -- you know, in this particular report,
19 you have a timeline of significant events. And, in 2008,
20 there's one of these comprehensive risk assessments done,
21 and it determines that the risk is too high to the child
22 to stay with the parent.

23 Why don't we, or how can we look at risk
24 assessments more broadly to include more of the family or
25 an Indigenous perspective? And then the other side of

1 that is, should we not be weighing where the higher risk
2 lays?

3 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. And, I
4 think that these risk assessment tools that are used in
5 child welfare are risk assessment tools that have largely
6 been developed out of the U.S. using certain formulas and
7 approaches that are kind of standardized, and they don't
8 reflect and respond to the unique circumstances of
9 Indigenous families.

10 So, some of those issues that Indigenous
11 families have had before them caused by what I will call
12 kind of "colonial disruption", whether that be residential
13 school, poverty, all the intersecting issues that those
14 families have over others, these risk assessment tools,
15 you're going to tick off every box.

16 So, I mean, if I completed it, I would be
17 high risk. I mean, my children would be removed today. I
18 don't think there's any Indigenous people that I've ever
19 met - actually, I'd like to meet that person; that's my
20 goal. I hope my kids meet that category eventually - that
21 wouldn't tick off every box. Is there serious addiction
22 in the family? Yes. Is there serious violence in the
23 family? Yes.

24 I mean, you tick it off, and then you are
25 high risk, but that doesn't respond to the fact that there

1 are things over which we can't control, that are
2 environmental. And so, those risk assessment tools are
3 extremely punitive and harmful for Indigenous people, and
4 they're frequently not tested appropriately and evaluated
5 as tools.

6 We see that in the justice system for youth
7 justice as well, but we really see it in child welfare.
8 And, they're really convenient, because instead of doing
9 their frontline social work, you apply a tool that makes
10 it quicker and faster to make your assessment. And, the
11 quicker and faster efficiency driven processes in child
12 welfare tend to really be systemically problematic for
13 Aboriginal families, because they're quick and fast and
14 they get a result, but you never get to unpackage what
15 will reduce risk, which are what are the protective
16 factors?

17 And, of course, none of the risk assessment
18 tools that are used like in British Columbia – I believe
19 the one in Manitoba as well – none of them view culture as
20 a protective factor. None of them view kinship or a
21 positive association with Indigenous identity as a
22 protective factor, when, in fact, we know from research on
23 suicide and other places, those are hugely protective.

24 So, these tools are problematic. And, of
25 course, you know, today, probably in this province and

1 every other province, someone is applying that tool to an
2 Indigenous family. So, it's not just an academic issue;
3 it's a very serious issue. And, that report partially
4 speaks to that. And, I'm sure Dr. Blackstock highlighted
5 it from her research.

6 **MS. CHRISTA BIG CANOE:** Thank you. Chief
7 Commissioner, could we please have the Children at Risk
8 report as our next exhibit?

9 **CHIEF COMMISSIONER MARION BULLER:** Yes.
10 Children at Risk: The Case for a Better Response to
11 Parental Addiction - Investigative Report June 2014 -
12 Representative for Children and Youth, Exhibit 45.

13 **--- Exhibit No 45:**

14 Investigative Report "Children at
15 Risk: The Case for a Better Response
16 to Parental Addiction" by Mary Ellen
17 Turpel-Lafond, Representative for
18 Children and Youth, June 2014 (60
19 pages)

20 Witness: Dr. Mary Ellen Turpel-Lafond
21 Counsel: Christa Big Canoe, Commission
22 Counsel

23 **MS. CHRISTA BIG CANOE:** I'm cognizant of
24 the time, Chief Commissioner, so I'm going to take your
25 direction on this. I estimate I need an additional 20

1 minutes just to get the record in, and to have Mary Ellen
2 speak to her recommendations. On that basis, I take your
3 direction if you'd prefer to take a lunch break now or for
4 me just to complete the examination in-chief?

5 **CHIEF COMMISSIONER MARION BULLER:** As a
6 previous witness said, never get in the way of food. So,
7 we'll stop for lunch until 1:00, please.

8 **MS. CHRISTA BIG CANOE:** Thank you. And, if
9 I could, just as a housekeeping matter, please remind that
10 the parties with standing go eat first, but if you could
11 meet no later than 12:45 in the Assiniboine Ballroom for
12 the verification, cross-examination verification. If each
13 party can have one representative or counsel there for
14 that process, that would be helpful. Thank you. And, we
15 will return at 1:00.

16 --- Upon recessing at 12:03 p.m.

17 --- Upon resuming at 1:13 p.m./L'audience est reprise à
18 13h13

19 **DR. MARY ELLEN TURPEL-LAFOND, Resumed:**

20 **MS. CHRISTA BIG CANOE:** If we can get
21 started again.

22 Chief Commissioner, Commissioners, if we
23 could recommence in the examination in-chief with Dr. Mary
24 Ellen Turpel-Lafond. I estimated I only require
25 20 minutes to complete, and then we'll go into cross-

1 examination. The list should be coming in the interim
2 brought by our legal staff to both you and I and parties.

3 **---EXAMINATION IN-CHIEF BY MS. CHRISTA BIG CANOE (Cont'd):**

4 **MS. CHRISTA BIG CANOE:** So Mary Ellen, one
5 of the things that was really difficult for me, actually,
6 when I was going through the website, and following our
7 first conversation, was trying to pick and ascertain the
8 reports that we could put in. And we acknowledge and
9 recognize the reports we chose all have a lot of value to
10 the mandate of the National Inquiry.

11 In the interest of time, and to never
12 diminish any of the reports, I just want to ask you a
13 couple of questions about trauma, turmoil, and tragedy,
14 and the report, Fragile Lives, Fragmented Systems, so that
15 we can get them on the record so that if any of the
16 parties with standing have a question in relation to these
17 two reports that you'd be able to answer them.

18 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

19 **MS. CHRISTA BIG CANOE:** So Trauma, Turmoil,
20 and Tragedy, it was an aggregate review, and it was done
21 November 2012. And it's an important report because it
22 talks about the needs of children and youth at risk of
23 suicide and self-harm.

24 Is there any point that you would like to
25 highlight in relation to or give us a little context of

1 this report?

2 **DR. MARY ELLEN TURPEL-LAFOND:** Just to say
3 that that is an aggregate report involving 89 youths that
4 were involved in the child welfare system in some way and
5 experienced either self-harm or completed a suicide. And
6 the level and representation of Aboriginal youth of,
7 primarily, First Nations and Métis youth was about --
8 approximately 60 percent in that cohort. So I just note
9 that.

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

11 Chief Commissioner and Commissioners, may
12 we please have this entered as an exhibit?

13 **CHIEF COMMISSIONER MARION BULLER:** Yes.

14 Trauma, Turmoil, and Tragedy: Understanding the Needs of
15 Children and Youth at Risk of Suicide and Self-Harm, An
16 Aggregate Report, November 2012, Representative for
17 Children and Youth is Exhibit 46.

18 **--- EXHIBIT NO. 46:**

19 Aggregate review "Trauma, Turmoil and
20 Tragedy: Understanding the Needs of
21 Children and Youth at Risk of Suicide
22 and Self-Harm," by Mary Ellen Turpel-
23 Lafond, Representative for Children
24 and Youth, November 2012 (66 pages)
25 Witness: Dr. Mary Ellen Turpel-Lafond

1 Counsel: Christa Big Canoe, Commission
2 Counsel

3 **MS. CHRISTA BIG CANOE:** And the other one
4 that I would like you to briefly describe for us or
5 highlight anything important, and I know it's a lot to ask
6 when you have reports this big that you've invested a lot
7 of time into, is the Fragile Lives, Fragmented Systems:
8 Strengthening Supports for Vulnerable Infants.

9 I understand this was an aggregate review
10 of 21 infant deaths?

11 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. And in
12 this instance, I would just note out that of the 21
13 infants that died, and we looked at their cases -- some of
14 them allegedly died because of sleeping issues as well as
15 a range of other early childhood issues -- 15 of the 21
16 infants were Aboriginal, First Nations, and Métis,
17 primarily.

18 And just noting, in that cohort of the 15,
19 all 15 of those families had a documented history of abuse
20 in the mother's family and on the part of the mom. So mom
21 had experienced physical and sexual abuse. The infants
22 died or were -- in these instances they're all deaths.
23 And the interplay of poverty and lack of supports services
24 for moms who are -- or Aboriginal women of reproductive
25 age in terms of the nurse home visiting programs, and so

1 forth, that are not there in their lives. So the report
2 really speaks to their circumstances.

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

4 Chief Commissioner and Commissioners, could
5 we please have this entered as the next exhibit?

6 **CHIEF COMMISSIONER MARION BULLER:** Yes.
7 Fragile Lives, Fragmented Systems: Strengthening Supports
8 for Vulnerable Infants, Aggregate Review of 21 infant
9 deaths, January 2011, Representative for Children and
10 Youth, Exhibit 47.

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

12 **--- EXHIBIT NO. 47:**

13 "Fragile Lives, Fragmented Systems:
14 Strengthening Supports for Vulnerable
15 Infants - Aggregate Review of 21
16 Infant Deaths," by Mary Ellen Turpel-
17 Lafond, Representative for Children
18 and Youth, January 2011 (82 pages)
19 Witness: Dr. Mary Ellen Turpel-Lafond
20 Counsel: Christa Big Canoe, Commission
21 Counsel

22 **MS. CHRISTA BIG CANOE:** Now the next report
23 I do want to spend a few minutes on -- and I'm going to
24 actually ask the AV team to please pull up Figure 13 --
25 The Not Fully Invested. This is a follow-up report on the

1 representatives past recommendations to help vulnerable
2 children in B.C. This was released October 9th, 2014.

3 The figure we've put up is in this report,
4 and it talks about the different areas that your reports
5 have addressed in the timeframe. Can you tell us a little
6 bit about Not Fully Invested and why you wrote it?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. Well,
8 first of all, I think it's very important to monitor
9 recommendations that you make. So the recommendations
10 that I made in any of the reports, first of all, they have
11 to be based on the information; and secondly, they need to
12 be focused on meaningful changes that can be accomplished
13 with accountability for government or service agencies or
14 whomever, whatever points of leadership are there to
15 accomplish it.

16 So this is a report that looked at
17 recommendations I made to see how much compliance there
18 were, or it didn't have to exactly implement the
19 recommendation I made, but they've addressed the area
20 effectively in another way. So I mean, of course, one
21 doesn't direct, one recommends.

22 And of the recommendations I made, there
23 were over 100 -- well, it was, of course, over a long
24 period of time too -- 72 percent had been substantially or
25 fully implemented. And I just pause on that. It sounds

1 like an abstract number, but it's very important to know
2 if they're being worked on. And so it's that follow-up
3 commitment.

4 And it's always a very significant process
5 to prepare an exhaustive report and file that report and
6 release that report, and a lot of times people then just
7 go away and they sit on the shelf. And then we have
8 another situation where you have the same recommendations
9 again, and again, and again.

10 So one of the things I attempted was to
11 really dig in and then make sure that they were being
12 actioned. So I was very pleased that 72 percent -- that's
13 probably pretty high; should be 100 percent -- but
14 72 percent were actioned.

15 And in that graphic that's being displayed,
16 it looks at the range of issues. And I think it's a
17 really helpful graphic. I like the fact that it kind of
18 looked like a frying pan too.

19 But the interesting thing about it is,
20 you'll see, really child protection is just up there in
21 green, and it's only part of the puzzle; right. So the
22 whole idea that you get to see that, even if someone is
23 looking at child welfare, very quickly it becomes looking
24 at what hasn't been provided to help families, the gaps in
25 the system, and other issues, and the need for a more

1 integrated approach to how we understand this.

2 And that's in relation to recommendations
3 to all children and youth, particularly when it comes to
4 First Nations, Métis, and Inuit children and youth, in my
5 experience, some of those areas really increase. Like
6 issues like housing, mental health and trauma, the
7 importance of education and other support systems, and
8 healthcare supports in the lives of families.

9 **MS. CHRISTA BIG CANOE:** I was wondering if
10 you could tell us a little about measuring performance and
11 public reporting. I know you discuss it around page 33 of
12 this report, and you reflect back on some of what the
13 Hughes Review stated were intentions. But in terms of
14 measuring performance and public reporting, the need to
15 put back out, not just the fact that 72 percent is being
16 addressed or actioned. But how important is it to put
17 back out into the public results as they're occurring?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Well, it's
19 extremely important. And when I look at the budgets --
20 again, just from an idea of performance management,
21 performance accountability of how government performs, so
22 how it spends money and what it invests in -- auditors and
23 others look at that in terms of value for money. The work
24 that I did looked at service and outcomes, and whether or
25 not these services were effective and responsive for

1 children and families and reached them.

2 But when you look at the volume and the
3 amount of those budgets -- the Province of Saskatchewan, I
4 believe the Child Protection Service budget is about a
5 billion dollars; in British Columbia, it's about two; I'm
6 not positive of what it is in in Manitoba on a yearly
7 basis, but you look at that, that's a significant
8 expenditure when you consider how bad the outcomes are and
9 how poor thee services are.

10 So one of the issues that's important to
11 keep in mind is -- and it's not just like value for money
12 -- but actually, we're not using our public services at
13 times in ways that actually make results for people. And
14 this is a critical issue around measuring performance.
15 And, first of all, these ministries that are large, social
16 serving ministries, need to be able to report on what they
17 are achieving for people, not outputs, meaning they had 16
18 new files. But, what are you achieving for people? So,
19 more child-focused reporting and accountability.

20 And so, this issue of measuring, it is not
21 like what an auditor does on, you know, value for money;
22 although what auditors do is really important.
23 Performance management and focusing on outcomes is
24 critical, because there are two factors two consider.
25 One, there is something called the Hawthorne effect, which

1 is if you just pay attention to something, it usually
2 improves, just by virtue of profiling it, which is a
3 really good thing, it just only gets you so far.

4 If you need to make a 50 percent
5 improvement, the Hawthorne effect might get you 5, which
6 is good, don't discount it. But, then when you really get
7 into what the issues are -- so when you make reports and
8 recommendations, they have to be very deeply focused on
9 what you want to achieve, and also be measureable, and
10 also promote inside those systems an accountability. And,
11 particularly where you have inadequate data collection for
12 things like child protection, child and youth mental
13 health, services for children and youth with special
14 needs, inadequate data collection on, like, maternal fetal
15 health - although our health system has slightly better
16 information except not for Aboriginal people - these are
17 areas that really need to be zoned in on, and, actually,
18 we need a high degree of accountability.

19 Plus, Canada is calling -- British Columbia
20 or Canada is called to report periodically to various
21 bodies on progress with respect to Indigenous, say,
22 children. So, under the U.N. Convention on the Rights of
23 the Child, there is the Committee on the Child, there are
24 periodic reports. Having been involved in that process of
25 monitoring those reports, those reports are -- tend to be

1 very shallow and they don't have a lot of content.

2 And so, on outcomes, generally, Canadian
3 reporting on children is quite low. So, when you look at
4 World Health and UNICEF and the report cards, the quality
5 of information in reporting on outcomes for children is
6 very low for Canada, considering Canada is in the G7 and
7 is supposed to be one of the top performers. So,
8 recommendations really are related to improvements, which
9 are related to performance and outcomes measurement.

10 And, I am sure you have heard a bit about
11 that from other witnesses you have had, but my own
12 experience was, if you make recommendations and they
13 involve system change, you need to try and shift the
14 system to be permanent, long-term change, take
15 accountability for that area and continue to report into
16 the future. So, that is part of the legacy of
17 improvement. If it is a one-off recommendation, that
18 could be very helpful to one person, but it doesn't
19 eliminate the need to continually go back to that same
20 problem. So, systemic-type of change is very significant.

21 **MS. CHRISTA BIG CANOE:** Thank you. I am
22 not sure if you want to add anything else in relation to
23 this report?

24 **DR. MARY ELLEN TURPEL-LAFOND:** No.

25 **MS. CHRISTA BIG CANOE:** Okay, perfect. On

1 that basis, Chief Commissioner and Commissioners, I
2 request that we exhibit Not Fully Invested as -- sorry,
3 that we enter Not Fully Invested as our next exhibit.

4 **CHIEF COMMISSIONER MARION BULLER:** Yes, Not
5 Fully Invested: A Follow-Up Report on the Representative's
6 Past Recommendations to Help Vulnerable Children in B.C.,
7 October 9th, 2014, Representative for Children and Youth,
8 is Exhibit 48, please.

9 **--- Exhibit 48:**

10 "Not Fully Invested: A Follow-up
11 Report on the Representative's Past
12 Recommendations to Help Vulnerable
13 Children in B.C.," by Mary Ellen
14 Turpel-Lafond, Representative for
15 Children and Youth, October 9, 2014
16 (48 pages)

17 Witness: Dr. Mary Ellen Turpel-Lafond
18 Counsel: Christa Big Canoe, Commission
19 Counsel

20 **MS. CHRISTA BIG CANOE:** Now, Mary Ellen, in
21 each of these reports, there is a section on
22 recommendations, and you meticulously go through
23 identifying the issue. But, often, you are also taking
24 the time to suggest a plan or how to implement. I want to
25 know if you can help us in understanding why there has to

1 be details and precision when you make recommendations.

2 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
3 of all, the value of your recommendations are going to be
4 based on the strength of those recommendations in relation
5 to the subject that you have had to deal with, and the
6 meaning and depth of them should be guided by the
7 thoroughness of the work that has been done and the
8 understanding. So, when you make those very detailed
9 recommendations that require shifts in the culture of how
10 things are done, or even shifts at the political level –
11 because sometimes recommendations were to create a
12 domestic violence initiative or do something very large,
13 or sometimes it is more targeted, like a risk assessment
14 tool – it is very important to be detailed to identify a
15 point of leadership within the institution that the
16 recommendation is directed to, to have a time frame for
17 that and have component parts, and also to have some type
18 of an accountability inside to report out on how they have
19 done, and have a capacity to review that.

20 So, when you have an entity, like a public
21 inquiry, when you look at success for those inquiries or
22 institutions, generally they are more successful if there
23 has been a process to track, monitor and report on
24 compliance and implementation. If that isn't there, then
25 we tend to have successive reports.

1 So, what I would say, what would have
2 happened in my role is I would have probably had to do the
3 same report 10, 20 times, whereas a single report with a
4 very thoughtful set of recommendations very much tracked
5 and monitored could lead to change. Now, someone still
6 has to promote that change, because change doesn't just
7 happen spontaneously. And so, that focus on it is
8 critical.

9 But, I think making those shifts, there is
10 always an endorsement on the day a report is issued of all
11 recommendations. Unfortunately, that tends to wane after
12 time, and so the focus has to be there. So, I can't
13 emphasize enough the requirement of carefully-crafted
14 recommendations, thoughtful, detailed with a good
15 knowledge of how governments and these public institutions
16 work, but also with some point of accountability for
17 following up and reporting on implementation of those
18 matters.

19 **MS. CHRISTA BIG CANOE:** So, although you
20 are not providing us a written list of recommendations, a
21 lot of your reports have recommendations that would -- you
22 know, can look at other jurisdictions, potentially. Is it
23 fair to say or would you agree with me that one of the
24 recommendations you would make to the Commissioners is to
25 make sure they are building in points of accountability or

1 leadership in their recommendations?

2 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
3 that is a really critical piece that there is this
4 interesting relationship between the degree of
5 vulnerability of the individuals that you are reporting on
6 and the degree of accountability inside the system for
7 change. So, I think very high level of accountability is
8 needed inside any system.

9 So, let's say you are making recommended
10 changes into a child welfare system. There needs to be
11 points of leadership. But, one of the challenges, I would
12 just pause on that, in Canada, is that child welfare has
13 been left to provinces and territories, and the federal
14 government has really vacated its responsibility in that
15 area and viewed itself, until more recently, as just a
16 passive funder.

17 So, in the child welfare field,
18 recommendations may need to be directed at both the
19 federal government to appropriately perform its kind of
20 fiduciary obligations, but also to provincial systems that
21 have come in sort of through the back door of the *Indian*
22 *Act*, in particular through Section 88 of the *Indian Act*.
23 And, in those provincial systems, they often do not have
24 points of accountability for Aboriginal children and
25 families. They are just another child in a system, yet

1 they are actually taking on a responsibility to peoples,
2 and they don't have that concept.

3 So, I think in recommending, there has to
4 be really clear understanding in child welfare of where
5 the points of leadership are. And, because child welfare
6 is a command and control system, like policing, you have
7 an agent, you have a provincial director that is all
8 powerful, you have to understand how recommendations and
9 change happens.

10 The only other point I would make is if you
11 look at the evidence around how change happens in social
12 serving systems, I think the best evidence tells us that
13 it takes time. And, good systems can change in
14 approximately five to seven years. Very not-so-great
15 systems can take 25 years. And, I think the type of
16 issues that I am certainly looking into and have studied
17 and worked on in my life, we need to make that change
18 very, very quickly.

19 So, that means very succinct
20 recommendations with a very clear understanding with
21 appropriate tools will be important to address the extent
22 to which families and women, in particular, have been
23 impacted by the -- not only residential school system, but
24 by the child welfare system, and how families have been so
25 broken and need to be able to be supported to repair. So,

1 it is a particular pressing part. I am sure you have many
2 pressing areas, but this is one that requires a lot of
3 urgency, because there are large bureaucracies that need
4 to change.

5 **MS. CHRISTA BIG CANOE:** And, you actually
6 anticipated one of my questions, because when you were
7 talking earlier about -- in particular about the Canadian
8 Association of the Provincial Advocates, you talked to the
9 fact that there is no National Children's Commissioner and
10 that there is no point of leadership within the federal
11 government. You have now explained that is important in
12 the child welfare context, but knowing that you also have
13 expertise in inherent rights, treaty rights in the *Indian*
14 *Act*, I am going to ask, should the Commissioners also
15 consider for other areas where there is that
16 interjurisdictional or that conflict of law that is based
17 on some systems, much like child welfare, that they always
18 look to ensure that a point of leadership from a federal
19 basis is identified or recommended?

20 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I do.
21 And, I would say on the first point, you are absolutely
22 right. There is a need for a point -- even an independent
23 officer, point of leadership for children. And, I know
24 you have had Dr. Cindy Blackstock as an expert, and I view
25 her as having been the unofficial national children's

1 commissioner for Indigenous children, and she is a
2 remarkable individual. But, had she, in fact, been in a
3 role with proper access to information, she probably would
4 not have taken ten years to get a human rights decision.
5 There could have been a significant change; that is one
6 example.

7 On those other systems, health, justice,
8 some of the bigger areas where women are very impacted,
9 and women and families are very impacted, same holds.
10 And, in fact, what we see in provincial and national
11 systems is, generally, there is an unclear leadership
12 position, particularly in terms of women, and I think in
13 terms of Indigenous women as mothers and grandmothers and
14 aunties, and having this very significant leadership role
15 in their kinship families and communities, that has to be
16 very clearly recognized as Indigenous women, not just as
17 pan women. Like, all women.

18 So, I think it is really significant to
19 have that visibility and accountability in all of those
20 systems properly identified and properly directed. And, I
21 think that will be needed in order to make changes on a
22 quicker basis.

23 **MS. CHRISTA BIG CANOE:** Thank you. Mary
24 Ellen, I could spend all day talking with you quite
25 frankly, and I am very honoured to be able to actually

1 lead your evidence today. And, the amount that I learned
2 reading each of these reports and how surprising
3 information I thought I knew that I did not really know,
4 it has been a learning journey for me, and I want to thank
5 you. I am done with my examination-in-chief, but I have
6 just one housekeeping issue that I would like -- actually,
7 two housekeeping issues I would like to get onto the
8 record before we go into cross-examination. It just makes
9 it ease of reference, so that it is on the record.

10 And, the first, we actually already put a
11 report on yesterday with Dr. Blackstock called, Safe With
12 Intervention. It is the report of the Expert Panel on the
13 Deaths of Children and Youth in Residential Placements.
14 It was released last week, September 2018. For ease of
15 reference, I would ask that this also, on consent of
16 Commission counsel, be made an exhibit today, so that
17 parties with standing may ask questions to Dr. Turpel-
18 Lafond.

19 **CHIEF COMMISSIONER MARION BULLER:** It is
20 already marked as an exhibit in this sitting. It does not
21 have to be re-marked.

22 **MS. CHRISTA BIG CANOE:** Mr. Registrar, can
23 you just remind me what number that was?

24 **CHIEF COMMISSIONER MARION BULLER:** 25.

25 **MS. CHRISTA BIG CANOE:** 25. And, just so

1 my colleagues and friends know. It is already in the
2 record on 25.

3 There is one more document that has not
4 been marked into exhibit, and it is a By-law for the Care
5 of our Indian Children: Spallumcheen Indian Band By-law
6 #3, dated 1980. It was just brought up to you during the
7 break. And, this is going in on consent, and Mary Ellen
8 is familiar with this report as well -- or, sorry, with
9 this by-law.

10 **CHIEF COMMISSIONER MARION BULLER:** Okay.
11 And, it has been disclosed?

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

13 **CHIEF COMMISSIONER MARION BULLER:** Yes.
14 Okay. A By-law for the Care of our Indian Children:
15 Spallumcheen Indian Band By-law #3 - 1980, is Exhibit 49.

16 **--- Exhibit 49:**

17 "A By-Law for the Care of Our Indian
18 Children: Spallumcheen Indian Band By-
19 Law # 3 - 1980"

20 Witness: Dr. Mary Ellen Turpel-Lafond
21 Counsel: Katherine Hensel, Counsel for
22 Association of Native Child & Family
23 Service Agencies Ontario

24 **MS. CHRISTA BIG CANOE:** 49. Thank you. As
25 I have stated, I am done my examination-in-chief. And, at

1 this time, I would like to proceed with the cross-
2 examination order and begin inviting parties with standing
3 up for the purpose of cross.

4 And, the first party that is being invited
5 up is NunatuKavut Community Council, Mr. Roy Stewart, will
6 have six minutes.

7 **--- CROSS-EXAMINATION BY MR. ROY STEWART:**

8 **MR. ROY STEWART:** Good afternoon, Dr.
9 Turpel-Lafond. My name is Roy Stewart, and I am here on
10 behalf of the NunatuKavut Community Council, which is the
11 representative organization for approximately 6,000 Inuit
12 peoples in southern and central Labrador.

13 This morning, you discussed the funding and
14 the approach to child and family services that are
15 delivered in Indigenous communities and how, you know,
16 numerous aspects of this are inadequate. And so, the
17 first question I want to ask you is related to, I guess,
18 the creation or implementation of community-based
19 culturally- appropriate services.

20 We know that there are many Indigenous
21 communities or representative organizations across the
22 country that are in the early stage or phase of a land
23 claim or modern treaty process – whatever language the
24 government is using these days, I am not sure. And,
25 included in that, many communities are attempting to

1 rebuild their internal capacity to get back on a path
2 towards being able to deliver their own child and family-
3 related services.

4 So, I am just wondering, in your opinion,
5 what role should the children and youth in these
6 communities be playing in that process?

7 **DR. MARY ELLEN TURPEL-LAFOND:** I think the
8 important point to note is that children and youth,
9 indigenous children and youth in particular, need to be
10 heard. They have a right to be heard, a human right. I
11 think it is important to take a human rights lens. They
12 have a right to be heard, they should be participating in
13 that process, and they should be being listened to in
14 terms of their needs and partners in developing those
15 approaches.

16 And, I think no matter what community
17 context or nation context is rebuilding their systems,
18 they are left to kind of clean up messes that other people
19 made in terms of disrupting families. It is important to
20 support families along that process in a non-judgmental
21 strengths-based way, but also to give a voice to young
22 people. And, I think that the involvement of youth
23 councils is really important to be heard and to be
24 visible, and I think it is very important to make sure
25 that there are the representation of all genders on those

1 councils so that they do not become dominated by one
2 position or another. So, that is a really significant
3 piece.

4 The other issue I would just say is that
5 there are many treaty First Nations, whether they have
6 Victorian treaties or modern treaties, that have been
7 working with respect to powers and authorities around
8 child welfare across the country. They are in different
9 states of development and delivery, but there is a lot of
10 activity.

11 I think if they had a supportive context
12 with their provinces especially, most of those would be
13 operating systems that would be able to -- they are ready
14 to operate. They may need some capacity development, but
15 they are ready to go. I think they are held back by
16 funding. They are held back by a lack of supports from
17 provinces and territories, and a lack of, kind of,
18 partnership in the mission to be able to support the work
19 that is needed to be done. So, there are constraints,
20 that are not the constraints of Indigenous communities,
21 which need to be changed.

22 **MR. ROY STEWART:** Perfect. So, you just
23 mentioned many communities or nations having to almost
24 clean up the mess that others have made. And so, in my
25 brain, I immediately went to, you know, provincial or

1 territorial services that are delivered to Indigenous
2 communities.

3 And, related to that, I believe it was at
4 the racism hearing in Toronto where Dr. Blackstock
5 recommended that all provincial and territory civil
6 servants or government employees receive cultural
7 education on Indigenous peoples. But, we have heard from
8 members of communities in NunatuKavut, you know, that have
9 witnessed at public or government information sessions,
10 individual government employees saying how they feel
11 almost uneasy or uncomfortable having to, you know, hear
12 that information or to face the truth. So, I was just
13 wondering, how can -- you know, if Indigenous communities
14 must receive... ..provincial or territorial child and
15 family services, how can this form of training and
16 education that Dr. Blackstock recommends result in any
17 real change if on the individual level government
18 employees aren't willing to, you know, hear it out and
19 accept the truth?

20 **DR. MARY ELLEN TURPEL-LAFOND:** I think I
21 wasn't privy to hear everything Dr. Blackstock said, but
22 I've heard some comments like that before and read them
23 from her. I think it's important to change how we think
24 about cultural competency, and culturally competency
25 should be a requirement of the job for those people who

1 are engaging in providing services or partnering with
2 Indigenous communities. And, I don't think it should be
3 pan-Aboriginal cultural competency kind of whatever. It
4 should really be based on the tribal groups that you're
5 going to be engaged with, which have high degrees of
6 distinction, whether they're Inuit, Métis or First
7 Nations. The diversity is significant.

8 So, cultural competency should be required.
9 It shouldn't be an after optional piece. And, in fact,
10 when we look at the Truth and Reconciliation Commission's
11 calls to action, you know, a lot of that is trying to
12 bring that more into the post-secondary setting where it's
13 been missing.

14 But, certainly, we're around professionals
15 that are working, whether they're public servants, social
16 workers, in any field, justice workers, they should -- I
17 mean, obviously, Indigenous people should be involved in
18 delivering -- designing and delivering their own services.
19 That's self-determination. That's a fundamental issue.
20 But, if it's going to be others, they should be required
21 to have cultural competency, and there should be a
22 partnership.

23 Take Newfoundland and Labrador as an
24 example. There should be sort of a competency agreement
25 with the territory and the province on how you will expect

1 that to work, and it's a very formal thing. It isn't, "I
2 took an hour of online training," "I saw a Disney movie."
3 I mean, it has to be a very serious issue based on
4 competency.

5 And, competency speaks to skill, and it
6 speaks to knowledge. So, one of the impediments, and I
7 think you alluded to it in your question, is sometimes the
8 issues that are being faced in community are very
9 significant issues. They're actually overwhelming to
10 provincial officials at times. And, there's sometimes the
11 inclination to shame and blame people who are struggling
12 to overcome this disruption in their lives and their
13 communities that they didn't cause.

14 So, competency training on the part of
15 officials helps change that dynamic to one of respectful
16 understanding, and also respecting the territory and the
17 people who you're engaging with. So, I think what -- I
18 think that's probably what Dr. Blackstock was speaking to.

19 I think I would be very disappointed if
20 cultural training was just some big watered-down program
21 as opposed to getting to know, and I would just conclude
22 by saying if you're in a community and you're, like, say,
23 a social worker in an Indigenous community, you need to
24 learn about the community in a humble -- culturally-humble
25 way, and you need to develop competency, and you need to

1 appreciate that there is going to be a history that wasn't
2 all your making, but you're stepping into something.

3 And, to do that in a respectful way, it
4 does happen, and there are many good examples. I've seen
5 that lots of times, but it only happens when you respect
6 the family and community structures. There might be a
7 clan system, there might be a house system. People seem
8 to forget that despite this Indian Act and other systems,
9 traditional systems persisted, and they're hard to
10 understand unless you make an effort.

11 So, not only do you need competency, but
12 you need to have an attitude, which is one of respectful
13 service engagement and understanding. So, those are very
14 critical ingredients for change, because if it's shaming
15 and blaming, or as you said, I have a right not to know, I
16 don't have to know about this, then, really, you shouldn't
17 be in that field if that's the case. You should perhaps
18 pick something else where ignorance is allowed, because
19 this isn't one where ignorance should be allowed.

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

21 **MR. ROY STEWART:** Perfect. Thank you. I'm
22 way over time, unless I can have another half hour? Thank
23 you.

24 **MS. CHRISTA BIG CANOE:** Thank you, Mr.
25 Stewart. Next, we would like to invite up the Congress of

1 Aboriginal Peoples. Ms. Alisa Lombard will have six
2 minutes.

3 **--- CROSS-EXAMINATION BY MS. ALISA LOMBARD:**

4 **MS. ALISA LOMBARD:** Thank you to the
5 Indigenous peoples of Treaty 1 for welcoming us on their
6 territory. Elders, family, Commissioners, counsel and Dr.
7 Turpel-Lafond, thank you for sharing your knowledge here
8 today.

9 This week, Ms. Cora Morgan of the First
10 Nations Child Advocate Office in Manitoba shared with us
11 that she is aware of 16 mothers who lost their lives to
12 suicide in the aftermath of their children, some newborns,
13 having been apprehended.

14 Dr. Turpel-Lafond, you spoke about the
15 meaningful ability to audit services, and that one can't
16 do that unless they can compel and review all files and
17 have all the data that government has; is that correct?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

19 **MS. ALISA LOMBARD:** Dr. Blackstock this
20 week spoke about the great difference that Canada's
21 disclosure of records in proceedings before the CHRT made
22 in relation to connecting the links associated with
23 systemic shortcomings, among other discoveries of
24 information, that assists everyone in understanding the
25 causes, the real issues leading to the insidious

1 consequences this Inquiry is tasked with examining.

2 Ms. Aglukark testified yesterday that from
3 her lived experience, she was able to peel back layers of
4 her life's trauma as she came to understand them.

5 And so, my question is, what are your
6 thoughts on the need for independent investigative
7 mechanisms with the powers to compel and review all
8 required information from all relevant sources, and the
9 power to enforce its recommendations into the deaths,
10 however occurring, of mothers engaged by the CFS system in
11 Manitoba specifically and throughout the country?

12 **DR. MARY ELLEN TURPEL-LAFOND:** I think it's
13 very significant. And, certainly in my work, I've been
14 involved with a number of families where not just the mom
15 but the entire family falls into deep despair with the
16 removal, but particularly removal of an infant at birth.
17 And, actually, the fact that the system may have decided
18 in advance that they're going to remove, there's an alert
19 on the file that they don't work with the mom or the
20 family. They just swoop in and remove. That's probably
21 one of the harshest moments. I mean, although I think
22 removal at all times, doesn't matter what the age, is
23 extremely challenging.

24 And so, the impact on maternal mental
25 health and physical health is, you know, almost

1 immeasurable, and there's no question it's another one of
2 those shocks building on other shocks in life that can be
3 a tipping point for mother's mental health.

4 And so, supportive services are critical,
5 and I can just speak briefly to say that I lived through
6 this period in British Columbia where we had like a
7 mom/baby program in the Alouette jail, and it was a lot of
8 Aboriginal moms, and they could keep their babies, and
9 then they shut the program down over my protest, and then
10 we got it started up again because there was a court case
11 on behalf of some Aboriginal moms.

12 But, we lost about four or five years, and
13 during that time, those were just all broken families.
14 Before, they were together. During that time, they blew
15 up, and then after they were together, and it was like it
16 was really hard to get people to see the value of keeping
17 moms and babies together because of nursing, and bonding,
18 and all of those things. So, I really respect and
19 appreciate the comment, and I would echo in my own
20 experience probably what Cora Morgan testified to.

21 In terms of the investigative issues, yes,
22 absolutely. I mean, these issues are so significant.
23 They shouldn't be glossed over. And, I'm not saying that
24 the work that I did is exemplary in any way. I mean, I
25 think it could have been better in a lot of ways, but you

1 can see that it's investigative, meaning all sources are
2 looked at. Families are treated with respect, and their
3 information is taken very seriously. And, you work with
4 families, and you are accountable to families, and I think
5 that some of that thinking is a little bit new in our
6 systems in Canada. There's a lot of roles that people
7 have that create division. Like, I'm a coroner, that's
8 all I do. Here it is. I'll mail your result.

9 So, that work with people and answering the
10 question of what happened. You know, you need to do the
11 deep investigative work, and you need to get all those
12 things, and you're right. There's very few points of
13 accountability, and those who have power frequently don't
14 choose to use it to look at the circumstances of
15 Indigenous people.

16 **MS. ALISA LOMBARD:** Thank you. And, what
17 would you suggest in terms of a like entity's ability to
18 call for the implementation of recommendations, or the
19 enforcement of these recommendations, particularly where
20 the patterns are so well established and so well known and
21 so well entrenched? What mechanisms exist to ensure that
22 things change?

23 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
24 we have some mechanisms in Canada that deal with
25 compliance in different ways. But I think you'll probably

1 have to create some new mechanisms.

2 And so with respect to the experience of
3 Indigenous women, children, and families, I think that
4 there has to be stronger mechanisms built into all of the
5 systems with clear points of accountability and
6 leadership. And without that, it's just not visible
7 enough. And so I think the challenge is that most of
8 those areas have been pushed to the bottom of systems.

9 And as I pointed out with the report on
10 domestic violence, you know, there is one page, there's a
11 very small investment, and it's like we've ticked off the
12 Aboriginal box, but it actually is the elephant in the
13 room; it is the thing that should be 80 percent of your
14 report, not one page.

15 And so I think that's the problem, is to
16 flip it. And it's not going to be flipped until there's
17 competent, experienced, focused leadership that can be
18 brought into place by things like recommendations that can
19 be actioned.

20 **MS. ALISA LOMBARD:** Thank you so much.

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

22 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.

23 **MS. CHRISTA BIG CANOE:** Next, we would like
24 to invite up the Native Women's Association of Canada.
25 Ms. Virginia Lomax will have six minutes.

1 ---CROSS-EXAMINATION BY MS. LOMAX:

2 **MS. VIRGINIA LOMAX:** First, I'd like to
3 acknowledge the spirits of our strong sisters, as well as
4 the families and survivors who are with us in this room;
5 our Elders and health support workers in the medicines;
6 and sacred items that are here. I acknowledge that we are
7 on Treaty 1 territory in the homeland of the Métis Nation,
8 and I thank you all for your hospitality and your welcome
9 so we could do our work in a good way today.

10 I'd like to talk to you about the Lost in
11 the Shadows report at Exhibit 44. Part of that story is
12 that a safety plan was put in place for the child, but a
13 number of people involved in that plan did not follow the
14 plan. And I was wondering if you could explain the
15 process through which safety plans for children are
16 created or decided upon?

17 **DR. MARY ELLEN TURPEL-LAFOND:** Right. So
18 what happens is if there's a child in crisis -- in that
19 situation her mom was experiencing mental illness and was
20 assaulting her and whatever -- the police and others, or
21 responding social workers are having to do an immediate
22 safety assessment. So the issue was where can she go to
23 be safe, and can grandparents be the support.

24 And also in that case, grandparents could
25 be the support. But grandparents were from a fairly rural

1 and remote First Nation, and they had very limited
2 understanding about mental health. So they didn't know
3 what was going on with their daughter. So they could take
4 the grandchild, but they couldn't cope with the daughter,
5 and she would have serious psychosis. And as a result,
6 they would let the child go with mom because they were
7 overwhelmed with mom.

8 So safety plan isn't just you live here if
9 this, you know, rural community where there's not a lot of
10 services or hasn't been a lot of services or support,
11 needing to have a plan means people know what their roles
12 are, and people understand what's going on with mom. So
13 it's really important.

14 Like they shouldn't find out what was going
15 on with mom after I did a report, and they said, oh,
16 that's what's going on with our daughter. We didn't know
17 that something called schizophrenia existed. We didn't
18 now what it meant. We just thought this was going on.

19 And so I think that that part of explaining
20 and supporting, and if you're supporting someone with a
21 serious mental illness what do you do, like how do you get
22 support.

23 So safety planning needs to involve
24 community and community knowledge, and it needs to take
25 into account safety. Unique people have unique needs,

1 moms, kids, grandparents, and others. So that is a very
2 important part of what gets done. But safety is only
3 going to be as good as that plan to follow it out.

4 **MS. VIRGINIA LOMAX:** And is it a common
5 practice for safety plans to include support for parents
6 and other caregivers?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Not really,
8 and that's the problem, is that basically, and I don't
9 want to say this in a stereotypical way, but sometimes
10 it's sort of like dump and run. Like immediate safety
11 assessment, you go to grandma's, goodbye. And then
12 grandma is like, well I've got five other grandchildren
13 here, and I've got my daughter who's schizophrenic, and
14 right now and she's having a very bad episode. What'll I
15 do?

16 I mean, I think the thing is we forget that
17 in rural remote communities and remote First Nations, when
18 you have a mental health crisis, it's not like you can
19 call the Schizophrenia Society or you can go to an
20 emergency room. You need to engage health professionals
21 and you need to have a plan. So the safety plan is mom's
22 safety and family safety.

23 And the interesting thing in that case was
24 the Chief of that community, like he was a Chief, he had
25 been a youth worker, he was a Chief that had to like run

1 his community, but he also was like the mental health
2 worker. He'd go in and he'd contain and protect people
3 who had mental health issues, and he was doing like 100
4 jobs. And he was trying to do the best job he could, and
5 he'd be calling the health system, say could someone
6 please come and help me.

7 So the dynamic of the lack of services. So
8 if your only service is child protection and you have
9 these issues, you're going to not have real safety.

10 **MS. VIRGINIA LOMAX:** And so could you
11 explain some strategies that you have seen used or that
12 you know about that can help all parties involved in a
13 safety plan to follow that plan?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
15 of all, I think the most important thing is you don't have
16 a worker come in -- who, by the way, they don't want to
17 have them come in anyway, you know, they don't want the
18 outside service. You have trained staff in the community
19 that does a plan and does a lot of work on things like
20 family group conferencing, intensive case management.

21 Coming back, if you need to in remote
22 communities, you have to use Telehouse, use Telehouse.
23 You sometimes need people from remote communities to have
24 brief periods of hospitalization, but you don't want them
25 to be released in like downtown Winnipeg and never get

1 home again. Like you need a care plan; right?

2 And so I think it's that piece of really
3 working with families, not like a one shot, file's open,
4 file's closed, and I'm from outside this community and I'm
5 -- by the way, 16 workers have been here in the last year.
6 I think it's that stability, that work with families,
7 having that deeper understanding of the dynamics that are
8 going on that are causing safety to be a concern.

9 **MS. VIRGINIA LOMAX:** And yesterday, or no,
10 it was earlier this week, we heard from frontline worker,
11 Cora Morgan, that as a means of prevention for contact
12 with the system, a federally guaranteed income could be a
13 useful method. Would you agree with that statement?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
15 think when you look at all factors that cause
16 vulnerability for Indigenous children in Canada, based on
17 all studies that have been done, the predominant factor is
18 always poverty. There is nothing that is more
19 significantly associated with the removal of children than
20 families -- than poverty.

21 I'm not saying that people are
22 intentionally getting up and saying let's find the poor
23 families and take their kids, but the poverty aspect
24 speaks to the inability of say a mom to be able to command
25 the supports that she needs to raise her child. But if

1 she's in straitened circumstances because of her family
2 and so forth, it's unrealistic to think she would be able
3 to command those resources.

4 So if you have a guaranteed income, that
5 could be good, but I mean, again, in terms of empowering
6 moms and women, things that are really important are
7 education, are support, are childcare, are meeting those
8 needs in the moment. And particularly, when there is a
9 child that has exceptional needs, like maybe a child has
10 special needs, and then mom can't work all the time. So
11 she needs that extra support.

12 So it's the flexibility of meeting the
13 needs when they need them, as opposed to piling on all the
14 caregiving and giving mom no help. So absolutely, the
15 socio-economic issues are significant, I think for all
16 mothers, but particularly for Indigenous mothers.

17 And ironically, I found in my work
18 Indigenous moms in British Columbia, who were educated and
19 working full time and raising children, often as single
20 parents, have the worst time. Because they actually had
21 an income, and therefore, they were caregiving even more
22 children. So because the caregiving mode was huge, they
23 should by statistical, like Stats Canada, be the emerging
24 middle class that's the success story, and they have
25 economic success at a certain level, but their caregiving

1 load was massive.

2 So the dependency ratio, like we say
3 dependents, I have four kids and three others I raise, so
4 seven, the dependency ratios on those women that are
5 educated and working is phenomenal. Like -- so it's not
6 abnormal to have four or five children, some coming and
7 going, if they're aunties, or whatever, but they are the
8 child welfare system.

9 So the working Indigenous mom is the child
10 welfare system. They're the substitute caregiver that's
11 not recognized, that's not remunerated, and when they call
12 for support, then boom, everything's blown up. Because
13 they're like, well, you know, you can't handle all of
14 these kids.

15 So it's a very perverse thing that
16 Indigenous women who are educated and working somehow are
17 more often targeted also by child welfare, because they
18 are raising more children. It is an issue that needs to
19 be addressed, as you say, through, not necessarily
20 guaranteed income, but through types of services and
21 supports that they can do the work that they are doing to
22 rebuild families and communities.

23 **MS. VIRGINIA LOMAX:** Thank you.

24 **MS. CHRISTA BIG CANOE:** Next, we would like
25 to invite up the Regina Treaty Status Indian Services.

1 Ms. Erica Beaudin will have six minutes.

2 **--- CROSS-EXAMINATION BY MS. ERICA BEAUDIN:**

3 **MS. ERICA BEAUDIN:** Good afternoon. First,
4 I would like to say that I am not well this afternoon, so
5 my apologies in advance. Good afternoon. Meegwetch to
6 the elders for the prayers, songs and the tending of the
7 sacred fire this morning and for the week, as well as the
8 qulliq.

9 On today, October 4th, I acknowledge the
10 difficult day it is for many of the families of MMIWG2S as
11 they remember their loved ones who are still missing or
12 who have been found deceased. I also acknowledge this
13 Treaty 1 Territory and these lands being the homelands of
14 the Métis people. My name is Erica Beaudin. I hold the
15 position of Executive Director for the Regina Treaty
16 Status Indian Services.

17 Na-nas-ke-mo-tin (phonetic), Dr. Turpel-
18 Lafond for your testimony this morning. I have followed
19 your career and the courageous stands you have taken for a
20 better future for our children and youth. As a citizen of
21 Treaty 4, I have cheered you especially loud since I know
22 you are from Treaty 6, which is right above us.

23 Recently, I was contacted by the daughter
24 who lost her mother over 10 years ago. I have known her
25 since the day after her mother went missing. She was a

1 little girl when her mother went missing, and then was
2 later found murdered a couple months later. A few months
3 ago, she relocated to B.C. to start a new life away from
4 the memories. She was very pregnant and starting to have
5 anxiety attacks, because she was all alone without any
6 support other than her boyfriend.

7 She called me crying because she was so
8 angry and upset that her mother was taken away from her
9 and her sisters, and they needed her now that they were
10 starting to have their own babies. She had a right to be
11 this angry. The only thing I could do was to offer to
12 have her dad fly out for the birth. As staff, we made
13 this happen and she was able to give birth with her dad in
14 place of her mother. Dad had to come home to work and
15 left after a couple of weeks. This left the gap wide open
16 again.

17 Within two weeks of him coming home, her
18 baby was apprehended and she is now part of the system.
19 When we have attempted to assist this young woman
20 demonstrate the agency supports she received in
21 Saskatchewan and is still continuing to receive, this was
22 invalid in B.C., because even though we are recognized by
23 the Department of Social Services in Sask, it wasn't
24 acknowledged in B.C.

25 As you must know, trust and access to

1 relevant services is crucial. Would you say the trauma
2 that children of MMIWG2S experience would require special
3 types of supports and interventions?

4 **DR. MARY ELLEN TURPEL-LAFOND:** First of
5 all, thank you very much for that question, and it is a
6 very difficult story to hear that. And, certainly as
7 someone that was involved in a lot of cases, these issues
8 are so fixable that they are terribly frustrating to hear
9 about when families are torn apart. And, it also speaks
10 to the issue that these are national issues. People can
11 be between provinces. Families are in lots of different
12 places.

13 In terms of the issue that you raised about
14 the trauma of survivor -- surviving family members who
15 have had a parent, a mom in particular, or a granny, or an
16 auntie who has been missing or murdered, without a doubt,
17 the trauma issues are massive. And, furthermore, what
18 happens along children's development is things become
19 really important at different times in their life.

20 The type of support that they are going to
21 need when they are in grade school is different than the
22 support they are going to need in early adolescence, the
23 support they are going to need when they become a parent
24 themselves. I mean, understanding the absence of a mother
25 is a really difficult thing and, from cultural customs,

1 are really important, because generally there is a
2 substitute, which is an auntie or a grandmother, right, in
3 tribal systems, but when families have been so dislocated,
4 you need to have that substitute support.

5 So, the trauma of doing that and asking for
6 help and not having help is really critical. And, the
7 trauma of making sure that there is a proper commemoration
8 inside families about family members that have gone onto
9 the Spirit World is a big issue, and it isn't always
10 acknowledged in the system; right? Because people think,
11 oh, well, everybody has a sad story. Well, no, I think it
12 is actually a very significant issue and the capacity to
13 parent and address that in future generations is really
14 important.

15 So, trauma-informed -- in fact, I think you
16 just need trauma-informed services at every level. But,
17 for children, it is a unique situation. And, I did have
18 the opportunity to try and support children, for instance,
19 of the victims of the serial killer, Willie Picton, in
20 British Columbia. They were -- had a process of being
21 compensated, some of them. There is no compensation ever
22 for that.

23 But, just, you know, seeing them struggle
24 with that situation was just really difficult. And,
25 seeing the inadequate response to that process was, in

1 some ways, placed more of a stigma than a support, in
2 part, because although we had some very strong elders like
3 Elder Ernie Crey, from the Sto:lo Nation, whose sister was
4 one of the victims, just didn't have enough cultural
5 supports for victims and their families. And, I can't say
6 enough how important those cultural supports are, and they
7 are not in the system.

8 So, I mean, having a dad come out when
9 someone has a child, yes, of course. But, I mean, we need
10 to frontload the aunties, and the grandmothers, and
11 substitute aunties, and we need to be able to support
12 them. So, there is a lot of systems that are not in place
13 that need to be in place to break some of that inner
14 generational trauma, or at least address it. You are
15 never going to erase it. It is hard to erase the trauma
16 of such an experience.

17 **MS. ERICA BEAUDIN:** Okay. May I have
18 permission to just ask the (b) part of that question,
19 please?

20 **MS. CHRISTA BIG CANOE:** We are already kind
21 of running behind schedule, because I am allowing her to
22 fully answer even past.

23 **MS. ERICA BEAUDIN:** Right. Okay.

24 **MS. CHRISTA BIG CANOE:** Some cases, it has
25 been three and four minutes beyond, so I am sorry, but ---

1 **MS. ERICA BEAUDIN:** No, that's fine.

2 **MS. CHRISTA BIG CANOE:** --- just in
3 fairness to all parties. Thank you very much, Ms.
4 Beaudin. Next, I would like to invite up Downtown
5 Eastside Women's Centre. Ms. Carol Martin will have six
6 minutes.

7 **--- CROSS-EXAMINATION BY MS. CAROL MARTIN:**

8 **MS. CAROL MARTIN:** Thank you very much.
9 Thank you for allowing me to be here. I have heard a lot
10 about you, and I was -- I work in the Downtown Eastside of
11 Vancouver. Today marks the day -- it is an emotional day.
12 A lot of what you shared hits home with me; you know?
13 There -- okay, let me grab this. I will try not to be
14 really emotional here.

15 There are vigils being held all across
16 Canada to honour the lives of missing and murdered women
17 and girls, so I want to honour all those who have been
18 impacted by the violence; you know? I honour the lives
19 that have been stolen and the impact that each and every
20 one of us have. We feel a huge loss within us, as
21 individuals, communities. And, to all those who are still
22 lost in the system, to all those who continue to struggle,
23 I call this an oppressed system.

24 So, I am going to give up 30 seconds of my
25 time to honour all those, because a year ago, Michèle

1 Audette and I were walking across from Prince Hubert to
2 Smithers to honour the residential school survivors and
3 the missing and murdered women along Highway 16. So, if
4 we can just have, like -- I am going to give up 30 seconds
5 of my time to honour those and those who continue to
6 struggle.

7 (MOMENT OF SILENCE)

8 **MS. CAROL MARTIN:** Thank you. You know,
9 everything that you presented today hit home with me, you
10 know, in the struggles of Indigenous women. And, I kept
11 thinking about a lot of what you have said, and the very
12 foundation of this Canadian system and what we are working
13 on.

14 What comes to mind is the residential
15 schools, you know, all the abuse and everything that
16 happened, and the federal government and the churches put
17 those in place. How are we going to make changes if those
18 issues have not been addressed at that level and we see
19 how it resonates out to today and how it affects our
20 lives? What do you think we should do about that? Are we
21 going to continue to just push it aside or are we going to
22 take it and are we going to address those issues?

23 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
24 of all, thank you for your comments and I am sure --
25 particularly when I was talking about Paige and her

1 experience and her mom, it is a path that you know many
2 women have walked in that particular area. So, I really
3 appreciate you being here and also your -- opportunity to
4 have some time to reflect. Thank you.

5 I think the issues that you were raising in
6 terms of the residential school issues are hugely
7 significant. I mean, although we have had, like, class
8 actions and we have had a Truth and Reconciliation
9 Commission, we have had some processes that have been
10 extremely valuable, we continue to have things like the
11 day schools, the experience of Inuit in schools.

12 Many people who were not comfortable to
13 talk about their experience even during the TRC that want
14 to address what happened to them, and also to share with
15 communities information about their own kind of community
16 experience, but the disruption that that caused, like, to
17 families, which is what we are talking about today. So,
18 not surprisingly, the TRC, the first five calls to action
19 were on kids, right, which was fix it.

20 And, I think the issues that you are
21 raising, which is we cannot go back and change that past,
22 which has been horrific, we need to understand it and we
23 need to come to grips with it fully in Canada at every
24 level. And, although Canada has apologized and comes to
25 grips with it there, it is left to the survivors to clean

1 up the pieces and the family. And, I think that is one of
2 the hardest pieces, is in families, when you see -- some
3 people have been so profoundly affected and we have to
4 move forward. So, the residential school issues are very
5 relevant to what we are talking about here today. It is
6 not ---

7 **MS. CAROL MARTIN:** They are.

8 **DR. MARY ELLEN TURPEL-LAFOND:** --- over ---

9 **MS. CAROL MARTIN:** Yes. They resonate
10 right out to how it affects our lives, right to this day.
11 The sexual abuse that continues -- you know, everything
12 you talked about. I was in the residential -- I mean, I
13 was in a foster home dealing with sexual abuse, I had felt
14 the impact of the residential school. You know, I mean,
15 just being First Nations. I truly believe this Canadian
16 system has been -- what comes to mind is when I had a
17 conversation with the women downtown, a smear campaign
18 against Indigenous women, what has been projected out
19 about us. How are we going to change that whole
20 perspective of what has been -- how a picture has been
21 painted of us, you know?

22 And, it affects our children too. You
23 know, the theft of our children. We are -- we work, like,
24 in a circle like, so how are we going to fit in a square
25 that is not effectively working for us and our people?

1 You know, the missing and murdered women, the theft of our
2 children, theft of our land, you know, and residential
3 school survivor, this Canadian system has not done
4 anything right for our people today. So, I am hoping that
5 today is an eye opener for people to realize that the laws
6 do not work for us, we have to use our -- our natural laws
7 as Indigenous people are not being respected, our culture,
8 you know, and our identity.

9 And, I am -- everything you talked about, I
10 can -- you know, kids aging out. They do not allow
11 parents to be involved or a part of that. And, at one
12 time, I could make an arrangement with my daughter,
13 because I have five girls, one boy, and I looked after my
14 sister's three kids and my daughter's two. And, at that
15 time, we could make arrangements between each other. If I
16 knew my daughter needed help, I will take on those
17 children. But, now, they have changed that whole system.

18 And, that, at that time, worked effectively
19 for parents, and families and grandmothers. We have
20 grandmothers out there who are struggling because there is
21 no financial help. So, how are we going to change that
22 whole system and how they look at us and work with us?

23 **DR. MARY ELLEN TURPEL-LAFOND:** I will just
24 say that I think that you are really coming to the key
25 point, which is, first of all, the systems that we have

1 been talking about today on child welfare, the one thing
2 that is not acknowledged, which contributes to a negative
3 image, is that inside First Nations, Métis and Inuit
4 families, there are many caregivers that have been taking
5 care of children. And, yes, there are many children that
6 have been removed, but what about honouring and respecting
7 the caregivers, whether they are grandmothers, aunties,
8 others? And, that lack of acknowledgement -- I think that
9 is a really important point for women in particular, is to
10 have that acknowledged. It is not like, well, that is
11 what is expected or whatever. I mean, yes, of course it
12 is part of a system, but how important it is.

13 And, when I think about kids that would
14 have been in foster care, but their auntie was able to
15 keep them or tried to keep them. Their happiest times are
16 with their auntie. And, that needs to be recognized. Not
17 that the auntie failed because she got sick or something,
18 but the value. So, I think your issue about acknowledging
19 and changing is really critical.

20 And, I can only say that I respect the
21 comments that you are making about the failing of the
22 system. I am not going to defend the system because I
23 think it has very significantly impacted communities and
24 families, and in some places, like where you have been
25 working and supporting community, I think changing that

1 community to be a very different kind of community is an
2 important project. And, I know that is a lot more than
3 this Inquiry, but changing that to be an important
4 Indigenous community that is recognized and supported in a
5 different way.

6 **MS. CAROL MARTIN:** All I am going to say is
7 stop the war on our women and children, stop the theft of
8 our land and stop the theft of our children. Thank you.

9 **MS. CHRISTA BIG CANOE:** Thank you, Ms.
10 Martin. Next, we would like to invite up Families for
11 Justice. Ms. Suzan Fraser will have six minutes.

12 **--- CROSS-EXAMINATION BY MS. SUZAN FRASER:**

13 **MS. SUZAN FRASER:** Chief Commissioner,
14 Commissioners, my name is Suzan Fraser, I represent a
15 group of families, 20 families, who have called themselves
16 Families for Justice. I would like to honour today,
17 Commissioners, Bridget Tolley, who in 2006 worried that
18 her mother would be forgotten, asked that a vigil be held
19 at Parliament Hill, which founded a movement, a movement
20 which I think was instrumental in this Inquiry being
21 called. So, I want to acknowledge her today, on the day
22 of the Sisters in Spirit vigils.

23 Dr. Turpel-Lafond, you were able to do all
24 of this work because of the extensive powers that you had
25 as the B.C. representative for children and youth; right?

1 You are nodding your head, so I think that is a "yes".

2 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

3 **MS. SUZAN FRASER:** Okay. And, not every
4 advocate across the country always enjoyed those similar
5 powers, is that fair?

6 **DR. MARY ELLEN TURPEL-LAFOND:** I think it
7 is more than fair. It is accurate, yes.

8 **MS. SUZAN FRASER:** Okay. And, we know from
9 Dr. Blackstock that information regarding the conditions
10 of children and youth in care is not always given
11 willingly?

12 **DR. MARY ELLEN TURPEL-LAFOND:** It is true.

13 **MS. SUZAN FRASER:** Okay. And so, in order
14 for advocates to be able to do their work effectively, or
15 representative for children and youth, they need to have
16 access to really key information; right?

17 **DR. MARY ELLEN TURPEL-LAFOND:** They do.
18 And, they need to have powers to be able to compel
19 information. And, if need be, enforce those powers. And
20 so, I did early in my time as representative. The
21 government refused to give me records and I sued the
22 premier of British Columbia and I got access to the
23 records.

24 So, not only do you need to have powers,
25 but sometimes you have to actually seek to enforce those

1 powers, and then once that happened, I was much more able
2 to get things after that. But, I just say it as a point,
3 even if they give you a power, it does not mean that you
4 will get the material that you think you have. So, you
5 have to have a fairly strong ability to make inquiry.

6 **MS. SUZAN FRASER:** Right. And, as I
7 understand it, at the present moment, there is no
8 consistent level of access across Canada; right?

9 **DR. MARY ELLEN TURPEL-LAFOND:** I would say
10 the access to actual administrative records, like
11 policing, and child welfare and stuff, and the really key
12 pieces, is very inconsistent and also not willingly
13 offered up. So, you really have to go and dig. It is not
14 available in a regularized format about -- for instance,
15 how many Indigenous children are there in care? What is
16 their situation of their families? So, basic data
17 information is not publicly available, but access in the
18 systems is limited.

19 **MS. SUZAN FRASER:** Right. So, we might not
20 know how many number of children are in care, we might not
21 know what their backgrounds are, we might not know what
22 the expected outcomes are for those children. We do not
23 really track a lot of information that is key to
24 understanding how we are doing, is that fair?

25 **DR. MARY ELLEN TURPEL-LAFOND:** Well, we do

1 not. And, I will give you one very quick example which
2 is, they might have said to me, only 200 children in this
3 region in care are Aboriginal. But, then, when I cross-
4 reference their information with the education system
5 using their personal education numbers, I found out that a
6 lot more were Aboriginal because they were identified
7 properly in the education system, but... ..the child
8 welfare system did not identify their Indigenous identity
9 appropriately. So, even to know who is an Indigenous
10 child, how many are in the system, it -- even in British
11 Columbia, for the work that I did, I still think it is --
12 I would not feel confident to rely on it with a lot of
13 work.

14 So, there is a need for a significant
15 improvement around what is the information, what are the
16 actual numbers, and what are the ages and circumstances
17 and tribal identity of those children.

18 **MS. SUZAN FRASER:** Right. And then when we
19 look at the absence of a Children's Commissioner, even
20 eight years after the call for there to be a Canadian
21 Children's Commissioner, we are left without the ability
22 to track, for example, the implementation rate of
23 recommendations coming from provincial advocates for
24 children and youth, coming from coroner's office, coming
25 from inquest recommendations. That is all something that

1 a Children's Commissioner could do; right?

2 **DR. MARY ELLEN TURPEL-LAFOND:** Yes,
3 absolutely they could and should do. However, they should
4 at the national level be working with provincial
5 equivalents as well, to have some nationally consistent
6 information.

7 Like, if you look at the UN Committee on
8 the Rights of the Child reports on Canada, they have
9 consistently identified Indigenous children as a priority
10 area for Canada to improve its human rights performance,
11 but also to have some uniform and consistent reporting.
12 But, without someone to drive that process at the national
13 level, it has not happened.

14 **MS. SUZAN FRASER:** Okay. And, on the topic
15 of Children's Commissioner, do you believe that if Canada
16 were to create the position of Children's Commissioner,
17 that that commissioner should be an Indigenous person?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
19 think, in fact, there should be an Indigenous
20 commissioner. And, I think the challenge that I certainly
21 found in British Columbia -- as an Indigenous person, it
22 was not as difficult for me because I, kind of, had some
23 knowledge of systems. I am not an expert, but I had some
24 knowledge, so I did not have to go learn everything.

25 **MS. SUZAN FRASER:** Right.

1 **DR. MARY ELLEN TURPEL-LAFOND:** I had some
2 family and cultural knowledge. I think the problem is, a
3 lot of people have short-terms and they really have no
4 exposure to these issues. They are very -- come from
5 different -- very different backgrounds. So, need to have
6 Indigenous people. And, again I call, like, Cindy
7 Blackstock our, kind of, unofficial national commissioner,
8 but I mean, all of the information she received was either
9 through a court process or through a Freedom of
10 Information application, and most of it is 20 to 25 years
11 old.

12 **MS. SUZAN FRASER:** Right. And, are you at
13 all familiar with the recent report of the Office of the
14 Chief Coroner, Safe With Intervention?

15 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

16 **MS. SUZAN FRASER:** You have read it?

17 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

18 **MS. SUZAN FRASER:** And, did you -- are you
19 able to endorse the 10 guiding principles that they have
20 set out in their report at page -- pardon me. It is at
21 page 9.

22 **MS. CHRISTA BIG CANOE:** At 9.

23 **DR. MARY ELLEN TURPEL-LAFOND:** I think it
24 is at page 66.

25 **MS. CHRISTA BIG CANOE:** I think the

1 principles are at 9.

2 **MS. SUZAN FRASER:** Might be looking at page
3 9 in the Executive Summary.

4 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. Right.

5 **MS. SUZAN FRASER:** So, I think they are
6 replicated in two places.

7 **DR. MARY ELLEN TURPEL-LAFOND:** Right. Yes,
8 I have read those and I thought they were quite -- I mean,
9 they are Ontario focused, but I thought they were quite
10 positive and valuable, and I think they are pretty
11 consistent with a lot of the reporting that would have
12 been put on the record today from my office.

13 **MS. SUZAN FRASER:** Okay. Thank you very
14 much. That is my time.

15 **MS. CHRISTA BIG CANOE:** Thank you. Next,
16 we would like to invite up the Inuit Tupiriit Kanatami,
17 ITK. Ms. Elizabeth Zarpa will have six minutes.

18 **--- CROSS-EXAMINATION BY MS. ELIZABETH ZARPA:**

19 **MS. ELIZABETH ZARPA:** Good afternoon.
20 Thank you, Dr. Turpel-Lafond, it is a pleasure to hear
21 your testimony today. I want to also thank the people of
22 Treaty 1 for allowing me to be on your land, and also I
23 recognize your work, Annie, and the work of the elders. I
24 want to acknowledge the family and the survivors of the
25 missing and murdered. It is an important day today. I

1 want to thank the Commissioners and also the Inquiry staff
2 for all your great work.

3 Earlier this morning, Annie highlighted her
4 personal experience as an Inuk woman who has been through
5 the foster care system. She described the experience of a
6 fellow Inuk woman whose child is in the system as
7 helpless. I think that descriptive term of a child care
8 system that leaves the family feeling powerless is
9 indicative of how it is not working. We have heard from
10 Ms. Susan Aglukark and also Ms. Sarah Clark about the
11 development of new programs to address the gaps and
12 services within Nunavut child care and youth programming.

13 But, there is also a high number of Inuit
14 children and youth apprehended from their families and
15 sent down south that we have not heard from the testimony
16 this week. But, as we have heard from Annie, the issue of
17 Inuit children going into stranger's homes down in
18 southern settings is a reality. So, I have potentially
19 two questions for you that I would love to get, to both of
20 them. We have heard over and over how the child welfare
21 system, a child protection system does not protect.

22 And, regardless of the geographical
23 location, across the country, across territories in
24 Canada, there is a stark reality that the system is
25 perpetuating a lot more harm to the Indigenous families

1 caught up in them. It is uncertain how many Inuit
2 families are caught up in these child care systems.

3 Would you agree that desegregated data -- a
4 desegregated data system analyzing Inuit children entering
5 into the child and welfare systems should be established
6 to better understand how Inuit specific child welfare
7 structures can be improved?

8 **DR. MARY ELLEN TURPEL-LAFOND:** I think I
9 certainly would. I think it is important, again, to avoid
10 some pan Aboriginal approach. I think on Inuit
11 experiences, they may vary by region as well. I mean,
12 there may be some commonalities, but I think they should
13 be specifically identified and reported on.

14 And, I would say that your one question
15 about the experience of Inuit children who are sometimes
16 sent to southern provinces. I did have that experience in
17 British Columbia, where we would have children sent from
18 the north, and it was not clear who their advocate was
19 because they were under what is called courtesy
20 supervision in the south. So, it -- occasionally I would
21 get the report of a very serious injury and I would be
22 like, well, this child is not even in our system. And, it
23 is like a courtesy supervision which might mean actually
24 no supervision because there is limited resources, like
25 residential resources, so they are sent south. And, I was

1 very concerned about those issues.

2 And, I was very happy when Nunavut had a
3 Children's Commissioner, a representative modelled
4 somewhat on the B.C., and I advocated and supported that
5 to be created, but I think Inuit experiences are going to
6 be distinct, just like even in First Nations. They are
7 different and distinct.

8 So, from a rights perspective, each
9 Indigenous people needs to be appropriately treated. So,
10 for data, we need to understand not every experience will
11 be the same. Particularly what I found from some of the
12 children from northern areas was the family dislocation.
13 Like, being placed in a completely different environment,
14 and then not having adequate connection, so not having a
15 lot of visits, connection, and then not actually returning
16 back.

17 So, their needs were unique. I mean,
18 northern communities needs, but Inuit needs were unique in
19 the files that I saw for British Columbia. But, I
20 appreciate that that might be very much bigger in other
21 provinces like Quebec and elsewhere.

22 **MS. ELIZABETH ZARPA:** Thank you for that.
23 And, my second question is three-pronged. It seems there
24 are three ways to address the overrepresentation of
25 Indigenous children within the child and family systems

1 throughout this country. The first is to continue with
2 the current systems and change portions of that system
3 incrementally, but ultimately keep the systems in place.
4 Second is to abolish the systems and create a national
5 Indigenous child and welfare system that is Indigenous run
6 and Indigenous led. The third is for the current system
7 to continue to run, and each of the individual nations
8 create their own child and family welfare system in their
9 own way, under their own jurisdiction.

10 Can you please indicate which, if any, of
11 these you agree is feasible and possible, and why to
12 imagine that?

13 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
14 of all, I do not see it as being only three. I see that
15 basically First Nations, Inuit and Métis need to be able
16 to make their own freely determined choices about how they
17 want to work here. Communities may decide to just work in
18 one area. They may just want to do prevention, they may
19 just want to do child safety, or custom adoption or what
20 have you. They should be able to make their choices. Or
21 they may wish to assert their law and have an entire
22 system, and that system might include even deciding
23 disputes.

24 To me, it is not an up, down, one, two or
25 three. I think there is a whole suite. The key piece is

1 the self-determination part, that communities need to be
2 supported and nations need to be supported to freely make
3 those decisions and get support. And, by freely make
4 those decisions, I mean you cannot make a decision to
5 enter child welfare if you have no resources and you have
6 no support, so real decisions have to be made. So,
7 partnering is important.

8 But, sometimes you make a decision, and
9 then you go forward and you make another decision, so it
10 might be that First Nations, Inuit and Métis governments
11 as they are being more clearly recognized, Inuit have very
12 recognized governments, can move into the field stronger
13 and faster, and at different paces, that is their choice.
14 I think, ideally, people should receive services designed
15 by their own people and involving their own people and
16 their own languages with their own culture, and that
17 appears to certainly be much more successful.

18 So, I don't think it is a one or the other,
19 but I do recognize very much what you have said, which is
20 there is a glaring absence of what the Truth and
21 Reconciliation Commission called for, which is national
22 child welfare legislation that enables what I am talking
23 about, that recognizes and starts to repair the damage and
24 gives tools to communities to make choices as opposed to
25 having that command and control system. So, it is -- I

1 just think there is a lot more choice that should be
2 given, and that one of the answers is to let communities
3 make decisions. But, they shouldn't feel like it is an
4 all or nothing. I think they should be supported along a
5 path.

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

7 **MS. ELIZABETH ZARPA:** Thank you, that's my
8 time.

9 **MS. CHRISTA BIG CANOE:** Next we would like
10 to call up, the Native Women's Association of the
11 Northwest Territory. Caroline Wawzonek will have 10
12 minutes.

13 **--- CROSS-EXAMINATION BY MS. CAROLINE WAWZONEK:**

14 **MS. CAROLINE WAWZONEK:** Good afternoon, my
15 name is Caroline Wawzonek. I am honoured to bring you
16 greetings and gratitude to everyone gathered here today on
17 behalf of the Native Women's Association of the Northwest
18 Territories, and I acknowledge the warm welcome we have
19 received here on Treaty 1 Territory and to the homeland of
20 the Métis people. It is also the birthplace of one of my
21 birth ancestors, the Delage-maudiere (phonetic) family.
22 And, I am also a mother, and a daughter, and a birth
23 daughter.

24 I am going to focus my questions on Exhibit
25 45. You don't need to be quickly flipping to it. I will

1 give page numbers for the sake of the record, but I am
2 going to give enough of a quote that I hope you won't have
3 to flip around too much.

4 The first thing I picked up on or that I
5 want to address is from page 39. You had written the
6 mother, in that particular case study, reported that she
7 relapsed soon after completing treatment, because her home
8 environment included a roommate who was an addict. Some
9 post-treatment care or a transitory program could have
10 assisted the mother in planning for a home environment
11 that was more supportive of her recovery and attended to
12 her role as a mother.

13 And, there is very often very siloed
14 responsibilities between agencies that might deliver that
15 kind of care. And, I know you have spoken to that today,
16 but if you could explain for me, where would you situate
17 the responsibility for developing community-level care and
18 how do you make it accountable?

19 **DR. MARY ELLEN TURPEL-LAFOND:** I think,
20 first of all, any care system has to have a continuum of
21 care. So, one of the challenges we see in addictions is
22 you have detox, short-term treatment, and then people are
23 just out. So, it is, again, in and out. It is not a
24 continuum. And, when someone is a parent, planning for a
25 family? So, they don't necessarily have that concept.

1 Some places might where they can do more family-oriented
2 work like important treatment centres and models that have
3 been developed, but there are far and few between. I
4 think we probably have lots of good examples we can talk
5 about around promising practices, but it is the continuum
6 of care.

7 So, in my view, health systems -- you know,
8 public health systems should have a continuum of care and
9 they should have a continuum of care to meet the needs of
10 Indigenous women and families. So, my view is, where do
11 you situate it? Everywhere. Everybody should have it and
12 it should have been well developed by now, because it is
13 well known. And, unfortunately, it places huge demands on
14 a parent to go through short-term treatment, come back, be
15 placed right back into the very same environment that they
16 were in before, and life is becoming very overwhelming and
17 there is a relapse.

18 So, you know, planning is, again, so
19 important when there is a family. And, I don't think
20 there is appropriate planning in the health care system
21 around addictions treatment and support for women and for
22 Indigenous women that are parents.

23 **MS. CAROLINE WAWZONEK:** And so, would you
24 agree then that it needs to -- there needs to be more
25 responsibility and accountability on Child and Family

1 Services authorities to the extent that they are pushing
2 someone to go and attend addictions treatment, that they
3 also have a responsibility to ensure that there is
4 aftercare appropriate to that family when the parents
5 return?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
7 that is really important, and I think there are some key
8 drivers that cause these things to happen. Like, we have
9 a *Canada Health Act*, we have federal provincial agreements
10 on health transfers and health funding. They can set
11 priorities and say, you know, "Create an incentive
12 program, a priority system." I mean, there has to be some
13 clear priority that we know that poor addictions
14 treatment, poor quality short-term addictions treatment
15 for moms is not working. So, we need to make -- create a
16 priority that you have to incentivize and support post-
17 treatment, like at-home-type supports.

18 And, we know that those things are going to
19 cost money and we know they are important, but just
20 speaking about the Paige Report as an example, you know,
21 the system spent a lot of money to deal with all the
22 crises that Paige was in. That money could have been
23 bundled up and probably built a treatment centre for her
24 and her mom, and it probably would have been maybe here
25 today.

1 So, the question isn't, like, where is all
2 this new money going to come from? We are actually paying
3 for really emergency bad outcomes, so we might as well put
4 some money into a healthier space in which women who are
5 parents can be more supported to be parents.

6 **MS. CAROLINE WAWZONEK:** That leads well to
7 my next question. It comes out of page 33 where you said,
8 "Treatment services need to be responsive to the unique
9 needs and circumstances of parents by supporting the
10 parent-child relationship, as well as addressing the
11 developmental needs of parents and children."

12 And, just in an earlier response, you had
13 spoken to the importance of making that specific to
14 community, to culture, to Indigenous values for the
15 Indigenous community specifically, not amass. Is there
16 some obligation on the existing provincial and territorial
17 governments to be proactive in terms of supporting the
18 development of what those relationships are going to look
19 like? And then how does everybody share the
20 accountability? How does the community share it with the
21 provincial and territorial authority?

22 **DR. MARY ELLEN TURPEL-LAFOND:** I think
23 there is a lot of accountability on everyone and I think
24 it is how they deliver the services they now have, but
25 also building them. So, as an example, I will use First

1 Nations Health Authority in British Columbia. They have
2 been doing a service build-out in addictions. So, they
3 inherited this much resources and they have been trying to
4 coordinate with the provincial systems and the federal
5 systems to have proper supports, but very Indigenous-
6 focused, strength-based, culturally involved.

7 Now, the resourcing is not all there yet.
8 They are building it. But, the partnerships are emerging
9 that are really positive and in the construct of how they
10 are building it is to put the child at the centre. And
11 so, support not just the parenting relationship of "the
12 parent has to do their job", but actually understanding
13 the connection that the child has to the parent.

14 Children have very powerful connections to
15 their parents. And, even the child in the most abusive
16 environment of daily violence from a parent will be very
17 strongly bonded to their parent, and there is something
18 called trauma bonding. The more unbalanced the
19 relationship, sometimes the stronger it is. And so, even
20 to help the child learn how to deal with trauma and trauma
21 bond so they have healthy bonding, and so they don't
22 become like Paige, the caregiver for the parent. So, you
23 need to do it for lots of reasons, but there are reasons
24 for the child as well as mom.

25 And, the only other point I will say is in

1 delivering addiction services, in my experience dealing
2 with Indigenous moms in particular, it is a very
3 motivating -- I have never ever met an Indigenous mother
4 that is not motivated by her child to address her health
5 issues. In fact, that is a prime motivation. And, in
6 fact, that will be the first thing that is said is, "I
7 can't continue like this. I've got this child. I've got
8 to do better."

9 So, motivating by supporting -- they don't
10 need to be told, "You have to take care of your child." I
11 think they know that part. The part is how can we work to
12 make sure they have the supports that they will need to be
13 able to be healthy and to understand the needs of their
14 child? So, the focus is very different. It is not on
15 shaming and blaming as much as it is on motivating and
16 supporting.

17 **MS. CAROLINE WAWZONEK:** I think, again, you
18 are leading well into my next question. It is from --
19 this one is at page 31. One study found that a social
20 service program focused on enhancing family functioning,
21 as you were just mentioning, led to a higher likelihood of
22 successful reunification for families struggling with
23 parental substance use.

24 And, now, it seems very often that
25 enhancing family functioning and then the addiction side

1 are two different things that happen in social work. So,
2 if you could explain, how do you bring those together?
3 How do they get connected? And, again, how do different
4 service providers hold each other accountable for those
5 things?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
7 of all, just having to overcome some of the myths, like
8 myths that -- I mean, addictions is -- I guess it is a
9 spectrum; right? So, they are not all the same; okay?
10 And, the idea that substance abuse means there is
11 absolutely no right to parent. I mean, this is just not a
12 harm reduction model, so we have switched our models to
13 more reflect support. And, I think that there have been
14 some very absolute approaches in the child welfare system
15 that are too black and white, and that there may be need
16 to be lifelong supports for some individuals who have,
17 like, some very serious substance abuse issues. And the
18 issue is not always, like, what -- if they're using or
19 not, but what they're using and how much, right?

20 So you want to modulate that and that helps
21 protect and support the family. And you want to educate
22 around that and you want to have access to, say, methadone
23 as opposed to street drugs that may lead to an overdose.

24 So these are just health issues, and having
25 that conversation and that mentally, in some places in

1 Canada, our healthcare systems are developing to be more
2 harm reduction and support. Other places are still very
3 black and white and very shaming.

4 So for Indigenous families, obviously there
5 is always personal motivation when you come to these
6 areas. But a really blaming approach to addictions is
7 very hard on families, very hard on Indigenous mums
8 because, again, the despair and depression. They may be
9 self-medicating, horrible depression; I mean, they may
10 have never had treatment for post-partum depression. They
11 may have had, like, a succession of children and be like
12 in such bad maternal health that they're self-medicating.
13 We're not talking about, like, you know, recreational use.

14 So even contemplating that, boosting their
15 health outcomes, using those opportunities to strengthen
16 that, so I think the family-focused harm reduction,
17 Indigenous cultural approaches, like First Nations Health
18 Authority is emulating, are very good approaches.

19 **MS. CAROLINE WAWZONEK:** And it needs to be
20 health but also social services involved.

21 **DR. MARY ELLEN TURPEL-LAFOND:** Oh,
22 absolutely. I mean, because why remove the child if you
23 can keep the child and provide support and improve family
24 functioning? Because it's going to improve the child's
25 experience themselves as a parent later.

1 **MS. CAROLINE WAWZONEK:** Thank you very
2 much. *Mussi cho.*

3 **MS. CHRISTA BIG CANOE:** Thank you.
4 Chief Commissioners, Commissioners, it's
5 now 2:40. It may be an opportune time to have a 10- to
6 15-minute break. I'll take your direction on that.

7 **CHIEF COMMISSIONER MARION BULLER:** We're
8 way behind schedule, so let's make it a 10-minute break.

9 **MS. CHRISTA BIG CANOE:** Thank you.
10 So that should bring us back here at 2:50.

11 --- Upon recessing at 2:44 p.m.

12 --- Upon resuming at 3:01 p.m.

13 **DR. MARY ELLEN TURPEL-LAFOND, Resumed:**

14 **MS. CHRISTA BIG CANOE:** So Chief
15 Commissioner and Commissioners, if we can commence with
16 the cross-examination?

17 The next party I would like to call up is
18 the Saskatchewan Aboriginal Women's Circle Corp. Ms.
19 Kellie Wuttunee has six minutes.

20 (SHORT PAUSE)

21 **MS. KELLIE WUTTUNEE:** I want to first
22 acknowledge the Treaty 1 territory and the homeland of the
23 Métis who've welcomed us into their territory.

24 **--- CROSS-EXAMINATION BY MS. KELLIE WUTTUNEE:**

25 **MS. KELLIE WUTTUNEE:** Good afternoon, Ms.

1 Turpel-Lafond. My name is Kellie Wuttunee; I'm from Red
2 Pheasant Cree Nation. I'm legal counsel for Saskatchewan
3 Aboriginal Women's Circle Corp.

4 Ms. Turpel-Lafond, in your expert opinion,
5 being cognizant of my short time with you, is the child
6 welfare system as it currently exists appropriate for
7 Indigenous children?

8 **DR. MARY ELLEN TURPEL-LAFOND:** No, I don't
9 think it is appropriate, for some of the reasons I've
10 outlined today.

11 **MS. KELLIE WUTTUNEE:** What would be the
12 central features of an ideal child welfare system for
13 Indigenous children in care?

14 **DR. MARY ELLEN TURPEL-LAFOND:** One of the
15 most important things that needs to be changed, kind of in
16 a large stroke immediately, is to change the definition of
17 the best interests of the child, so that the best
18 interests of the child includes being with the family and
19 the right of the child to stay connected to their
20 community, their family, their nation, their identity, and
21 to allow for the best interest of the child to be applied
22 in a way that children aren't removed because of poverty
23 and they aren't removed because of some of those
24 continuing impacts of residential school.

25 So to the big issues of how we see best

1 interests of the child everywhere, that's a big tool.
2 Otherwise I think empowering and supporting First Nations,
3 Métis, and Inuit to be driving their own systems is a very
4 key area, and partnering with them effectively.

5 So I think there's some very fundamental
6 power sharing and power transition changes that are
7 needed.

8 **MS. KELLIE WUTTUNEE:** Thank you.

9 In your opinion, what are best practices to
10 ensure that Indigenous children in care are developing
11 strong kinship bonds with their families?

12 **DR. MARY ELLEN TURPEL-LAFOND:** First of
13 all, I think there should be a priority on where First
14 Nations children in particular are placed. I think they
15 should be place within family; if not within family,
16 within kinship community inside their own nation and with
17 extended family members. And I think placed with another
18 Indigenous nation is probably down the ladder, but then
19 only as an absolute last resort placed with stranger
20 foster care outside the nation. So I think that's a very
21 critical piece.

22 The most important thing is to keep them
23 inside their family where they can have connection to
24 culture, language, identity, and territory.

25 **MS. KELLIE WUTTUNEE:** Thank you.

1 In your opinion, does the risk assessment
2 tools used in child welfare, reflect Indigenous family
3 systems and the systemic barriers facing many Indigenous
4 families? In your expert opinion, how would you change
5 the risk assessment tools used by child welfare system?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
7 think that those large risk assessment tools which are,
8 again, "ticky box" kind of tools that have been tested,
9 field tested in other environments, are not appropriate to
10 the circumstances because they've also allowed for the
11 removal -- systemic removal of Indigenous children from
12 Indigenous families. So we haven't seen the forest for
13 the trees on that one.

14 On tools, I think there are other tools
15 that Indigenous child welfare specialists have been
16 developing, like signs of safety is one. There's a few
17 others that have been in development; for instance, in
18 British Columbia and Saskatchewan and elsewhere, that are
19 more based on Indigenous values and child systems.

20 So the idea of a computer-assisted tool is
21 probably problematic for Indigenous families, given the
22 complexity of the history and the need for support.

23 So I would really caution the use of those
24 risk assessment tools for decision in the case of
25 Indigenous children and families inside child welfare

1 systems.

2 **MS. KELLIE WUTTUNEE:** Thank you. Just one
3 last question.

4 Generally, in some of your reports there
5 was evidence to suggest that Indigenous children in care
6 receive substandard service from a number of players,
7 including police, particularly sexualized violence. In
8 your opinion, are police services responding appropriately
9 to allegations of sexual violence from Indigenous children
10 in care?

11 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
12 there's a need for a very different kind of police
13 response and I don't think it's kind of boots-on-the-
14 ground, uniformed police officers. I think it's more
15 safety, and looking for safety, particularly for
16 Indigenous youth, like young women, that might be in
17 survival sex. And could be -- there could be predation,
18 like Saskatchewan as an example, being recruited into
19 gangs.

20 The safety issues for women requires a
21 different kind of policing, a community policing that's
22 not the uniformed boots on the ground as it is connected
23 to a hub of supports. So they definitely need different
24 kinds of supports, that are more of, A, how to engage and,
25 B, how to support safety, and how to provide meaningful

1 long-term safety to disrupt the people that are
2 particularly preying on younger Indigenous women.

3 **MS. KELLIE WUTTUNEE:** Thank you.

4 Those are all my questions.

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

6 Next we would like to invite up the
7 Battered Woman's Support Services; Ms. Summer Rain Bentham
8 has 10 minutes.

9 **--- CROSS-EXAMINATION BY MS. SUMMER RAIN BENTHAM:**

10 **MS. SUMMER RAIN BENTHAM:** Good afternoon.

11 I'd like to start by acknowledging the Treaty 1 territory
12 that we're gathered on here today; the Elders, the
13 Singers, the sacred items in the room, the Commissioners
14 and Dr. Turpel-Lafond for her testimony today.

15 My name is Summer Rain; I am Gitxsan from
16 Kitwanga on my Mum's side, and Coast Salish and the
17 Squamish Nation on my father's side.

18 I am not legal counsel, and I am speaking
19 on behalf of Battered Women's Support Services.

20 I am mostly going to be referring to the
21 report, *Too Many Victims: Sexualized Violence in the*
22 *Lives of Children and Youth in Care.*

23 **MS. SUMMER-RAIN BENTHAM:** Dr. Turpel-
24 Lafond, would you agree that 145 reports, which sounds
25 alarming in its size, in actuality is a low number of

1 reported -- of reports of sexualized violence and that
2 many children and youth do not report the violence before
3 aging out of the care system, and that many do not report
4 at all?

5 **DR. MARY ELLEN TURPEL-LAFOND:** Absolutely.
6 I agree with that, yes.

7 **MS. SUMMER-RAIN BENTHAM:** Would you agree
8 that out of the 121 youth and children who reported being
9 the victims of sexualized violence while in government
10 care, 109 of these youth were girls and that out of that
11 109, 74 or 61 percent were Aboriginal girls?

12 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, that's
13 accurate.

14 **MS. SUMMER-RAIN BENTHAM:** Would you agree
15 that at the time of this report, Aboriginal girls
16 comprised only 25 percent of the total children in care in
17 B.C.?

18 **DR. MARY ELLEN TURPEL-LAFOND:** That's
19 correct, yes.

20 **MS. SUMMER-RAIN BENTHAM:** And, would this
21 make Indigenous girls, Métis girls and Inuit girls at a
22 far greater risk of sexualized violence while in the care
23 of the child welfare system?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. A much
25 higher degree of experiencing and reporting sexual

1 violence. The actual level of violence in their lives, I
2 would say it's fair to assume it's higher. But, reporting
3 it at a higher level than anyone else.

4 **MS. SUMMER-RAIN BENTHAM:** Thank you. Would
5 you agree that girls in this review who are age 12 or
6 younger at the time of the sexualized violence occurring
7 were four times more likely to be Aboriginal than non-
8 Aboriginal?

9 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, that's
10 true from that report.

11 **MS. SUMMER-RAIN BENTHAM:** Would you agree
12 that children and youth in government care are more
13 vulnerable to incidents of sexualized violence than their
14 peers who are not in care?

15 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, that's
16 very true. And, when I looked at large data in terms of
17 all reported sexual assaults, they are disproportionately
18 reporting sexualized violence, and the occurrence of
19 sexualized violence among them is a many factor higher
20 than their non-Indigenous peers or their peers who are not
21 in care.

22 **MS. SUMMER-RAIN BENTHAM:** Would you say, in
23 fact, in 2015 and 2016, statistics show that sexualized
24 violence is the most common type of critical injury
25 involving children and youth in care, equalling 21 percent

1 of all critical incident reports?

2 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

3 **MS. SUMMER-RAIN BENTHAM:** Would you agree
4 that sexualized violence perpet -- no, that's not the
5 word. Would you agree that sexualized violence
6 perpetrated against young girls and young women results
7 from the interactions of a number of risk factors such as
8 larger social attitudes to violence, and policies and
9 practises that make some groups less safe and more
10 vulnerable to victimization?

11 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
12 that's really fair to say that, because the experience of
13 marginalization is very significant, and that is also
14 reported in my experience from my direct engagement with
15 Indigenous girls in care, and also having, outside of this
16 report, provided support, advocacy support to girls and
17 young women who were experiencing sexual violence, and
18 certainly felt -- you know, what they had explained to me,
19 that it was more normed, and certainly struggled with the
20 fact that it was difficult to get support around them.

21 **MS. SUMMER-RAIN BENTHAM:** Would you say
22 that some of the groups that are more vulnerable would
23 include women and girls being significantly more likely to
24 be victimized with sexual violence, and would you agree
25 that, generally, perpetrators go after children and youth

1 who are more vulnerable and least likely to be able to
2 defend themselves, and that Aboriginal girls and young
3 women experience especially high rates of sexualized
4 violence because of issues related to poverty,
5 intergenerational trauma, isolation and devaluing
6 attitudes towards them within society?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. And, I
8 think I was hoping to be part of something that was not
9 able to be launched fully, but I would have wanted to see,
10 like, sort of a geographical mapping of where sexual
11 violence occurs to understand it, because in my decade as
12 representative for children and youth, I would see over
13 the years, like, certain places -- Downtown Eastside might
14 be one, but there might be a park in a certain town, or
15 there might be a place, or a SkyTrain stop.

16 So, there are places where there's a lot of
17 sexualized violence being reported, which suggested to me
18 that either a) girls were being exploited at that spot
19 because it's too common to see those places. And so, I
20 felt that some of those tools of profiling and getting
21 geographical information would be really important to see
22 where risks are and respond. And, it could be -- maybe
23 it's a group home environment where it's well known that
24 you can prey upon people in that environment. We know the
25 Downtown Eastside is a place where it's easy to do some of

1 that and there's a history there, but there are other
2 locations.

3 So, I think that geographical understanding
4 -- unfortunately, I didn't have sufficient partnership
5 with law enforcement and others to do that, but I think
6 that would be very important to look at whether there are
7 places, and I would suspect that there are places where
8 there's targeted exploitation. And, certainly, there were
9 cases where I had a whole range of girls and young women
10 who were exploited by the same individual. In some cases,
11 there were prosecutions of that individual. So, he may
12 have abused 20 girls in care and used one girl to
13 introduce him to others.

14 So, the opportunity for that more targeted
15 focus and the vulnerability was many, many times higher
16 than the vulnerability of other girls, I would say, by
17 comparison.

18 **MS. SUMMER-RAIN BENTHAM:** Thank you. One
19 of the findings that came out of this report was that
20 there was a lower standard for MC of D investigators of
21 alleged sexualized violence when children and youth are in
22 care than when they are not in care, and no policies or
23 guidelines exist for guardianship, social workers
24 specifically, for preventing and responding to sexualized
25 violence once children and youth are in government care.

1 To your knowledge, is this still true?

2 **DR. MARY ELLEN TURPEL-LAFOND:** I think it's
3 still true, yes, and I think the challenge that many young
4 people reported to me with respect to their social workers
5 is that they always felt like they weren't believed. Or,
6 if they were believed, it was noted, but there was no
7 further action taken. So, I think that that's a trend
8 that is problematic.

9 **MS. SUMMER-RAIN BENTHAM:** Thank you. In
10 Paige's story, Paige accessed a residential treatment
11 program called Young Wolves Lodge. In this report, it
12 said that Paige had a positive experience and was -- this
13 was a placement where she stayed for a length of time.

14 Young Wolves Lodge was a specific --
15 specialized facility which created and catered to the
16 needs of young Indigenous women 17 to 24 years old,
17 providing counselling, Indigenous spiritual practises and
18 life skills, to name a few. In the same report, it states
19 funding was cut and the program ceased in March 2015.

20 Would you agree that programs such as Young
21 Wolves Lodge need stable funding to ensure our young
22 Indigenous women can access culturally-appropriate
23 wellness models?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
25 urban -- the Urban Native Youth Association was the holder

1 of that program, and the Young Wolves Program was really
2 successful, and it really engaged Paige in a positive
3 space, and worked and supported her, and what I noticed
4 about that program was the low barrier, but also the
5 expertise and the staff to be able to create that positive
6 relationship, and she felt really comfortable there.

7 And so, really, of all the services she
8 had, that was, like, the one foster mom she got at the end
9 who helped her, and then the Young Wolves Program was
10 something that she really enjoyed going to and being part
11 of. And, sadly, the contract was gone because a lot of
12 these programs that are so valuable for the lives of
13 people like Paige, for some reason in the system, they're
14 just seen as sort of a pilot or a short-term program.

15 And, I know the Urban Native Youth
16 Association in Vancouver has tried very hard to re-
17 establish these programs, but it's hard to keep that staff
18 when they're fired or the money comes at the end. So, you
19 just have these really great trained, young youth workers,
20 Indigenous youth workers, but then your money is gone and
21 you lose them.

22 So, stable good funding, really positive
23 programs with people who can engage with youth, because
24 engaging with youth is a unique skillset, and not everyone
25 is going to have that skillset. And, engaging with youth

1 that have experienced sexualized violence is an additional
2 skillset that's really critical, and that's a program that
3 did a remarkable job, and it was really disheartening to
4 see that shut down.

5 **MS. SUMMER-RAIN BENTHAM:** Thank you. In
6 Paige's story, you made six recommendations. How many of
7 those recommendations have been implemented?

8 **DR. MARY ELLEN TURPEL-LAFOND:** Some of them
9 were implemented. By the time I finished my term, it
10 probably will be right to look at them again. I think one
11 of the biggest issues was the establishment of an
12 emergency response team in the Downtown Eastside to deal
13 with girls.

14 There hasn't been a lot of public reporting
15 in the last two years. So, I wanted there to be more
16 public reporting. It's to the next office holder to kind
17 of push that, but I think that the awareness that was
18 created is there. Of course, I'm not very particularly
19 happy about the duty to report. I'm not saying I want
20 someone to be prosecuted, but the fact that it's not taken
21 seriously.

22 So, if people don't have an obligation to
23 report, the fact that that has not really been addressed,
24 I think will be an ongoing issue, because those who are
25 not getting reported as being a child in need of

1 protection tend to be the marginalized Indigenous girls
2 who are deemed, as I say, this horrific term, "service
3 resistant" when, in fact, good services will be engaging
4 them. So, I think that those recommendations should be
5 monitored very carefully, too.

6 **MS. SUMMER-RAIN BENTHAM:** Thank you for
7 your responses. (Indigenous word)

8 **MS. CHRISTA BIG CANOE:** Thank you. Next,
9 we would like to invite up the Assembly of Manitoba
10 Chiefs. Ms. Jöelle Pastora-Sala -- oh, I'm sorry.

11 **--- CROSS-EXAMINATION BY MS. STACEY SOLDIER:**

12 **MS. STACEY SOLDIER:** Yes, good afternoon.
13 I am Stacey Soldier. I'm Anishinaabekwe from Swan Lake
14 First Nation, and I am co-counsel with Ms. Pastora-Sala
15 and Ms. Anita Southall for Assembly of Manitoba Chiefs.

16 I am humbled and honoured that the hearings
17 this week are on my traditional territory. I acknowledge
18 the sacred items and elders who are here today, and thank
19 the staff and Commissioners for their continuing hard work
20 in making these hearings happen and moving them forward.
21 Finally, on this very important day, I want to send my
22 love to the survivors and families. You are always in my
23 heart.

24 Your Honour or professor, what may I call
25 you?

1 **DR. MARY ELLEN TURPEL-LAFOND:** You can just
2 call me Mary Ellen.

3 **MS. STACEY SOLDIER:** Mary Ellen. Okay.
4 Thank you. The hearings -- these hearings are to be
5 trauma-informed, and you would agree with me, and I think
6 we've talked about this today, or you've talked about this
7 today about the traumatic part of child apprehensions and
8 the needs for the mothers to heal. I would suggest that
9 the punitive aspect of child parent separation is rooted
10 in the colonization of this country, would you agree?

11 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
12 think that the policy -- colonial policies that were
13 imposed without the consent, for instance, of First
14 Nations like the *Indian Act*, Section 88 of the *Indian Act*
15 that allowed the child welfare laws to come onto the
16 territories of Indigenous people, those are all part of
17 the colonial policies, as is the residential school
18 experience. So, those were imposed, policies based on
19 moral or religious superiority, by governments largely in
20 the 19th and 20th century.

21 **MS. STACEY SOLDIER:** Absolutely. And,
22 certainly, with that view comes this idea that punitive
23 separations are necessary and appropriate. And so, we've
24 talked about this today, that children are separated from
25 their parents, one example, for parents not cooperating

1 with the agency. And, as someone who practises child
2 protection as either *amicus* or counsel for parents,
3 there's a common condition that I see that no one has been
4 able to explain to me. The condition reads, "Cooperate
5 fully and be honest with the worker."

6 What does that mean? Do you have a comment
7 about that?

8 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
9 think that speaks to this real fear and power imbalance,
10 and I come back to that issue that I don't think there's
11 another service anywhere in any public sphere that has
12 more power than child welfare to knock on a door and
13 remove a child.

14 So, with that comes fear, and for parents,
15 sometimes the threat of "work with me or else". And so,
16 if they have a social worker that they feel is not
17 listening to them, and they are in any way challenging the
18 worker, that can have punitive impacts on them. And, I
19 think because families have been so traumatized, when
20 workers are engaging with them, they will be very upset.
21 Their children have been removed.

22 And so, not understanding the unique
23 emotional reaction that First Nations families, for
24 instance, will have, it's really -- you know, like,
25 sometimes we'll say things in the records like "they were

1 not calm", "they were highly excitable". Well, I mean,
2 given the circumstances, I can fully appreciate it, and I
3 also think that there is an ethic of you do need to work
4 with people. Of course, that's important. But, sometimes
5 you're assigned someone that you just can't work with, and
6 you need to be able to have someone else. And, when you
7 ask to replace a worker, that can basically take your file
8 from kind of yellow to red, which is you're circled as a
9 problem, and things can be difficult.

10 So, the unchecked nature. And, I'm not
11 saying social workers are doing it in a bad way, but it
12 can be tunnel vision, and things don't get challenged.
13 So, you don't have the chance to hear both sides. There's
14 really only one side, and I just would say in British
15 Columbia as an example, presentation hearings, which is
16 the initial hearing for the removal of a child, for
17 Indigenous children, I looked at this, and 99 percent of
18 presentation hearings, the ministry's position is upheld.
19 I mean, with that record of 99 percent, they should be
20 buying lottery tickets. There's no other part of the
21 justice system where so often you're absolutely right.

22 The reason why they're absolutely right is
23 because there's no one there to oppose them, because
24 they've been so, like, basically pushed out of the system
25 and feel like they have no push back, and I'd say that's

1 probably a good example of how you have no push back.
2 And, if you're not successful at presentation, you may be
3 a long time until you get to a trial to respond.

4 So, the advice I'm sure you probably give
5 your clients is please work with everyone, but that's
6 rooted in fear, and I think some of that fear is
7 legitimate because it's a one-sided system, and it's
8 extremely traumatic and, frankly, crazy-making for the
9 families that are in it.

10 **MS. STACEY SOLDIER:** Right. And so, just a
11 couple of comments in relation to that. In Manitoba in
12 particular, we've had the devolution of services
13 ostensibly to First Nations and Métis control. But, yet,
14 we're still seeing this very colonized approach to child
15 welfare, and I would suggest that's a very racist view,
16 unfortunately, that we've taken on from that system. What
17 comment do you have about that?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
19 think the issue is we sometimes mistake devolution. Like,
20 devolution meaning it's still within the command and
21 control of the provincial director. So, you're designated
22 by that command and control system to do something. So,
23 the Indigenous or Aboriginal agencies, they were supposed
24 to be a step towards something else. But, they haven't
25 been fully rooted in the nation, so they don't represent,

1 like, Cree or Naheo (phonetic) ways of dealing with
2 families, or Anishinaabe. They are still representing a
3 provincial legal system.

4 And so, they're really a halfway, and I
5 think in terms of the experience of First Nations, and
6 Métis, and Inuit communities, they are probably not very
7 happy, often, with the kind of service, because it looks a
8 lot like the kind of service that they had before. It's
9 different in a bit.

10 And, again, you heard from Dr. Blackstock.
11 So, those agencies are also not funded to do prevention.
12 So, they've been given a really hard job with no resources
13 for prevention when we know that's what's needed. So,
14 that is not really an answer, in any event. It was
15 supposed to be a transition, and it seems to have stuck
16 for 35 years without the next step, and I think that's
17 where there's a very huge grievance at this time.

18 **MS. STACEY SOLDIER:** Yes. Thank you. My
19 time is up.

20 **MS. CHRISTA BIG CANOE:** Thank you. Next,
21 we would like to invite up Manitoba Keewatinowi
22 Okimakanak, MKO. Ms. Jessica Barlow will have six
23 minutes.

24 **--- CROSS-EXAMINATION BY MS. JESSICA BARLOW:**

25 **MS. JESSICA BARLOW:** Good afternoon. I

1 would like to acknowledge the spirits of our sisters, the
2 elders and grandmothers, the families and survivors, the
3 sacred items in the room, the Commissioners, and the
4 staff, and the health support. Thank you. And, I would
5 also like to acknowledge that we're on Treaty 1 territory
6 and homeland of the Métis Nation.

7 My name is Jessica Barlow. I'm legal
8 counsel on behalf of MKO. And, MKO is an organization
9 that represents over 25 sovereign First Nations in
10 northern Manitoba. And, thank you, Dr. Turpel-Lafond, for
11 your testimony today and for the work that you're doing.

12 In a very recent report by Campaign 2000
13 from June of this year, it found that the highest rates of
14 child poverty in Canada are actually in the northern
15 Manitoba region. And, we just heard you say earlier that
16 there's nothing more significant than poverty in
17 connection with the child welfare system; is that correct?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, that's
19 probably the single largest factor that correlates with
20 removal of children is poverty. For all children, but of
21 course, for Indigenous children.

22 **MS. JESSICA BARLOW:** Thank you. And, in
23 your document Canada Must Do Better, which is Exhibit 37
24 on page 3 for the record -- we don't need to turn there.
25 I'll just give a quote, if I may? You go further than

1 that, even, and you say that to be an Indigenous child in
2 Canada correlates with poverty-related barriers, including
3 income, education and culture, employment, health,
4 housing, being taken into care and justice; is that
5 correct?

6 **DR. MARY ELLEN TURPEL-LAFOND:** That's
7 right. It correlated with poorer outcomes across all of
8 those systems.

9 **MS. JESSICA BARLOW:** And you say that these
10 disparities are alarming; is that correct?

11 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
12 think they're alarming, and I think even the federal
13 Minister of Indigenous Services Canada in January of this
14 year called them a humanitarian crisis. So, at that time
15 that we did the report in 2010, we were suggesting that it
16 was a humanitarian crisis, that they would have such
17 disparity, and in particular, those issues like you have
18 highlighted, which are the poverty factors.

19 **MS. JESSICA BARLOW:** Thank you. And,
20 yesterday, we heard Dr. Blackstock say that these children
21 don't always know that they're not getting the same
22 funding or equity as other children. They just know that
23 life is a lot more difficult for them, and she also spoke
24 about how you internalized these inequities as being a
25 personal deficit. And so, we heard those beautiful young

1 women on the video today say that they felt like they were
2 garbage. And so, would you agree that youth internalize
3 this inequity as a personal deficit as well?

4 **DR. MARY ELLEN TURPEL-LAFOND:** I think they
5 do. And, I think, also, it creates a lot of divisions and
6 expectations, because I think we also live in a society
7 with a lot of social media. And, they may have access to
8 a window into another kind of culture in which there may
9 be -- like, at least needs are satisfied or maybe even in
10 excess, and I think that that creates a lot of dissonance
11 for them around what did they do wrong that they have this
12 difficulty, so there is a barrier.

13 And, also, I think they really experience
14 rejection, and there isn't social cohesion. So, let's say
15 they move for a high school to a different community, or
16 their family moves and they have to go to a school, high
17 school, grade school, whatever. There may not be
18 acceptance and there may be all of the assumptions, but
19 also socioeconomic status and social inclusion go
20 together, which means it may not exactly be the welcome
21 way and they may feel really challenged.

22 So, if they are in the child welfare system
23 on top of that and they have been removed because of
24 poverty, it is really difficult, and I think that there is
25 a lot of psychological impacts on children and youth in

1 care of feeling like they are not -- they don't belong in
2 the same community that other people belong in.

3 **MS. JESSICA BARLOW:** Right. And, Dr.
4 Blackstock went further, and she said that this sometimes
5 also impacts on their sense of self-agency. And, when
6 they see people in their communities unable to exercise
7 their agency in decision-making abilities that this is
8 also detrimental. And so, I am wondering with the limited
9 time that we have left if you can speak to the benefits of
10 having Indigenous agency and autonomy in decision-making
11 and also the design and implementation of programs and
12 services without having to give up this agency or
13 autonomy, or defer it to colonial institutions through
14 this command and control model, please.

15 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
16 absolutely the system needs to listen to children and
17 youth, and they need to have not just like, "I hear you.
18 Go away." Like, really listen and engage their -- they
19 have a right to be heard; you know? Like, under the U.N.
20 Convention on the Rights of the Child, some child welfare
21 legislation speaks to it, but they are not really heard.
22 So, I think for Indigenous children and youth in care,
23 they need to be heard. And, if you listen to them, one of
24 the biggest things they say is, "I want to be connected to
25 my family and my community." And, that is just the

1 message. And then the issue is, how does that happen?

2 So, their personal agency is really
3 critical and their human rights are really critical, their
4 right to be safe, their right to be heard, their right to
5 be supported, their right to be raised in their own family
6 and community, their right to receive, as Dr. Blackstock,
7 I am sure, noted, same kinds of services that other
8 children and youth have, but also the right to receive --
9 and I think we have to remember that, as a society in
10 Canada, we need them to reach their full potential; right?
11 They are the children. They are the future.

12 So, we need to give them supports to do
13 that. And, if their starting line isn't the same as
14 someone else, because of all the challenges they have had,
15 we need to adjust that starting line and we need to
16 support them. So, it has got to be a slightly different
17 mindset, which isn't like, "Oh, you poor kids." I mean,
18 they are very hearty, resourceful, people with loud
19 voices, but they need to be heard.

20 **MS. JESSICA BARLOW:** Wonderful.

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

22 **MS. JESSICA BARLOW:** My time is up, but I
23 thank you so very much. Thank you.

24 **MS. CHRISTA BIG CANOE:** Next, I would like
25 to -- I believe there are actually two parties, because

1 they have the same counsel. It is ANCFSAO as well as the
2 Independent First Nation. So, the Association of Native
3 Child and Family Services and Independent First Nations
4 with Counsel Katherine Hensel having 10 minutes.

5 **--- CROSS-EXAMINATION BY KATHERINE HENSEL:**

6 **MS. KATHERINE HENSEL:** Wai (phonetic), Dr.
7 Turpel-Lafond. As you know, my name is Katherine Hensel.
8 I am a Secwepemc citizen, and I am very privileged and
9 honoured to be here on Treaty 1 Territory with you here
10 today. I am going to ask you to be asking -- I have 10
11 minutes. I am going to be asking you briefly about
12 inherent jurisdiction, and then at some greater length,
13 hopefully, about the best interest test under the
14 provincial and territorial statutes.

15 My friend, Ms. Big Canoe, entered at my
16 request Exhibit 49, A Bylaw for the Care of our Indian
17 Children, it is Spallumcheen Indian Band Bylaw No. 3 dated
18 1980. You are familiar with that bylaw?

19 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I am
20 familiar with it and I have worked fairly closely with the
21 community and Kukpi7 Wayne Christian, who was involved
22 with this by and continues as Tribal Chief of the Tribal
23 Council to promote authority and recognition of the
24 Shuswap laws and practices for children.

25 **MS. KATHERINE HENSEL:** And, that is

1 throughout Secwepemcul'ecw and indeed the Province of B.C?

2 **DR. MARY ELLEN TURPEL-LAFOND:** That's
3 right, yes.

4 **MS. KATHERINE HENSEL:** And, you are aware
5 that pursuant to this bylaw since 1980, at least with
6 respect to the Spallumcheen, and it is now called the
7 Splatsin Band, which is one of our Secwepemc bands within
8 the Secwepemc Nation, the people of Splatsin have
9 exercised exclusive jurisdiction over child welfare as an
10 element of their self-government since continuously --
11 uninterruptedly since 1980?

12 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
13 from my viewpoint, they had, like, longstanding inherent
14 rights. I think the issue -- and I have worked with the
15 community and with children from the community, I think
16 the issue with the bylaw in 1980 was they are the only
17 First Nation, I believe, in Canada that got a bylaw
18 through, because, as I understand it, they passed a bylaw
19 and the Minister of Indian Affairs didn't disallow it, and
20 so it ended up sticking. And, they have used it as one
21 tool, but I know they rely extensively on their inherent
22 rights, authority and Indigenous authority for their
23 system.

24 So, in the work that I did with them, I
25 always recognized whatever tools they brought to the

1 table, but they certainly were very active and engaged in
2 making sure that their children and families were served
3 by their community.

4 **MS. KATHERINE HENSEL:** Yes. And, in fact,
5 the bylaw itself doesn't say much other than, we will care
6 for and protect our children exclusively under our own
7 jurisdiction and in accordance with Shuswap law. It
8 doesn't set out policies, or procedures, or protocols. In
9 particular, there are a few definitions, but it is an
10 assertion of inherent jurisdiction?

11 **DR. MARY ELLEN TURPEL-LAFOND:** It is.

12 **MS. KATHERINE HENSEL:** Yes.

13 **DR. MARY ELLEN TURPEL-LAFOND:** And, I think
14 there are some really important principles in it though.
15 Like, there is a section on placement priority where
16 children should be placed, which is under Section 10, so
17 it does go to that issue of, "You should be with your
18 parent or your own family." So, it sets out a set of
19 rules about where children from Splatsin should be
20 replaced, and I think those are really significant. And,
21 the dealings I had with them, when we have had a child in
22 crisis, we tried to follow those principles.

23 **MS. KATHERINE HENSEL:** Yes. And, you
24 described earlier some pushback, or resistance, or anxiety
25 on the part of bureaucrats and other people in the non-

1 Indigenous system about the assertion of jurisdiction or
2 the exercise of jurisdiction being too complicated.

3 Now, I am going to suggest to you that with
4 respect to the operation of this -- of the jurisdiction of
5 the people of Spallumcheen, that it was actually fairly
6 straightforward. They asserted jurisdiction, they
7 operationalized it, it was resourced and it has been
8 running continuously since 1980 -- operating continuously
9 since 1980 without the loss of life of a single child
10 since 1980 under the jurisdiction of that band; is that --
11 you are aware of that?

12 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
13 that they have had a lot of success in terms of placing
14 the relationship with the Ministry for children and
15 families in a different light. I have been involved in
16 the past and sort of mediating and negotiating that when
17 sometimes the Ministry would have new workers that didn't
18 respect the law and they had to get retrained. But, I
19 think they have maintained, without question, their
20 presence, and their role and their entitlement to be the
21 decision makers for their children.

22 **MS. KATHERINE HENSEL:** And, you mentioned -
23 - you described at some length earlier and in your reports
24 the difficulties associated with transition planning, the
25 lack of forward thinking and planning with respect to each

1 developmental stage of children throughout their lives. I
2 am going to suggest that the model employed by Splatsin is
3 effective in part because this community knows that a
4 Secwepemc infant will still be a member and a parent when
5 they are 25, when they are 45, when they are a grandparent
6 and an ancestor and their descendants are Splatsin's
7 future.

8 So, their investment in the interest of the
9 child are conceived of in a way that contemplates the
10 entire life of a child and beyond, and the collective has
11 an interest not just in the fate and well-being of the
12 two-year old as a two-year old or -- could you comment on
13 that?

14 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. No, I
15 think ---

16 **MS. KATHERINE HENSEL:** Do you agree with
17 that?

18 **DR. MARY ELLEN TURPEL-LAFOND:** I think it
19 really reflects the Indigenous practices of defining an
20 extended family, but also looking at the transitions, as
21 you said, through the life course. And so, they took an
22 effort to define, you know, that broadly from much more --
23 from the kinship and the nation based viewpoint.

24 So, it is not just like a child, it is a
25 child in a family, in a community, in a nation. So, it is

1 a very holistic concept according to -- even though it is
2 an *Indian Act* by-law, it is premised on customs, and
3 traditions and practices of their nation.

4 **MS. KATHERINE HENSEL:** Okay. And, whereas
5 a worker may be only statutorily authorized and interested
6 in protecting and serving the interest of the child
7 throughout -- potentially throughout their childhood, but
8 what is in front of them, a nation is distinguished from
9 that in terms of the depth and scope of their engagement
10 and their interest in the well-being of the child.

11 **DR. MARY ELLEN TURPEL-LAFOND:** That is
12 right. And, like a social worker that may be a new social
13 worker assigned to the office near them, in the interior
14 or whatever, will need quite a bit of training to
15 understand that they -- like I said, cultural competency.
16 They will need a lot of training around the nation's
17 practices because they will not -- like, in school, if
18 they went to social work, they might have just learned
19 this child focused. This is child focused, but in the
20 concept of extended family and community. So, generally,
21 they have to retrain every social worker that goes into
22 that community and they have done a very good job on that
23 front.

24 **MS. KATHERINE HENSEL:** Thank you. Kookshem
25 (phonetic). Okay. I am moving now to best interests.

1 And, I am just going to begin by -- for those who have --
2 listeners who are not legally trained, each statute and --
3 each province and territory has a statute relating
4 empowering child welfare authority. And, each of them
5 enumerates best interest factors that courts and workers
6 are required to take into account in determining what is
7 going to happen with a child and making decisions about
8 that child.

9 Each of them requires -- each of these
10 statutes across the country requires the courts to take
11 into account the cultural background and interests of all
12 children, and particularly those of Indigenous children.
13 How have you seen that operate throughout the country and
14 what problems, if any, have you seen arise as a result?

15 **DR. MARY ELLEN TURPEL-LAFOND:** Well, that
16 is one of the key problems. Like, if I take British
17 Columbia -- I did not study Manitoba recently, but if I
18 take British Columbia as an example, there is the *Adoption*
19 *Act*, there is the *Family Law Act*, there is the *Child*
20 *Family Community Service Act*, there is a provision in the
21 *Public Guardian Trustee Act*, there is sometimes three or
22 four different definitions in one province of the best
23 interest of the child.

24 And, they may have one or two references,
25 some of which I have advocated for in the past to say, you

1 know, recognize the cultural background of the child, but
2 they are just floating. They do not make any sense for
3 Indigenous children, and families and communities. So,
4 what they have done ---

5 **MS. KATHERINE HENSEL:** They are
6 discretionary.

7 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, they
8 have just taken a concept and they may, in recent times,
9 added a word or two, but the fundamental concept of an
10 Indigenous child being, like Splatsin, in the community,
11 in the family structure, that an Indigenous child has a
12 right to be connected to their Indigenous community, those
13 concepts are often not there.

14 And, when we go to the federal side, like
15 the *Indian Act*, there is no concept. Not that I am
16 recommending the *Indian Act* be amended. Far from it, I
17 think it should be gone. But, in the *Divorce Act* and in
18 federal legislation, you will see another definition.

19 So, there is a really strong need to have a
20 very clear reconstruction of the best interest for
21 Indigenous children, recognizing the distinctions between
22 First Nations, Inuit, Métis, but including some really key
23 concepts about how they are -- not only have individual
24 rights, but they are part of a community, and that their
25 community should not be ignored in determining their

1 interests.

2 Furthermore, things like immediate safety.
3 It is a very significant issue, safety for children, but
4 safety for children in a community brings into an extended
5 family concept or kinship placement. Outside of an
6 Indigenous community, it might just mean safety means
7 removal. So, those constructs were not developed with the
8 appropriate -- they are, again, part of a legacy system
9 that silenced or was imposed on top of Indigenous people.

10 So, the best interest of the child piece
11 needs fundamental re -- basically a complete change. I
12 mean, it has to be changed to a much stronger Indigenous
13 concept. I am not saying we have a pan Indigenous
14 concept, but I think we have some really clear principles
15 that come out of things like Splatsin and other places
16 that call for that, because that would give rise to tools
17 that communities do not now have and families do not now
18 have, who frequently get in a system where the best
19 interest is just a judge says, best interest is -- like
20 for instance on provincial systems here and across Canada,
21 it says, stability is important. This child should stay
22 with who they are with.

23 Well, a child might have been removed at
24 birth, they might be two and they might be in a non-
25 Indigenous home. But, the Indigenous family can take care

1 of them, but the principle of stability means they will
2 never get back to that community. Or I have had many
3 cases where they wanted an exception for adoption, to be
4 adopted into a non-Indigenous family, and they say, well,
5 stability, the child is very comfortable there. And, I am
6 like, well, I understand stability, but what about their
7 culture, when they grow up and discover they have not had
8 this family? There will be very serious problems; right?

9 So, conceptually, it just has not -- you
10 are absolutely right to ask the question. It has not been
11 put out properly and that has affected women, families and
12 children. So, that has allowed for that interpretation of
13 a very individualistic approach, but also a type of
14 discrimination to happen. And, that discrimination shows
15 itself in the systemic nature of the removal of children
16 without considering their family and their community,
17 without considering all of this disruption their families
18 had from residential school and poverty.

19 So, even things like children -- you know,
20 if I had to draft the best interest of the child, if I
21 had my day, I would have a provision that says, no child
22 should be removed because of poverty, no Indigenous child
23 should be removed because of poverty. And, I mean, will
24 there still be Indigenous children removed because of
25 poverty? Yes, there probably still will be. But, at

1 least I put it there and at least someone is going to have
2 to face it and do something about it; right? So, it is a
3 tool. It does not change the world, but it is a very
4 important tool for Indigenous children and families,
5 because so much removal happens because of poverty.

6 **MS. KATHERINE HENSEL:** Thank you. I
7 believe my time is long over.

8 **MS. CHRISTA BIG CANOE:** Next, we invite up
9 Eastern Door Indigenous Women's Association. Ms. Natalie
10 Clifford will have six minutes.

11 **--- CROSS-EXAMINATION BY MS. NATALIE CLIFFORD:**

12 **MS. NATALIE CLIFFORD:** Good afternoon.
13 Natalie Clifford, Eastern Door Indigenous Women's
14 Association who represent the interests of Mi'kmaq and
15 Maliseet women on the East Coast, with which I know you
16 are familiar.

17 So, just to sum up, I also wanted to talk
18 about the best interest of the child and perhaps I can
19 capture what you have just said by saying, would you agree
20 then that we can characterize the way the best interest of
21 the child is currently applied quite broadly in Canada as
22 based on a construct of the needs and values of western
23 civilization?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
25 it definitely is -- comes out of that dominant Anglo

1 European concept of a family, the kind of non-Indigenous
2 family structure, yes.

3 **MS. NATALIE CLIFFORD:** And, that by its
4 application, the cultural aspects are then not central,
5 rather an afterthought?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. And,
7 in fact, like some of the things that drove the best
8 interest of the child, if you look at the history, are
9 things like the doctrines of *parens patriae*, which is
10 actually a very patriarchal concept of father knows best,
11 which is, you know, a very authoritarian model of the
12 family, that there is a single authoritative individual
13 that the child should be with.

14 So, the history of the best interest of the
15 child comes out of this, sort of, culture, which was
16 really -- almost goes back to the concept of ownership ---

17 **MS. NATALIE CLIFFORD:** Mm-hmm.

18 **DR. MARY ELLEN TURPEL-LAFOND:** --- of a
19 male would own the family and so on. And so, these are
20 very -- have very deep historical roots.

21 **MS. NATALIE CLIFFORD:** I agree. So, would
22 you say then that we could characterize the current
23 application of the best interest of the child as a tool of
24 colonial violence right now?

25 **DR. MARY ELLEN TURPEL-LAFOND:** I think that

1 the application has resulted in incredible violence by
2 removing children, but also silencing. I think silencing
3 Indigenous peoples and families from being able to talk
4 about the complete experience, and their own laws and
5 practices and their own systems. So, it has been
6 silencing them. And, able to make decisions about
7 children without their involvement and without actually
8 respecting and listening to the fact that this is the
9 first peoples of the territory who experienced this
10 incredible colonial system. So, there is a deep injustice
11 to how those laws are developed. And, I think perhaps how
12 they continue to be developed.

13 **MS. NATALIE CLIFFORD:** So, then, because of
14 the generations of experience of the colonial systems in
15 order to achieve substantive equality now, we need to
16 deconstruct the application of the best interest of the
17 child, and then reconstruct it with an informed approach
18 based on a case by case basis specific to the community of
19 the child, so First Nations, Inuit, Métis, and then within
20 that where they are located. So, would you agree with
21 that?

22 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I
23 absolutely agree with that. And, I think one of the
24 issues we have, because we have all of these various
25 systems with all these definitions is one of the reasons

1 why we need clear, maybe, federal legislation that has a
2 very strong construct that when it applies to Indigenous
3 people, will use more human rights respecting concepts
4 like UNDRIP, more respect for the child's rights. So,
5 bigger tools. I know that is not the whole answer, but
6 cleaning that up to repair some of that problem that is
7 there. I mean, it would be valuable in every province and
8 territory, frankly, but it would be great to have a
9 federal piece that could just put it on a different
10 footing, and then allow this work to change.

11 **MS. NATALIE CLIFFORD:** So, maybe I can push
12 you a little bit more on that then. Would you agree that
13 a failure of -- potential failure of the courts to allow a
14 reconstruction of the application that the best interest
15 of the child amounts to a violation of Canada's
16 international obligations of -- for example, to self-
17 determination, but also to the Convention on the Rights of
18 the Child with the underlying essence that children should
19 be guaranteed a life free of discrimination and to have
20 dignity and harmony in their development, would you agree
21 that failure to have a national -- a federal approach and
22 provincial accountability actually amounts to a violation
23 of these obligations?

24 **DR. MARY ELLEN TURPEL-LAFOND:** I think they
25 are really serious issues that should be looked at. And,

1 I think, in particular, one of the concerns is, there is
2 not a lot of exploration of the rights of children and
3 Indigenous children, and apart from the work on the Human
4 Rights Tribunal, which itself is about funding, not
5 necessarily the rights of the child. It is about equal
6 funding.

7 But, if you look at Section 7 of the
8 Charter, which is on life, liberty and the security of the
9 person and what are the principles of natural justice,
10 unfortunately, things like best interest of a child are
11 not -- have not yet really been brought into our human
12 rights system adequately. So, a lot of these areas just
13 simply not have the appropriate focus.

14 And so, I agree with you. Instruments like
15 UNDRIP that have really critical provisions like Article
16 8, permitting the forceful removal of children, or anti-
17 discrimination, the U.N. Convention, these human rights
18 principles are really significant, and resetting Canadian
19 law around those principles or giving that new framework
20 to work it out would be immensely helpful.

21 And, in fact, there are courts that are
22 beginning to recognize that. They are few and far
23 between, but the problem is the only time they do that --
24 we had a case recently with a Hu-way-it (phonetic) child
25 in British Columbia. The only way they do that is if a

1 Chief intervenes and makes the argument, but it is like
2 the litigation of Indigenous rights, like we know we are
3 very happy that there is this path breaking decision in
4 the *Chilcotin* case in the Supreme Court of Canada. It
5 only took 25 years to get there, a lot of work and a lot
6 of trial when everybody accepts it. Well, why did we have
7 to go through 25 years of trial?

8 So, with respect to the rights of the
9 child, if we leave it to a litigation context where people
10 have to go and fight about the rights of the child, I am
11 fairly confident there will be success, but we will be
12 spending years and resources, and this is not a well
13 resourced area, and communities. These communities that
14 are struggling. Like, how are they going to be arguing
15 these cases, and having the resources that they will need?
16 And, how will those children have lawyers that they should
17 have in those cases?

18 So, it is better to reset the law in a
19 bigger way than leave it to people that you know are
20 experiencing a form of discrimination to be left in the
21 community. So, I guess how I see it is I can't pronounce
22 the absolute judgment on it, I just know it is not set in
23 the right tone. But, I do think there is a really good
24 opportunity to reset that.

25 **MS. NATALIE CLIFFORD:** Thank you.

1 **MS. CHRISTA BIG CANOE:** Thank you. Next,
2 we would like to invite up the Assembly of First Nations.
3 Mr. Stuart Wuttke will have six minutes.

4 **--- CROSS-EXAMINATION BY MR. STUART WUTTKE:**

5 **MR. STUART WUTTKE:** Good afternoon, Dr.
6 Mary Ellen Turpel-Lafond. My name is Stuart Wuttke. I am
7 general counsel with the Assembly of First Nation for the
8 record. In your reports, and we read them with quite a
9 bit of interest, we note that a lot of the reports were --
10 you mention the need for social workers and their desire
11 to have more prevention-like programs and to be able to
12 access more prevention-like programs to keep the children
13 in the home.

14 However, during the time those reports were
15 drafted, particularly in B.C., First Nation agencies were
16 funded under the federal government, the First Nations
17 Child and Family Services Program, under Directive 20-1.
18 Are you familiar with that directive?

19 **DR. MARY ELLEN TURPEL-LAFOND:** I am, yes.

20 **MR. STUART WUTTKE:** And, Directive 20-1
21 created a perverse incentive for agencies with respect to
22 not being able to provide any programs unless a child is
23 apprehended, and I was wondering if you could speak to
24 that.

25 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, it was

1 absolutely -- actually, 20-1 is still in place, despite
2 the Human Rights Tribunal and four compliance orders, and
3 so on. And, I appreciate you understand this as one of
4 the interveners and the -- or the co-applicant on the
5 Caring for First Nation Society case, the 20-1 formula is
6 so completely inadequate that funding was based on
7 removing children, not trying to prevent the removal of
8 children. And, while because of the Human Rights
9 Tribunal, there has been some new money that has gone into
10 prevention, and British Columbia is an example, there are
11 84 First Nations that aren't covered by agencies.

12 So, for those First Nations, there is still
13 almost no money for prevention. For those that are in
14 agency, there is some money for prevention. So, we have
15 had a human rights decision, we still have not seen
16 fundamental investment in prevention in a sustainable,
17 coherent way with a proper fiscal environment. So, there
18 has been this great human rights victory, which I applaud
19 and I am very grateful for the hard work that you and
20 others did for that but, again, despite four compliance
21 orders, British Columbia still has 20-1.

22 And, I don't know what the evolution will
23 be, but my -- certainly my fear in this area is, you know,
24 governments change and things change. We could be back at
25 20-1 if there isn't some sustained foundation for that.

1 So, you are absolutely right. What has happened has also
2 happened because of the drivers around how the funding
3 works.

4 **MR. STUART WUTTKE:** Thank you. In your
5 report, *Too Many Victims*, you note that -- well, first of
6 all, you would agree and you have said it that most First
7 Nations children are apprehended as a result of neglect;
8 is that correct?

9 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, the
10 largest single category is what is called neglect, which
11 is poverty/neglect/some sort of suspicion that the family
12 is not adequately able to meet the needs of the child. It
13 can be a very amorphous category. At the same time,
14 neglect of children is very serious, but in the First
15 Nations side, we see it being very generously used as a
16 big grounds for removal.

17 **MR. STUART WUTTKE:** Thank you. And, we
18 note that in many of these cases, we have even heard from
19 the videos, obviously they came from caring families,
20 loving families, I found it quite disturbing in your
21 report that, you know, despite the fact that children are
22 being apprehended for neglect from potentially very loving
23 families, they are being put into a system that would put
24 them in danger of sexual exploitation or sexual abuse, and
25 it really is not acceptable, but it still continues.

1 And, the fact that, you know, your report,
2 you know, provides highlight or explains this to the
3 provincial government, it is disheartening to know that
4 children are still being put in this particular precarious
5 situation as a result of a non -- you know, not changing
6 any policies or not doing anything.

7 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
8 it is fair to say that those circumstances, despite the
9 fact that we become aware of them through public reports,
10 doesn't mean they change. And so, the idea that -- let's
11 see -- there is even the most egregious example where
12 there is an intervention by child welfare -- and, like,
13 not neglect. Let's say there is actual violence, serious
14 violence toward the child, there is still the fact that
15 they are placed into a system where they are at elevated
16 risk of sexual violence -- sexualized violence,
17 particularly girls, and boys, but girls, and creating that
18 additional trauma.

19 So, the answer of removal is something that
20 has caused a lot of harm in and of itself, and continues
21 to cause concern around not only victimization up to the
22 age 19, but of course -- I did one study on the justice
23 system and sort of look at what happens after 19, and I
24 don't think that's been looked at enough. But my concern
25 is if I was to do another study in British Columbia to

1 look at victims of sexual violence between the age of 19
2 and 35, I would not be surprised if the very same
3 individuals in the same cohort were then over-represented.

4 So not only are they experiencing it, but
5 we're not stopping that experience. So in a way you can
6 say they're being harmed. So they're harmed, apparently,
7 in some way here and then they're being re-harmed. So the
8 system needs a very significant change.

9 **MR. STUART WUTTKE:** Thank you.

10 My last question; you mentioned that the
11 situation in B.C., especially with the removal -- mass
12 removal of First Nation children, is really a humanitarian
13 type of crisis.

14 And when you take a step back and you look
15 at the whole situation you realize, you know, people or
16 groups of people that are facing humanitarian types of
17 issues with respect to living in conflict zones; in the
18 United States, migrant families being separated by various
19 public officials; you look at refugees, people living in
20 war zones; you know, you look at the lack of housing, the
21 people being put in detention centres, assaults on
22 personal dignity, exploitation issues, abuse of those
23 responsible for protecting people; really, you look at
24 that from a very high level and it's really happening to
25 many First Nations people in Canada, despite them being

1 citizens. They're not facing -- you know, they're not
2 immigrating anywhere, but they're really put in very
3 similar situations, in very similar infrastructures or
4 detention centres.

5 I was wondering if you can -- is there
6 anything from the international humanitarian law that
7 you're aware of that may be able to -- that the Inquiry
8 may be able to use to guide some of their recommendations?

9 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
10 the issue that you identified, it is a humanitarian crisis
11 and the Federal Minister of Indigenous Services, Jane
12 Philpott, referred to it as that when she had an emergency
13 meeting in January 2018.

14 I think it has to be looked at through that
15 international lens of United Nations Declaration on the
16 Rights of Indigenous People, the Convention on the Rights
17 of the Child, the international instruments around the
18 prohibition of racial discrimination.

19 But I would just focus on UNDRIP for a
20 minute; and again on Article 8, which really identifies
21 states having to take initiatives to prevent the forceful
22 removal of children. And while someone will say, "Well,
23 that was one case," when you step back and look at the
24 fact that it really is all Indigenous children; I mean,
25 it's the bread and butter of child welfare in,

1 particularly Western Canada, but other parts of Canada.

2 That is a very serious issue and UNDRIP is
3 significant to reframe how we think about things, but it
4 does suggest some very powerful concepts from an
5 international perspective, like ethnocide, which is an
6 international concept around purposefully stripping the
7 culture and the identity of a child as a vehicle to change
8 the culture and repress the culture.

9 I think these are really significant issues
10 and I know when the TRC reported and looked at some
11 international dimensions of what happened with residential
12 schools, these are serious issues, and I think they should
13 be seriously evaluated from a human rights perspective.

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

15 **MR. STUART WUTTKE:** All right, thank you.

16 **MS. CHRISTA BIG CANOE:** Next we'd like to
17 call up the Treaty Alliance of Northern Ontario, the
18 Nishnawbe Aski Nation, and Grand Council Treaty 3.

19 Ms. Krystyn Ordyniec will have six minutes.

20 **MS. KRYSTYN ORDYNIC:** Good afternoon,
21 Chief Commissioner, Commissioners.

22 I'd just like to acknowledge Treaty 1
23 territory, the Elders, the prayers, the medicines. And as
24 well I'd just like to take a second to acknowledge a
25 conversation I had with one of the community members who

1 is with us today. And I thank her for reminding us that,
2 especially on this difficult day, she reminded me that
3 when we change one life we change the world.

4 So I just wanted to say thank you for your
5 evidence today and thank you for being here.

6 **--- CROSS-EXAMINATION BY MS. KRYSZYN ORDYNIEC:**

7 **MS. KRYSZYN ORDYNIEC:** My name is Krystyn
8 Ordyniec; I represent the Treaty Alliance of Northern
9 Ontario, so it's 77 communities in northern Ontario, as
10 well as eastern -- north-eastern Manitoba.

11 Dr. Turpel-Lafond, I'd like to begin with
12 something you said to my friend from the Battered Women's
13 Support Services Centre when she asked about
14 recommendations, and you said that, "It's up to the next
15 office holder to push this through".

16 And I wonder if you could speak about, we
17 have volumes of inquests, inquiries sitting on shelves,
18 and in this particular situation, what would have had to
19 have been different in that report to ensure that it
20 didn't just get pushed to the next person; to ensure that
21 that recommendation was seen through?

22 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
23 think the issue is making recommendations that lead to
24 change. But when there's a lot of different systems that
25 are either because they're not serving children and

1 families, they're not there; it's actually really having
2 that point of accountability across systems. And when it
3 comes to Indigenous children, often they're so -- like,
4 their priority is so low in the health system, their
5 priority is so low in the justice system, they're overly
6 involved in the child welfare system, so they lose their
7 natural family advocates, so you don't have that prior --
8 that point of accountability.

9 So I think it is important, like we talked
10 about a national focus, it's just continuing to have that
11 accountability in every system to say, "What's happening
12 with Indigenous children and families? Are they receiving
13 appropriate services? Do we have cultural competency?
14 Are we making sure that they're safe and healthy and have
15 the best outcomes, and how are we working on that?"

16 So it's really early days in changing these
17 systems. These systems are still very much old-school
18 systems, and we have to remember a lot of these systems
19 work a little bit like a fast food model. Like, you're a
20 file I see, you're in, you're out; you're in, you're out;
21 you're in, you're out. It's like a drive-through model.

22 And I see one of the Commissioners shaking
23 her head because she's been in the justice system so she
24 knows well what it's like, and she's also been working in
25 her career to establish more comprehensive services for

1 families instead of taking them through all these doors.

2 So I think that that's one very big issue
3 in provincial systems, is you make recommendations and you
4 can impact one side, but sometimes you need that point of
5 leadership.

6 And it also speaks to why you really need
7 Indigenous leadership, and Indigenous women's leadership
8 to be able to understand that lived experience.

9 **MS. KRYSZYN ORDYNIEC:** Thank you.

10 I'd like to move to the report "Safe With
11 Interventions," so I think it was Exhibit 25. And one of
12 the recommendations from the youth was that perhaps
13 parents should be removed from communities for treatment
14 and support rather than apprehending young people from the
15 communities.

16 Could you speak to that and if you would
17 agree with a different approach than, obviously,
18 apprehension from communities, especially remote
19 communities?

20 **DR. MARY ELLEN TURPEL-LAFOND:** Yeah, I
21 think the idea that you don't always have to, like, have
22 the children removed. And I think the interesting thing,
23 and it comes back to the comment I made earlier which is
24 children are remarkably bonded to their parents, and
25 sometimes they have a profile and trauma bond because

1 they're abused, but they will invariably say, "I want my
2 parent to get help." I mean, it's very rare. I have had
3 cases where kids have said, "I hate my parent. And
4 they've done this to me and I'm never going to ever have
5 that." Because of a certain Indigenous perspective, one
6 of the things is to promote relationships over time and to
7 allow people to have time and space. Because in kinship
8 communities, you just don't do rejection because it
9 doesn't work very well.

10 So that piece about the kids want parents'
11 needs to be met. And sometimes a parent who's in the
12 throes of serious addiction, or has psychosis as an
13 example, yeah, of course they need medical care; they have
14 an urgent medical situation. So they do need support and
15 they do need to be removed and they -- when they are
16 healthier, the child's happier. And the child wants their
17 parent to get support.

18 So, I mean, I've never met a child -- like,
19 the example, of course, is Page. Like, she wanted to be
20 in the SRO or the shelter with her mother, even if that's
21 -- if that's what it meant to be with her mother, that's
22 what she would do. And the idea that she wanted to take
23 care of her. I don't want children to be the carers of
24 parents; I want systems to care for parents, but kids want
25 their parents to receive support, just like they want

1 their siblings to receive support. And that's the
2 perfectly normal, healthy thing.

3 And many families in Canada have parents
4 that have struggles and they get support and they still
5 can be a parent. It's just for Indigenous families, the
6 support doesn't come and so they tend to be broken up.

7 **MS. KRYSZYN ORDYNIEC:** Thank you.

8 And I think for my last question -- I'll
9 have time for just one more -- something that I would
10 suggest is the criminalization of the healthcare system
11 such that for the first time when a youth or a young
12 person is -- has contact with medical attention or medical
13 care is when they're in contact with the justice system.
14 And I wonder if you could speak to that and the harmful
15 effects of that being the time of either a diagnosis or
16 ...for the first time that they would get help?

17 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. So, I
18 have done quite a bit of work in the youth criminal
19 justice system in particular, and I have two thoughts
20 about that. One is, first of all, a lot of places, they
21 don't get a lot of health support, so it is not very good.
22 Other places, it might be the first time they actually get
23 health support. So, British Columbia and Québec have the
24 lowest rates of incarceration of young people, and I
25 worked very closely in the youth justice system in B.C.

1 Whereas in Saskatchewan have one of the highest rates, and
2 when I worked there, it was unnerving because the health
3 system isn't integrated. B.C. it was.

4 But, what happened, we had kind of a pact
5 in British Columbia and the youth justice system with the
6 Director of Youth Justice, which was we would never have a
7 young woman that is pregnant in jail. And so, we had this
8 understanding. It was a good pact. And, I'm like, "If I
9 find out there is one kid," and he was like, "Okay," and
10 we held him to account on everything. And, any woman --
11 young woman showed up who was pregnant, for instance, got
12 maternal fetal health care and got placed. And so, it was
13 like a prevention program.

14 So, actually coming into Youth Justice
15 could end up really well, because we get family support
16 and change the dynamic, get them out of custody, but that
17 was a really deliberate plan; okay? That was well -- and
18 as a result there were a few kids, as opposed to other
19 provinces where you are -- where it is like a parade of
20 constant unmet needs. So, Youth Justice isn't a
21 substitute for social services, but sometimes there is no
22 wrong point. So, my view is if you have someone -- a
23 child, a young person that is in need, they have obvious
24 health issues, I don't care what door they come in, how
25 about we meet their health needs?

1 The other thing that we did in British
2 Columbia, not totally successfully, was I wanted every
3 youth that left custody, an Aboriginal youth, to have a
4 doctor to go to. Like, "Well, we're going to give you
5 this," right? We weren't able to do it completely, but
6 ones that were expectant parents or parents, we really
7 went out of our way to do that, because it is like the
8 care. It is not just a justice system. It is a care
9 system. And, I think some of that thinking is really
10 important, so don't silo the justice system to be this
11 harsh thing, because people -- even teens in the justice
12 system are parents.

13 **MS. KRISTYN ORDYNIEC:** Thank you so much
14 for your time.

15 **MS. CHRISTA BIG CANOE:** Thank you. I would
16 like to invite up Ms. Carly Teillet for the Liard
17 Aboriginal Women's Society. She will have six minutes.

18 **--- CROSS-EXAMINATION BY MS. CARLY TEILLET:**

19 **MS. CARLY TEILLET:** Tansi, bonjour and good
20 afternoon. I -- as mentioned, I am Carly Teillet, and I
21 am Métis from the Red River Community, and I would like to
22 express my gratitude today and for this whole week being
23 able to do this work at home in the Métis homeland and on
24 the Territory of Treaty 1. And, I would like to take a
25 moment to acknowledge the spirits of the women and the

1 girls, the families, the survivors, the elders, the
2 medicines and all the sacred items that are here so we can
3 do our work in a good way.

4 I have the incredible privilege of acting
5 as counsel for the Liard Aboriginal Women's Society, and I
6 am guided by and in the presence of some of our board of
7 directors. They are Kaska elders and grandmothers,
8 aunties and great grandmothers.

9 (APPLAUSE)

10 **MS. CARLY TEILLET:** Thank you for your
11 strong voice, and for your incredible work holding up and
12 honouring the lives of Indigenous children, and for
13 constantly showing everyone that they deserved better and
14 they are not forgotten.

15 The territory of the Kaska people is in
16 Northern B.C. and Southern Yukon, and they are proud to
17 live on unceded Kaska lands with a strong community that
18 is connected to their traditional lands, children, to the
19 future generations and, as they say, to those who walk
20 behind them. And, I would like to note that yesterday I
21 misspoke when I mentioned that they were negotiating a
22 treaty. The Kaska Nation is currently working to have
23 their self-government recognized by Canada.

24 So, in the Yukon, the Liard Aboriginal
25 Women's Society has been trying to collect information

1 about their citizens, about their children, about their
2 health, their medication, where they are. One of the
3 elders shared that, at one time, she was a foster parent
4 for sisters in the community, and she wasn't successful in
5 trying to keep the children together, and that one of the
6 children was taken away, and that child became depressed,
7 was then labelled and medicated.

8 Another elder shared a story about a family
9 member's child being taken into care, and then
10 subsequently labelled for having behavioural issues and
11 medicated. But, when the child came home to visit, she
12 took the child out on the land and she said, "He slept so
13 well on our land. All he needed was to hear from his
14 elders and to learn from the land."

15 Now, I asked the elders, "When you make
16 your little ones' mittens or moccasins, do you know if the
17 children get to take those with them when they are removed
18 and taken out of the community?" And, the elders answered
19 in one voice, "We don't know." And then one said, "When
20 they're gone, they're gone."

21 They want to know where their children are,
22 their grandchildren, their great grandchildren, and they
23 want to know how they are doing so that they can support
24 them, then, at the vulnerable time when they are finally
25 let out, or released, or aged out of the system. They

1 need to know, are they being over medicated and -- or are
2 going to need help accessing those medications to
3 transition them back into the community? And,
4 importantly, they want them to know that they are Kaska
5 children, where they come from, that they are wanted and
6 that they can come home. That is something they can't
7 plan for if they don't know where the children are, if
8 they don't know how they are doing.

9 And so, this afternoon, you discussed how
10 there is inadequate information collected in several areas
11 and how simply paying attention to something improves
12 outcomes. And, I noted that there are many
13 recommendations in the reports that were put into exhibits
14 about information. And, you discussed how you, in your
15 role, struggled to get information from the Ministry, and
16 in particular, Recommendation 5 on page 62 of the report,
17 When Talk Trumps Silence, mentioned making public reports
18 about the safety and well-being of Indigenous children in
19 care.

20 So, building on that recommendation, would
21 you then recommend that information about Indigenous
22 nations children needs to be shared with family and
23 community when it is safe to do so?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Yes,
25 absolutely. First of all, I think you have really

1 described the situation well that I saw repeatedly, which
2 is members in community, particularly grandparents,
3 matriarchs, want to know what happen to children. And so,
4 they should. At the same time, I have worked with
5 children who want to know where they are from, so what a
6 terrible disconnect.

7 But, in the reports that I have done, and
8 there is another report that was done in British Columbia
9 by Grand Chief Ed John on the child welfare system, and he
10 echoed the same point, which was -- it was focused at this
11 point more at First Nations, but saying that First Nations
12 need to know where their children are and who they are.
13 So, what I contemplated and Grand Chief Ed John reported
14 on was that the Ministry for children and families would
15 actually work with communities, and give the names and
16 start working on them. There has been a lot of barriers
17 to do that.

18 So, first of all, in British Columbia,
19 there are privacy barriers. They won't release that
20 information. So, they may engage the community on a case
21 by case basis, but they won't give them the full
22 situation, and that is a really big issue. Even we talked
23 earlier about Splatsin and the bylaw and the work that
24 they have done with Kukpi7 Wayne Christian, even they had
25 the same issue which is, there are these kids in

1 Vancouver, they are from our nation. So, the privacy wall
2 is a really hard privacy wall when you have had this
3 systemic removal of children.

4 So, to come back and -- well, first of all,
5 we shouldn't have that removal. There should be ongoing
6 links; right? So, we need to stop that part. We need to
7 work on the roots of the children and connecting. And, we
8 have some good homecoming programs that are -- been
9 offered in -- Haida-Gwaii run some really strong
10 homecoming events with their children. Other nations,
11 like I said, Kwùmut Lelum is one and Vancouver Island,
12 some Salish peoples are doing really strong work. But,
13 the fundamental issue is the right to know where your
14 children are. Does a nation have a right to know who
15 their children are? Or can the provincial system tell
16 them, "Sorry, this is private. We won't tell you."

17 So, where that lands right now is the
18 provincial system says it is private, we won't tell you.
19 And, it is a really frustrating situation, because (a) you
20 can't plan for the future properly, (b) you can't do all
21 of the work, because it is not just those kids and young
22 adults, but it is their children. So, as nations are
23 reaching out to find out, they hit that barrier.

24 And, again, like we saw that young person
25 on the tape today talk about -- she gets her file. Like,

1 how is she going to go get her file and then say, "Oh, I
2 am Haisla (phonetic), or I am Kaska Dena, or I am Haidar
3 (phonetic), I am Cree," and then she is going to go off to
4 go figure all that out. Like, that is a very big path to
5 walk. I mean, I'm not saying we haven't seen it before,
6 but her -- and she probably wonders, like, how come they
7 don't care about me? And, I saw that a lot. How come my
8 community doesn't care about me? Well, they don't know
9 about your situation unless we connect.

10 So, that privacy issue is a very
11 significant issue, and I think if we're looking at some
12 kind of federal resetting of this area, particularly for
13 some legal reform, expressing the right of Indigenous
14 governance to know about their children so that they can
15 have the right -- children can have the right to know
16 their families, and the community has a right to keep them
17 connected.

18 There are some cases where I've had, like,
19 young people say, "I don't want them to know who I am,"
20 you know, or really tough situations where a child is the
21 product of a sexual assault, and there's a lot of issues
22 in the community because it's a prominent individual who
23 is still in a position of power in the community. So,
24 they may say, "I don't want that revealed." There has to
25 be discretion.

1 But, generally, for 90 percent, it should
2 be open, but it really isn't. It's a locked system. It
3 continues to be a locked system, and I think you've
4 adequately identified it. So, the answer to the elders of
5 Kaska Dene elders is they won't tell you. You know, you
6 don't get to find out, which in and of itself is really
7 problematic, because then you can't do the repairing that
8 you need to do.

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

10 **MS. CARLY TEILLET:** Thank you.

11 **MS. CHRISTA BIG CANOE:** Next, we would like
12 to invite up New Brunswick Aboriginal Peoples Council.
13 Ms. Amanda LeBlanc will have six minutes.

14 **--- CROSS-EXAMINATION BY MS. AMANDA LEBLANC:**

15 **MS. AMANDA LEBLANC:** Thank you. Good
16 afternoon. My name is Amanda LeBlanc. I am the interim
17 President and Chief of the New Brunswick Aboriginal
18 Peoples Council. We represent the rights-bearing
19 Aboriginal people of the province who reside off reserve,
20 and also offer access to all Indigenous people who live
21 off reserve in the province.

22 I want to thank you for your strong
23 testimony today, because I really appreciate how you are
24 very clearly a very decorated academic, very experienced
25 lawyer, but the way you present yourself and the

1 information is very easy for us non-counsel people here to
2 follow, which I think is really important, especially for
3 those at home watching. So, you make it easy for people
4 to understand. So, I really appreciate your ability to do
5 that today for us.

6 Earlier, you stated that the Indian Act has
7 destabilized Indigenous nations; is that accurate?

8 **DR. MARY ELLEN TURPEL-LAFOND:** Yes.

9 **MS. AMANDA LEBLANC:** Can you just talk a
10 little bit about your views on the relationship and the
11 link between the destabilization caused by the Indian Act
12 and the disconnect from culture and community that
13 Indigenous families, and particularly children, have
14 experienced in the child welfare system to this?

15 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I say
16 that because of the history of the *Indian Act*. So, you
17 know, from 1844, there was a kind of plan through the
18 *Indian Act* to basically undermine the existence of
19 Indigenous governments, and that plan was a particularly
20 vicious plan, including leading into the 1920's when the
21 Haudenosaunee government was forcefully -- the traditional
22 government was shut down. I think it went underground, it
23 wasn't shut down, but they attempted to shut it down.

24 So, there were these incredibly aggressive
25 acts by the state to shut down Indigenous peoples'

1 governments, and actually, band councils are not
2 governments. They're actually derivatives of the federal
3 government. They're not even governments. They don't
4 even have legal standing. They don't have legal
5 personhood. They're actually zero as a matter of law,
6 which in and of itself is an incredibly offensive thing.
7 So, the purpose was to remove that.

8 Now, I think Indigenous nations have had to
9 work around the *Indian Act* and survive, and there's been
10 all kinds of things going on. It's a complex story. But,
11 the fact is the *Indian Act* was there to smash First
12 Nations and to destroy them, and the residential schools
13 were there to take the Indian out of the child.

14 And, as the residential schools were
15 closing, they were becoming orphanages. And, as those
16 changed, it was a child welfare system. So, I think when
17 we think about the impact of colonial policies and
18 practises in the *Indian Act*, the *Indian Act* stands as one
19 of the most repugnant attempts to undermine Indigenous
20 government. It also, through, as you will well know, the
21 definition of who is or is not an Indian, the many
22 amendments, the many cases that have been taken,
23 destabilized matrilineal systems, destabilized families
24 and attachment, prohibited who could be buried in their
25 community, threw women out, and they couldn't even be part

1 of their own community for burials.

2 So, I mean, the impact of legislation like
3 that which continues to this day is astounding. I mean,
4 it's colonial, yes, but it's extremely destabilizing. So,
5 Indigenous governments, First Nations, Inuit, Métis
6 governments, culture, laws and values were totally
7 railroaded through these practises. Did they disappear?
8 No, of course they didn't, and it's a testament to the
9 resilience of Indigenous people that they didn't. But, we
10 can't underestimate how all of these things interact.

11 So, when we talk about child welfare, we
12 sometimes have to have a really big conversation. And so,
13 when someone says, "How did that happen?" It's, like,
14 well, I'm sorry, you're going to have to take more than a
15 day. It's going to take a bit of time, but it did happen
16 through very definite actions by the state to crush
17 Indigenous peoples' identity and government.

18 And, it didn't work, but there's been a lot
19 of damage, and the damage is now on the hands of
20 Indigenous peoples and their communities to repair, and I
21 think that's probably a lot of what you must be doing
22 every day in your work, because even concepts like non-
23 status and non-status on reserve, off reserve, all of
24 these concepts are incredibly offensive and create all
25 kinds of barriers for children and families.

1 **MS. AMANDA LEBLANC:** Just to build off that
2 a little bit, you've talked quite extensively about the
3 need for federal policy, but also tools for accountability
4 at a provincial level, because that's realistically where
5 this is playing out.

6 With that, the TRC has had very clear
7 recommendations on how to deal with some of these issues.
8 To the lay person, common sense would allow for
9 applicability and implementation of these.

10 We often don't see it like that, though.
11 We often see the government's response to issues in terms
12 of the ability for First Nations communities to be able to
13 implement it. We need money. We need the funding for
14 that. We don't see health care at a provincial level --
15 we don't see provinces competing and submitting proposals
16 that last one year for their health budgets. Yet, for
17 international -- or sorry, for Indigenous organizations,
18 that's often what we're forced to do. We're forced to
19 compete and kind of undercut each other. And, it's the
20 people who have the most capacity who are in a better
21 position to receive those monies.

22 So, with your recommendations to have very
23 clear and concise recommendations going forward from this
24 Commission, how can we ensure that any policy changes
25 either at a federal or provincial level, that we hold them

1 accountable, that it's not going to be something as
2 offensive as project funding, but real sustainable,
3 meaningful, long-term core-like funding or something like
4 that, how can we ensure that?

5 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
6 think there would have to be very direct recommendations
7 that are well crafted to support that, because if you're
8 not absolutely clear, the message won't be heard. So, you
9 have to be really crystal clear. They're not going to
10 figure it out on their own; right? And, particularly in
11 the context government, it's hard to push for change for
12 things that they've done for a long time to be done
13 differently.

14 But, when we're talking about the magnitude
15 of issues we're talking about today, about how families
16 are in this incredible state of needing to repair from all
17 of this damage that's been done, you know, it has a cost,
18 and it continues to have a cost. And, as I said earlier,
19 we're paying for bad outcomes.

20 You know, there's a cost to bad outcomes,
21 there's a cost to good outcomes. I'm not saying it's a
22 simple matter of economics, like, in and out. But, the
23 point is there's also the reward that comes with the
24 system that works well. And, I used the example earlier,
25 I think, of this one agency, Qualmet Laylam (phonetic) on

1 Vancouver Island where the last three years hasn't had a
2 single removal. Yet, the number of removals of children
3 at birth in the provincial office is high. It's one of
4 the highest in all of the province, yet they haven't had a
5 single removal. And, they've done that because those
6 nations have put all of their resources into making sure
7 that doesn't happen.

8 Now, is it sustainable? Probably not.
9 They need proper funding but, you know, they've done that.
10 I mean, I think they're probably saving the system a lot
11 of money and they're doing a lot of repair. So, I'm
12 confident that with good recommendations and good
13 coordination that things will change very significantly,
14 and I've seen examples of good change. But, people need
15 support to make change. Not every place is going to be
16 able to do that. And, even Qualmet Laylam as an example,
17 like, they want to support others. You know, they want to
18 be networking. Like, the child welfare work that's being
19 done by a tribal government, that's great. They want to
20 network with others. And so, they should, and we should
21 make it easier for them to do that.

22 **MS. AMANDA LEBLANC:** Thank you.

23 **MS. SHELBY THOMAS:** Thank you. Next,
24 Commission counsel would like to call Vancouver Sex
25 Workers' Rights Collective who is represented by Ms. Carly

1 Teillet, and she will have six minutes.

2 **--- CROSS-EXAMINATION BY MS. CARLY TEILLET:**

3 **MS. CARLY TEILLET:** Tansi, bonjour and good
4 afternoon yet again. Because it is important to do so, I
5 would like to express my gratitude at being home on the
6 lands of the Métis Nation and in Treaty 1, and to
7 acknowledge the spirits of the women and the girls, their
8 families, the survivors, the elders, the medicine and all
9 of the sacred items that are here with us today.

10 And, as I mentioned before, I am Métis, and
11 I was born here in St. Boniface, and I also have the
12 honour of acting as counsel for Indigenous women, and
13 LGBTQ, gender fluid and two-spirit individuals who engage
14 in sex work and trade in Vancouver's Downtown Eastside.

15 Now, this morning, I was struck when you
16 said "social workers have incredible power to knock on the
17 door and take children, more power than I would ever grant
18 in a warrant", because there is this presumption that
19 generally speaking police can't enter your home without
20 having talked to a judge or a justice of the peace. There
21 are legal tests. Yet, for the removal for a child,
22 breaking apart a family, that only comes before the court
23 after the child is taken.

24 Dr. Blackstock spoke yesterday about the
25 importance of highlighting the requirement in so many

1 pieces of children's and family legislation that removal
2 will be the last resort, or that all alternatives to
3 removal be explored, and she thought this might be an area
4 where we need to challenge in the courts the removal of
5 the children. And so, I want to ask you from your
6 experience, both as the child and youth representative and
7 as a former judge, would you comment on whether you think
8 it would be useful to have a judge or justice review a
9 potential removal before the child is taken?

10 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
11 it is really important. And, I think what is important in
12 any system is checks and balances. And, for Indigenous
13 families and communities that have very limited access to
14 legal resources -- and, again, I point out -- I was
15 talking about the *Indian Act* earlier, just remembering
16 that it wasn't until 1951 that First Nations under --
17 anyway, because of the prohibitions in the *Indian Act*
18 could hire lawyers for counsel, let alone have resources
19 to do that, those barriers are huge.

20 When the checks and balances -- checks and
21 balances -- I mean, having been a judge, and I know one of
22 the honourable Commissioners has sat in that role as well,
23 you know, someone gets to make a decision. And, one of
24 the issues in bureaucratic systems is, sometimes you don't
25 know where to go to get a decision. So, you have had your

1 child removed, and you just -- you are in, like, a crazy
2 circus. And, I have certainly helped a lot of families
3 where it is like, "We don't know where," -- well,
4 ultimately, you have to get into court and there is going
5 to have to be a decision taken with information in front
6 of a judge. That is a very high barrier, not to mention a
7 lot of judicial centres, these things could be delayed for
8 years.

9 I have had kids, in my experience, in --
10 they have only had a presentation hearing, yet they have
11 been removed for seven years. They have never even had
12 their hearing. I mean, it is not unusual, and of course
13 they happen to be Aboriginal kids, largely. So, the
14 justice pieces to it are critical. And, the idea of
15 having an authorized -- checks and balances are critical.
16 So, the power, no one else has more power.

17 On the other hand, protecting children is
18 important; right? I understand that. But, when the power
19 is so extensive, such as the power of a social worker to
20 get every one of your health records and read it, I mean,
21 no one else has that power. I mean, a police officer
22 wouldn't be able to get a warrant to get all of your
23 health records. They might be able to get, you know, very
24 limited, but they would have to prove under very strict
25 tests. Nobody ever challenges it. So -- and, also, you

1 wouldn't even know they had your records.

2 So, just that component is a very extreme
3 level. There is no -- I would say to you there is no
4 other agency that has that degree of power in society that
5 I know of. And, I was always very mindful, and I continue
6 to be very mindful of that, because that is where I feel
7 there has to be accountability, checks and balances, and
8 when it comes to, for instance, Indigenous families,
9 changing that test, like you said, like Dr. Blackstock
10 indicated, I would be in full agreement with her, we need
11 to put in that best interest of the child reset, least
12 intrusive measures. You have to demonstrate that you have
13 taken steps. You can't just remove, because it is just
14 too easy to remove and leave, and then put them in a
15 system.

16 So, least intrusive measures is critical,
17 but checks and balances, I mean, judicial authorization --
18 I mean, I have had -- as a judge, I have had mental health
19 teams show up at my house in the middle of the night to do
20 a mental health warrant. I mean, you work the telephone,
21 you all get assigned, you do it, you can't remove someone
22 and place them in a hospital for their own protection
23 without getting authorization of a judge, yet you can
24 remove.

25 So, I am not saying it is the only answer.

1 It is just there is a certain level at which the decisions
2 are taken and, after the fact, the family has to fix the
3 issue and then they don't feel heard. Even if they had a
4 little bit of a chance to be heard some other places, I
5 think it could help develop some balance.

6 **MS. CARLY TEILLET:** So, for my last
7 question, I want to talk a little bit about housing. So,
8 one of my clients, WISH, runs an overnight drop-in shelter
9 in the Downtown Eastside, and they have approximately 300
10 women that use the drop-in centre. Now, they also operate
11 a mobile access van, and they -- stats from 2017 say that
12 between 500 to 1,000 interactions with women a week in the
13 van. These are women that are not going to the shelter.

14 And so, you showed a picture of one of the
15 shelters in the Downtown Eastside and you said, "This is
16 not a place to raise a child," and my clients agree, their
17 shelter is not a substitute for a home, but the problem
18 is, where are the homes? They are not available. So,
19 when a woman leaves a situation of violence with her
20 children, she might only be able to take her children and
21 nothing else.

22 And, you had said you would like to see no
23 children being removed for poverty. Well, in the Downtown
24 Eastside and in many other areas of Canada, children are
25 being removed because there is no housing, or inadequate

1 housing, or over crowding. So, would you extend that
2 recommendation that children not be removed for poverty to
3 say that children should not be removed because of
4 housing?

5 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
6 the issues about housing are very significant. And, I
7 have seen situations where children have been removed
8 because of housing. And, I have also seen situations
9 where we have been able to become engaged and even have a
10 transition plan where there are some temporary -- even if
11 it is hotel accommodation for the family, I mean, find
12 something other than removal. I think those are wise
13 investments.

14 But, I think the shortages of, for
15 instance, for Aboriginal people, family supported housing.
16 Like, there might be shelter space for one person, but it
17 is not the family, and that is what we saw with Paige.
18 And, that was just one child. It is, you know, when you
19 have a larger family unit, it becomes more complicated,
20 but
21 we know that we have the need.

22 So, Aboriginal-focused housing, supportive
23 housing -- I mean, there have been some limited
24 investments, but they should be given a priority on
25 placement for women and families where the children are

1 facing, you know, possible removal. So, there has to be a
2 priority set on that group that are vulnerable. So, more
3 support in that area is absolutely needed.

4 Some parts of the country, it is better
5 than others. Some, it is very acute. And, as you know
6 from Vancouver and from British Columbia, we have the
7 unfortunate situation of having tent cities develop. And,
8 in some of those tent cities and different parts, there
9 sometimes are young people and families, and that is a
10 very significant concern, and I think we really need to
11 think about that in terms of the vulnerability of
12 Indigenous families and making sure that we have adequate
13 housing.

14 **MS. CARLY TEILLET:** Thank you for that. It
15 has been honour to talk with you.

16 **MS. SHELBY THOMAS:** Thank you. Next,
17 Commission counsel would like to call Pauktuutit and all,
18 and they are represented by Ms. Beth Symes who will have
19 six minutes.

20 **--- CROSS-EXAMINATION BY MS. BETH SYMES:**

21 **MS. BETH SYMES:** Dr. Turpel-Lafond, my name
22 is Beth Symes, and I represent Pauktuutit, which are the
23 Inuit Women of Canada; the Inuit Women of Labrador;
24 Saturviit, which is the Inuit Women of Nunavik; the Ottawa
25 Inuit Children Centre; and the Manitoba Inuit Association.

1 I want to begin in Iqaluit, we learned how
2 important it was to count. And, for Inuit, with numbers
3 comes money, programs, et cetera. So, my first question
4 is, in British Columbia, does the government disaggregate
5 Indigenous numbers into First Nations, Métis and Inuit.

6 **DR. MARY ELLEN TURPEL-LAFOND:** It does, but
7 only in certain systems. So, in the education system, it
8 does. So, the Aboriginal identifier in the child welfare
9 system is just Aboriginal. It may have a status/non-
10 status, but it's not highly specific. In the education
11 system, it is more specific. So -- and then in the health
12 care system, there is an identifier that has more detail.

13 So, the challenge we see is sometimes one
14 system does and one system doesn't. But, could they do
15 that? Yes, you do data matching and then you can find
16 out. Have they reported that? Not very much.

17 **MS. BETH SYMES:** And, we've heard so much
18 that the best care for a child is one that is culturally
19 appropriate. And so, for an Inuk Child in British
20 Columbia who comes into care, it's critical to know that
21 that child is Inuk, or else it can't even begin looking
22 for the proper care; isn't that accurate?

23 **DR. MARY ELLEN TURPEL-LAFOND:** That's
24 absolutely accurate.

25 **MS. BETH SYMES:** And, once again, then,

1 could we recommend that in the area of child and family
2 services, as Ms. Hensel so eloquently put to everyone
3 about beyond the best interests of the child, it is
4 essential to count, essential to disaggregate Indigenous
5 into its components so that the Inuk child is not left at
6 home?

7 **DR. MARY ELLEN TURPEL-LAFOND:** Absolutely.
8 I would say that probably of all the children, the Inuit
9 children will be most vulnerable to not being
10 appropriately identified. I would say Métis would be
11 second and First Nations would be third, in my experience,
12 but Inuit would be the most vulnerable.

13 **MS. BETH SYMES:** You said that in your 10
14 years as being the representative of children and youth in
15 British Columbia, you wrote, or your office wrote, some 90
16 reports. I have to say you or your office are compelling
17 authors. You have produced very powerful advocacy
18 documents and that that power of them, I suggest, has made
19 a profound difference in how children -- the lives of
20 children, especially children at risk, are considered in
21 the public opinion. Was that deliberate?

22 **DR. MARY ELLEN TURPEL-LAFOND:** I think the
23 -- I think it's important to do the work, and I do think
24 that there is some Indigenous methodology that comes with
25 it, which is a very basic point, which is stories are like

1 a kind of medicine. They can heal and they can hurt.
2 And, I think it's very important to tell stories from a
3 perspective of the real lived experience, but also, with a
4 much stronger healing emphasis. And, what is healing is
5 truth telling, and unvarnished truth telling is very
6 significant.

7 And so, that represents a bit of an
8 Indigenous methodology mirrored with, you know, various
9 approaches, but I think the idea that telling the lived
10 experience of people is very important, and seeing
11 statistics is also critical for some people, but
12 understanding something like Paige's life, you can't
13 understand it unless you really see it, and I think that
14 that's one of the key issues in the hidden experiences of
15 Indigenous people in the child welfare system, and the
16 hidden experiences of Indigenous women is not seeing it
17 and not seeing it in terms of its full lived experience.
18 So, that's a part where it's not perfect, but I think it
19 is a very significant kind of -- stories are a kind of
20 medicine, and they're extremely empowering, and valuable
21 if they have that component.

22 They can also be very toxic and harmful if
23 it's not appropriate, and it's not with families, and it's
24 not with communities. That can be a really bad place.
25 So, it's a challenging space.

1 **MS. BETH SYMES:** Dr. Turpel-Lafond, in this
2 area, which quite frankly is simply a wash in jargon, you
3 have deliberately, at least it appears, deliberately
4 chosen to write in simpler or plain language, and that was
5 a conscious choice?

6 **DR. MARY ELLEN TURPEL-LAFOND:** Absolutely.
7 I mean, people have to understand what's happening, and
8 there's a lot of babble that's expressed in many
9 professions, not to mention the legal profession myself
10 that I come from, and I think plain language is very
11 significant. And, if you can't explain something in plain
12 language, then you should be writing.

13 **MS. BETH SYMES:** And, given your approach,
14 do you understand that you then won the hearts and minds
15 of not only people of British Columbia, but across Canada,
16 and you therefore raised our consciousness with respect to
17 this as a pressing public issue?

18 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
19 think it -- I don't think it's really me. I really think
20 it's about the story and, like I say, making sure that it
21 can be told. And, when you look at the experiences of --
22 again, I'll take Paige as an example, they deserve to have
23 their story told and to have it told in the best way they
24 can. I'm not perfect at it, but the best way they can
25 that their family sees the support, their family sees the

1 story. It provides some -- it's never going to provide
2 peace to that family, but it provides understanding.

3 And, for a lot of families, my experience
4 was if they knew what happened, it provided them with a
5 type of understanding that allowed them to have some
6 personal reconciliation. And so, I think that's a very
7 important ethic and, generally, that should be observed.
8 And, it's not easy to do it, and I'm sure there's always
9 going to be someone that's unhappy about it, but I think
10 finding that is really critical, is not to do things that
11 are over there and are disconnected from the families and
12 the loved ones, because again, I think with Indigenous
13 peoples' experiences, it has all been so disconnected that
14 there's no power put back in the family and community,
15 which is where it should be placed.

16 **MS. BETH SYMES:** I wish you ever success in
17 the next stage of your fabulous career. Thank you.

18 **MS. CHRISTA BIG CANOE:** Thank you. Next,
19 we would like to invite up Animakee Wa Zhing #37 and other
20 First Nation communities, including Obashkaandagaang First
21 Nation, Eagle Lake First Nation, Grassy Narrows, Ojibway
22 Nation of Saugeen. Ms. Whitney Van Belleghem has 10
23 minutes.

24 **--- CROSS-EXAMINATION BY MS. WHITNEY VAN BELLEGHEM:**

25 **MS. WHITNEY VAN BELLEGHEM:** Good afternoon.

1 I would like to start by thanking the people of Treaty 1
2 and the Métis Nation for having us here today. I would
3 also like to acknowledge and thank the families and
4 survivors here with us, the elders, the Commissioners, the
5 Inquiry staff and the witnesses.

6 As was indicated in the introduction, I
7 have the privilege and honour of representing several
8 Anishinaabe nations that were granted joint standing,
9 Animakee Wa Zhing #37, Asubpeeschoseewagong First Nation,
10 the Ojibway Nation of Saugeen, Grassy Narrows First Nation
11 and Eagle Lake First Nation.

12 I'd like to start by discussing funding and
13 the role that plays with preventative services. During
14 your evidence this morning, you mentioned that there's a
15 need to shift the child and family welfare system to being
16 prevention oriented. You mentioned that one of the
17 challenges in achieving this is frontline coordination.

18 Can you provide more information about the
19 systemic and funding barriers that may affect the on the
20 ground ability to provide effective prevention services on
21 reserve in First Nations?

22 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
23 think the issue about prevention is about preventing, and
24 what we're preventing is what are the presenting
25 situations in communities that cause child welfare to

1 become involved?

2 So, again, the top three that we'll come
3 back to again, and again, and again are poverty issues
4 that we've talked about, addictions issues and parental
5 addictions, and violence, family violence. The smaller
6 issues, not as frequent but they're still there are sexual
7 abuse issues and others, but those are the big issues.

8 So, around prevention, it's what kind of
9 services and supports are in community? And, communities
10 have not been funded to do parenting programs, to do
11 supports in those core areas. And so, they've seen that
12 only recently, since Human Rights Tribunal has there been
13 some resources, and I'm not sure if the nations that you
14 are representing have an agency or not that they benefit
15 from. But, there's a real disparity that has now
16 developed between those nations who have an agency and
17 those who don't. And so, we're seeing a second level of
18 kind of no prevention.

19 So, it might be -- like, if you take a
20 nation that's in an agency and one beside that isn't, this
21 one might be funded at a magnitude of 100 times of this
22 one today, because again, we still have these funding
23 issues, but they may be both Anishinaabe nations, and they
24 may have the very same issues and may have families
25 related to each other, but one will get some funding and

1 one won't. So, these are very chaotic funding approaches,
2 and they're in flux, and they affect what can be done,
3 because there's been some one-time money around the Human
4 Rights Tribunal, like one year or two year, but these
5 programs take time. Like, you need to be able to invest
6 for a five-year investment and recruit.

7 So, if you only have someone -- like,
8 here's your one-time funding, then it's very hard to
9 develop, as I'm sure you know, particularly in remote
10 communities to develop your resources and your programs if
11 they're going to be just shut down.

12 **MS. WHITNEY VAN BELLEGHEM:** Thank you.
13 And, can the funding model and the command and control
14 system associated with delegated Aboriginal agencies
15 reduce the resources available for providing prevention
16 and support services?

17 **DR. MARY ELLEN TURPEL-LAFOND:** I think
18 you're going to have to help me understand that question a
19 little bit better. Can you give me an idea about what
20 you're thinking about how the delegated agencies do that?

21 **MS. WHITNEY VAN BELLEGHEM:** So, in terms of
22 the funding model, some funding models, they receive more
23 funding based on the number of children in care.

24 **DR. MARY ELLEN TURPEL-LAFOND:** Right.
25 Okay.

1 **MS. WHITNEY VAN BELLEGHEM:** So, I guess my
2 question is, does this funding model ---

3 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, does
4 the model itself drive the problem?

5 **MS. WHITNEY VAN BELLEGHEM:** Correct.

6 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, it
7 does, and I think Mr. Wuttke for the Assembly of First
8 Nations touched upon that earlier, which is we have these
9 legacy formulas, like 20-1. Like, they're old policy
10 directives, and they don't make any sense, and you get
11 paid -- it's like a nominal role for school. You get paid
12 by how many kids are in care, not to do prevention. And
13 so, it almost serves the purpose to remove children.

14 Those are problematic, and I think the
15 Human Rights Tribunal has been very clear to say that is
16 tantamount to discrimination. And, although that Human
17 Rights Tribunal only applies to the federal level, I think
18 a lot of us see analogy in the provincial systems as well.

19 **MS. WHITNEY VAN BELLEGHEM:** So, keeping
20 that in mind, what legislative or policy reforms might you
21 recommend to support First Nation communities with
22 ensuring that child and welfare services they receive are
23 focused on prevention?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
25 of all, I think the Truth and Reconciliation Commission

1 calls to action are pretty important. They've been
2 sitting there for a number of years, and TRC Call to
3 Action 4 is about having comprehensive rights-based
4 transformative child welfare legislation to create a
5 better foundation for all of this. And then under that,
6 obviously some funding.

7 And so, funding formulas need to be based
8 on core funding, capital funding, you know, needs based or
9 equity-based funding. I mean, these are basic funding
10 principles very similar to the same funding arrangements
11 that are in place for health care and other federal
12 provincial arrangements.

13 So, Indigenous governments should be funded
14 under a proper formula, and that formula should take into
15 account all of the normal operational costs of child
16 welfare. And, I think as I said earlier, just taking
17 Saskatchewan as the example, there's a reason why it costs
18 more than \$1 billion a year to run the child welfare
19 system. Like, it's a cost, and that's probably almost 80
20 percent, if not 90 percent, Indigenous children already.
21 I mean, that's a provincial expenditure.

22 The idea of how you fund and what you do,
23 this has to be fundamentally rethought. And, I appreciate
24 it has been blown up through the human rights process, but
25 something has to come back that makes more coherent sense

1 for funding a social-serving sector and allows Indigenous
2 governments to plan and deliver and support their
3 families.

4 **MS. WHITNEY VAN BELLEGHEM:** Thank you. I'd
5 like to change gears a little bit and talk about the
6 impact that placement has on children. Would you agree
7 that it's beneficial for a child to remain in the
8 community instead of being placed outside the community
9 where they may not have family?

10 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
11 think it's always beneficial for children to have
12 stability in their community, and with their family, and
13 their kinship family. If it isn't with a kinship relative
14 in the community, if it can be with a kinship relative out
15 of the community, that's fine, but they have to have the
16 connection.

17 So, the first preference should always be
18 to keep within the immediate family, extended-family
19 concept using the -- whether it's Anishinaabe or other
20 concepts of the family, that would be the first priority.
21 That might be off, like, in an adjacent town or something,
22 but that concept of keeping the child. The child has a
23 right to be in their family. It's actually a right under
24 the U.N. Convention on the Rights of the Child. It's a
25 human right. So, it's not just my idea; it's actually a

1 human right. So, we should comply with their human
2 rights.

3 **MS. WHITNEY VAN BELLEGHEM:** Thank you.
4 Would you agree that aside from the negative impacts that
5 may immediately affect the child being placed outside of
6 their community that there's also negative effects in
7 terms of the impact on the child to their -- when they
8 return to their family or to the community when they age
9 out of care?

10 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
11 mean, I would like to see children returned well before
12 they age out of care, and I don't think any child should
13 grow up in care. The fact that someone grows up in the
14 foster care system and is not in a family is in and of
15 itself an incredible problem, because they're drifting
16 through foster care. Foster care is supposed to be
17 temporary, meaning, you know, a month. It's not supposed
18 to be you have it all your life, and Indigenous children
19 are more likely to grow up and spend their entire time in
20 care.

21 And so, that's an issue that's not
22 appropriate. So, yes, when they return, if they've spent
23 their entire childhood in foster care, and in some of the
24 cases I've had, and I'm sure you've seen in your own
25 communities you're representing, they may have 20, 30

1 foster placements, and they turn 19. I mean, it's
2 incredibly harmful in their lives, and to repair and
3 rebuild -- I know they can, but they're in such bad shape,
4 and the foster care system was not designed for people to
5 be raised in. It was designed as a temporary emergency
6 measure. Somehow, for Indigenous children, it has become
7 normed that they can be raised in a foster care system and
8 drift through that system.

9 So, absolutely the harm when they return.
10 I mean, every youth and child is different. Every young
11 person is different, but when they've had, like, more than
12 five, 10 placements, it's really truly awful what they've
13 gone through, and their need to have a supportive person
14 and family to process it, and it's really hard for them.

15 And, also, sometimes their own relations
16 will say, "Well, but you grew up in the city, and you had
17 a nice house with your own private bedroom," and there
18 would be resentment toward what they've been through. So,
19 the complexities of those conflicts are very deep, and I
20 think they cause a lot of trauma on every side.

21 **MS. WHITNEY VAN BELLEGHEM:** Thank you. So,
22 then, what recommendations would you make to support
23 maintaining the child's connection with their family and
24 home First Nation while they're in care outside of the
25 community?

1 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
2 of all, I think they should have the priority of placement
3 that we've talked about. Furthermore, I think that it
4 should be required that there be what I called early
5 cultural plans, which means there has to be an
6 operationalized cultural plan. So, you don't just, like,
7 go later and find out who your family is.

8 So, you participate in Treaty Day if you're
9 treaty. You participate in cultural ceremonies. You're
10 engaged with your family, you're connected to your family.
11 So, there isn't that discontinuity between your identity,
12 your culture and your time in foster care. So, that needs
13 to be flipped. And, that culture planning is really
14 significant, and that has to be a more mandatory part of
15 the process.

16 And, like, you know, I audited culture
17 plans, and a lot of them were really not adequate. It
18 would be like the child -- the child was in a non-
19 Indigenous home but it will say, "The child is exposed to
20 Indigenous culture because we have a piece of art on the
21 wall." You know, or "The child is exposed to something
22 because the child may be Anishinaabe and they're in a
23 Salish thing." Like, there's no tribal sense.

24 And so, it's very limited. So, those plans
25 need to be meaningful and connected to their family and

1 nation of origin. Like, not just pan-Aboriginal; family
2 and nation of origin. Their culture, their language,
3 their territory needs to be known to them. So, active
4 measures have to be taken to do that.

5 **MS. WHITNEY VAN BELLEGHEM:** And, that's all
6 my time today, so thank you very much.

7 **MS. CHRISTA BIG CANOE:** Thank you. And,
8 the last party that we'd like to invite up for cross-
9 examination is Awo Taan Healing Lodge Society. Mr. Darrin
10 Blain will have six minutes.

11 **MR. DARRIN BLAIN:** Thank you. Chief
12 Commissioner Buller and Commissioners, good afternoon. I
13 also want to honour our hosts who provided us with a very
14 meaningful song this morning and quite a beautiful prayer.
15 And, to Annie for attending the qulliq today. Thank you.
16 It's very much appreciated.

17 My name is Darrin Blain, and I represent
18 Awo, what's known as a women's shelter in Calgary called
19 Awo Taan Healing Lodge. It's an honour for me to say
20 hello to an old friend today, Dr. Turpel-Lafond. You had
21 the privilege of teaching me in 1993 ---

22 **DR. MARY ELLEN TURPEL-LAFOND:** And, you're
23 not the only one. Mr. Wuttke, too.

24 **MR. DARRIN BLAIN:** Indeed. Indeed. So, I
25 hope that it was more teaching of me and not admonishing

1 ... so it's an honour to be here.

2 **DR. MARY ELLEN TURPEL-LAFOND:** Well, you've
3 turned out okay, it looks like, so...

4 (LAUGHTER)

5 **MR. DARRIN BLAIN:** It's an honour to be
6 here with you, and it's not every day that I get to appear
7 in front of two of the best lawyers this country has to
8 offer, both yourself and your counsel, Ms. Big Canoe.

9 (APPLAUSE)

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

11 **--- CROSS-EXAMINATION BY MR. DARRIN BLAIN:**

12 **MR. DARRIN BLAIN:** Now, the beauty of going
13 last is that all you and I need to do is take a walk
14 through the evidence that the parties with standing have
15 already laid out for us and put a bow on it, and give it
16 to the Commissioners and we'll call it good.

17 We are making a public record, of course.
18 Some of my questions might sound redundant; they might
19 sound like it was covered a week ago or earlier this week,
20 so bear with me. We are making a record.

21 And, Dr. Turpel-Lafond, is it your affirmed
22 expert opinion that given the systemic and endemic,
23 professional indifference in the child welfare system, and
24 of the failure of leadership in government in the child
25 welfare system, that these are direct, contributing

1 factors of missing and murdered Indigenous women and girls
2 in this country?

3 **DR. MARY ELLEN TURPEL-LAFOND:** Yes, it is.

4 **MR. DARRIN BLAIN:** Thank you.

5 And I want to talk about the dusty white
6 elephant in the room. I know I'll get into a taxicab
7 tomorrow at about 5 o'clock, I'll make my way to the
8 airport and I'll tell the cabdriver what I'm here for.
9 That cabdriver will say to me, "Oh, another report.
10 That's just going to get dusty on the shelves and
11 nothing's going to be done about that. Why are they
12 paying all you people to do this?" And I'm hearing these
13 things in taxicabs; Quebec City, Regina, Calgary.

14 So I wonder if we could walk together for a
15 few minutes and just brainstorm a little bit. You have
16 been certified by Ms. Big Canoe as an expert in general
17 law, and I wonder if we could impose upon you to
18 brainstorm for a minute or two about how this report can
19 have some sticking power; how this thing can have some
20 stay power; some foundation so that it doesn't attract
21 that dust that people are talking about.

22 Can you help the Commissioners understand
23 what they can do in their report to help this thing stick?

24 **DR. MARY ELLEN TURPEL-LAFOND:** Well, first
25 of all, I think making the report reflect the information

1 that's been received about the circumstances that families
2 have been through is incredibly impactful. I think in
3 terms of the recommendations to change systems, they need
4 to be powerful recommendations, and as we know with the
5 Truth and Reconciliation Commission, they didn't call them
6 recommendations, they called them "Calls to Action"
7 because the Commissioners felt they were stronger than
8 recommendation; they wanted action.

9 So there may be some areas that are
10 recommendations; there may be some things that are calls
11 to action. So it's important to make that distinction,
12 and I think building on what we've learned.

13 Certainly as one person I don't see reports
14 as dust. I mean, I appreciate they don't get actioned but
15 when I look at the importance of reports that have been
16 produced in Canada, like the Royal Commission on
17 Aboriginal Peoples, the report of the Truth and
18 Reconciliation Commission; these are really significant.
19 In my life, they're very significant to me, and they're
20 deeply meaningful and they're impactful and I've seen a
21 lot of progress and change.

22 I'd like to see more progress and change,
23 and I wish we didn't have to go through these processes
24 but they're very important.

25 And so being focused on the subject is

1 critical. And the subject here that I have expertise on
2 is the treatment of Indigenous families and children. And
3 as I've indicated, the very challenging situation that
4 they've experienced in the systems that have blown up
5 their systems, and there's so much loss and disruption in
6 their families. And that requires a very strong rebuke,
7 and that requires a very strong push in a direction that
8 will repair.

9 People can't take away harm but you can
10 repair and systems have high degrees of accountability so
11 one of the things I would say is to be -- I won't say
12 unflinching, but if a system has failed there must be
13 truth telling that that system has failed, and it's very
14 hard to shellac that. And I think that's a really
15 important piece.

16 And having said that, people need to get
17 over that part and then get onto the work. But if it's
18 not truth telling, then it doesn't do a service to the
19 subject.

20 And by that I'm not saying trying to
21 intentionally inflame people, but I think that this is a
22 very serious issue and a very serious set of
23 recommendations that must come out of this that will have
24 not only national impact, there will be international
25 impact. And we may need an international rapporteur to

1 monitor Canada's progress on these recommendations.

2 (APPLAUSE)

3 **DR. MARY ELLEN TURPEL-LAFOND:** It may not
4 be possible to do that within Canada, given the massive
5 failure that we've seen and the impact of that. I would
6 say that, I would not be afraid of that.

7 So I think you're raising some very
8 critical points; incisive, creative, but pointed
9 recommendations are important and making sure those
10 recommendations can go to a place that they will honour
11 the information and the stories and experiences, that's a
12 very critical point.

13 So you're not going to put them on the
14 bookshelf. And some people will. There will always be
15 people that ignore and say there's nothing good to come of
16 anything. There're deeply cynical, jaded people in all
17 professions, not to mention the legal professions. But I
18 think they're just a minority. I think most people will
19 be very engaged and very responsive to the reports that
20 are developed.

21 **MR. DARRIN BLAIN:** Yes, ma'am.

22 And thank you, Doctor.

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

24 (APPLAUSE)

25 **MS. CHRISTA BIG CANOE:** So Chief

1 Commissioner, Commissioners, that actually concludes the
2 cross-examination.

3 I do not want to exert my right to re-
4 direct but I do have one comment or question if you'll
5 allow me to make to Mary Ellen.

6 Mary Ellen, throughout this process we have
7 offered the opportunity in both Part 1, 2, and 3, to any
8 of our witnesses that if, you know -- I know that you
9 didn't -- you came with an immense amount of
10 recommendations and knowledge, so we're not saying you are
11 required to provide us this, but I just want to invite you
12 that should you, after leaving here and having given more
13 thought to what you spoke about today, decide you might
14 have some further recommendations, whether it's in
15 relation to how the Commissioners are making
16 recommendations, tips, advice, or more specific
17 recommendations, I invite you to please feel free to
18 provide them to me as Commission counsel and I will
19 provide them to the Commissioners and the parties with
20 standing. And that's not an obligation; that's just an
21 invitation.

22 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.

23 **MS. CHRISTA BIG CANOE:** And, again, it was
24 an immense honour to be able to lead your evidence today.
25 I feel like proximity of sitting this close to you just

1 makes me smarter.

2 (LAUGHTER)

3 **MS. CHRISTA BIG CANOE:** So thank you very
4 much.

5 **DR. MARY ELLEN TURPEL-LAFOND:** Great.

6 **MS. CHRISTA BIG CANOE:** At this point, the
7 Commissioners likely have some questions.

8 **--- QUESTIONS BY COMMISSIONER ROBINSON:**

9 **COMMISSIONER QAJAQ ROBINSON:** I'm the
10 youngest so they make me go first all the time.

11 I do have a few questions. You used the
12 term, "courtesy supervision," and identified that as a
13 huge concern. I'm hoping you can elaborate on that
14 because I'm not -- I want to make sure I understand why it
15 is such a concern, particularly because I know for the
16 Nunavut Territory, likely the Yukon and the NWT, that
17 these are tools used.

18 There are, as far as I know, no group homes
19 in Nunavut, and no homes for those with serious needs. So
20 this is, I suspect, a mechanism that's being used across
21 the Territories.

22 **DR. MARY ELLEN TURPEL-LAFOND:** Yes. The
23 issue of courtesy supervision is kind of a fancy term for
24 we're sending someone somewhere else and we're letting
25 them know they're going there, but they don't actually

1 need to do anything about it. And if something goes awry,
2 I guess you call back to the originating jurisdiction.
3 But the courtesy part is not mandatory.

4 So this is a very complex issue because the
5 guardianship of children from, for instance, the North,
6 when they're sent to other, like, provinces to receive,
7 like, maybe because have complex behavioural needs or they
8 have urgent medical needs, or other -- there is just no
9 resource available, they need a guardian. So, just the
10 legal concepts of guardianship.

11 Guardianship remains with the provincial
12 director in the territory, but they are transferred out
13 then in, say, a group home where it is a guest shared
14 guardianship where day-to-day care is provided. So, there
15 are some very fundamental legal problems with this
16 construct, and there is a lot of laxity, there is a lot of
17 looseness in the child welfare system to have this
18 courtesy.

19 And, what we don't get in Canada in the
20 child welfare system is they have -- we have all of these
21 systems that are provincial and territorial, yet you have
22 these children moving between territories and provinces,
23 and it is all left to an interprovincial protocol that is
24 casual, and I -- actually, I did a report that caused them
25 to change it, because we had a child move to Saskatchewan

1 from B.C. and critically injured there. But, it is all
2 casual. It is all -- like it is not even a legislative
3 basis. It is all policy.

4 So, courtesy supervision is just a polite
5 way of saying, "We are sending someone somewhere else to
6 do it." And, again, we should always have the concept of,
7 what will we do with our own children? You know, I have
8 16-year-old twins, and I would not send them to Nunavut to
9 say, "Could you please give courtesy supervision
10 wherever," -- like I want to see where my kids are. And,
11 if it was, like, just courtesy -- and it sounds like,
12 well, kind of not even parented, is that going to be
13 courtesy -- that is not going to be good enough to have
14 courtesy supervision. I wouldn't want that for my
15 children. Why would we have that for children who come
16 from the North and are sent to Southern placements?

17 So, that concept needs to be very carefully
18 addressed. The practice of courtesy supervision, no
19 interprovincial and national standards or regulation for
20 the movement of those children -- and, I am willing to
21 say, from my experience as president at Canada Council of
22 Child and Youth Advocates, I would say the majority of
23 them are Northern children and they are Indigenous,
24 largely Inuit, children. And so, that is a group that
25 would be not only underserved, but invisible.

1 So, it is kind of like the kids that are in
2 hotels that are invisible in the Southern -- these kids
3 are in courtesy supervision and things happen to them.
4 Serious things happen to them, because I have seen the
5 reportables on the serious things that happen to them, and
6 I wasn't even able to investigate it, because they are not
7 under the supervision of the director.

8 So, I would have liked to have done a
9 report into a child that committed suicide, who was placed
10 in a group home, who was Inuit on courtesy supervision,
11 but that is not my job. So, I can't advocate for them. I
12 mean, I attempted to get them support in their home, but
13 how can someone from Nunavut be an advocate for someone in
14 Winnipeg? It is -- it doesn't work. So, this concept is
15 a very problematic -- it is like a no man's land.

16 **COMMISSIONER QAJAQ ROBINSON:** And, the --
17 if there was -- there is an advocate and a representative
18 now in Nunavut, but even with their legislated powers
19 would have no authority to get anything from Ontario.

20 **DR. MARY ELLEN TURPEL-LAFOND:** That's
21 right. And then the other thing is, they have limited
22 budgets too; right? So -- I mean, I stuck my nose in a
23 lot of other people's business when I was doing child
24 welfare, just because families. Families come from
25 everywhere. And, I tried a lot of times to get children

1 advocacy services in other provinces and territories, or
2 find out how they were doing when they had siblings in
3 another province. Remember, there are a lot of families
4 that are blown up, and there are a lot of different
5 places. And so, the lack of coherence across.

6 I mean, that is why federal legislation
7 needs at least to be able to have some imperative and
8 around the best interest of the child that they are not
9 just scattered. And, you know, no child should be --
10 guardianship should just be passed that easily. These are
11 very significant issues.

12 **COMMISSIONER QAJAQ ROBINSON:** I want to
13 touch on the federal child welfare -- the legislation. I
14 am not up to date on what is -- is there an appetite for
15 the development of that legislation?

16 **DR. MARY ELLEN TURPEL-LAFOND:** I think
17 there is a very strong appetite for it. I think the TRC
18 recommendations were good recommendations, the call to
19 action. I think it is very needed. I think the
20 challenge, like all issues of legislation in Canada, is
21 whether or not Canada can pass and develop rights
22 respecting legislation, or whether it is sort of *Indian*
23 Act 2.0, and I think that is the perennial challenge.

24 At the same time, I think it is possible to
25 have very good legislation. I think it is needed. And, I

1 think it is the sort of thing that will have to be
2 improved through time with the right emphasis on human
3 rights, new definitions of best of interest of a child,
4 which may have to have some principles around the interest
5 of children from the North in particular.

6 And so, there are benefits. I mean,
7 legislation is just one tool. It has to be implemented,
8 but it changes -- it shifts things very quickly. And so,
9 with the gaps and the danger that we have in Canada, it is
10 extremely needed, and I -- my perception of it is that
11 there is a very strong consensus to support it.

12 **COMMISSIONER QAJAQ ROBINSON:** Do you have
13 thoughts on the mechanism of how it should be developed?
14 There are concerns right now, for example, with the rights
15 recognition framework, or even the passing of the
16 legislation that was going to create -- make the United
17 Nations Declaration on the Rights of Indigenous Peoples a
18 Canadian legislation domestic law, yet we hear from
19 Indigenous groups that that was largely done unilaterally.
20 Sorry, big word at the end of the day. Do you have
21 thoughts on how this legislation, at that national level,
22 should be developed and who should be at the table?

23 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
24 think it has to -- I think there is a lot of evidence of
25 where it is going to come from, which is communities and

1 nations, and Inuit and Métis. And, certainly in the work
2 that I am doing more recently with the B.C. First Nations
3 Leadership Council, which represents all the First
4 Nations, they are not the rights and title holders, but
5 they are the organization, and some work that I have done
6 also with the Federation of Saskatchewan Indian Nations on
7 these issues in the last while, they have a really strong
8 position, and they have thought it out extensively, and
9 they have very sound proposals. So, they have done a lot
10 of work. And, I would hope that if legislation is going
11 to be developed, they will draw upon that.

12 I am not privy as much to the work with the
13 Métis Nation, but I have seen some of their material, and
14 there is a lot of consensus there. On Inuit, I understand
15 that there has been a lot of work on that. There has been
16 extensive work. And, as you say, there is a Commissioner,
17 there is Inuit women, there is all sorts of work that has
18 been done for a long time. This isn't just new.

19 So, my instinct is that there is a lot of
20 strength to do it. The question is, really, I think from
21 the Indigenous side, the work that I have seen is they
22 want that transformative, rights-based, respectful
23 foundation. And, I would hope government would be more
24 open to that, which means, you know, not necessarily
25 talking about it. Like, they should table a bill that is

1 very informed by that, and then allow there to be a debate
2 and hear from people. Like, that is the point. It is
3 like, we are never going to get things perfect, but they
4 need to get something and that response to that. Because
5 even if we were to get a bill and get legislation, it is
6 going to take time.

7 But, even -- as I said with the Hawthorne
8 effect, the federal government providing leadership to
9 address things like courtesy supervision will just
10 automatically help courtesy supervision, because those
11 kids that are now under courtesy supervision, everyone is
12 going to say, "We've got to do a better job for these
13 kids." So, you prime the system for change by showing the
14 leadership. So, that, I think, is very important.

15 But, federal government is not used to the
16 field of child welfare. It is generally a provincial
17 field. So, not surprising -- they probably don't have a
18 lot of in-house expertise, but they could work with
19 Indigenous representatives and I think they could have a
20 lot of success.

21 **COMMISSIONER QAJAQ ROBINSON:** Thank you. A
22 lot of the factors that play into apprehensions that you
23 have shared with us and that we have heard regularly are
24 issues like housing, poverty, health, education and those
25 services. And, when we were in Calgary and had a

1 representative from the Indigenous services branch of
2 INAC, I think that is what they are called now, talk about
3 FNIH, First Nations Inuit Health, and other services that
4 they provided, and they take the position that these are
5 not rights-based.

6 And, I am wondering from your perspective,
7 absolutely child -- child welfare, child protection needs
8 to be rooted in a human rights, Indigenous rights
9 framework. But, these other services that have such
10 foundational impact, the state does not look at them and
11 the services that they provide in those areas as being
12 rights-based. And, I worry about failing to do that in
13 conjunction with properly recognizing the rights of
14 children in a child welfare context. And, I think that
15 that step needs to be taken as well, that recognition of
16 human rights as they relate -- or medical education,
17 housing, socio-economic, all of these rights being
18 recognized domestically as such, and funded as such and
19 entrenched in our legislation as such. And, I am
20 wondering if you agree with me on that point.

21 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
22 the rights based approach for children and child welfare
23 is very important, because it includes the children's
24 right to belong to their community and their family. So,
25 it has to include the recognition of the community,

1 nation's rights.

2 The rights are important. How I view it
3 though, I view it like this, which is the Truth and
4 Reconciliation Commission I think rightfully and
5 profoundly said that UNDRIP is the framework in their
6 interim report, and in their final report and their calls
7 to action. And, the UN Declaration of the Rights of
8 Indigenous People, it is a very interesting instrument, it
9 is a declaration, some of it has the rights, some of it is
10 conceptually about how you have relationships. It is
11 extremely valuable.

12 And, when I think imply it to this area,
13 where it is being applied actually already in some court
14 decisions, what it does is it gives another -- it is like
15 putting on a new set of glasses and seeing it. So, it
16 brings a human rights framework. And, because UNDRIP is
17 about the minimal standards for the survival of Indigenous
18 people, I think that that is where we have to be. And, it
19 brings in other human rights standards, but UNDRIP is so
20 critical. And, again, it is not recognized fully. It has
21 been ratified, it has not been fully implemented, but this
22 is, again, the kind of lens.

23 So, we may need to get into really specific
24 arguments about right spaced funding, but UNDRIP provides
25 a bit of latitude to have that discussion. Not everything

1 is going to fit there, not everything will or will not,
2 but I do think the Human Rights Tribunal decision has
3 introduced a level of rights to funding and that has
4 changed the Canadian law -- not the provincial law, but
5 the Canadian law.

6 So, I do really feel that the Truth and
7 Reconciliation Commission has given us a very clear signal
8 of where to go, but we are not using it. So, that UNDRIP
9 lens I think is critical and that is a fundamentally human
10 rights lens, the preamble, and UNDRIP itself speaks to it
11 being as, like, a process of bringing in all human rights
12 standards, but applying them specifically to the
13 circumstances of Indigenous people.

14 And, again, Canadian Indigenous people, we
15 are very involved in the development of UNDRIP, and not
16 surprisingly, it has a lot of value to a field like this.
17 People think about it in another field, this is actually
18 really valuable because provisions prohibiting
19 discrimination are really significant, and provisions on
20 children.

21 So, I think you are right, it will have a
22 human rights lens, but exactly how it has it for
23 Indigenous children, youth and families will be unique,
24 but that is -- you know, UNDRIP is not new, it is 10-years
25 old, but it is new to be implemented.

1 **COMMISSIONER QAJAQ ROBINSON:** Those are my
2 questions. Thank you so much.

3 **--- QUESTIONS BY COMMISSIONER BRIAN EYOLFSON:**

4 **COMMISSIONER BRIAN EYOLFSON:** Thank you
5 very much, Dr. Turpel-Lafond, for coming and joining us
6 today and sharing your expertise with us. I just have a
7 couple of questions just, kind of, related to what my
8 colleague was just asking you.

9 You also talked about risk assessment tools
10 in your evidence as being problematic for -- when they are
11 applied to Indigenous families, some of them being
12 developed perhaps in the United States and not really
13 being appropriate when applied. So, also applying a human
14 rights lens or framework, would you say the application of
15 those risk assessment tools are factors to Indigenous
16 families as discriminatory? Could you comment on that?

17 **DR. MARY ELLEN TURPEL-LAFOND:** I would say
18 that it has great potential to be discriminatory because -
19 - first of all, I am not sure if they have been validated
20 officially and appropriately at the level of evidence for
21 this context. So, first of all, I am not even sure if
22 they are valid tools, okay? Because the validity needs to
23 be established and tested, so I have yet to find the
24 validity testing on Indigenous families. Most of them are
25 US tools that are adopted. So, before we even get to the

1 discrimination part, I am not sure about the validity.

2 They are not extensively challenged in
3 courts in Canada, mostly because Indigenous children and
4 families do not really go around and make challenges to
5 the validity of scientific instruments that are used by
6 large social serving systems. Should they? Yes, they
7 should. They probably would fail. And, I have yet to see
8 a single validation for Indigenous specific.

9 On the issue of, are they discriminatory?
10 Well, when the application of those tools does not take
11 into account factors beyond the control of the
12 individuals, so it is not really within the control of an
13 individual parent that there is alcoholism in the family,
14 that there has been incredible family disruption, yet
15 those are all risk factors. So, there are things outside
16 of the personal control of a protecting parent
17 potentially, so that develops an element of
18 discrimination.

19 And, also, the vulnerability. It does not
20 take in to account the vulnerability of the family and the
21 community. So, automatically it would invite a lot of
22 care to look at different nature of discrimination. And,
23 if it was like a charter type of a challenge under
24 Section, say, 15, there are those things like family
25 status, it seems to really be discriminatory on that.

1 There is gender, it seems to really pick off women because
2 women are disproportionately the caregivers and they all
3 fail these tools. Picks off on those who have
4 disabilities because sometimes -- because of adverse
5 childhood experiences and abuse. An Indigenous mom may
6 already be on a disability pension because she has had
7 significant disabilities maybe because of injuries from
8 violence.

9 So, when you look at those categories, it
10 is really hard not to see that. And then when you get to
11 the other categories that are really deeply meaningful,
12 like culture, and identity and spirituality, these deeper
13 issues, then I think we are into another whole thing.
14 But, it strikes me that it is very problematic, and we
15 would have to have the risk assessment tool developers,
16 you know, from California come and testify in a court, and
17 assess whether it is valid.

18 Like, I think it would probably be tossed
19 if it was really looked at. Yet, what is ironic is it is
20 relied upon because it is an efficiency tool. It is a
21 quick checklist instead of doing work. So, it is a move
22 toward less funded systems, technology. Ironically, these
23 things can prejudice certain groups more than others, and
24 likely Indigenous families would be much more harshly
25 impacted than others.

1 **COMMISSIONER BRIAN EYOLFSON:** Thank you. I
2 wanted to ask you about one of the documents you referred
3 to in your evidence, the Provincial Domestic Violence
4 Plan, second annual report, 2016. And, you referred
5 briefly to the issue of the province not sufficiently
6 addressing the issue of family violence, and you said they
7 had just done a little bit I think, or to that effect.
8 So, could you comment on what needs are not being
9 addressed or what is lacking in terms of what the province
10 is not addressing?

11 **DR. MARY ELLEN TURPEL-LAFOND:** Well, I
12 think the issue is a Provincial Office of Domestic
13 Violence is an important office to review deaths for
14 instance. Like, fatalities where a mom is murdered, it is
15 a domestic violence homicide, it is an Indigenous woman,
16 they need to do some panels, they need to review those.
17 In Ontario, there are special panels. They do not always
18 do special standalone Indigenous reviews, but the domestic
19 violence fatalities for Indigenous women, as an example,
20 they need to be looked at very carefully.

21 Having worked in the context of those
22 fatalities myself, with trying to get children placed
23 after a fatality, after mom is murdered, there is really
24 complex factors that went into the violence and so forth.
25 So, prevention is critical, evaluation is critical and

1 programming is critical.

2 And, like I say, there is a placeholder,
3 there is a line there, there is a page, but it is not dig
4 deep. The work is not deep. At the same time, at the
5 federal level, there was legislation to strengthen
6 protective orders for First Nations women on-reserve.
7 That legislation was passed to create another tool of
8 protective orders. An office like the one in British
9 Columbia should be very carefully assessing how many
10 orders are sought, how many orders are enforced, who
11 enforces the orders, were the orders effective, were the
12 women adequately supported by these orders, what were
13 their issues? Like, I would expect to see detailed
14 reporting. I would expect to know how many orders were
15 given, did they work, why did they not work? I would like
16 to see all that detail every year.

17 But, instead, we have a page that talks
18 about some money that is given out to 204 First Nations,
19 which turns out to be \$2 million. And, I am not saying
20 that they are not trying. It is just that it so does not
21 match the magnitude of the issue and it is not heavy
22 enough, it is not serious enough. And, I say the same
23 thing with the federal government, if we take the 91(24)
24 responsibility, where is their assessment of how many of
25 those protective orders that they envisioned in their

1 legislation how many of them have worked? How many of
2 them have been granted? What are the barriers to those?
3 They're enforced in a slightly different way. Not all
4 police forces will enforce those orders under the federal
5 legislation that are unique to, for instance, First
6 Nations women. Where is that analysis?

7 So, you know, we have some new
8 developments, but I'm not seeing rigour with those. I'm
9 seeing a very superficial response, and I would expect to
10 see much more rigour. So, I included that in my evidence
11 just to say I'm glad there is an office, but don't think
12 that just because you created an office, work happens.
13 There has to be serious, rigorous work.

14 **COMMISSIONER BRIAN EYOLFSON:** Thank you.
15 And, I wanted to ask you about -- you referred to the
16 report Not Fully Invested from 2014, and I believe you
17 said that in over 100 recommendations that you made,
18 approximately -- or I think you said 72 percent were
19 substantially or fully implemented. But, I noticed in the
20 report you also said that it's important to look at the
21 recommendations that the government did not implement, and
22 that the answer to that question was troubling, and that
23 there were several significant recommendations that,
24 perhaps, weren't implemented. I'm wondering if you can
25 comment a bit on the ones that weren't implemented and

1 what the problem may have been or why a lack of traction
2 on those recommendations?

3 **DR. MARY ELLEN TURPEL-LAFOND:** Well, what
4 was interesting is -- well, first of all, having 72
5 percent is pretty good. But, at the same time, not good
6 enough. You absolutely asked the critical question, and
7 that is the ones that are easy to do are the ones that
8 take more simple policy changes. The ones that require
9 deeper system changes and investment, they're stumbling.
10 And, the ones that require clear leadership, they are
11 sometimes stumbling.

12 And, not surprisingly on some of them are
13 those fundamental issues affecting Indigenous families in
14 particular. So, changing the child welfare system in a
15 planned, focused, fulsome way. So, the Government of
16 British Columbia is in a period of change right now, but
17 despite, you know, supporting talk about Indigenous child
18 welfare, never supported the authority of those First
19 Nations who exercise their own jurisdiction. So, I made
20 lots of recommendations; that didn't happen.

21 So, it kind of looks like it's happening,
22 but it's not. So, that's the other issue, and I say
23 evaluating recommendations, you need to evaluate it in
24 terms of substance. You can accomplish something through
25 other means, but there has to be substantial compliance.

1 So, it's not like a ticky box again, in and out, up and
2 down. It has to be very -- more depth.

3 And, it's evident. Anyone that reviews
4 recommendations, it's evident where real work is
5 happening, and real work is not happening, and most of the
6 time, people will be very straight up with you and say,
7 you know, we haven't done anything on that. And, they're
8 like, well, why? So, we need to develop insight.

9 So, not infrequently, that is with respect
10 to programs and services that impact Aboriginal people and
11 Indigenous people, and not infrequently, a province will
12 say it's because it's the federal responsibility. So,
13 it's, again, in the child welfare, it's, like, everyone
14 and no one. And so, that is unacceptable. Another reason
15 why we need clear federal regimes, so there can be
16 leadership provided to that.

17 **COMMISSIONER BRIAN EYOLFSON:** Thank you
18 very much. Those are all the questions I have.

19 **--- QUESTIONS BY COMMISSIONER MICHÈLE AUDETTE**

20 **COMMISSIONER MICHÈLE AUDETTE:** Oui, while
21 you're putting your second ear, I'm just going to say now
22 I understand why Maître Blain is good, or kind of good.
23 But, of course, before I say something or ask questions to
24 you, amazing colleague, Mary Ellen, there is also amazing
25 women who took the mic today that are from the grassroots,

1 survivors, family members, and that, for me, is amazing.
2 And, they asked questions like they were lawyers, or very
3 to the point.

4 So, all the people that are here are
5 learning from you. So, I'm very impressed by the women
6 and the men, and the Canadian lawyers also that represent
7 the Indigenous organizations or grassroots organizations
8 that put their heart in this.

9 And, of course, we had an opportunity to
10 have a little bit of a history. History is very important
11 for me and my family, and October 4th is known now around
12 the world. Around the world. On the media, we will see
13 that the Native Women's Association of Canada started that
14 movement, but today, we had a woman, a lawyer, Maître
15 Fraser, who taught us that it came from Kitigan Zibi, a
16 woman from there. So, thank you for that teaching. Very
17 important. Bridget Tolley's family. Her mom.

18 Of course, I will ask my question in
19 English -- in French. I'm tired. No, I'm not. I'll be
20 tired in 2019, after the Inquiry. But, you're welcome to
21 answer in English, of course.

22 Alors, c'est un grand honneur pour moi
23 d'être évidemment assise près de vous, là. On vous a vue
24 défendre les intérêts avec beaucoup, beaucoup, beaucoup de
25 passion et d'amour, alors félicitations.

1 Et ma première question, on l'a vu par la
2 présentation de Me Big Canoe : vous avez un CV
3 impressionnant, un curriculum impressionnant,
4 félicitations! Comme a dit... j'ai oublié votre nom,
5 excusez-moi, des Maritimes : même si vous avez un CV
6 académique incroyable, vous êtes capable de vulgariser des
7 enjeux complexes, un milieu complexe ou une culture qui
8 n'est pas nécessairement la mienne au quotidien. Et merci
9 pour ça.

10 Et ça fait longtemps que vous êtes là-
11 dedans, donc ma question : vous avez sûrement vu se
12 produire des changements qui ont été des succès par soit
13 vos démarches ou les démarches d'autres gens comme vous.
14 Est-ce qu'il y a des choses qui ont changé? Est-ce qu'il y
15 a des choses qui sont positives ou qui sont marquantes qui
16 peuvent servir de modèles pour nous, comme commissaires,
17 au moment de la rédaction du rapport et des
18 recommandations?

19 **DR. MARY ELLEN TURPEL-LAFOND:** I do, and I
20 think that that's -- that's a very important piece, is do
21 I see things shifting and improving? Yes, I do see them
22 shifting and improving, mostly because I see the hard work
23 by Indigenous people to place a priority and focus on
24 this. So, lots of work about putting children at the
25 centre, and I really value that.

1 Then, there are places, like I talked about
2 Quamet Laylam. There are places where there's been no
3 removals of children, and there are also systems, and you
4 would know in the Cree territories in Quebec, there's
5 efforts to strengthen child services. And, the James Bay
6 Northern Quebec Agreement has been there for a long time.

7 Sometimes those old agreements, older
8 agreements, required you to have the provincial rule's
9 equivalency. A lot of that is being revisited now and
10 being strengthened. So, I see some really big strengths
11 there for where people have agreements. The Nisga'a
12 nation, which have a very significant modern treaty,
13 they're indicating that they want to draw down their
14 authority on child welfare and expose more clearly their
15 Nisga'a law and practices, and I think that's exciting.
16 And, Haida and Gitxsan, and we've heard a bit about
17 Shuswap and others.

18 So, I see a lot of amazing work and
19 creating that space for Indigenous law and practice and
20 families. And so, I really do see the potential for
21 remarkably rapid change if we can support that initiative,
22 and if systems can support that initiative.

23 The other part that I think is really
24 critical is, again, because of the Human Rights Tribunal
25 and the attention to the discrimination, the level of

1 funding, I think there's been a greater awareness. So,
2 even that money, even though it's on a stable basis, is
3 actually beginning to bring some hope and some planning
4 where there was no planning before, and planning for what
5 people want to do. Very positive. I'd like it to be
6 stable and improve, but very good signs.

7 The other part that I think is really
8 significant that's most meaningful to me is I like to see
9 the voices of children and youth mobilizing, and I think -
10 - when I think about the population of, like, our First
11 Nations in particular, sometimes -- and again, I'm a
12 parent with young children -- or teenagers and young
13 adults, and I sort of have to remind myself, like, 70
14 percent of this community is under the age of 24. Seventy
15 percent. Like, where I'm the geezer, and that's okay.
16 I'm the old one.

17 But, the point is that they are going to
18 hold a level of accountability beyond what anyone ever
19 held, and they are getting very strong voices, and they
20 are highly intolerant of the type of hostile systems that
21 people have been through. And, because of the miracle, in
22 a way, of social media, they're connecting themselves to
23 their families without help from the system.

24 In fact, systems will tell them, "You're
25 not allowed to communicate with anyone from your family."

1 They're, like, "Well, I'm sorry, but we're already, like,
2 connected every single minute." So, those are really
3 different realities and those are -- that can be a very
4 powerful system. And so, I really think about everything
5 we can do. We may not have all of the answers in our
6 generation, but to empower that voice. And, not to be
7 opposed to their elders and their parents, or whatever,
8 but to actually enjoy a higher degree of safety and
9 security.

10 So, I think, actually, many Indigenous
11 people are able to more protect their families than in the
12 past that they could, because it is a safer place, in a
13 way, because after things like the TRC and the
14 understanding of that, these are important. And, the
15 people that can are less tolerant of those situation where
16 they can't. So, I see positive there. And, again, I
17 would recognize that that is largely driven by women, so I
18 really applaud and recognize that.

19 I did say earlier though, what would be
20 very meaningful to me in terms of a just system would be
21 for, say, Canada, provinces and territories to recognize
22 the caregiving that Indigenous women and men, but
23 primarily Indigenous women have done, and that that is a
24 form of care that was not adequately supported, but
25 nevertheless happened. Like, I think that is a very

1 important act of reconciliation. I know we need to
2 address issues around removals of kids and apologize for
3 that, that is very important, but we should also affirm
4 and recognize all of the caregiving that has occurred
5 despite all of that disruption. So, that is pretty
6 miraculous.

7 And, actually, sometimes I look at
8 situations where we have very powerful political leaders,
9 as an example. And, I was just in a room with leaders of
10 the Saskatoon Tribal Council. We were meeting on child
11 welfare issues with the Minister. And, they were all
12 going around the room talking about they have been raised
13 by their grandparents or great grandmothers -- grandmother
14 or great grandmother, and they are all very strong leaders
15 and very powerful individuals.

16 But, all I could think was, well, what if
17 they hadn't been? You know, what kind of leadership would
18 they have? But, because they were, they had that extra
19 support from that older generation -- and they were
20 actually, like, incredibly strong. And so, you really get
21 that juxtaposition of those who were raised by kinship,
22 caregivers, matriarchs, grandparents are, like -- you
23 know, despite everything else they have been through, they
24 are incredible leaders.

25 And then people that haven't -- it is not

1 that they can't also be leaders, because I think of
2 someone like Grand Chief Stewart Phillip, Grand Chief of
3 the Union of B.C. Indian Chiefs, who, himself, was removed
4 from his community and has found not only his path back,
5 but he is one of the most powerful leaders, despite
6 everything he went through. So, I see value in both, but
7 what I am trying to explain is just that I think it has
8 become more clear that that caregiving burden that was
9 taken by Indigenous families in light of all the busting
10 up of the family through residential school, how valuable
11 that has been.

12 It is not just providing a house, providing
13 a home, but it preserved the transmission of a culture and
14 a language that saved, in many ways, in many places, those
15 cultures and languages. And, I appreciate the North and
16 the South will have different circumstances, but that is a
17 really remarkable thing. And, I think that there is a lot
18 more honouring of that.

19 I would like to see the government properly
20 recognize and honour that, and understand and name that
21 for what it is so it isn't just ignored or expected. It
22 should be named and specifically appreciated, particularly
23 that those grandmothers and aunties with everything else
24 they had in their life were able to also do that. That is
25 pretty remarkable.

1 And, I think, like, just for myself, I
2 would say, personally, you know, sometimes people will say
3 to me like, "Oh, Mary Ellen, like, you have to work and
4 you've got kids," and "How is your life? How do you do
5 it?" And, I think, "Well, you know what? I have a
6 washing machine and a shower." I am not on a trap line.
7 I am not using an outhouse. I mean, I have all kinds of
8 benefits and conveniences. And, how people of another
9 generation managed?

10 I really -- I lift them up with their
11 accomplishment, but I also think we need to recognize all
12 of the things that they were doing, and it is work to take
13 on that caregiving responsibility when you are not just
14 raising three, four kids. Some of them were raising 10
15 and 12, and over a lifespan. Not all at once. But, some
16 of them, as I think some of our speakers said, they are
17 grandparents in their 80's and they are still raising
18 children with no support from any system. So, that gives
19 me a lot of hope and it gives me a lot of examples of
20 positive change that, you know, I am sure you have heard
21 about and you do celebrate everyday, but that is
22 remarkable resilience.

23 **COMMISSIONER MICHÈLE AUDETTE:** Oui. I will
24 try in English for this one, because it was -- I took it -
25 - the note in English. It was from Cora Morgan, a very

1 powerful presentation and with a lot of emotion, of
2 course. And, she was talking about, I will say in my
3 words, my English, that there is an industry built around
4 the family and the children, the child welfare system, and
5 a lot of money is put towards that. Same thing in other
6 cities, like Vancouver, we went many times walking in the
7 Downtown Eastside, or meeting with the groups there, or in
8 other places, Thunder Bay and so on.

9 And, we see, like, last night, the reality
10 of all those layers of discrimination or systemic cause on
11 a human being, on the women that we spoke with last night
12 on the youth -- with the youth or the men. And, it was
13 very ouch; you know? It is hurtful. And -- but we have
14 heard also from them last night and over the months with
15 this hearing, women need a safe place. Children needs a
16 safe place. And, last night, I saw something that I was
17 like, how come we don't have that in Vancouver, or
18 Montréal, Toronto, Thunder Bay? It is a beautiful centre
19 for youth. It is open seven days a week. And, on Friday,
20 Saturday and -- on the weekend, it is 24-hours.

21 And, when we got there last night, it was
22 very late, I saw young girls, and I have twins, two
23 beautiful girls, they know them, and right away I said, "I
24 hope they are not walking by themselves." They saw my
25 reaction, they grabbed me and they said, "No." I didn't

1 say nothing. They take her from the home, bring them to
2 the centre and bring them back. And, it is amazing what
3 they do with zero funding from the provincial or federal
4 government. And, for me, I was like, that is something we
5 should have across Canada, and it is the Rossbrook House,
6 and it is for all people, all culture, but mostly
7 Indigenous people are there.

8 And, you saw three generations. A young
9 woman who was using the service there, and now she is on
10 the managing, you know, team. She has been there 20-
11 something years. So, for me, that is a real success. And
12 so, I was wondering if you saw organizations also like
13 this outside of Indigenous governments, and I commend
14 them. They are saving lives or protecting.

15 My other question also is, we have heard,
16 not only with the Inquiry, but we read the news or we
17 participate to events, and we will hear from people that
18 the child -- the children -- or I will speak for the
19 Indigenous children, don't seem to be a priority for any
20 government across Canada. And, when we ask the question
21 informally to the government or we visit their website,
22 they will present measure, or program, or initiative for
23 the children.

24 But, from your expertise or your passion
25 and by all the reports that you presented to us, it seemed

1 like it is not a priority. I don't want to put words in
2 your mouth, but from where I am sitting, it doesn't --
3 because it is an industry that separate the families,
4 instead reunited the family, and I believe that all
5 government here in Canada did sign that convention pour
6 les droits des enfants, la convention internationale. So,
7 how do you explain that? That they do sign that
8 convention? They do say that there is something for the
9 youth when you look at their website? But, when we see
10 the children on the street last night, it is not what I
11 see on the website.

12 **DR. MARY ELLEN TURPEL-LAFOND:** I would say
13 that the level of focus on children by the federal
14 government in Canada has been low in comparison to other
15 countries. And, certainly in my time as children's
16 representative and the president of the council, I had the
17 opportunity to meet with the Children's Commissioner of
18 Norway, you know, New Zealand, Australia, other --
19 England, Wales, a lot greater focus on human rights of all
20 children at the national level.

21 So, we have references here and there like
22 you say, but it is not a sustained clear focus, it is all
23 over the place. And, I think that it is not consistent.
24 Other federal states have more focus and I think the
25 convention was ratified, but I do not think they had put

1 sufficient mechanisms at the national level. They put
2 everything into the provinces and regions, and it is not
3 adequate. So, I think you are right, I think there is a
4 lack.

5 In terms of moving forward on change, I
6 think it is hard to have children's rights issues as a
7 priority, in part, again as I said earlier with the
8 federal government, because they just do not have a lot of
9 experience in the child welfare area because it is a
10 provincial area. However, their opportunity to provide
11 leadership is enormous. Just being -- providing some
12 basic leadership with some basic change would be extremely
13 valuable and would -- they are not going to deliver
14 programs. They are going to set some requirements around
15 how -- what are the expectations, how children should be
16 treated, and those should be consistent with rights. And,
17 it could be that they have been afraid to do that, because
18 they are afraid that that is going to reflect on them, but
19 they have already had numerous reports that have suggested
20 they have not quite made that by international bodies,
21 like the UN Committee on the Rights of the Child.

22 So, I mean, they are at the point where
23 they need to move forward and I do not think there is any
24 room to not move forward. And, the question is, I think
25 from Indigenous peoples and others -- the TRC was very

1 clear. They need to move forward. And, one of the
2 reasons why I think we talk so much about the human rights
3 issues is, if we do remember the residential school
4 experience, the fact that the child did not have rights to
5 seek a remedy during that time when they were being
6 treated so horrifically.

7 Historic injustice is very serious, but
8 what we learned about it was you need to have a remedy in
9 real time. And, Canada has to make account for what
10 happened, and they have, and it is not an over process,
11 but you have to have a remedy at the moment. Giving
12 someone a remedy 75 years later is not real justice. So,
13 when it comes to these issues with children and parents,
14 you need to expedite that.

15 So, the federal government would be very
16 valuable in that area, and I think the pressure on them to
17 move forward has grown, and grown and grown. And, if they
18 do not, given the fact that they themselves have labelled
19 it a humanitarian crisis, I think that that will lead to
20 even deeper international examination of whether or not
21 there are some very fundamental state violations by Canada
22 of those international standards.

23 **COMMISSIONER MICHÈLE AUDETTE:** Merci. My
24 last comment to you is that, if it is possible for you
25 tonight, to light a candle or come to the vigil. There is

1 a vigil here in Winnipeg or, again, a candle in your room
2 or where you are going to be for the children left behind,
3 that lost their mom or grandmother. And, it is like for
4 Mary who left five children behind and all the siblings,
5 so we have to think about them also in this important
6 work. So, you are again, you are so welcome to walk for
7 the families and with the families. Merci beaucoup.

8 **--- QUESTIONS BY CHIEF COMMISSIONER MARION BULLER:**

9 **CHIEF COMMISSIONER MARION BULLER:** I have
10 three areas for questions for you, I will try to avoid
11 more stories. The first area for question is information
12 presented in court, risk assessments, things of that
13 nature.

14 Assuming for the moment that Gladue reports
15 are required wherever the liberty of an Indigenous person
16 or child is at stake, what role, if any, do you see for
17 Gladue reports at any stage of protection?

18 **DR. MARY ELLEN TURPEL-LAFOND:** I think that
19 that is a very important concept, which is, as you know,
20 they have been developed for sentencing. And, they
21 provided, in some places, not all, a much more meaningful
22 understanding of the circumstances that are at play. And,
23 they have changed sentencing, which I think has been
24 really -- there is a lot more to be done, but they have
25 been very helpful.

1 have the expertise, and then they have to work with the
2 community to get the expertise. So, it is a good process.
3 I think the Gladue process has been very significant. I
4 think it has got much more work to be done, but it has
5 been really important to develop awareness in the criminal
6 justice system of the intergenerational issues for
7 Indigenous people.

8 **CHIEF COMMISSIONER MARION BULLER:** Thank
9 you. The next area that I want to ask you about is the
10 duty to report and how that, first of all, was highlighted
11 so graphically in Paige's report.

12 What I have heard and my colleagues have
13 heard from families and survivors across Canada is along
14 the lines of, and I am paraphrasing, my children are
15 better off with me living in a hostel or in substandard
16 housing than they would be in a foster home, so I am going
17 to hide them essentially from the authorities. And, that
18 belief is shared by other people who might be in a
19 position to report or would have a duty to report that the
20 living conditions for these children, in theory, would
21 place them in need of protection, but they are better off
22 with mom, dad or extended family.

23 So, my question to you is, how much do you
24 think the failure to report has to do with mistrust or
25 fear of the system as opposed to indifference?

1 **DR. MARY ELLEN TURPEL-LAFOND:** I think
2 there is an element of that. And, I do think the one
3 thing I would say about child welfare systems is that they
4 fail. They can be an absolute abject failure.

5 And so, in the U.S. -- not in Canada, but
6 in the U.S., entire state child welfare systems have had
7 to be put under court supervision, Utah, Washington state,
8 Florida, whatever, because they failed for exactly what
9 you said, which is there is the duty to report and the
10 duty to protect. There is also the duty to support. So,
11 if you look at that massive -- I mean, systems failed in
12 New York state as an example, and Washington state,
13 because they did not do prevention. So, they did too much
14 removal and no support.

15 And so, any time the system gets too
16 extreme to one thing, it can lead to a failure. So, the
17 fear of reporting because someone might take an action,
18 and they only have one action to take, represents a failed
19 system. And, I am not saying these systems are all failed
20 in Canada, but they are showing really significant signs
21 of being so fractured for a whole bunch of reasons. Not
22 having adequate resources, not having well-trained people,
23 targeting only a particular population, that they do not
24 stand up to scrutiny.

25 So, as a result, there is this element that

1 is, we do not want to report because why, we do not want
2 to invite this into their life. But, the challenge is,
3 then there is no service, so you have to report. I mean,
4 as a matter of moral imperative and principle, we cannot
5 be a society that does not report child abuse. If we
6 become a society that does not report child abuse, then we
7 become a very substandard society and that is not
8 acceptable. That is like saying we will tolerate abuse of
9 children, because it is the better good. That is
10 completely -- that is a failed system, and that mentality
11 cannot be allowed to prevail.

12 And so, the duty to report -- the reason
13 why I emphasize it was I was well aware of the fact that
14 the system had severe frailties, and -- but, at the same
15 time, I thought we have to put it back on the right shelf,
16 which is, you can't allow the child to -- they are the
17 ones whose lives are experiencing this. So, yes, the
18 parent may be better at protecting them in the shelter
19 than on the street, but actually the shelter protection
20 isn't working, because the child is being assaulted by mom
21 and mom has untreated mental illness. So, we have to
22 address it.

23 So, it only goes underground. So, I think
24 your point is a really good one. People do hide out.
25 They -- you know, they don't like the system. And, I have

1 seen people who deliver a child at home, or they have an
2 infant in a tent instead of going to a hospital, because
3 they don't want to have the child removed. There are
4 those cases, but you have to place the value on the child,
5 and by doing that, you must have a report.

6 The question is, you have to report to a
7 system that does the right thing. And, right now, it does
8 a lot of this, which is removing, and it doesn't do a lot
9 of that supporting. But, with -- the power to remove is
10 the duty to support. So, this is a very important dynamic
11 and it has not been set to the needs of Indigenous
12 families.

13 **CHIEF COMMISSIONER MARION BULLER:** Thank
14 you. Last area for questioning has to do with legislation
15 and existing opportunities that are on the books. In the
16 B.C. laws, relevant laws, for example, as we both know,
17 they are the opportunities to remove the offending parent
18 from the home rather than removing the children from the
19 home. It is the opportunity for supervision. Here, in
20 Manitoba, there is the opportunity to have homemakers
21 attend at a home. There are other opportunities for, in
22 other provinces, for something short of removal, cultural
23 supports, things of that nature.

24 The B.C. legislation says the children have
25 certain rights to maintain cultural ties. They have --

1 they are all listed beautiful concepts of maintaining ties
2 with language, culture, heritage and their service
3 delivery principles in the legislation that say much the
4 same thing. These children have -- Indigenous children
5 have rights to maintain contact with their communities and
6 vice versa, Sections 2, 3, 4 and 5 of the Act.

7 So, there are these opportunities that
8 already exist and have existed for quite some time to
9 various degrees all across Canada, yet they are not being
10 used. And, the service principles that are enumerated in
11 legislation guaranteeing cultural rights for Aboriginal
12 children are not being upheld. So, there is, to me, a
13 disconnect between what has been legislated and what is
14 happening on the streets in terms of service delivery to -
15 - the default is to go to removal when there are all these
16 other options that would allow community involvement in
17 the plan for the children, family involvement in plan for
18 the children and injecting that cultural component
19 already. It is already there, and it is not being used.

20 **DR. MARY ELLEN TURPEL-LAFOND:** I think the
21 issue about what is not being used, which is important to
22 point out, like for instance the rights of children in
23 care in British Columbia, that is Section 70 of the CF and
24 CSA. They have a right to, like, you know, use the phone
25 privately, contact their family, have their own religion,

1 other things, but there is no remedy if they don't have
2 the rights. So, they have rights without any remedies.
3 And, having been the child advocate -- they can call the
4 child advocate, but I can't, like, go to court and get
5 them -- I can just use my powers of persuasion, which were
6 fairly strong and effective in lots of cases but, you
7 know, you eventually have washed over by hundreds of cases
8 where their rights aren't recognized.

9 So, these concepts that you are describing
10 that are little additions to parts of legislation, they
11 are very important additions and they came from strong
12 advocacy from the Indigenous community, but they are
13 largely the not enforceable parts. There is no -- it
14 doesn't say the family can seek a remedy; right? The
15 family can seek judicial review, or whatever. It is just
16 -- they are concepts; right? So, they are not the
17 enforceable part. It is not the teeth in the legislation.
18 It is kind of, like, a side thing, and it is not taken.
19 And, if it was taken, we would have a lot more progress.

20 But, particularly, the rights of a child,
21 they have no rights. There is no children's law program
22 in most provinces. They can't go to a court. They can't
23 take an action on their own behalf. An adult has to take
24 it for them. You have to have a proper guardian. You are
25 at the mercy, often, of the public guardian and trustee

1 for your state guardianship and your personal
2 guardianship. So, they don't really have remedies, and I
3 think strengthening those remedies for Indigenous children
4 and families to make them meaningful is really an
5 important part of it.

6 And, again, I come back to that concept of
7 time. You know, time does pass quickly in the life of a
8 child; right? Childhood is not -- childhood is 988 weeks,
9 and before you know it, it is over. And, a lot of these
10 systems will take half of the child's childhood to even
11 make, as you know, in some places, even in a province like
12 British Columbia, you won't get a judicial determination
13 for seven years. And, that is not because someone didn't
14 want to do it, you just can't even get into court. So,
15 these are rights that are meaningless because there is no
16 remedy, and there is not the sufficient appetite in the
17 system to enforce them.

18 So, hence, they are very ripe for
19 improvement and rights should have remedies. And, most
20 vulnerable citizens, like children in care, children from
21 Indigenous families in care, Indigenous families need to
22 be the ones that have very easily accessible remedies, not
23 these super complex...

24 The final point I will make, which is a
25 kind of legalistic point, I know, which is my view of one

1 of the reasons why that doesn't work is most non-
2 Indigenous families when they have family difficulties use
3 the family justice system. Or, if a child is in crisis,
4 they use the guardianship order under the *Family Law Act*
5 to transfer the child. It is very easily done and it is
6 just normalized. Indigenous families don't get that
7 access to justice. So, by the time -- all that family
8 stuff is just useless to them, because there is no access
9 to justice.

10 So, by the time they need support, they are
11 in the child welfare system, and everything has become so
12 severe when it could have been forestalled, let's just
13 give grandma guardianship. Okay, that's easy. I can do
14 that in five minutes as a bench order, a consent order.
15 But, now, we have a massive child welfare problem.

16 So, these are the points where they do have
17 rights, they are very not enforceable and they don't have
18 access to justice. So, without building those on ramps
19 and supports, even the nicest words in legislation will be
20 not worth very much.

21 **CHIEF COMMISSIONER MARION BULLER:** Okay,
22 thank you. Well, thank you very much for spending a very
23 long day with us. Sometimes it is nicer to be out in the
24 sun. We are all very grateful ---

25 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.

1 **CHIEF COMMISSIONER MARION BULLER:** --- for
2 the time you have spent with us, for the knowledge you
3 have shared with us, for your expertise, your humour and,
4 of course, your incredible dedication to children.

5 We have just a little gift to give you in
6 return ---

7 **DR. MARY ELLEN TURPEL-LAFOND:** Oh, thank
8 you.

9 **CHIEF COMMISSIONER MARION BULLER:** --- and
10 that doesn't really require a lot of explanation for you,
11 I know. We have an eagle feather for you ---

12 **DR. MARY ELLEN TURPEL-LAFOND:** Oh, thank
13 you.

14 **CHIEF COMMISSIONER MARION BULLER:** --- to
15 hold you up on those days when you need a little holding
16 up. And ---

17 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.

18 **CHIEF COMMISSIONER MARION BULLER:** --- on
19 those days you can go higher, to help you go higher. So,
20 it is with great, great gratitude that we give you a
21 little gift, because what you have said today and all days
22 has made such a big difference to our work ---

23 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.
24 Thank you very much.

25 **CHIEF COMMISSIONER MARION BULLER:** --- and

1 to all children.

2 **DR. MARY ELLEN TURPEL-LAFOND:** Thank you.

3 **CHIEF COMMISSIONER MARION BULLER:** Thank
4 you. Ms. Big Canoe, we are adjourned until 8:00 tomorrow
5 morning. (GIFTING OF EAGLE FEATHERS)

6 **MS. CHRISTA BIG CANOE:** It's been a long
7 day. Thanks, AV. Just a quick announcement for parties
8 with standing, you have received material for Dr. Wade for
9 tomorrow, and I kindly request the same request I always
10 give you each night, is if you want to cross-examine
11 tomorrow, can you please, between 7:30 and 8:25 tomorrow
12 go to the Assiniboine Ballroom so that you can draw?

13 **MS. SHAUNA FONTAINE:** Thank you everybody
14 for staying late with us this evening. To close us off,
15 we're going to ask Mary Crate to come on up and close us
16 off with a prayer song.

17 (MUSICAL PRESENTATION)

18 --- Upon adjourning at 6:09 p.m.

19

20 **LEGAL DICTA-TYPIST'S CERTIFICATE**

21

22 I, Félix Larose-Chevalier, Court Transcriber, hereby
23 certify that I have transcribed the foregoing and it is a
24 true and accurate transcript of the digital audio provided
25 in this matter.

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Félix Larose-Chevalier

Félix Larose-Chevalier

October 4, 2018