



NO MORE STOLEN SISTERS

AOKI ANNOHK AHKSAWATOHTA'TSAA'P KITAAKIIMINNOONIKS
blackfoot

NAMOYA AYIWAK KIMOTIWIN NITISANISKWEW
cree

GAAWLIN ASHKAM NISHIWESIN NIMISE
ojibway

The National Inquiry into Missing and Murdered Indigenous Women and Girls
Written Submission
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“The root cause of violence against Indigenous women is Colonialism”

Commissioner Qujaq Robinson, Closing Submissions, Ottawa, Dec 14, 2018

INDIGENOUS WOMEN'S SHELTERS

A. "WOMEN ARE DYING": THE COST OF UNDERFUNDING INDIGENOUS WOMEN'S SHELTERS, SAFE HOUSES AND TRANSITIONAL HOUSING

1. By far the dominant theme of the evidence given in late May 2018 in Calgary, AB by the expert panel on women's shelters, safe houses and transition housing concerned the acute and perpetual shortage of shelter funding across Canada, and the ways in which this lack of funding directly exacerbates the effects of violence against Indigenous women and girls.

2. Ms. Josie Nepinak, Executive Director of the Awo Taan Healing Lodge Society, an urban Indigenous women's shelter located in Calgary, noted that in 2015-2016, for example, 16,359 women and children were turned away from shelters in Alberta alone; of that number, 65% were Indigenous, meaning that at a conservative estimate, over 10,000 Indigenous women and children in urgent need of protection were turned away from emergency shelters.¹

3. Ms. Nepinak also noted that more than 600 women are turned away from Awo Taan Healing Lodge every year due to funding shortages.² Ms. Sandra Montour, Executive Director of Ganohkwasra Family Assault Support Services, located on Six Nations' territory in Ontario, stated that her organization has waiting lists for every program offered: 20 to 30 women are waiting every month for the community counselling program; 15 to 20 for the men's counselling program and 20 to 30 children every month of the children's program. In Ms. Montour's words, "I worry about losing our people to death as they're waiting on our waiting list. ... I cannot find the money to be able to hire more people. The need is there."³

4. Given the current, dysfunctional funding models and amounts, there is no single database that currently tracks the correlation between women who are turned

¹ Transcript May 31, page 202, lines 14-24

² Transcript June 1, page 110, lines 2-15

³ Transcript May 31, pages 213, line 20—page 214, line 1

away from shelters, and those women who are murdered or go missing.⁴ The experts unequivocally drew a link between shelter shortages and increased risk of violence and death among Indigenous women.

5. Ms. Nepinak “absolutely” attributed a proportion of Indigenous women’s deaths to long waitlists and other delays in obtaining emergency shelter services;⁵ she also testified to personal knowledge of Indigenous women who had died after leaving the shelter.⁶

6. Ms. Montour described the effect as follows: “When people come and they’re ... put on a waiting list, they disappear. And I don’t know what happens to them. We don’t know what happens to them. They could be missing, and they could be murdered.”⁷ Nakuset, executive director of the Native Women’s Shelter in Montreal, similarly described many among the “lost” women, suffering for lack of services in the city, whom she has known to have passed away.⁸

7. The current, dysfunctional funding model imposes costly limitations even where an Indigenous woman is able to secure available emergency services. Ms. Nepinak noted that in Alberta, for example, there is a maximum shelter stay of 21 days; while this may be extended in some circumstances, she noted that even measured as a 40- or 50-day span, the current system “expect[s] that miracles are going to happen.” Typically, as she testified under oath, an Indigenous woman coming into a shelter has children with her; both she and the children are in a traumatized state, possibly with injuries or suffering from sexual trauma; she is coming abruptly into a structured environment to live with strangers; in this time, she is expected to keep her mental health together, to find income support, and to have her housing supports met.⁹ As Ms. Nepinak noted, the healing process for any individual in these circumstances is necessarily a lengthy one, measured in years.¹⁰ At present the time strictures placed on available supports amount to an arbitrary cut-off that bears little

⁴ Transcript May 31, page 202, line 25—page 203, line 11

⁵ Transcript June 1, page 17, line 16—page 18, line 7

⁶ Transcript May 31, page 174, lines 3-5

⁷ Transcript June 1, page 18, lines 12-18

⁸ Transcript June 1, page 61, lines 2-5

⁹ Transcript June 1, page 200, line 9—page 201, line 7

¹⁰ Transcript June 1, page 202, line 16—page 203, line 9

to no relationship to an individual Indigenous woman's needs.

8. The link between the historical and prolonged underfunding of shelters and violence against Indigenous women extends to shelter staff themselves. Ms. Montour testified under oath repeatedly to the hazardous nature of shelter work, and the unacceptable dangers involved in staff members' working alone—a situation faced by many shelters due to funding shortages: in addition to requiring higher compensation generally, she stated, “[t]hey should be getting danger pay because they’re—it is dangerous work. When people are, you know, detoxing in our shelters, the people are suicidal, and our—the police are bringing them to us because they’re suicidal.”¹¹

9. Ms. Montour later identified as her most acute funding requirement her desire to eliminate single-staffing in shelters.¹² The isolation of single-staff workers, moreover, finds a parallel in the experience of isolation that attends the work generally; among the many needs for increased is the benefits that would flow from institutional knowledge-sharing; under present conditions, in Ms. Nepinak's words, “[Y]ou feel like you're paddling your own boat.”¹³ The intensity of the work, meanwhile, is at odds with the rates of pay, meanwhile, which are low generally for shelter workers,¹⁴ and disproportionately low for Indigenous shelter workers.¹⁵

10. Closely related to the intensity and danger of the work are widespread instances of staff burnout and trauma. Ms. Nepinak noted that many shelter staff bring to their work lived experiences coupled with their educational background, and that while this enables staff to work with the women who come into the shelter as family members, this also adds significantly to the emotional toll of the work, increasing rates of illnesses, depression and burnout among staff;¹⁶ she added, too, that women who work in the shelter are frequently also looking after their own families and have little time for self-care.¹⁷

¹¹ Transcript May 31, page 231, line 23—page 232, line 21; see also June 1, page 23, line 6—page 25, line 20

¹² Transcript June 1, page 53, lines 18-21; see also June 1, page 131, lines 3-11

¹³ Transcript June 1, page 223, line 14—page 224, line 3

¹⁴ Transcript May 31, page 172, line 19—page 173, line 2

¹⁵ Transcript June 1, page 35, line 15—page 36, line 13; also May 31, page 238, lines 19-23

¹⁶ Transcript June 1, page 30, line 24—page 31, line 10

¹⁷ Transcript June 1, page 30, line 7—page 31, line 22

11. Beyond the need for increased funding and funding models that reflect today's reality regarding the broader need for improved understanding of the role of shelters and safe houses, Ms. Nepinak emphasized the critical distinction between common conceptions of "domestic violence" and violence as it is experienced by Indigenous women: as she observed, the phrase "domestic violence" evokes a narrower understanding of violence that is inflicted within an intimate relationship between a man and woman, while family violence may involve family members, acquaintances, relatives, neighbours, even landlords—as well as, more widely, the violence suffered by Indigenous women through colonization, dispossession of land, oppressive government practices such as the *Indian Act's* effects on Indigenous women, residential schools, the 60's Scoop and other colonial abuses that continue to contribute to the mass destruction of traditional values and practices.¹⁸

12. On a related point, Ms. Nepinak noted that current standard danger assessment tools are not adequate with regard to the experiences of Indigenous women; Ms. Nepinak described a study in which Indigenous women's perceptions of their levels of danger, initially low or non-existent, notably as compared to non-Indigenous women's perspectives, shifted upward drastically through sustained education, awareness and peer support.¹⁹

13. Also in addition to the issue of inadequate funding models and underfunding, all three experts gave evidence as to the dysfunctional intersection between, in particular, child welfare practices and shelter services, as a further perpetuation of violence against Indigenous women.

14. Ms. Montour attested to the widespread phenomenon of women being afraid to come forward to seek emergency assistance because they are fearful of child welfare intervention,²⁰ as did Nakuset—a fear, moreover, that the experts agreed is often justified.²¹ Ms. Nepinak similarly described the fear of losing her children as a

¹⁸ Transcript May 31, pages 174, line 16—page 175, line 23

¹⁹ Transcript May 31, pages 191-95, lines 16-7; see also Exhibit 45, "Danger Assessment"; see also Transcript June 1, page 95, lines 5-10

²⁰ Transcript June 1, page 38, line 9—page 39, line 7

²¹ Transcript June 1, page 101, line 22—page 102, line 7

“very common”, and significant, barrier to women seeking assistance.²² Meanwhile, Indigenous women may also suffer the inverse scenario: a woman may be told by child welfare services that she must move into a shelter or have her children apprehended—only to be placed on a shelter waiting list because of insufficient beds.²³

15. Ms. Montour repeatedly noted the particular difficulties suffered by northern shelters, whose expenses are “twice” those of others, mainly due to transportation costs,²⁴ and who are frequently single-staffed.²⁵

16. Much of Nakuset’s testimony similarly emphasized the particular challenges faced by Inuit women and girls in Montreal and other southern cities, many of whom move south in search of a better life but find themselves acutely isolated by their language and culture;²⁶ Nakuset noted that fifty percent of her own clientele is Inuit,²⁷ but that no health or police services currently exist in Montreal that serve the Inuit population’s language or cultural needs.²⁸ Nakuset also noted that the Inuit population of Montreal is substantially undercounted.²⁹

**B. “THERE IS A WAR ON INDIGENOUS WOMEN IN THIS COUNTRY”³⁰ :
INDIGENOUS WOMEN’S SHELTERS ON THE FRONT LINES**

17. All three expert witnesses emphatically agreed that the women and children coming into shelters and safe houses are among the most vulnerable people in Canadian society.³¹ The outdated funding models and underfunding of shelters and safe houses, moreover, stands as a particularly damaging instance of the lack of safe spaces generally for Indigenous women in Canada: safe spaces being those where

²² Transcript June 1, page 226, lines 1-24

²³ Transcript June 1, page 227, lines 1-9

²⁴ Transcript May 31, page 216, lines 16-20;

²⁵ Transcript June 1, page 115, lines 4-14; also page 129, lines 16-24

²⁶ Transcript June 1, page 59, lines 7-21

²⁷ Transcript June 1, page 57, lines 6-7

²⁸ Transcript June 1, page 66, line 9—page 67, line 5

²⁹ Transcript June 1, page 58, lines 15-19

³⁰ Transcript May 31, page 77, lines 12-13; see also June 1, page 93, lines 16-18; see also June 1, page 270, lines 1-3

³¹ Transcript June 1, page 169, lines 11-23

Indigenous women have a recognized right to be, where they will not be threatened, where they will be welcomed and respected.³²

18. All three witnesses' efforts to protect and support Indigenous women take place within a broader context of racism, ignorance, and endemic violence.³³ "There is a war on Indigenous women in this country," in Ms. Nepinak's words, "and until we have the appropriate resources and supports on the ground, then that's not going to stop."³⁴

19. In the course of her testimony, Ms. Nepinak referred to the killings of Tina Fontaine, Barbara Kentner, Angela Cardinal, and Josephine Pelletier, among the hundreds of murdered and missing Indigenous woman across Canada.

20. The experts also referred more than once to a particularly horrifying, recent example of the justice system's dehumanization of Indigenous women, when Justice Robert Graesser of Alberta's Queen's Bench Court (Edmonton – Criminal Division), allowed, —without her family's knowledge, consent or ceremony, a murdered Indigenous woman's mutilated genitals to be shown in the courtroom as evidence. Cindy Gladue's body parts were brought into the courtroom on a paper plate³⁵, on the approval of again, Justice Robert Graesser, a non-Indigenous Judge.

21. Among numerous anecdotes of racism witnessed directly in the course of shelter workers' efforts to provide support, Nakuset, for example, described one of her staff accompanying an Inuk woman seeking treatment for her addiction to a treatment centre in Montreal; the doctor who saw her winked at the companion and dismissed the woman with the words, "I don't think you really want to stop." The Inuk woman packed up, left the shelter and was never seen again.³⁶ Another woman, when handed her official Youth Protection file, saw written on the top sheet, "This Inuit woman is a risk to her child because she is Inuit."³⁷

³² Transcript June 1, page 194, lines 4-16

³³ Transcript June 1, page 173, lines 8-21

³⁴ Transcript June 1, page 270, lines 1-5

³⁵ Transcript May 31, page 178, lines 6-10; also June 1, page 13, lines 10-20

³⁶ Transcript May 31, page 136, line 7—page 137, line 22

³⁷ Transcript May 31 page 139, lines 3-6

22. Counsel, commissioners, and viewers were united in viewing the expert witnesses as warriors in their direct—their literal—provision of safety and protection, a description validated by, for example, Sandra Montour’s words:

I’ve thought a lot about, as these ladies have, as all shelters have, murdered and missing, because that’s what we’re trying to fight against, right. That’s our whole mandate. That’s our primary mandate, is to protect, to provide safety and protection to women and children ...³⁸

Within the wider context of racism and colonialism, this protection is cast as both immediate—that is, as providing the basics of life—and holistic. Describing the Aboriginal Framework for Healing and Wellness,³⁹ which was developed by Awo Taan Healing Lodge in response to the question of what, from the Indigenous perspective, constitutes “healing”, Ms. Nepinak emphasized both the comprehensive and cultural nature of healing. The Framework’s guiding principles, in Ms. Nepinak’s words, are as follows:

... [T]hat the spirit knows no colour; and that everyone who comes into our circle, which we do at Awo Taan, everyone is welcomed; and that we treat everyone the same way; that—when we wake up in the morning that we acknowledge our truths, we acknowledge our grandmothers, grandfathers, ancestors; and that we believe that holistic healing requires attention to healing the mind, the emotions, the body, and the spirit; and that we value traditional knowledge; we acknowledge the spirit and integrity of all individuals affected by violence.⁴⁰

23. The range of services offered by Awo Taan Healing Lodge, in addition to the 32-bed physical shelter, accordingly include a health program employing half-time nurse practitioner; a healing a reconciliation program employing a trauma psychologist; outreach and follow-up for women leaving the shelter, encompassing women’s healing groups, Circle of Safety groups; rural and community outreach, a youth and family program, a youth mentorship program; a parent link program; and a bullying program.⁴¹ Most of the shelter staff are Indigenous and many are able to

³⁸ Transcript May 31, page 215, lines 3-8

³⁹ Exhibit 44, May 31, page 182, lines 3-5

⁴⁰ Transcript May 31, page 185, lines 2-11

⁴¹ Transcript May 31, page 169, line 4—page 171, line 4

share both language and experiences with the women and families coming into the shelter—a major foundation of trust.⁴²

24. This continuum of services is itself essential, as Ms. Nepinak testified, to the shelter’s overall objective: in her words,

[T]he focus should be on keeping family together and keeping mom and child together, and so our service plan is really about doing just that, and ensuring that the basic needs, for one, are met, including food, clothing and shelter. But also a safe and affordable home to go to with transitional supports and longer-term supports from our—from our outreach workers, as well as our cultural connections in the community.⁴³

The objective, as Ms. Nepinak described it, is that of *Minobimaatisiwin*, “the good life”, in which one’s broadly cast beliefs, actions, interactions, care for those around one, are imbued with kindness, empathy and acceptance, according to the teachings and role modelling received in life.⁴⁴

25. Regarding the need to provide a variety of services, and the resulting ability of the shelter to respond to a family’s needs, Ms. Nepinak offered the example of a grandmother with stage-four cancer coming into the shelter with two teenage granddaughters and having to move to the hospital. Rather than call child welfare, pursuant to strict “policy” where children are “abandoned” at the shelter, Awo Taan Healing Lodge brought in staff to stay with the granddaughters as well as transport them to the hospital to be comforted and cared for by their grandmother. “Had we called Child Welfare,” Ms. Nepinak said, “we know for certain that those girls would have run.”⁴⁵

26. That the scope of the work and services offered by shelter workers requires a staggering breadth of personal expertise and stamina was well-attested to; as described by Ms. Montour, for example:

[O]ur workers are expected to know absolutely everything. They’re expected to be addictions counsellors, they’re expected to be sexual assault counsellors, they’re expected to be domestic violence counsellors, family—family assault support workers, they’re expected to be mental health specialists, they’re

⁴² Transcript May 31, page 186, lines 15-20

⁴³ Transcript June 1, page 91, lines 18-25

⁴⁴ Transcript June 1, page 177, line 15—page 178, line 14

⁴⁵ Transcript June 1, page 158, lines 3-4

expected to be nurses, they're expected to be cooks, they're expected to be cleaners. We do it all.⁴⁶

And they do it all, as attested to, on a shoestring. In the war on Indigenous women, the shelter workers are the Navy SEALs of the front lines.

C. "WE COULD SAVE LIVES, I GUARANTEE IT"

27. Sandra Montour expressed it directly: "If we were all able to have equitable funding, we could save lives, I guarantee it. That's a no-brainer, we would save lives."⁴⁷

28. Having described the spectrum of services offered by Awo Taan Healing Lodge Society,⁴⁸ Ms. Nepinak described the corresponding challenge of funding these services—noting, for example, that many of the positions are not provided for, and that no part of the shelter's cultural program is currently funded. She described the ability to bring in Elders, for example, as depending entirely on a patchwork of small sums left over from various funding sources, with no provision for ensuring the continuing support services of an Elder⁴⁹—such needs being in addition to the many unmet basic needs regarding, for example, transportation, medical supplies, infrastructure and maintenance, even snowplowing;⁵⁰ these needs being themselves over and above such additional funds as would make possible the adequate, and equitable, compensation of shelter staff.⁵¹ Asked what single service she would improve for her own organization, given adequate funding, Ms. Nepinak stated:

I would probably have to go with the children and—and increased services and supports for the little ones that are coming into the shelter who are so traumatized and the broken little spirits that come in, because you can often see this in their—in their eyes, and—so increase supports for the children who are traumatized by violence.⁵²

⁴⁶ Transcript May 31, page 209, lines 13-20; see also page 227, lines 17-23

⁴⁷ Transcript May 31, page 223, lines 18-20

⁴⁸ Transcript May 31, page 169, line 4—page 171, line 4

⁴⁹ Transcript May 31, page 171, lines 6-22

⁵⁰ Transcript May 31, page 171, line 22—page 172, line 18

⁵¹ Transcript May 31, page 172, line 19—page 173, line 2

⁵² Transcript June 1, page 53, lines 2-15

29. Ms. Nepinak also spoke movingly of her desire to see her organization's expansion so as to provide support through transitional homes and long-term housing, supported by the core values of connection with Elders and spiritual and cultural peer support—further fulfilling Awo Taan's vision statement of "Nurturing families living in peace."⁵³

30. The quality as well as quantity of funding matters—in particular with regard to reliability and continuity. The fight for such funding as does currently exist was described, unsurprisingly, as a "constant juggling",⁵⁴ requiring a tremendous proportion of available staff time and labour; the quantity and timing of funding received, meanwhile, bears little relationship to need.

31. Nakuset noted that each year's funding, in her own organization's case, is a function of the previous year's moneys received rather than a measure of the needs and services required.⁵⁵ All three experts also attested to the piecemeal nature of the funding they currently rely on, comprising multiple levels of public funds and considerable private fundraising.

32. Ms. Nepinak described the extraordinary amount of effort involved in chasing grants, often to little substantial effect; she also noted, in addition to chronic delays in receiving money, the absence of guarantees regarding long-term or sustained funding that attach to grants,⁵⁶ meaning that it is all but impossible to ensure or rely on specific sources so as to ensure retention of long-term services and staff.

33. Asked by Commissioner Robinson for words of guidance, Ms. Nepinak framed hers as an invocation:

... [I]t starts with a vision of the women in the community and that vision of healing and wellness. And to—to bring in supports to do that, because most communities are not resourced to—so it takes a lot of will, a lot of determination. I have a lot of confidence in the women out there because we women are warriors. We're—we're fighters and we make things happen, you know. We've made a pot of soup with 50 cents. You know, so we—we can do a lots of things that—if we're put up to the challenge, and I do believe—and

⁵³ Transcript June 1, page 123, lines 11-21

⁵⁴ Transcript June 1, page 87, lines 4-5

⁵⁵ Transcript June 1, page 100, line 22—page 101, line 1

⁵⁶ Transcript June 1, page 217, lines 305

I—actually, I would like to challenge women across the—across the communities. Let's do it.⁵⁷

34. The life's work of the experts on shelters, safe houses and transition housing is grounded in a vision of protection, holistic healing and the good life, honouring and drawing upon Indigenous culture. To meaningfully support their organizations' work, to do honour to this extraordinary vision, urgently requires increased resources within communities in Canada.

35. In summary, Awo Taan Healing Lodge Society distils the following recommendations from the expert evidence concerning shelters, safe houses and transition housing:

- That the federal and/or provincial government(s) fund cultural services for Indigenous women and children using shelters and safe houses, including the employment of Elders, Indigenous language workers, cultural workers and other cultural supports, on the basis that these supports constitute essential services;
- That the federal and/or Alberta government(s) fund increased long-term community-based supports for women and children transitioning out of emergency shelters, with support encompassing housing, health services, trauma counselling, cultural connection and teachings, education and career training, likewise on the basis that these supports constitute essential services;
- That the federal and/or Alberta government(s) provide increased funding to provide essential and long-term supports to babies and children who require shelter services, including in recognition of the damaging practice of children being apprehended because of the unavailability of emergency shelter services;

⁵⁷ Transcript June 1, page 263, lines 11-23

- That the federal and/or Alberta government(s) funding of shelter and safe houses' staff compensation be increased so as to eliminate the current disparity between Indigenous and non-Indigenous shelter workers and staff;
- That the federal and/or Territorial government(s) funding of northern shelters reflect the proportionately increased costs of providing the above essential services in northern regions;
- That violence assessment models be adjusted, and expanded, to reflect violence experienced by Indigenous women, with violence understood and defined broadly as encompassing both family violence and violence resulting from colonial abuses;
- That current child welfare practices be re-examined and amended to minimize or eliminate the chilling effect on Indigenous women seeking shelter support (see "Child Welfare", herein); and
- That the federal and/or provincial and/or territorial government(s) fund a database system that collects data on the numbers of Indigenous women using shelters across the country, including the number of children, as well as the number of Indigenous women that are turned away or referred elsewhere, and that this data be cross-referenced with the number of missing and murdered Indigenous women and girls in Canada.

CHILD WELFARE

A. “THE MOST VIOLENT INJURY YOU CAN COMMIT TO A WOMAN IS TO STEAL HER CHILD”: DIRECT LINKS BETWEEN THE CHILD WELFARE SYSTEM AND VIOLENCE SUFFERED BY INDIGENOUS WOMEN AND GIRLS

36. The evidence of the child welfare experts Dr. Cindy Blackstock, Cora Morgan and Dr. Mary Ellen Turpel-Lafond paints a stark picture of Canada’s hypocrisy in, on the one hand, violating the human rights of Indigenous children by depriving them of basic, health, education and community services, and on the other, “protecting” them by perpetuating some of the starkest and most emotionally damaging violence that takes place against Indigenous women and children, that of removing children from their families and communities – a form of violence, moreover, that begets further violence through increasing the vulnerability of those very women and children the system professes to protect.

37. The evidence on causation spans every context, from the national to the individual. Dr. Blackstock’s evidence drew an overarching causal link between the discriminatory underfunding of Indigenous children in Canada – discrimination which has been identified as a human rights violation by the Canadian Human Rights Tribunal – and violence suffered by Indigenous women and girls.

38. In addition to the costs to Indigenous children’s health and wellbeing generally, Dr. Blackstock described the way in which Indigenous youth internalize the inequity of their treatment as a personal deficit, believing, in effect, that they are “not worth the money”.⁵⁸ This internalization correlates, among other factors, with increased suicide rates among Indigenous youth – currently between four and six times higher than among non-Indigenous youth in Canada.⁵⁹

39. It should also be borne in mind, as Dr. Blackstock also stated, that, although we frequently refer to “youth suicide”, often, in reality, we should be speaking of “child

⁵⁸ Transcript October 3, 2018 – page 95, lines 11-14

⁵⁹ Transcript October 3, 2018 – page 97, lines 15-16

suicide”.⁶⁰ Early in her evidence, Dr. Blackstock had made reference to the suicide deaths of two twelve year old girls at Wapekeka First Nation, whose members had alerted Canada to the existence of a suicide pact among young girls and had requested mental health resources for the community, but who had not received a timely government response.⁶¹

40. Dr. Blackstock also attested to the link between the child welfare system itself and the increased likelihood that Indigenous girls and women will be at heightened risk for suffering violence. Children who are taken from their families frequently leave care in an attempt to return home; likewise adolescents who have “aged out” of care, and may try either to return home or to look for family elsewhere – seeking proxy for family in high risk and unhealthy forms, such as gangs.⁶²

41. Cora Morgan attested quantitatively to the link between care and risk of violence in Manitoba, observing that in 2016, the province had over 9700 missing persons; 87% of those missing were children in care, with 70 percent of these being girls.⁶³ Ms. Morgan summed up the cause in simple terms: “Our children are running home, because they are lonely and longing for their parents and family connection”.⁶⁴

42. Dr. Blackstock also affirmed as an even more prevalent source of psychological risk⁶⁵, the traumatizing number of placement changes – twelve each, on average, in Ontario, for example⁶⁶ – that children typically experience in foster care. Regarding the direct link between the typical experience of a child in care, repeatedly being moved from place to place, and missing and murdered women and girls, Dr. Blackstock testified as such:

... if you are in child welfare care, you are more likely to, for example, in those placement changes and in your disconnection from family, to be placed at higher risk for mental health issues, to be placed at higher risk for addictions ... [w]e have seen examples right here in Manitoba where children in care have become among the murdered and missing Indigenous women.”⁶⁷

⁶⁰ Transcript October 3, 2018 – page 98, line 3

⁶¹ Transcript October 3, 2018 – page 65, lines 20 – page 55, line 5

⁶² Transcript October 3, page 120, line 0 – page 122, line 5

⁶³ Transcript October 12, page 63, lines 17-19

⁶⁴ Transcript October 1, 2018 – page 81, lines 17-19

⁶⁵ Transcript October 3, page 101, lines 6-21

⁶⁶ Transcript October 3, page 35, lines 1-5

⁶⁷ Transcript October 2, page 104, lines 14-21

43. Cora Morgan related a personal encounter that illustrates this connection. A friend and co-worker, who had herself survived child welfare, later came to work in the First Nations Child Advocate Office; the co-worker happened one day to have the website up showing missing and murdered women of Manitoba. She counted seven, among those missing, as girls that *she grew up with* in the child welfare system.⁶⁸

44. Dr. Mary Ellen Turpel-Lafond also testified quantitatively, meanwhile, as to the suffering experience by children and adolescents within the care system *itself*, both during and following their time in care. In a 2016 study investigating incidences of sexual violence suffered by children in care, “Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care”, it was found that 28 out of 145 reported incidents occurred in child or youth care settings.⁶⁹ Children’s suffering in care cannot be conceived as limited to instances of sexual abuse, however, and the immediate and lasting pain of being taken from one’s family formed another major theme of the expert evidence.

45. In Cora Morgan’s description:

... the moment you take a child into care, they lose everything, you know? As adults, people can recover from breakups or divorce or the loss of a family member . . . [t]hey’re taken at young ages, and the moment they’re apprehended, they lose everything they know, and they’re catapulted into grief and loss, and there is no one there to support them or help them recover.⁷⁰

46. Regarding the experiences of teenagers, Dr. Turpel-Lafond’s evidence case particular light on the suffering of all the youth who “age out” of care, and for whom no transition plan exists. Among her any reports tendered as exhibits was one titled “Paige’s Story”,⁷¹ related the story of a teenage girl who was technically “in care” in British Columbia, but who – like many other youth in BC , spent the majority of her adolescence in single room occupancy hotel rooms and homeless shelters on

⁶⁸ Transcript October 1, page 73, lines 20-25 – page 74, lines 1-11

⁶⁹ Transcript October 4, page 65, lines 14-19; Exhibit 39 (62 pages)

⁷⁰ Transcript October 1, page 65, lines 7-15

⁷¹ Exhibit 40: “Paige’s Story: Abuse, Indifference and a Young Life Discarded”, by Mary Ellen Turpel-Lafond, May 2015 (80 pages)

Vancouver's Downtown Eastside, acutely vulnerable to sexual violence and exploitation.

47. At age 18, Paige experienced a brief period of stability with a foster mother to whom she became attached; this caring person was not allowed to continue to care for her past her nineteenth birthday. As describe by Dr. Turpel-Lafond, . . . "[e]ven the foster mom was very traumatized, saying ". . . you know, I was constantly calling the Ministry saying we cannot let this kid age out of care. Like, give me a contract or give me something. I'll keep her. A couple of years, she's going to be OK.""⁷² Taken out of care, against the foster parent's wishes, Paige died of a drug overdose at the age of 19 while living on the streets of Vancouver's Downtown Eastside.

48. Youth who age out of care suffer from institutional indifference. Dr. Turpel-Lafond described, for example, the pain of a young girl who was simply mailed her Ministry file, with no assistance in interpreting her background and experiences, as ". . . symboliz[ing] everything wrong with the system".⁷³

49. Any assessment of the link between child welfare and violence suffered by Indigenous women and girls must also confront the grievous damage inflicted by the system directly on the mothers whose children are taken away.

50. Cora Morgan's evidence described on many occasion the suffering of mothers that results both from the violent experience of a child's apprehension, and of the near-impossibility of maintaining the mother-child bond while that child is in care. Her affirmed evidence was as such:

" . . . [e]very single day for probably a year and a half, I would hear from mothers. 'They are breaking the bond, they are breaking the bond.' And, you know, there is a design to the system that breaks that bond. A mom gets three visits a week, then it is two visits a week, then it is once a month. And the once your child is a permanent ward, it is four times a year."⁷⁴

⁷² Transcript October 4, page 100, lines 2-6

⁷³ Transcript October 4, page 118, lines 1-2; see also Exhibit 43: "On Their Own: Examining the Needs of BC Youth as They Leave Government Care" by Mary Ellen Turpel-Lafond, April 2014 (61 Pages).

⁷⁴ Transcript October 1, page 79, lines 9-17

51. The costs of this pain are measurable in loss of life. Ms. Morgan twice testified that she had, personally, heard of sixteen mothers over the past three years that had taken their own lives after their children became permanent wards.⁷⁵ She described the emotional impact as follows:

‘... [w]hen our mothers hear that permanency – that their child is permanently gone, it’s very challenging for them to overcome that. It’s one thing to walk around without your children, but to know that you’ll never get them back or you think that you can never get them back, it’s hard. And that hopelessness sets in. And I think that, you know, these women are losing their lives because the system is stealing their children.’⁷⁶

52. Ms. Morgan related the comments of an Elder who told her that the present day child welfare system is worse than the residential schools. Ms. Morgan asked her why; the Elder replied that at least, in former years, . . . [o]ur children were with us for those fundamental years of life.’⁷⁷ She added . . . [y]ou look at the system now and they’re taking babies at birth and toddlers, then we are further depriving them to be set up in life and we are depriving them of that connection with their identity.’⁷⁸

53. Within the broader context of systemic, and sustained governmental failure and indifference with respect to Indigenous children and families, it is clear that the child welfare system, as it exists across provinces and territories, stands out as a source of acute and permanently wounding damage and violence, to Indigenous women, children and communities. In the repeated words of Cora Morgan, “. . . the most violent injury you can commit to a woman is to steal her child.”⁷⁹ And such an injury, in many cases, marks only the beginning of the child’s own suffering.

⁷⁵ Transcript October 1, page 71, lines 21-23; October 2, page 69 lines 13-15

⁷⁶ Transcript October 1, page 72, lines 9-17

⁷⁷ Transcript October 1, page 66, lines 10-17

⁷⁸ Transcript October 1, page 66, lines 17-21

⁷⁹ Transcript October 2, page 41, lines 18-19; page 68, lines 17-19

B. A “BROKEN DOWN HOUSE”: INSTITUTIONAL FLAWS IN CANADA’S CHILD WELFARE SYSTEM

54. In addition to detailing the causal link between the child welfare system and violence suffered by Indigenous women and girls, the experts’ testimony identifies the many institutional flaws that comprise Canada’s current child welfare system, both in structure and in application – flaws so profound as to render the current system beyond repair.

55. The unrepairable nature of the current child welfare system is illustrated by the many metaphors along of the lines of a “broken down house”, and a “car that needs 90 plus repairs”.⁸⁰ Dr. Turpel-Lafond repeatedly used the word “Orwellian”⁸¹ to describe the BC child welfare system:

“... [w]e have a child welfare system to protect children who are in need of protection because they experience abuse and maltreatment. [Paige] experienced abuse and maltreatment, yet did not receive child protection. So, how can it be, we have child protection and there is no child protection?”⁸²

56. The racism that informs child welfare practices may be understood as both “laissez-faire” in nature, to use Dr. Blackstock’s idiom, and as rooted in more typical misapprehensions and stereotypes.

57. On the first point, Dr. Blackstock noted repeatedly that the understanding of “neglect” in Canada urgently requires modification to differentiate between structural discrimination, being causes of neglect that are beyond the ability of parents to control, and those that are within their control. In the absence of such a distinction, the system is further punishing families for the experience of poverty alone; poverty that takes the form of substandard housing, of lack of access to clean water, of insufficient prenatal or medical support.⁸³

⁸⁰ Transcript October 2, page 75, lines 24-25

⁸¹ Transcript October 4, page 73, line 4, page 101, line 19

⁸² Transcript October 4, page 101, lines 13-19

⁸³ Transcript October 3, page 108, lines 19-25 – page 109 lines 1-7; see also page 46, lines 20-25 – page 45, lines 1-3; see also page 103, lines 4-25 – page 104 line 1

58. Racism that takes the form of stereotyping and faulty constructions also permeates the child welfare system; faulty construction that are themselves embedded in an absence of cultural understanding, or acknowledgement of Indigenous rights of self-determination.

59. Dr. Turpel-Lafond, described, for example, the widespread perception of Indigenous children and parents as “service resistant”; as a result, the child welfare system “norms” its own institutional indifference by applying the label “service resistant” to certain children and families.

60. Dr. Turpel-Lafond summed up the injustice of such a label (service resistant) in reference to Paige, the nineteen year-old who died while homeless of a drug overdose:

“. . . [p]aige was never actually offered any meaningful services with Indigenous lands, with a kinship connection, with a cultural connection, so how could she be service resistant when there is no services?”⁸⁴

61. Cora Morgan, meanwhile, described the schism between the standards that the child welfare system will apply, and Indigenous people’s own understandings of care, resulting in severe losses to the community as well as to individual families:

“. . . [I] think that if our First Nations were able to make determinations on what’s suitable for a living arrangement [this would increase the availability of placement of children within their home community]. When I think back to my own community, you know, they talked about – Elders talked about the supports that we had inherently to care for each other. And so, no matter how many children you had, if your sibling or another person in your family needs you to take in children, then it was just automatic. And, you know, my mother lived in a home, and it was a small little home and there was nine children in it. And, you know, when we talked about that Bringing Our Children Home engagement, I attended that day, and there was a grandmother who spoke to those dynamics. And, she says, “you know, when I was a child, you could have come into our home and saw a baby in a swing because most of our families use a sheet and made a swing for the baby. You could have – you know, an agency would determine that as inappropriate. However, that’s how a lot of our families carried their babies when they were sleeping.” And she says, “there was lots of us in the home, but when we would have visitors, there might be five children in a bed.” Our agencies would come in and they would view

⁸⁴ Transcript October 4, page 102, lines 18-25 – page 103, lines 103

that as sinister, and what she said is in those moments, you'd never feel so much love."⁸⁵

62. Another major evidentiary theme involved in the pettifoggery, unconsciously ironic strain to many aspects of the child welfare system – whether specifically racist or not.

63. Over and over, the experts attended to absurdities: recounting Paige's story for example, Dr. Turpel-Lafond noted that Paige's aunt and uncle, who had loved her and been willing for her to sleep on their couch, were deemed an "unacceptable home" by the BC Ministry for Children and Families because another relation came in and out of the house and had some criminal behavior, yet at the time Paige, under a "youth agreement", was living in single room occupancy hotels and homeless shelters on Vancouver's Downtown Eastside, prey to older men and to sexual exploitation.⁸⁶ As Dr. Turpel-Lafond drily pointed out, . . . "[i]t's probably better to be on your aunt and uncle's couch than in a shelter by a long shot."

64. Cora Morgan described, for example, some of the reasons why a parent or grandparent might be denied a Care Order as four children to a bedroom, or lack of a recent criminal check for a 60-year old grandmother⁸⁷, or an outstanding 20-year old DUI charge held by a grandfather.⁸⁸

65. The economics of child welfare, in particular, are among the darkest absurdities of the system. Cora Morgan spoke repeatedly about the grossly disproportionate quantity of public funds devoted to protection – in other words child apprehension – as compared to prevention, that is, providing support services to families who might otherwise struggle to thrive: . . . "[a]bout 90 percent of the \$514 million annually is invested in the protection of children, and there is about 10 percent that is identified for prevention services".⁸⁹ Dr. Turpel-Lafond described those facets of "prevention" as most crucial as being poverty, addictions issues, and

⁸⁵ Transcript October 2, pages 148-149, line 13 onward.

⁸⁶ Transcript October 4, page 94, lines 6-22

⁸⁷ Transcript October 2, page 131, lines 3-10

⁸⁸ Transcript October 2, page 147, lines 19-24

⁸⁹ Transcript October 1, page 56, lines 1-3

violence noting that "... communities have not been funded to do parenting programs, to do support in those core areas."⁹⁰

66. The lack of principled allocation of funds is starkest, meanwhile, at the level of individual families. Cora Morgan noted that according to a 2018 provincial report, Manitoba, for example, was spending \$46,000.00 per year for each child in care, while the federal government had released a figure of \$97,000.00 per year for each child in care.

67. Ms. Morgan described a mother who had had four children taken at birth; having gotten her youngest baby back, her social assistance income went up by \$18.00 per month.⁹¹ Similarly, Ms. Morgan noted that if, for example, her own children were taken into care, a foster parent would be paid about \$1800.00 a month to care for them: "... and if I was a single parent on social assistance, I would be getting about #320.00 a month."⁹²

68. Another major theme of the child welfare experts' evidence was the absence of assurance, or controls to ensure, that children who are taken into care will receive any better childhood as a result, or in fact any discernible advantage.

69. Like Dr. Turpel-Lafond, Dr. Blackstock noted that a task that is not done in child welfare is any risk assessment regarding the child's welfare once he or she is in care, meaning there is no guarantee that a child will be exchanging one risky situation for any improvement.⁹³ She summarized her views on this point in terms that echo Dr. Turpel-Lafond's "Orwellian" descriptor:

"... [t]he question for me on child welfare has always been, when we remove a child - and I do believe that some First Nations kids need to be in care. I absolutely believe that. I am not a utopian thinker. But, I do think that we have to undertake a promise to them to give them a better life from which they came, and I think that is where we fail; right?"

⁹⁰ Transcript October 4, page 283, lines 2-11

⁹¹ Transcript October 1 page 58, lines 1-12

⁹² Transcript October 1, page 77, lines 7-10

⁹³ Transcript October 3, page 102, line 7 - page 104, line 8

70. Unquestionably, though, the most searing theme of the experts' testimony as to the flawed nature of the child welfare system is the inhumanity of its current practices.

71. Cora Morgan described the practice of newborn apprehension, for example, as "... one of the most torturous things to witness, let alone experience".⁹⁴ Twice in her evidence⁹⁵, Cora Morgan shared the story of a mother of four living in Manitoba. She had been in care since she was four years old, ending up in over thirty different placements; she had a baby at fifteen, and Child Welfare in Manitoba took the baby from her at birth. Pregnant again, she contacted the First Nations Children's Advocate Office – Cora Morgan's office – to see whether anyone could help her in her request to spend *one day* with her baby before the newborn was taken away.

72. Cora Morgan also expressly noted the link between girls who grow up in care, and bearing the risk of later having their children apprehended as a direct result, she described many cases of pregnant women being "flagged" as risks because of having grown up in care. She recounted, as an example, the case of two young parents in the hospital expecting the birth of their child; the mother had grown up in care.⁹⁶ The father's mother was present; they had "six bags of baby clothes and a car seat"; after the birth, the mother was breastfeeding the baby. Unbeknownst to the parents, the mother had been on a birth alert since the third month of her pregnancy; no one from the child welfare authorities had contacted the mother to inform her of the fact, and following the birth, they arrived to take the baby away. The hospital told the father not to interfere or that the police would likely lay charges against him.

C. THE URGENCY OF CHILD WELFARE

73. Cora Morgan expressed it simply: . . . [i] think that after over 150 years of residential school and sixties scoop and a child welfare system, that a "new house" is not to much to ask for."⁹⁷

⁹⁴ Transcript October 2, page 20, lines 1-3

⁹⁵ Transcript October 1, page 74, line 12 – page 76 line 17; October 2, page 14, line 22 – page 15, line 9

⁹⁶ Transcript October 2, page 25, lines 2-25, page 26, lines 1-16

⁹⁷ Transcript, October 2, page 76, lines 12-14

74. As for the basic structural components of the new house, Dr. Turpel-Lafond had the following to say regarding the most elemental and necessary source of institutional change:

“... [o]ne of the most important things that needs to be changed, kind of in a large stroke immediately, is to change the definition of the best interests of the child, so that the best interests of the child includes being with the family and the right of the child to stay connected to their community, their family, their nation, their identity, and to allow for the best interests of the child to be applied in a way that children aren't removed because of poverty and they aren't removed because of some of these continuing impacts of residential schools.”⁹⁸

75. This urgent need to recast understandings of child welfare, and authority over child welfare practices, to reflect Indigenous cultural understandings and political self-determination, underscores and binds all expert recommendation that were placed before the Commission – as well as embodying the principles set out in the United Nations Declaration on the Rights of Indigenous People.⁹⁹

76. Cora Morgan, for her part, when asked to highlight her own top recommendations for the Commission,¹⁰⁰ gave hers as that Canada and the provincial and territorial governments support Indigenous institutions and initiatives which aim to bring children home that are rooted in Indigenous ways of being and knowing, including revitalizing and codifying Indigenous laws.¹⁰¹

77. For her part, Dr. Blackstock referred many times in her testimony to the Spirit Bear Plan,¹⁰² summarized in a one page document developed by the First Nations' Child and Family Caring Society; she affirmed that if she could put a single recommendation before the Commission, it would be that Canada implement the Spirit Bear Plan.¹⁰³ The plan consists of five calls to action:

⁹⁸ Transcript, October 4, page 203, lines 14-24

⁹⁹ Exhibit B2, May 16, 2018 Part III, V. VI

¹⁰⁰ Exhibit 2, October 1

¹⁰¹ Transcript October 1, page 81, lines 13-17; page 82, lines 1-25

¹⁰² Transcript October 3, Exhibit 28

¹⁰³ Transcript October 2, page 35, lines 17-25, page 37, lines 15-16; page 137, lines 11-13; see also Exhibit 27, Recommendations by Dr. Blackstock

First, that Canada comply with all rulings by the Canadian Human Rights Tribunal ordering it to cease its discriminatory funding of First Nations child and family services and fully and properly implement Jordan's Principle;

Second, that parliament publicly cost out all of the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it;

Third, that governments consult with First Nations to co-create a holistic Spirit Bear Plan to end all of the inequalities (with dates and confirmed investments) in a short period of time sensitive to children's best interests, development and distinct community needs;

Fourth, that government departments providing services to First Nations children and families undergo a thorough, independent evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them, and that these evaluations be publicly available; and

Fifth, that all public servants, including those at a senior level, receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.

78. Dr. Blackstock also made repeated reference to the United Nations Declaration on the Rights of Indigenous People as a foundation of Indigenous rights to self-determination.

79. In summary, Awo Taan Healing Lodge Society distils the following recommendations from the expert evidence concerning the child welfare system:

- That the Canadian Government implement the Spirit Bear Plan, and
- That authority over children, families and child welfare be recognized as a cornerstone of Indigenous self-determination and self-government, and
- That child welfare services in Canada be reconceived with an emphasis on prevention rather than protection, and

- That child welfare services be reconceived, accordingly, to define and support the health of families in a holistic fashion, recognizing that health encompasses the meeting of all basic needs including adequate housing, pre and post natal support, health services, community support, and respect for and understanding of cultural and historical context, and
- That sufficient funds be allocated to support Indigenous led child and family services both inside or outside the structure of government, on a permanent and ongoing basis, and
- That mechanisms of accountability over child welfare practices reflect principles of Indigenous self-government and self-determination, and
- That the “best interests of the child” in the case of an Indigenous child be grounded in, rather than refer to, the factor of their cultural heritage, and
- That the “best interests of the child” be reconceived to consider a child’s conditions once he or she reaches adulthood, with an emphasis on continuing to support him or her building long-term health and value for life.

POLICING AND JUSTICE

*The last people I would call in this country are the police.*¹⁰⁴

80. It is the position of Awo Taan that the evidence from the expert hearings establishes that there is a significant, longstanding and remarkable absence of trust of police officers and agencies from coast to coast to coast in Canada by Indigenous people. It is not just an absence of trust. It is deep mistrust.

81. Evidence before the Inquiry is replete with references to the police all across Canada being racist, dismissive and not properly, if at all, trained in Indigenous culture and history. There is an urgent need to remedy this, because this approach

¹⁰⁴ Dr. Pam Palmater, final oral submissions to the Inquiry, Ottawa, December 11, 2018.

by the police continues to have a deleterious effect on the principal issue in this Inquiry.¹⁰⁵

82. Police officers and agencies in Canada have historically and continue to play a central and visible role in Colonialism.

82. Indigenous people's deep mistrust of police officers and agencies in Canada is exacerbated by the historical involvement of the police in carrying out the state's attempts to eradicate Indigenous people, to eradicate Indigenous culture and to eradicate Indigenous languages. The principal example of this was the RCMP and "Indian Agents" attending to the homes of Indigenous families when those children were being apprehended by church and state authorities from their homes to be taken to Indian Residential Schools. The historical involvement of the RCMP is central to the continuing psychological trauma of the Indigenous people involved.

83. Indigenous people's deep mistrust of police officers and agencies in Canada is also exacerbated by the historical involvement of the police in carrying out the state's further attempts to eradicate Indigenous people, their culture and their languages by assisting child welfare authorities to remove Indigenous children from their homes and placing them with non-Indigenous families, often in large cities or nearby towns. Again, the historical involvement of police are central to the continuing psychological trauma of the Indigenous people involved.

84. Indigenous people's deep mistrust of police officers and agencies in Canada is also exacerbated by the historical involvement of the police in carrying out the state's further attempts to eradicate Indigenous people, their culture and their languages by carrying out the federal government's wishes in what is known as the "sled dog (*quimiit*) slaughter" in Canada's North. Again, the historical involvement of police are central to the continuing psychological trauma of the Indigenous people involved.

¹⁰⁵ Jacqueline Hanson, Amnesty International Canada, Examination in Chief, Quebec City, September 18, 2018, transcript, p. 67, lines 24-25; p. 68, lines 1-3 and 19-20, see also Josie Nepinak, Examination in Chief, Calgary, May 31, 2018, transcript, p. 203, lines 17-23.

85. Indigenous women find it remarkably difficult to trust police and police agencies.¹⁰⁶ In addition to the historical reasons above, evidence was led to show that police have also been involved in discriminatory practices, bias and abuse towards Indigenous women. This includes the police themselves sexually abusing, including raping Indigenous women.¹⁰⁷

86. Many of the police that interact with Indigenous women, both rurally and in urban settings, are racist and biased against Indigenous people generally, including Indigenous women.¹⁰⁸ As noted, racism within Canada's police forces as against Indigenous women is of urgent concern and mention. The RCMP is of key concern.¹⁰⁹

87. Combined with the strong historical foundation of mistrust, current bias and racism within police and agencies in Canada, there is little to encourage an Indigenous woman to go to the police when she is in danger.¹¹⁰¹¹¹ Feeling lost, unsupported or hopeless, some of these women have gone missing, been murdered or have taken their lives. Additionally, there is understandable reluctance by Indigenous women to go to the police when they are in danger or have been victims of crime because they are fearful that they will lose their children to child welfare authorities, where, at least in the Province of Alberta, there is an "apprehend first" approach to scooping Indigenous children.

88. Indigenous women's interactions with and distrust of the police are often followed by interactions with the justice system. This includes judges, lawyers, court personnel and in a lot of cases, provincial and/or federal corrections. Because the police are typically the first point of contact with an Indigenous woman as it relates to the justice system, the mistrust of the police spills over into distrust of the justice system.

¹⁰⁶ Cross examination of Brenda Lucki by Counsel Jessica Barlow, June 25, 2018, transcript, page 101

¹⁰⁷ Palmater, *supra*.

¹⁰⁸ Cross examination of Brenda Lucki by Counsel Carly Teillet, June 25, 2018, transcript, page 295

¹⁰⁹ Cross examination of Brenda Lucki by Counsel Josephine de Whytell, June 25, 2018, transcript, page 247

¹¹⁰ Cross examination of Dee Stewart by Counsel Carly Teillet, June 27, 2018, transcript, page 354

¹¹¹ Cross examination of Brenda Butterworth-Carr by Counsel Hilla Kerner, June 29, 2018, transcript, page 109

89. Indigenous women often feel intimidated, unsupported, unheard, unrepresented and distrusting of the court process, whether it be civil or criminal and regardless of what level of court the person is appearing before.

90. Chief Prosecutor John Phelps, in his testimony before the Inquiry, agreed that there is a need to hire Indigenous Judges and lawyers across Canada. He also supports the recommendation that victim services be given Indigenous complement as this would help Indigenous victims in coming forward and following through with prosecutions.¹¹²

RECOMMENDATIONS

1. INDIGENOUS WOMENS' SHELTERS

R1. **That** Indigenous women's shelters funding models be reconceived to bring funding levels into parity with non Indigenous women's shelters level of funding, and

R2. **That** the current funding framework for Indigenous women's shelters be revisited completely to eliminate jurisdictional barriers which have prevented adequate funding and thus needed services from reaching Indigenous women's shelters, and

R3. **That** non-Indigenous shelters that provide services to Indigenous women and their children provide policy framework to ensure that culturally responsive services to these clients, and

R4. **That** the danger assessment tools being used by police, shelters medical and social services be modified to reflect the historical and contemporary lived experiences by Indigenous women, developed in consultation with Indigenous women's shelter professionals, and

¹¹² Prosecutor John Phelps examination and cross examination by Counsel Darrin Blain, Calgary, AB May 29, 2013

R5. **That** the provincial and territorial governments review and, where needed, amend current policies and practices to include meaningful consultation with Indigenous shelter representatives within their province or territory, and

R6. **That** Indigenous Elders be recognized as essential service providers in the sheltering context and that funding be provided for their services immediately, and

R7. **That** a national Indigenous women's shelter advocacy organization be established and be led by Indigenous women, and

R8. **That** funding be provided for creation and maintenance of a national database that would provide statistical analysis on the women and children accessing the service of an Indigenous women's shelter, and

R9. **That** funding be provided for the construction and operation of new Indigenous women's shelters and stage 2 transitional housing in urban and rural Indigenous communities across Canada that represent the greatest urgent need, and

R10. **That** capital and operational funding be provided for the creation and development of an Indigenous Women's only recovery and retreat centre which would allow them to heal from trauma in a traditional setting, with the option of bringing their children with them as well, and

2. **CHILD WELFARE**

R11. **That** the Canadian Government implement the *Spirit Bear Plan*, and

R12. **That** authority over children, families and child welfare be recognized as a cornerstone of Indigenous self-determination and self-government, and

R13. **That** child welfare services in Canada be reconceived with an emphasis on prevention rather than protection, and

R14. **That** child welfare services be reconceived, accordingly, to define and support the health of families in a holistic fashion, recognizing that health encompasses the meeting of all basic needs including adequate housing, pre and postnatal support, health services, community support, and respect for and understanding of cultural and historical context, and

R15. **That** sufficient funds be allocated to support Indigenous led child and family services both inside or outside the structure of government, on a permanent and ongoing basis, and

R16. **That** mechanisms of accountability over child welfare practices reflect principles of Indigenous self-government and determination, and

R17. **That** the “best interests of the child” in the case of an Indigenous child be grounded in, rather than refer to, the factor of their cultural heritage, and

R18. **That** the “best interests of the child” be reconceived to consider a child’s conditions once he or she reaches adulthood, with an emphasis on continuing to support him or her building long term health and value for life, and

3. THE POLICE

R19. **That** all police officers and police service civilian employees in Canada be required to take, as a term of employment, initial and ongoing courses of Indigenous cultural training developed and delivered by Indigenous groups, delivered in person, and

R20. **That** every police service in Canada have independent non-police oversight bodies with a standard minimum complement of Indigenous committee/board members, and

R21. **That** the Royal Canadian Mounted Police immediately put measures in place to prioritize Indigenous cultural training for all members and civilian employees that is developed and delivered by Indigenous groups, delivered in person, and

R22. **That** the Royal Canadian Mounted Police immediately establish new working groups and policies for the hiring of Indigenous police officers and civilian employees in consultation with Indigenous advisory groups such to include periodic reporting, meeting and modification of said policies until firm hiring targets are met, and

R23. **That** the Royal Canadian Mounted Police immediately extend member and civilian employee health benefits to include the use of Elders and Indigenous

healers as health care providers whose payment of fees will be reimbursed to the member or civilian employee, and

R24. **That** the Royal Canadian Mounted Police immediately prioritize the cold files of the missing and murdered Indigenous women across Canada and to develop a meaningful communication process with the affected families, developed in consultation with Indigenous women's groups, and

R25. **That** municipal and provincial police forces across Canada immediately prioritize the cold files of the missing and murdered Indigenous women and girls within their jurisdictions and to develop a meaningful communication process with the affected families, developed in consultation with Indigenous women's groups, and

4. THE JUSTICE SYSTEM

R26. **That** diversion programs for offenders of abuse involving Indigenous women and children be established in consultation with Indigenous people and that these systems be Indigenous inspired, Indigenous designed and Indigenous led, and

R27. **That** diversion programs for offenders of abuse involving Indigenous women and children be used by the courts to resolve matters that, in consultation with Indigenous communities, are appropriate for a given case and represent Indigenous methods of restoration and accountability, and

R28. **That** provincial, territorial and federal governments, as the case may be, give high priority to the appointment of judges that are Indigenous – such Judges having completed mandatory training on the human response to sexual assault victimization, including a component addressing the unique circumstances pertaining to Indigenous victims, and

R29. **That** provincial, territorial and federal government judicial appointment interview committees have a minimum number of committee members that are Indigenous, and

R30. **That** the Canadian Judicial Council hire and maintain a minimum number of Indigenous employees and committee members, including Indigenous

Judges where being a Judge is a requirement to sit on any committee of that Council, and

R31. **That** the National Judicial Institute immediately develop and implement, in consultation with Indigenous experts, Indigenous cultural training for all judges in Canada separate and distinct from the Institute's courses on Aboriginal Law, and

R32. **That** provincial, territorial and the federal government give high priority to the hiring of prosecutors that are Indigenous and placing those prosecutors in jurisdictions where Indigenous litigants and issues are prevalent – such prosecutors having completed mandatory training on the human response to sexual assault victimization, including a component addressing the unique circumstances pertaining to Indigenous victims, and

R33. **That** the Law Society of each province and territory establish permanent advisory committees composed primarily of Indigenous people, which advise the Benchers of the Law Societies on justice issues affecting Indigenous people, and

R34. **That** the Law Society of each province and territory make as a requirement of membership that every practicing lawyer shall complete Indigenous cultural training that is developed and delivered by Indigenous people, and

R35. **That** the Law Society of each province and territory make as a requirement of membership that every practicing lawyer must act on one pro-bono matter for an Indigenous person in any of the following areas: criminal (summary conviction), child custody, divorce, emergency protection or child welfare within each 3 year period, and

R36. **That** the Legal Aid Society of each province and territory work with the Law Society of each province and territory to appoint files to the lawyers in fulfillment of the one-pro-bono-file for each 3 years program, and

R37. **That** the Legal Aid Society of each province and territory review its policies to ensure that priority coverage is in fact being given to Indigenous people involved in child welfare matters, child custody matters, emergency protection

matters, divorce matters and criminal matters and that a person can select and be appointed an “Indigenous Lawyer” when applying for Legal Aid, and

R38. **That** an Indigenous Person Death Review Committee be established in each province and territory that is composed of Indigenous people, hired on merit, that investigates when an Indigenous person dies of non natural causes within their province or territory, and

5. GOVERNMENT POLICY

R39. **That** every provincial, territorial and the federal government of Canada immediately provide full, unqualified, public endorsement of *UNDRIP* and review all existing and proposed legislation and policy for compliance thereto, including immediate remedial amendments where such legislation is not in compliance, and

6. IMPLEMENTATION OF MMIWG INQUIRY’S RECOMMENDATIONS

R40. **That** an Indigenous led oversight body be formed to monitor the implementation and to track the progress of the recommendations of the Inquiry into MMIWG, and

R41. **That** the suggested oversight body be made up of Indigenous people representing each province and territory (or at a minimum, Canada’s east, west and territories) and that the principal qualification be merit and experience with Indigenous women’s matters, rather than political affiliation, and

R42. **That** the oversight body have the authority to remedy any failures of the provincial or federal governments in failing to implement the recommendations, with recourse to domestic and international legal declarations and remedies.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 14TH DAY OF DECEMBER,
2018**

THANK YOU

NAKURMIIK

(Inuktitut)

