National Inquiry into Missing and Murdered Indigenous Women and Girls
Truth-Gathering Process
Part 3 Expert & Knowledge-Keeper Panel
“Human Rights Framework”
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Ville de Québec / Quebec City

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Panel 1: Recognizing & Fulfilling National & Domestic Human Rights

Timothy Argetsinger & Tracy Denniston

Fay Blaney

Prof. Naiomi Metallic

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Laurel McBride (Representative)

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Raji Mangat (Legal Counsel)

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Kimberly Carswell (Legal Counsel)
Shari Bell (Representative)
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Panel 1A - 1B - 1C: Recognizing and Fulfilling National & Domestic Human Rights
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Cross-examination and Re-examination of Panel

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Submitted by Dianne Matte, Representative for Concertation des luttes contre l’exploitation sexuelle
--- The hearing starts on Tuesday, May 15th, 2018 at 8:08 a.m.

**LAUREEN “BLU” WATERS-GAUDIO:** Welcome to another day with the National Inquiry. Welcome to the territories, here, of the original caretakers of the land, the one that... we honour them and all those that came here and made this their home and now make it their home.

And this morning, we ask that the Creator and those Ancestors come again and sit and be with us, so that their stories can be heard, and that our people can heal, and we can find ways of moving forward, and ways of coming up with solutions to the atrocity of our women being murdered and going missing.

So this morning, I say, (INDIGENOUS LANGUAGE). My name is Earth’s Song, that’s the translation of (INDIGENOUS LANGUAGE), and I say to you, (INDIGENOUS LANGUAGE). That is the term for the LGBTQ umbrella of two-spirited person. In the Cree language (INDIGENOUS WORD) translates into “neither man nor woman, and that is who I am as a being. I’m not a singular identity.”

So I want to acknowledge all those two-spirit LGBTQ trans people that have lost loved ones as well. Cause for many years, they were left behind and they still are left out of our circles. And I ask those
Ancestors and those ones gone on to help us bring them back into the circle, because those two-spirit people bring balance. With the way our world is today we need all the help that we can get in the way of balance.

But we also need the support from all our strong warrior women and our strong warrior men. And we ask that those Ancestors help heal our people so that we can become strong again, so that we can become supportive. We can become companions to each other, to support each other and to help on our journeys that we walk in a good way. We treat each other with kindness, love, respect and unity, no matter where we come from. And we honour those that have differences because that’s what makes us unique.

Everybody comes with a different gift and in one many gifts come, great things come. So we say, (INDIGENOUS LANGUAGE) to those Ancestors for being here. We’re gonna have a great day, it’s gonna be very busy.

Remember to take personal time for yourself, for your well-being, and we’ll try to keep everybody moving forward in a good, safe space, and in a good, safe way. So (INDIGENOUS LANGUAGE).

PÉNÉLOPE GUAY: Alors, est-ce que ça marche?
Bon matin. Alors, je remercie les Hurons-Wendats d’être sur leur territoire avec Innus et Abénakis. Ce matin, c’est particulier : j’ai déjeuné avec une femme extraordinaire,
en se rappelant des souvenirs, d’où on est parties, notre
chemin, pour être arrivées ici aujourd’hui. C’était
vraiment une belle communication de deux êtres humains qui
ont parcouru des bons chemins.

Puis je pense que quelque part, vous aussi,
you avez parcouru des chemins extraordinaires pour être
ici aussi. C’est la vie qui nous mène ensemble à faire ce
qu’il y a à faire pour la vérité, pour la réconciliation,
pour le meilleur, pour changer les choses, parce que c’est
important. Moi, j’y crois; ça fait près de 40 ans que je
travaille dans le communautaire et j’ai vu des changements.

Alors, ça demande beaucoup d’être ici en
avant, parce qu’en même temps qu’on entend, en même temps,
on se guérit aussi des histoires qu’on a vécues. Moi, c’est
une fille qui n’est jamais restée en communauté, je suis
toujours restée hors communauté parce que ma mère a été
obligée de sortir de la communauté, alors toutes les fois
que j’entends des témoignages sur la Loi sur les Indiens ça
me touche. Ça me touche et ça me fait vivre, des fois, des
émotions. C’est important de les vivre quand ça arrive.
C’est important de voir ce qui nous a blessés. Qu’est-ce
qui fait qu’on guérit, qu’on les entende.

Moi, je suis une enseignante de l’histoire,
parce que c’est ça qui m’a sortie, qui m’a guérie.
L’histoire… j’ai fini par avoir honte de ce que j’étais,
j’avais honte, avoir honte de ne pas être autochtone. Je suis une enseignante depuis 20 ans, j’adore ça.

Ça fait que c’est ça que j’avais le goût de vous partager un peu, ce matin. Puis je vous souhaite une belle journée puis beaucoup d’amour, beaucoup de respect. Merci les commissaires pour le beau travail. Merci les témoins, les experts puis merci à vous d’être ici.

**MS. CHRISTA BIG CANOE:** Good morning. Chief Commissioner, Commissioners, we would like to begin today and we will be going, oh, sorry, my apologies.

*(INDIGENOUS LANGUAGE)*

Thank you. Chief Commissioner, Commissioners, we would like to being, today. We will be going into cross-examination, but just for purposes of the record, I would just like to reintroduce the panel so that if anyone is starting to watch today, they know who’s with us.

So furthest from me is FAY Blaney and she has been qualified as both a Knowledge Keeper and an expert. Beside her is Professor Naiomi Metallic, who has been qualified as an expert. Beside Naiomi and two from me is Mr. Timothy Argetsinger, who has been qualified as an expert. And right beside me is Tracy Denniston, who has also been qualified as both a Knowledge Keeper and an expert.
Today, we will be having the 13 parties cross-examined, we had begun cross-examination yesterday with one party. And the first party that is cross-examining this morning is the Eastern Door Indigenous Association, and they’ll be given 25 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. NATALIE CLIFFORD:

MS. NATALIE CLIFFORD: Good morning, I’m Natalie Clifford with the Eastern Door Indigenous Women’s Association. We were formed in 2016 to represent the common interests of Indigenous women, their families, and communities in the Atlantic Region. So thank you for your evidence yesterday and I’d like to start with Naiomi.

So Naiomi, in your paper about the problems and implications of the Caring decision one of the issues that you point to is the clear conflict of interest in the mandate of the department. And this whole issue where we’re lacking foreseeability in policy and therefore, violating the rule of law. Would you agree that this is true for governance in other areas, for First Nations’ governance beyond funding of service? So for Chief and Council, for Indian Act Chief and Council working under -- with the department, would you say that the lack of clear foreseeable policy and regulations is something that effects First Nation governance, generally?
MS. NAIOMI METALLIC: Yeah. So if I -- I think I’ve got your question. Natalie, is does -- what I was describing, does it also sort of have a trickle-down impact on how communities govern, how band councils govern their communities? I would say absolutely. Now, how might I give some examples of that? Well, like I say, I think it’s about as well-known as other people, like, it’s not well-known how the system works. So I think that often band councils are sort of struggling with how to address the problems, and they sometimes don’t know how problematic the system the work is -- in with.

So I guess what I’m saying is they sometimes take the status quo as normal and it’s really abnormal. But they sort of accept that -- well, they don’t always accept, sometimes they litigate it. But they often, you know, these funding agreements that come to them a week before the money runs out and they are told, sign it, take it or leave it, you know? And they don’t really have a choice to take it or leave it, because these are you know, core funds to -- you know, for main government programs.

And so yeah, I think it totally impacts the governance of communities and sometimes their own community members perhaps may not even realize, and they may not even realize the extent to which it’s greater forces, other
governments that are really impacting, you know, really hamstringing things that they can do in their community.

**MS. NATALIE CLIFFORD:** And on that point, you do kind of say that people give Chief and Council a hard time, not understanding the difficult sort of dysfunction that they work within. But I’m wondering sort of the flip side to that argument where you have these -- and sort of vast empty, like, voids in regulations and laws, and I’m thinking in the areas of wills and estates, you know, estate planning on reserve, and borrowing, you know, for a mortgage on a reserve. So other areas where we still are lacking in foreseeable policy and meaningful policy. And I understand the constraints of Section 81, for what Chief and Council can actually make bylaws and policies on, but I also would submit that they sometimes act outside of that mandate. In any case ---

**MS. CHRISTA BIG CANOE:** Sorry. Sorry, one moment. Can you please keep it to questions and not submissions? Thanks.

**MS. NATALIE CLIFFORD:** Okay. So I guess stepping back, I just wonder what you have to say about the possibility for holding Chief and Council accountable for these -- for making policy and filling in the blanks where the voids do exist.

**MS. NAIOMI METALLIC:** There’s certainly
steps that Chief and Council, I think, can take. I do think that they operate in a fairly dysfunctional environment that makes it difficult. And there are -- I didn’t get to talk about it too much -- examples of communities who have done things like, just do it. They pass their own laws and sometimes that does work and they’re trying to come up with ways to actually have laws that reflect their traditions and own laws. Not simply trying to emulate, sort of, more Euro-Canadian laws.

But there’s challenges sometimes when they just do it. They face risk they may have to go to Court. There’s been examples of communities that have tried to do that and then they end up in Court. There was a community in Nova Scotia that tried to develop its own sort of, tax regime and then it ended up having a huge bill from CRA, so that didn’t work out so well and they went -- they litigated it.

So the system, I think, does inhibit governance. But I do think there are things that Chief and Council can try to do and have tried to do, but certainly there’s a lot to be critical of in this system. But there are things that communities can do as well, but if there was changes that were made, I think to overall enhance the ability of governance, I think that would be good for everybody.
MS. NATALIE CLIFFORD: And also, in your paper, you draw a connection between equality and self-government -- governance ---

MS. NAIOMI METALLIC: Yeah.

MS. NATALIE CLIFFORD: --- a number of times. And so I wondered if because of the conflict of interest, whether Chief and Council are in a position to be able to work toward the goal of self-governance in your opinion?

MS. NAIOMI METALLIC: That's a big question, Natalie. You know, at the moment, and I know that there's, you know -- how would I say this? Yes, some people do say that they are in a conflict of interest because they work with the department, who is itself in a conflict of interest. But at the same time, they are the -- the system of governance that is often most recognized by other Canadian governments. It's not to say there isn't other forms of government.

I don't know, it's really complex and it's a nuanced decision. I mean it's a nuanced answer that, you know, I can't say, no, well they're completely conflicted and therefore -- like we need leadership, and these are sort of the leaders that we have to some extent. Although there are, you know, great examples of traditional hereditary governments working with band council
governments, and it might be different solutions for
different people. But these are the people that are
stepping up to try to help. In some cases, they do harm.
I’m not trying to, you know, say that they’re all great,
but at the same time, there are people who are trying to do
the best with poor tools that they are given.

And yeah, there’s no simple answer to that
in terms of, you know, I’m not going to paint them all as
bad, I’m not going to paint them all as good. But they’ve
got what they’ve got to work with and they’re trying to do
something for our people in a system that’s very
dysfunctional.

**MS. NATALIE CLIFFORD:** And one last
question. Do you draw -- can you explain the distinction
between the current consultation model and the partnership
recommendation that you’ve made?

**MS. NAIOMI METALLIC:** Absolutely. So the
way that, at least for the last 10 years or so, many
governments have interpreted the Supreme Court of Canada
and the Supreme Court of Canada itself has interpreted the
duty to consult rather narrowly. Limiting it particularly
to Section 35 rights, which to this point has been
primarily interpreted as being about, you know, resource
related rights, hunting and fishing, and maybe title. But
that’s about the extent of it.
And so when for example, in cases that I’ve dealt with about Social Assistance on reserve, governments making significant decisions that are going to impact the poorest people, the position of the departments, the Department of Indigenous Affairs, was that well, this has nothing to do with Aboriginal and Treaty rights, ergo, there is no duty to consult. So in that case, we ended up making arguments around procedural fairness using the Baker case to sort of say, well, you know even putting Section 35 aside, if you’re not going to acknowledge that there’s a duty there, under basic concepts of public procedural fairness you needed to talk with these people. So we were successful at a lower level, it ended up getting overturned of making that argument.

But there’s also international law now, and you’re going to have international law experts who are going to speak about the UN Declaration on the Rights of the Indigenous People. And it think it’s Article 19 that says that governments should consult, to the extent of free prior and informed consent with respect of both legislation and administrative decisions. So I think we’re a long way to go, the way that sometimes governments conceive their duty and where international law says they should be.

MS. NATALIE CLIFFORD: Thank you.

MS. NAIOMI METALLIC: Thank you.
MS. NATALIE CLIFFORD: Fay, I have a couple of questions for you. First of all, I just wondered if you’re familiar with the #MeToo movement?

FAY BLANEY, Resumed

MS. FAY BLANEY: Absolutely, yeah.

MS. NATALIE CLIFFORD: Do you think this collective will reach First Nations communities, this sort of collective wake up?

MS. FAY BLANEY: I think it has in some ways. The actor that was on the Indian Horse movie is an example of that. I can’t remember his name, but there was a lot of publicity around the women that he beat really badly, and they publicized -- they used the publicity to make everyone aware of what he had done.

On the other hand, I do hear -- I have a good friend in Saskatchewan who said, you know, it’s about time Indigenous women started to name names. And we saw the same backlash that we always seem to face, which is quite a few women commenting on there saying, “Do you want to destroy the community?” and those kinds of sentiments, as if the women were the ones destroying the community and not -- there was no willingness to make those men accountable. So we have a ways to go, but I think it is happening.

I think the younger generation, people like
you, are willing to make the changes that we fought so long and hard for to bring women's voices to the fore. So I do have a whole lot of hope for the youth and the ways that they're mounting the struggle against male violence.

**MS. NATALIE CLIFFORD:** So for women of all ages, what suggestion do you have for them when they are considering making allegations against men in power in their communities?

**MS. FAY BLANEY:** I think I made it really clear yesterday that I really -- I firmly believe in alliance with non-Indigenous women's groups. I think that's the answer. Whenever I have tried to organize in the past, I think it's going on 40 years now, I have found a lot of Indigenous women that are politicized through their involvement in women's centres or transition houses, and that's where we learn about advocating against systemic oppression based on our sex.

**MS. NATALIE CLIFFORD:** In your discussion about restorative justice, and you pointed to men in roles of power of sending their sons through restorative justice. So is it typically men in these positions?

**MS. FAY BLANEY:** That are the offenders?

**MS. NATALIE CLIFFORD:** In their positions of power.

**MS. FAY BLANEY:** Oh. Okay. Well, the Royal
Commission on Aboriginal Peoples did indicate that in 1996, and Dr. Cora Voyageur did research on -- for the Assembly of First Nations looking at chiefs and councils across this country. So I would say -- although I don't have the stats at my fingertips, I would say that predominantly men rule our communities and men run the Assembly of First Nations.

**MS. NATALIE CLIFFORD:** So in your experience with Indigenous women and feminists, generally, what are some of the barriers to women entering politics?

**MS. FAY BLANEY:** I think one of the big ones is the fact that we don't have our own autonomous Indigenous women's groups available to us in our own communities. What I notice of mainstream Canadian feminism is that they do advance women to those positions. They work together, they have conferences on capacity building with women to be able to run for office.

But in our community, like one of the chiefs' organizations there in B.C., I see some incredible Indigenous women leadership, and yet they're one-term wonders. And there are some men in those positions that have been in the positions for like decades.

And so, I think it's really difficult for women to aspire to those positions of leadership with the attitudes that we cherish in our communities or, in other words, the internalized sexism that we've been steeped in
through colonial legislation.

MS. NATALIE CLIFFORD: The work of Al has been important and grew out of a grassroots movement, and I wonder on that point about the struggle to find a meaningful position to discuss these issues as a women's group. You mentioned the funding and the staffing and then the project-based issues.

What do you see -- is there a light at the end of the tunnel for women's groups to have standing and a seat at the table to make meaningful change?

MS. FAY BLANEY: Well, I have to have hope to continue to do this work, and the hope that I have is with the youth, as I said, the young Indigenous women across this country. On the other hand, I do feel really discouraged. I'm really disturbed by what I mentioned yesterday that women's substantive equality rights that are guaranteed under the Charter are not being met, and I think a lot of those kinds of laws and policies and rights are not being adhered to.

So an example of that is our Indigenous communities like our Band councils and original organizations going to court on rights in B.C., we have a long history of that. And the gains that we make in courts are not implemented. And I think that's true right across the board.
And that applies to the equality rights that women have across this country. I think it's a black eye on Canada that all of the women's centres were shut down across this country, but they downloaded that as if it were a service to provincial governments. And I think that's a huge mistake to the women's services as a -- or women's rights as a service.

And that was the case that I was trying to make yesterday about transition houses. The workers -- you know, I read a really incredible book when I was in university about the evolution of transition houses and how it initially began with a group of politicized women who -- well, they became politicized through consciousness-raising, and they were mounting a revolution.

And then when other -- in B.C. anyway, what happened was groups like the United Way got involved and they began to include social workers, police officers, university professors, everyone else had an opinion on this issue, but it initially grew out of a grassroots feminist movement.

And that's why I admire groups that continue to engage in that political revolution for the freedom and liberation of women across this country. And there are very few transition houses that do that and very few women's groups that engage in that freedom fight that -- a
few do. There is still some that do that. So that's another area of hope that I have.

**MS. NATALIE CLIFFORD:** And one final question, I wonder how significant do you see the role of media in perpetuating stereotypes about Indigenous women?

**MS. FAY BLANEY:** Oh, the media are horrible. I think that they're doing a whole lot better. You know, the work that The Globe and CBC are doing is pretty decent today. I still think there's a long way to go though. They have a -- you know, they don't overnight learn who we are what we are and what we've been through.

I think on the ground at the grassroots level where I live and where my contacts are, I think Indigenous women still feel that the world are witnessing our suffering, the human tragedies that we endure, the struggles that we face daily, and the feeling is nobody gives a damn.

And it really does feel like that on the ground, like on a daily basis. We're walking across the street, and some jerk wants to run us over, or we're in a store and someone asks us if we can give a blow job. You know, those are the things that we encounter as Indigenous women, and the world watches and doesn't really care.

And so that's the sentiment, I think, at the grassroots level, and so those are the things that the
media need to be sensitized to. And it's not just the
media. I think that this country is on a steep learning
curve, and I think there's huge resistance on some fronts
and there's backlash, like what's happening in your area
with the -- that statute that you guys were -- that you
successfully brought down.

**MS. NATALIE CLIFFORD:** Thank you. And I
have a final question for Timothy and Tracy.

I'm wondering about the legal -- the access
to Legal Aid services for women in Nain and Hopedale, and
generally, in your communities. Any sort of information
about the situation in -- for women in your care.

**TRACY DENNISTON, Resumed**

**MS. TRACY DENNISTON:** There is legal aid
services in our community in Nain. There is a legal aid
liaison worker for the community, so when court comes in,
they do access services through her.

**MS. NATALIE CLIFFORD:** Is it effective? Do
you find -- do you get feedback from the women about
working with legal aid?

**MS. TRACY DENNISTON:** Yeah.

**MS. NATALIE CLIFFORD:** Okay. And I wondered
if you know of women accessing human rights processes to
assert their rights?

**MS. CHRISTA BIG CANOE:** Sorry, I'm not sure
if this is in the area of knowledge or qualification. I do understand that as the director, she might be able to answer some questions to that but I don't think she's going to get to the specificity you want.

MS. NATALIE CLIFFORD: Okay.

Okay, thank you.

And I would ask that -- I have finished my questions and I wondered if my floor minutes remaining could be allotted to the next party?

MS. CHRISTA BIG CANOE: So if we can stop the clock please, yes, and normally that wouldn't be the process but in this instance because we will allow for it.

MS. NATALIE CLIFFORD: Thank you.

MS. CHRISTA BIG CANOE: So the next party up is Pauktuutit and if counsel could just introduce themselves, explain who you're representing and on your first question we'll start the time. The minutes allotted based on agreement between parties was 40 minutes prior to that designation of four, so it will now be 44 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. BETH SYMES:

MS. BETH SYMES: Before I introduce myself, I want to give thanks to my generous colleagues West Coast LEAF, NWAC, and Eastern Door. Thank you so much for your generosity.
I'm Beth Symes and I represent Pauktuutit, the Inuit Women of Canada, AT, the Labrador Inuit Women, Saturviit, the Women of Quebec, the Ottawa Inuit Children's Centre, and the Manitoba Indigenous -- Manitoba, sorry, Inuit Association.

So I want to begin by saying that my questions will mainly focus on Inuit and it's not because, Fay, I wasn't blown away with your presentation but my job is to advocate on behalf of Inuit women.

But I want to begin with you, Naiomi, and I pick you because you're educating our next generation of advocates. And I want to ask you what you are educating them about, the definition of equality in Canada as defined whether in section 15(1) of the Charter or under one of the human rights legislation across Canada and in the territories, as interpreted by the courts and tribunals.

And in particular, you used the phrase and others used the phrase "substantive equality" and I want to explore that in contrast to the concept of formal equality. And I thought it might be most useful if I were to give you a hypothetical, okay, and it's a really simple one.

Let's assume that the government initiates a program that's got guidelines and all of that stuff that you said it should have that provides Indigenous women with money so that they can access mental health services after
a particular traumatic event. Would you agree with me that
if every woman who qualifies receives let's say $3,500,
that would achieve formal equality?

**MS. NAIOMI METALLIC:** Yes.

**MS. BETH SYMES:** And formal equality is
treating everyone the same.

**MS. NAIOMI METALLIC:** Yes.

**MS. BETH SYMES:** But would you agree with me
that -- and you heard -- we both heard Tracy yesterday talk
about the fact that in remote settings, those services
aren't available.

**MS. NAIOMI METALLIC:** Yes.

**MS. BETH SYMES:** And that in order to access
mental health services, that woman may have to take a
plane, may have to stay overnight.

**MS. NAIOMI METALLIC:** Yes, I agree.

**MS. BETH SYMES:** And that as much as $1,000
-- and I'm just picking a number -- a trip would have to be
devoted to the travel expenses in order to get one hour
with a professional.

**MS. NAIOMI METALLIC:** Absolutely.

**MS. BETH SYMES:** And Naiomi, then would you
agree with me that a program that said each woman, each
Indigenous woman gets say $3,500 would not achieve
substantive equality?
MS. NAIOMI METALLIC: I would agree.

MS. BETH SYMES: Would you also agree with me that substantive equality has been the law in Canada since the Supreme Court of Canada's decision in O'Malley v. Simpsons-Sears in 1985?

MS. NAIOMI METALLIC: I would agree.

MS. BETH SYMES: Thank you.

Tracy, I want to first of all say you've told us that you've lived in Nain and worked in Nunatsiavut for 18 years.

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And we were in Happy Valley-Goose Bay in March. In the public hearings, we heard of really brutal murders in Nain and I commend you and thank you for you being on the frontline and having dealt with the impact on those that remain in that community.

Now family violence, would you agree with me that family violence happens in every culture?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: But that for Inuit women, there are some features that are unique. For instance, remoteness.

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And that in a small hamlet,
and Nain is relatively big in Nunatsiavut, but in small
hamlets like Rigolet, there just are no services. You used
dentistry I think but there are no services with respect to
physical health or social health, et cetera, as well. And
in order to -- in many cases, in order to get safety, the
woman has to leave, fly out, either by herself or with her
children.

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: Now, you don’t have
policing 24/7 in all of the communities of Nunatsiavut.

MS. TRACY DENNISTON: No.

MS. BETH SYMES: Postville it's like 21 days
a month. That's very interesting but if you -- if violence
happens in one of the other days of the month, that's just
too bad, right?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And how would it take the
police to get to Postville?

MS. TRACY DENNISTON: To Postville by plane
it's probably around 45-50 minutes.

MS. BETH SYMES: And I presume planes aren't
sitting on the runway gassed up and ready to go.

MS. TRACY DENNISTON: No.

MS. BETH SYMES: And you told us yesterday
that two of the communities in Nunatsiavut, Postville and
Makkovik, do not have shelters.

**MS. TRACY DENNISTON:** No.

**MS. BETH SYMES:** And can you tell us in terms of across Inuit Nunangat, the shelters -- maybe I can just lead you through it if it's okay -- in Nunavut, only five of the 25 communities have shelters?

**MS. CHRISTA BIG CANOE:** Sorry. If I may, I'm not questioning the leading question but if you're going to lead it through, can you still pose it as a question for her if she knows if, please?

**MS. BETH SYMES:** Sure.

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

**MS. BETH SYMES:** Have you been given the document that sets out what the shelters and the communities are across Inuit Nunangat?

**MS. TRACY DENNISTON:** Yes.

**MS. BETH SYMES:** In Nunavut, do five of the 25 communities have shelters?

**MS. TRACY DENNISTON:** Yes.

**MS. BETH SYMES:** In Inuvialuit, does one of the six communities have shelters?

**MS. TRACY DENNISTON:** Yes.

**MS. BETH SYMES:** In Nunavik, does three -- do three of the 14 communities have shelters?
MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: Now in your position as the Executive Director of the Nain shelter, you don’t receive any funding from INAC, do you, I guess now Indigenous Services Canada?

MS. TRACY DENNISTON: No.

MS. BETH SYMES: And in fact, your service — the services you provide are funded by is it the Newfoundland government?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And Tracy, that rate of funding is actually less than if you were being funded by INAC?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: As a frontline worker with years of experience. Would you agree with me that child sexual abuse is prevalent in Nunatsiavut?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: Would you agree with its description that it has become normalized?

MS. TRACY DENNISTON: I can’t really say for sure if it’s normalized. For children.

MS. BETH SYMES: Pardon me?

MS. TRACY DENNISTON: For children, I can’t say.
MS. BETH SYMES: Yes, for children, I’m sorry, for children.

And that’s despite the fact that the women’s groups in Labrador have been using this “good touch, bad touch” included in Inuktitut for children?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And when family violence occurs—let’s take the worst situation and the mother dies, the mother is killed. The Inuit children then come into care. Are they placed in homes in their community?

MS. TRACY DENNISTON: They try to, but as long as I can, for what I can recall, they try to place them in the homes, but a lot of times it doesn’t happen.

MS. BETH SYMES: And is the reality now for a number of years that these Inuit children, whether it’s from Nain or Hopeville or whatever, are placed in foster homes in non-Inuit families in Newfoundland?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And that means they are a long, long way away from their extended family and grandparents?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: They lose their language?

MS. TRACY DENNISTON: No, they don’t use, they lose their language, yes. I thought you asked me do
they use their language? Yes, they do.

**MS. BETH SYMES:** Lose their language. Lose

their—

**MS. TRACY DENNISTON:** Lose their culture, they lose their culture.

**MS. BETH SYMES:** Okay. And can you tell me, under today’s operation, are Inuit children beneficiaries of the Jordan Principle?

**MS. CHRISTA BIG CANOE:** That was not brought up nor is it in any of the materials that Ms. Denniston, so if the witness is unable to answer the question, I will just, you know, indicate that they can do so, please.

**MS. BETH SYMES:** I’m just asking as a person who’s been a social worker there for a long time, are you able to answer that question?

**MS. TRACY DENNISTON:** No.

**MS. BETH SYMES:** Okay. Tim, you’ve talked about the social determinants of Inuit health. And for Inuit men and women, their health includes the impact of child sexual abuse on them as well?

**TIMOTHY ARGETSINGER, Resumed**

**M. TIMOTHY ARGETSINGER:** Yes.

**MS. BETH SYMES:** And for Inuit women, their health includes the impact of family violence, whether it’s physical or mental?
M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And you are the author of NTI’s 2014 Annual Report on the State of Inuit Culture and Society Examining the Justice System in Nunavut?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And I’m going to ask if that could be the next exhibit.

MS. CHRISTA BIG CANOE: So actually can you please, you’ve established that, but for the purpose, ask if he’s recently reviewed or can he answer questions in that area, and then we can put it in.

MS. BETH SYMES: Tim, is this the report that you wrote?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Thank you. You’ve got a copy in front of you? I’m sure you know it, so. So if this could be the next exhibit, please?

--- EXHIBIT No./PIÈCE No. A19

Inuit Women’s Association, Manitoba Inuit
Association and Ottawa Inuit Children’s Centre,
as a collective single party

MS. BETH SYMES: I want to first of all talk about, and I’m gonna do this at... sorry.

CHIEF COMMISSIONER MARION BULLER: Just for our record, the Annual Report on the State of Inuit Culture and Society 2013-2014, I believe, is the proper title, will be the next exhibit, please.

MS. BETH SYMES: The important part is that you add “examining the justice system in Nunavut” because there is several other reports like this, okay?

CHIEF COMMISSIONER MARION BULLER: Thank you.

MS. BETH SYMES: Tim, I’m gonna do this at a pretty high level as opposed to the details, but on pages 10 and 11 of the report, you write that in Canada, the crime rate between 1999 and 2012 fell 29%. The crime severity index fell 33%, and the violent crime severity index fell 18%.

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: But the situation in Nunavut, and this was, you looked at Nunavut, right, not all of the Inuit Nunangat?

M. TIMOTHY ARGETSINGER: That’s right.
MS. BETH SYMES: Okay. So in Nunavut, that wasn’t true. In fact, the crime rate in 2012 was 114% of the 1999 rate?

M. TIMOTHY ARGETSINGER: That’s right.

MS. BETH SYMES: And the crime severity index rose by 48%?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And the violent crime severity index rose by 50%?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: So in stark contrast to Canada, where the rates of crime and violent crime have fallen not linearly but definitively over that period, it’s an opposite story in Nunavut?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And the rates of reported assault in Nunavut are 12 times the national average?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: The sexual violations of children are, depending on the years, somewhere between 11 and 15 times the national average?

M. TIMOTHY ARGETSINGER: As reported, yes.

MS. BETH SYMES: As reported. And the homicide rate, Nunavut has the highest rate per capita in Canada. Is that correct?
M. TIMOTHY ARGETSINGER: Yes, as a... territory, if you’re looking at provinces?

MS. BETH SYMES: Yes.

M. TIMOTHY ARGETSINGER: As compared to territorial jurisdiction.

Ms. BETH SYMES: Yes, sorry, as compared to all other territories and provinces, yes.

Now, you wrote in that page 23 that Nunavut is the most dangerous place in Canada to be a woman or a child. And do you still agree with that?

M. TIMOTHY ARGETSINGER: If you’re looking at the statistics that we’ve just discussed, that is part of the picture. I’d say in some ways, it’s more nuanced than that, but that is what I wrote.

MS. BETH SYMES: And that women in Nunavut are the victims of 41% of violent crimes?

M. TIMOTHY ARGETSINGER: You put that in a broader context or?

MS. BETH SYMES: In the broader context.

M. TIMOTHY ARGETSINGER: Yeah...

MS. CHRISTA BIG CANOE: May I suggest you reframe? You just said 41% but you didn’t say 41% of what.

MS. BETH SYMES: Of crimes.

MS. CHRISTA BIG CANOE: But in the context of
what?

MS. BETH SYMES: The victims of 41% of violent crimes in Nunavut.

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Yes, okay. And that the rate is 13 times higher the rate for women in Canada?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Now, you also wrote something that we’ve heard a lot about, and that is that child abuse and domestic violence co-exist in 30% to 60% of these violent crimes?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And you wrote very sensitively that even if a child or children are not physically injured in such situations that their exposure to this violence contributes to behavioural, social and social problems as well?

M. TIMOTHY ARGETSINGER: Yes, it can.

MS. BETH SYMES: It can. You also wrote that the report rate of family violence experienced by children in Nunavut is 9 times the rate experience by children in Ontario?

M. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And that the intergenerational practice of sexual assault and family
violence... in, sorry, let me, I forgot the word “in.” In
intergenerational practices of sexual assault and family
violence, two-thirds of the predators, two-thirds of the
sexual assault offenders and over three-quarters of the
family violence offenders have had a personal history of
abuse themselves?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Now in the paper that you
did for NTI, you talk about the causes of violence against
women and children, and you list them as a lack of
information about what options they have.

MR. TIMOTHY ARGETSINGER: I wouldn't
characterize them as causes now. I may have in the report.
Is that -- did I use the word "causes"?

MS. BETH SYMES: Would you -- you -- would
collectors be a better word?

MR. TIMOTHY ARGETSINGER: I'd say risk
factors.

MS. BETH SYMES: Risk factors. That the
risk factors, then, include lack of information about
options?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Include lack of safe
houses?

MR. TIMOTHY ARGETSINGER: Yes.
MS. BETH SYMES: Overcrowding of housing?

MR. TIMOTHY ARGENTINGER: Yes.

MS. BETH SYMES: Homelessness?

MR. TIMOTHY ARGENTINGER: Yes.

MS. BETH SYMES: Such that many have to flee the community?

MR. TIMOTHY ARGENTINGER: I don't have the data. I don't -- I can't say with any certainty that X percent of people who relocate are relocating because of; I can say that anecdotally that's something that I've heard.

MS. BETH SYMES: And of course, the figures that Tracy had with respect to the number of shelters is that most of the communities in Nunavut do not have shelters.

MS. CHRISTA BIG CANOE: Sorry, Counsel. You've provided one witness information and not the other, and it's not been put into exhibit yet. So do you want to do that so he can look at the list as well?

MS. BETH SYMES: Okay. Could we mark then the shelters ---

MS. CHRISTA BIG CANOE: You're going to have to establish it first. Where the information comes from, how the witness came to know the information in here, please.
MS. BETH SYMES: I'm content that it be orally received as evidence.

So did you hear Tracy give the answers to the number of shelters in Nunavut?

MS. CHRISTA BIG CANOE: No. Sorry. I suggest you put the material to him as well so that he can read it. Because orally, you're asking him to recall something that he may not have ---

MR. TIMOTHY ARGERTSINGER: I have it.

MS. CHRISTA BIG CANOE: You do have it now?
So -- but I think, then, we need to put this on the record.

MS. BETH SYMES: Okay. Could we just stop the time please?

MS. CHRISTA BIG CANOE: Yes.

So -- yeah. So I will now make a formal objection and ask that the materials that go before witnesses need to be established on the record what they are, where they come from so that if the witness is being asked a question about them, they have the opportunity, and you have the opportunity to understand where the information is coming from, so then it can be requested by counsels be put in by exhibit.

And now, Counsel will probably want to respond to my objection.

MS. BETH SYMES: It's not an objection. I
agree completely.

**MS. CHRISTA BIG CANOE:** No, it's on consent.

So can we just then on -- for the purpose of the record, you can establish what this information is? Because there's a whole room of people who might not understand what this piece of paper is, as well as people watching publicly, would be my suggestion if that's on consent.

And -- but because I have put it formally to the Commissioners now, I'd like them to respond.

**COMMISSIONER MICHELE AUDETTE:** Me Big Canoe, so sorry. Chief Commissioner, I am so sorry. Me Big Canoe, est-ce que c'est possible d'avoir le document? The document?

**MS. CHRISTA BIG CANOE:** Yes. And so ---

**CHIEF COMMISSIONER MARION BULLER:** For the record, this will be the procedure going forward, that documents going to a witness have to be proved by the witness before they're marked.

**MS. BETH SYMES:** Or they can be done on consent?

**CHIEF COMMISSIONER MARION BULLER:** Or by consent, certainly.

**MS. BETH SYMES:** Thank you.

**CHIEF COMMISSIONER MARION BULLER:** And ---

**MS. BETH SYMES:** These documents were
provided to the witnesses yesterday.

**CHIEF COMMISSIONER MARION BULLER:** And can I just have that please?

**MS. CHRISTA BIG CANOE:** Yeah, but it has to be done on a formal process.

**CHIEF COMMISSIONER MARION BULLER:** So the Nunavut Shelter Contact Information, 25 Communities, will be, by consent, the next exhibit.

**MS. BETH SYMES:** Yeah. It actually is the Shelters in Inuit/Nunangat. And then the four regions are listed.

**MS. CHRISTA BIG CANOE:** But -- can I see that thing for a minute? So -- sorry. My one concern is where was this list established? Who created it?

**MS. BETH SYMES:** Pauktuutit created it.

**MS. CHRISTA BIG CANOE:** Pauktuutit. So it's a document of Pauktuutit that has been put to the witnesses.

But that's important.

**CHIEF COMMISSIONER MARION BULLER:** Okay. I'm just going from the title at the top of the page here so that we can properly identify the document for our record. And the title at the top of the page says, Nunavut Shelter Contact Information, 25 Communities. So for the
purposes of our record, that's how the document will be identified.

**MS. BETH SYMES:** Okay.

**MS. CHRISTA BIG CANOE:** But just for clarity, and I apologize, but for clarity if the title is absence of the source, then the source also has to be proved and it has to be done prior, in advance, on consent, not in the middle of cross-examination, I'd suggest. Does that sound fair?

**CHIEF COMMISSIONER MARION BULLER:** Can we -- we've got this one on consent?

**MS. CHRISTA BIG CANOE:** We do now, but as -- but in terms of the source, and then where possible we can provide other parties the same copy so they have the same information. So at this point, although it's going into exhibit, parties will have to now wait for us to photocopy.

So if I'm understanding the Chief's direction correctly, moving forward, it has to be done prior, or on consent, but in proving the document, if it's not on consent, it has to -- you have to indicate the source.

**MS. BETH SYMES:** These were given to Counsel last night.

**MS. CHRISTA BIG CANOE:** I understand that they were, but it still is important for the record to
understand where the information is deriving from would be my position.

And so, if I'm understanding the Chief's direction correctly, this is the process moving forward? If other parties have a similar, like one-sheet document that they've prepared, then that has to be knowledge that's given in advance. Am I correct?

CHIEF COMMISSIONER MARION BULLER: Yes. You are correct. Thank you.

MS. CHRISTA BIG CANOE: Thank you. And I believe we can start the time again once you ask your next question.

--- EXHIBIT NO./PIÈCE NO. A20:

“Nunavut Shelter Contact information for 25 communities” (one page)

Submitted by: Beth Symes, Counsel for Pauktuutit Inuit Women of Canada, Saturviit Inuit Women’s Association, AnânauKatiget Tumingit Regional Inuit Women’s Association, Manitoba Inuit Association and Ottawa Inuit Children’s Centre, as a collective single party

MS. BETH SYMES: Tim, for the communities in Inuit/Nunangat that don't have shelters, would you agree
with me that many of them would have to flee the community
in order to get to safety?

MR. TIMOTHY ARGETSINGER: Yes, although the
-- yes. Communities that don't have shelters, there are,
in some cases, people who are known in the community to
open their doors to people that may be vulnerable. So
there are some informal ---

MS. BETH SYMES: Yes.

MR. TIMOTHY ARGETSINGER: --- shelters, but
in terms of physical structures established for that
purpose, yes.

MS. BETH SYMES: Now, in Nunavut, in fact,
throughout all of Inuit/Nunangat, would you agree with that
there is a lengthy time between arrest and trial?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And that in some cases the
man is still in the community out on bail with some
restrictions?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And Tracy, and I think
maybe Tim as well, you both said that in many cases they
return to living together because of housing issues?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: Tim, you agree with that as
well?
MR. TIMOTHY ARGETSINGER: I don't know, so I defer to Tracy.

MS. BETH SYMES: Tracy, in terms then of this interim period, these emergency protection orders, in some cases the woman doesn't seek them; is that true?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: And sometimes, the justice of the peace doesn't grant them?

MS. TRACY DENNISTON: I don't -- it's not that they don't grant them, I -- it's -- they just don't apply for them based on the need.

MS. BETH SYMES: And would you agree with me that in some cases they're just not enforced?

MS. TRACY DENNISTON: No. No, I -- can you reframe that question?

MS. BETH SYMES: That although an EPO may have been issued by the Court, the police don't enforce them in that community? For example, a condition is that the person who is accused must not have any contact with his victim?

MS. TRACY DENNISTON: I don't know if it's not enforced but our communities are so small that we have no choice but to bump into each other. Like -- and I can't really say for sure if it's not enforced.

There are issues that cause them to feel
like they're not really being adhered to, I guess is my --
saying.

**MS. BETH SYMES:** Now Tim, when these risk
factors of violence, when we come to the document that was
marked as an exhibit yesterday, the social determinants of
health, are those the same factors that are the social
determinants of Inuit health?

**MR. TIM ARGETSINGER:** Yes.

**MS. BETH SYMES:** And I don't want to -- I'm
not going to take you through the Social Determinants of
Health because that was done yesterday, but I want to ask
you about that document. It was based on the -- you're not
the author of that document; are you?

**MR. TIM ARGETSINGER:** No.

**MS. BETH SYMES:** But it was based on the
2006 census?

**MR. TIM ARGETSINGER:** The Social
Determinants of Health ---

**MS. BETH SYMES:** Yes.

**MR. TIM ARGETSINGER:** --- Report? I believe
so.

**MS. BETH SYMES:** And I think they also used
the 2011 census?

**MR. TIM ARGETSINGER:** Possibly.

**MS. BETH SYMES:** The 2016 census, the
reports on Inuit have begun to be released starting in 2017 and more in 2018?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: Okay. And you, in your introduction, said that you are the author of a number of reports for ITK.

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: So in writing those more recent reports and in your continuing research, have you been using the 2016 census where available?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: I'm going to ask at a very, very high level, would you agree with me that the population of Inuit has risen significantly since 2006?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: Do you know approximately how many?

MR. TIM ARGETSINGER: Sixty-six thousand (66,000)?

MS. BETH SYMES: And that's about a 29 per cent increase?

MR. TIM ARGETSINGER: Approximately.

MS. BETH SYMES: And roughly what percentage of Inuit live in Inuit Nunangat?

MR. TIM ARGETSINGER: Approximately 73 per
MS. BETH SYMES: And would you agree with me that the population of Inuit living outside Inuit Nunangat has actually been growing at the fastest rate?

MR. TIM ARGETSINGER: I don't know for sure. I know it's growing quickly. I don't know if it's faster than the rate of population growth within Inuit Nunangat.

MS. BETH SYMES: Where in Inuit Nunangat is the growth the largest, in which regions?

MR. TIM ARGETSINGER: I don't know for sure.

MS. BETH SYMES: And would you agree with me that the population of Inuit is very young?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: Do you know what the median age is?

MR. TIM ARGETSINGER: Twenty-six (26).

MS. BETH SYMES: And are there regions where it is even younger?

MR. TIM ARGETSINGER: Possibly. Yes.

MS. BETH SYMES: And what's the current life expectancy of Inuit?

MR. TIM ARGETSINGER: It's 72 compared to 82 for Canadians as a whole.

MS. BETH SYMES: And do you know the numbers for men and for women?
MR. TIM ARGETSINGER: I don't off the top of my head.

MS. BETH SYMES: But they are significantly about 10 years less than for non-Inuit?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: And you had indicated that the median age for Inuit was young. Do you have any idea what the median age for Canadians is? Substantially more?

MS. CHRISTA BIG CANOE: So, sorry. At this point you're asking a number of questions that aren't tying specifically to the reports or anything that are in without affording the witness an opportunity to check those reports or look at numbers. So, without being able to -- for him to be able to qualify, even though he is the author, but an author of a number of reports in different years -- yes, please. So I guess my concern is, if we're asking him numbers, it sounds more like -- and I have no issue with the leading question aspect, but you're providing the evidence, not the witness. So it has to be a question that he's able to answer, but he's also not been given a particular pinpoint or place in any of the material before him.

So if you did want to put material before him or you did want to refer to -- I mean, you established that he has an awareness of the 2016 statistics, but he has
no listing in front of him, nothing from Statistics Canada, so I'm not sure how you can get him to acknowledge those numbers.

**MS. BETH SYMES:** Tim, were you given copies of the report social determinants ---

**MS. CHRISTA BIG CANOE:** So, sorry, so if you want to start the cross again or did you want to establish this?

**MS. BETH SYMES:** No, no, I want to deal with this motion ---

**MS. CHRISTA BIG CANOE:** Okay.

**MS. BETH SYMES:** --- this objection. Were you given copies of the social determinants with -- updated with 2016 statistics?

**MR. TIM ARGETSINGER:** You mean the Social Determinants Report, the 2014 report?

**MS. BETH SYMES:** Yes, with the statistics updated?

**MR. TIM ARGETSINGER:** Not with the statistics updated.

**MS. BETH SYMES:** I provided that to counsel last week.

**MS. CHRISTA BIG CANOE:** The 2016 Canada Census Inuit Statistics?

**MS. BETH SYMES:** And also the report of the
social determinants with the statistics updated.

**MS. CHRISTA BIG CANOE:** Right. But did you
give it to the witness? Did you have a conversation? He's
an expert witness. There's no proprietary interest. If
you wanted to put the document to him or the opportunity
then there was that opportunity. We didn't object to that.

So the point is though, do you want him now
to see this document? Because if that's the case, because
it is from a source, establish the source, then ask the
question is what I would suggest may be more helpful.

**MS. BETH SYMES:** Well, do you have this
document?

**MS. CHRISTA BIG CANOE:** I do.

**MS. BETH SYMES:** The 2016 Census Inuit
Statistics?

**MS. CHRISTA BIG CANOE:** Yeah.

**MS. BETH SYMES:** Why don't you show that to
him, please?

**MS. CHRISTA BIG CANOE:** Yes. So you're
asking for it to be put to him, but then the clock starts
again if this is how we're -- and obviously consent should
be happening in advance of cross.

**MS. BETH SYMES:** I thought we had it.

**MS. CHRISTA BIG CANOE:** So ---

**MS. BETH SYMES:** I provided them to you last
week but ---

**MS. CHRISTA BIG CANOE:** So are we happy for you to establish and go back onto your time?

**MS. BETH SYMES:** Let me just take one minute to look at it.

**MR. TIM ARGETSINGER:** Question?

**MS. CHRISTA BIG CANOE:** Just -- okay, so before ---

**MS. BETH SYMES:** So ---

**MS. CHRISTA BIG CANOE:** Wait. Sorry, before you go back to questions.

**MS. BETH SYMES:** We need to go back on the time now.

**MS. CHRISTA BIG CANOE:** And you need to establish this document for the purposes of the record. The time starts ---

**MS. BETH SYMES:** Tim -- yeah, Tim, this document was provided by -- created, sorry, by Pauktuutit's Research and it has the data from the 2016 Canadian Census on Inuit statistics. I thought that it was going to be provided to you; okay?

**MR. TIM ARGETSINGER:** Okay.

**MS. BETH SYMES:** Could it then be the next exhibit, please?

**COMMISSIONER MICHÈLE AUDETTE:** Certainly.
The update to the Social Determinants of the Health Report will be the next exhibit, please.

MS. BETH SYMES: Sorry, it's called 2016 Canadian Census Inuit Statistics. It's not called what you're saying.

MS. CHRISTA BIG CANOE: Yeah, and it's not a formal update to that report.

COMMISSIONER MICHELE AUDETTE: It isn't.

Okay. Thank you.

Then for our record, the document headed 2016 Canada Census Inuit Statistics will be the next exhibit. Thank you.

MS. BETH SYMES: Thank you very much.

--- EXHIBIT NO./PIECE NO. A21:

2016 Canadian Census: Inuit Statistics (four pages)

Submitted by: Beth Symes, Counsel for Pauktuutit Inuit Women of Canada, Saturviit Inuit Women’s Association, AnanauKatiget Tumingit Regional Inuit Women’s Association, Manitoba Inuit Association and Ottawa Inuit Children’s Centre, as a collective single party

MS. BETH SYMES: Sorry. Tim, in -- we talked a little bit about -- you talked a little bit about
housing yesterday and I want to come back to it. In terms of 2016 then, the statistics from Statistics Canada, sorry, is that 31.5 per cent of Inuit living in Inuit Nunangat live in dwellings in need of major repairs?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: And there has been a very slight fall in those numbers of 4.1 per cent between 2001 and 2016?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: That the crisis with respect to housing repairs is worse in Nunavut and Nunatsiavut?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: Now I want to ask another indicia of housing. In 2016 Statistics Canada reports that 51.7 of Inuit living in Inuit Nunangat lived in crowded housing; is that correct?

MR. TIM ARGETSINGER: Yes.

MS. BETH SYMES: And that that's virtually unchanged since 2011?

MR. TIM ARGETSINGER: That's right.

MS. BETH SYMES: The highest rate of overcrowding is in Nunavut and then in Nunavik; is that correct?

MR. TIMOTHY ARGETSINGER: Yes.
MS. BETH SYMES: And those are 56.4 percent and 52 percent, respectively?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And Tim, for the rest of Canadians, only 3 percent of Canadians live in overcrowding?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Would you agree with me that the impact of overcrowding falls disproportionately on Inuit women and children?

MR. TIMOTHY ARGETSINGER: The impact?

MS. BETH SYMES: Yes.

MR. TIMOTHY ARGETSINGER: I -- what do you mean by impact?

MS. BETH SYMES: The result.

MR. TIMOTHY ARGETSINGER: I mean, I think --

- 

MS. BETH SYMES: The lived result.

MR. TIMOTHY ARGETSINGER: I think families as a whole are experiencing the impacts, including men and boys.

MS. BETH SYMES: Would you agree with me that it’s women who have to leave, who do leave because of family violence?

MR. TIMOTHY ARGETSINGER: Yes.
MS. BETH SYMES: Now, Commissioner Audette and Commissioner Robinson asked you some very detailed questions about housing and the way forward. Tim, you’re the author of four different reports. I’m not going to put them in at this point, but I want to record for the record that in fact, ITK has been very active in terms of housing and that you’re the author of the National Housing Strategy submission in 2016.

MR. TIMOTHY ARGENTINGER: No.

MS. BETH SYMES: Oh, someone else at ITK wrote it?

MR. TIMOTHY ARGENTINGER: Well, it’s not someone, it’s a -- there is a lead, there is committee, there are many people who were involved, but I am not involved in drafting of the housing strategy.

MS. BETH SYMES: How about the “Best Practices in Sustainable Housing Delivery in Inuit Nunangat”?

MR. TIMOTHY ARGENTINGER: No. I am not involved.

MS. BETH SYMES: But is it a product -- I’m asking, since you may not have been the author of them, I’m simply asking is this a recent report of ITK about housing?

MR. TIMOTHY ARGENTINGER: Yes.

MS. BETH SYMES: The third one, has ITK
published “Barriers to Sustainable Housing Delivery in
Inuit Nunangat”?

MR. TIMOTHY ARGENTSINGER: Yes.

MS. BETH SYMES: And finally, has ITK
published “Youth Perspectives in Housing in Inuit
Nunangat”?

MR. TIMOTHY ARGENTSINGER: Yes.

MS. BETH SYMES: Now, I want to ask you a
question. I mean, we went through the housing in need of
major repairs, and we went through the statistics in terms
of crowded housing. Let me just go over again, 31.5
percent of Inuit in Inuit Nunangat live in dwellings in
need of major repairs, and 51.7 percent of Inuit living in
Inuit Nunangat live in crowded housing. Okay. In 2017 did
the government of Canada commit $240 million over 10 years
for housing in Nunangat?

MR. TIMOTHY ARGENTSINGER: Yes.

MS. BETH SYMES: In 2018, this year, did the
government of Canada commit $400 million over 10 years for
housing in the other three regions?

MR. TIMOTHY ARGENTSINGER: Yes.

MS. BETH SYMES: At that rate, Tim, how long
do you estimate it will take to close the gap between Inuit
in Inuit Nunangat and the rest of Canada?

MR. TIMOTHY ARGENTSINGER: I don’t know. I
couldn’t give you a specific number.

**MS. BETH SYMES:** A long time?

**MR. TIMOTHY ARGETSINGER:** Yes, if the population growth were to continue at the rate that it is today, then yes, a long time, if at all.

**MS. BETH SYMES:** So just in terms of housing, on the one hand we have the rate of population growth in Inuit Nunagat amongst Inuit, growing at 20 percent a year, right? Oh, sorry, I mis-said it. Twenty-nine (29) percent from 2006 to 2016.

**MR. TIMOTHY ARGETSINGER:** Yes. So if you’re looking at the provision of federal dollars for social housing alone, then yes. Rather than considering a range of other investments that are linked to access to housing.

**MS. BETH SYMES:** And let me just ask you, is -- to build a house, a unit in Inuit Nunangat, what is the capital cost, on average?

**MR. TIMOTHY ARGETSINGER:** I couldn’t tell you the average number. It differs substantially between regions, but ballpark of the 300 to probably $500,000.

**MS. BETH SYMES:** And I presume that would vary depending upon how remote the community is?

**MR. TIMOTHY ARGETSINGER:** Yes.

**MS. BETH SYMES:** So the materials have to be flow in, or ---
MR. TIMOTHY ARGENTINGER: Yes.

MS. BETH SYMES: I’m going to ask this both of Tracy and Tim. So Tracy first. Would you agree with me, Tracy, that the current rate of violence against Inuit women and children constitutes a public health emergency in Canada?

MS. CHRISTA BIG CANOE: That’s -- she’s not qualified in that area as a public health. We have a health policy analysis?

MS. BETH SYMES: I’m going to ask him. I’m asking as the front ---

MS. CHRISTA BIG CANOE: So maybe rephrase.

MS. BETH SYMES: I’m asking you, based on your 18 plus years’ experience on the front line, in Nane and in Nunatsiavut, would you say that the current rates of violence for Inuit women and children constitute a public health emergency in Canada?

MS. CHRISTA BIG CANOE: I’m sorry. Stop the time, please.

She’s not going to be able to answer the nature of the public health emergency. You’re asking her to answer a question outside of her area that she’s been qualified as a knowledge keeper or an expert. And so rephrasing the first part of the question was fine, but the last part, I don’t think she’s going to be able to answer
that. And she can speak to that herself, but we do have a qualified expert who probably can answer that.

**MS. BETH SYMES:** Let me try it just ---

**MS. CHRISTA BIG CANOE:** So we’ll start the time again if you’re happy to proceed with your question.

**MS. BETH SYMES:** Let me just try and ask it again. From your experience, is the rate of violence against Inuit women and children in Nunatsiavut, which you see, is it an emergency?

**MS. TRACY DENNISTON:** I can’t say for sure if it’s an emergency, but I can say it’s pretty high.

**MS. BETH SYMES:** Tim, I’m going to ask you with respect to Inuit Nunangat, is the rate of violence against Inuit women and children -- does it constitute a public health emergency in Inuit Nunangat?

**MR. TIMOTHY ARGETSINGER:** I’d echo Tracy, it’s high. I wouldn’t characterize it one way or another. I tend to avoid sensationalistic terms like that.

**MS. BETH SYMES:** Is the current rate acceptable, in your opinion?

**MR. TIMOTHY ARGETSINGER:** Absolutely not.

**MS. BETH SYMES:** Tracy?

**MS. TRACY DENNISTON:** No.

**MS. BETH SYMES:** Now, would you agree with me that housing is an essential human right?
MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: Tracy?

MS. TRACY DENNISTON: Yes.

MS. BETH SYMES: Naiomi?

MS. NAIOMI MITALLIC: Yes.

MS. BETH SYMES: And would you agree with me that in Inuit Nunangat, Tim, that you’ve described it as a crisis, right? You have described the shortage, the inadequacy, the crowding as a housing crisis?

MR. TIMOTHY ARGETSINGER: Yes. I would -- it’s -- the word itself isn’t a word that I have just pulled out of thin air and decided to use myself. It is a term that is used broadly by a number of Inuit advocacy organizations.

MS. BETH SYMES: So Tim, just to be sure, is the -- you would say it is a crisis, but are you also saying that other experts ---

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: --- say it’s in a crisis as well?

MR. TIMOTHY ARGETSINGER: Yes.

MS. BETH SYMES: And this crisis in housing for Inuit, would you agree it is a breach of Canada’s obligations under the UN Conventions?

MR. TIMOTHY ARGETSINGER: Absolutely.
MS. BETH SYMES: Tracy?

MS. TRACY DENNISTON: I can’t answer that.

MR. BETH SYMES: Naiomi?

MS. NAIOMI METALLIC: Yes, I haven’t looked at all of the conventions, but as far as I know, it does seem to be. Yes.

MS. BETH SYMES: And, finally, would you agree with me that this housing crisis for Inuit is a breach of their Section 7 rights under the Canadian Charter of Rights and Freedoms?

MS. CHRISTA BIG CANOE: Sorry, who is that question for?

MS. BETH SYMES: Let me ask Tim first.

MR. TIMOTHY ARGETSINGER: Can you read the Section 7 right?

MS. BETH SYMES: The right to life, liberty and security of a person.

MS. CHRISTA BIG CANOE: Sorry, can you direct the question to the expert that would probably be most enabled to answer it? Because he doesn’t have the full context of Section 7 of the Charter of Rights and Freedoms in front of him. But, again, we do have a witness here who can answer that question.

MS. BETH SYMES: Naiomi?

MS. NAIOMI METALLIC: Yes, I think so. I
mean, it hasn’t been ruled on by our courts, and we have various decisions that have gone forward, but in the, I guess, most recent case, I guess at the Supreme Court *Gosselin v. Quebec* the court did leave the door open. They said in that particular case, whether I agree with it or not, the facts weren’t the right facts. But, I think the facts that are coming forward with respect to a variety of services and the direness of housing, I think there would be a strong case for a Section 7 violation to the right to security of the person, as well as life and liberty, not in accordance with the principle of fundamental justice.

**MS. BETH SYMES:** Let me ask it in a slightly different way, Tracy. Would you agree that the housing crisis in Nunatsiavut is unacceptable?

**MS. TRACY DENNISTON:** Yes.

**MS. BETH SYMES:** Tim, would you agree that the housing crisis in Inuit Nunangat is unacceptable?

**MR. TIMOTHY DENNISTON:** Yes.

**MS. BETH SYMES:** Thank you. Those are my questions. Thank you for your time.

**MS. CHRISTA BIG CANOE:** Thank you. Can you stop the clock? Thank you.

We would like to call upon next the Vancouver Rape Relief & Women’s Shelter, and they have 25 minutes for their cross-examination. One counsel or
representative has introduced themselves and asked the
first question, the time will start.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. HILLA
KERNER:

MS. HILLA KERNER: Good morning. My name is
Hilla. I’m not a legal counsel; I’m an advocate and a
frontline feminist activist, and I speak on behalf of my
collective, Vancouver Rape Relief & Women’s Shelter. Our
analysis of women’s oppression and violence against women
is driven from our frontline work, and we receive thousands
of calls from women every year. And, in the last 10 years,
we’ve received more than ---

MS. CHRISTA BIG CANOE: So, sorry, if I
could ---

MS. HILLA KERNER: --- (indiscernible) from
women.

MS. CHRISTA BIG CANOE: If I could, you can
do an introduction, but you can’t make a submission. So,
you can start your questions, and the time can start,
please. So, for context of a question, if you want to do
that, that’s fine. But ---

MS. HILLA KERNER: Okay.

MS. CHRISTA BIG CANOE: Thanks. We can
start time, and you can start questions.

MS. HILLA KERNER: Tracy, you said yesterday
that women have nowhere to go, so they go back to abusive men.

**MS. TRACY DENNISTON:** Yes.

**MS. HILLA KERNER:** It is our experience in our transition house as well, and you said that when women do return to their homes because they have no choice, often they will be beaten up again by their abusive men?

**MS. TRACY DENNISTON:** Yes, can be.

**MS. HILLA KERNER:** Yes. You said that the shelter policies are such that even though usually women stay for six weeks, sometimes they will return the same day.

**MS. TRACY DENNISTON:** Yes, sometimes.

**MS. HILLA KERNER:** Because they just returned home, and the abusive man harmed them again.

**MS. TRACY DENNISTON:** Yes.

**MS. HILLA KERNER:** You said the younger generation of women are “charging“. You used that term. Does that mean to say that the may complain to the police about the abusive man?

**MS. TRACY DENNISTON:** Yes.

**MS. HILLA KERNER:** And, can you say how those complaints resulted? Are men being charged and convicted?

**MS. TRACY DENNISTON:** Can you ask the
question again? Sorry.

MS. HILLA KERNER: So, a woman is making a complaint to the police, and what does the police do with that? Is it common that the police will do a thorough investigation and proceed with charges ---

MS. TRACY DENNISTON: Yes.

MS. HILLA KERNER: --- and that the man will face court?

MS. TRACY DENNISTON: Yes.

MS. HILLA KERNER: Okay. How common would you say it is?

MS. CHRISTA BIG CANOE: Sorry, can you ask the question in terms of her experience?

MS. HILLA KERNER: Yes. From your experience ---

MS. CHRISTA BIG CANOE: Her experience and her knowledge.

MS. HILLA KERNER: --- with the women who are coming to the transition -- the battered women who are coming to the transition house, how many of their abusers, in a rough estimate, will be investigated, charged and convicted by the criminal justice system?

MS. CHRISTA BIG CANOE: Sorry, can we stop the time for one moment, please? She won’t be able to answer the specificity of that for a couple of reasons.
And so -- if it's anecdotal. But, you're asking her to disclose information that's not in evidence before the group, and there's privacy issues that may relate to anyone she is assisting in the house.

**MS. HILLA KERNER:** The complaint to police should be at least under *Freedom of Information*, but general should be available to the public.

**MS. CHRISTA BIG CANOE:** Right. But, do you that information, for example, to tender as an exhibit or to show to ---

**MS. HILLA KERNER:** I don't have it as a formal exhibit.

**MS. CHRISTA BIG CANOE:** Yes. So, the problem with trying to get specificity on information you're not putting to the witnesses is they don't have the ability then to answer you with any exactitude, and then we're not actually getting evidence before the Commissioners; we're getting speculation.

**MS. HILLA KERNER:** Oh, okay.

**MS. CHRISTA BIG CANOE:** So, if there's a way to phrase it anecdotally and that is in her area of knowledge, she can answer the question. And, I kind of know where you're going with this.

**MS. HILLA KERNER:** Yes.

**MS. CHRISTA BIG CANOE:** I'm not objecting to
the context, but we need to be sure that they can actually
answer the question.

MS. HILLA KERNER: I just -- since I’m not a
lawyer, I’m not sure what’s the difference between
anecdotally and the way I did it.

MS. CHRISTA BIG CANOE: You’re asking for
specific numbers that are not before ---

MS. HILLA KERNER: Oh, I’m sorry. I’m not
asking -- I will try to paraphrase it.

MS. CHRISTA BIG CANOE: Even her common
knowledge, she may not be able to speak to without records
before her.

MS. HILLA KERNER: Okay.

MS. CHRISTA BIG CANOE: So, when I say
anecdotally, like, maybe on a principle or a level.

MS. HILLA KERNER: Okay. So, I’ll try
again.

MS. CHRISTA BIG CANOE: Okay. So, we will
start your clock again ---

MS. HILLA KERNER: Sure.

MS. CHRISTA BIG CANOE: --- and you will
lead with a question. Thank you.

MS. HILLA KERNER: So, in our work, we are
working in an urban area in Vancouver, and from our
experience, women who do call the police on violent men,
whether it’s battering, or rape, or sexual assault, or incest, or violent john, very rarely they will get a thorough criminal justice response. Very rarely, police will do a thorough investigation, and it’s very, very rare to have men being charged for violence against women. I would like to know if that’s your experience as well?

**MS. TRACY DENNISTON:** I’m trying to figure out how to answer you without -- okay. Can you ask the question again? Sorry. I’m trying to understand how to break it down.

**MS. HILLA KERNER:** Sure. It’s our experience in our frontline work, and it’s similar to experiences of other members of the Canadian Association of Sexual Assault Centre and other transition houses that we closely work with, but we do not work closely with your organization, it is very rare that once a woman is making a complaint to the police that the police will actually respond in a thorough investigation that will lead to charges against the men. And, it’s very, very, very rare that men who commit violence against women will be charged and face a judge, which is for us to say will be held accountable.

**MS. TRACY DENNISTON:** Okay.

**MS. HILLA KERNER:** Is this your -- in your -- the work that you do, is this a similar experience or do
you have a different experience, a more positive experience for the women you work with, with the criminal justice system?

MS. TRACY DENNISTON: It seems to be a more positive one with the relationship with the RCMP. They can press charges, and they go to the RCMP if they want to. But, that’s information that we don’t always have that.

MS. HILLA KERNER: Okay. So, you don’t -- you’re not in a position to know. You might know if a woman filed a complaint, but you’re not in a position to know what happened to that complaint?

MS. TRACY DENNISTON: No, not in a position to know.

MS. HILLA KERNER: You only hear in the first place.

MS. TRACY DENNISTON: Yes.

MS. HILLA KERNER: From your extensive experience in frontline work, and probably thousands of women who shared their experience with you on violence against women, would you say that our experience was a fairly poor response of the criminal justice system to women in general, to Indigenous women in particular in terms of holding men accountable? Would you say it’s reflecting what you’re informed of?

MS. FAY BLANEY: I think the police are
extremely unresponsive. The Pickton Inquiry is, you know, a classic example of that. I found that the Vancouver City Police were doing everything they can to manage that conflict. That’s just with the Pickton Inquiry. I think that the relationship between Indigenous people and the police is hugely problematic. I find that really objectionable that the terms of reference of this Inquiry did not include their ability to be able to address police inaction, or even police as predators. There’s a lot of cases of police preying on Indigenous women, like what came out in the Val D’Or situation, and that’s definitely not an isolated incident. I think there’s a lot of Indigenous people that are saying what I’m saying.

**MS. HILLA KERNER:** Thank you. Both to Tracy and Fay, since this panel is about essential services and human rights, I would like to know if you agree with me that holding men accountable, stopping men from harming women, protecting women from men’s violence is an essential service, essential as in life and death essential.

**MS. TRACY DENNISTON:** Yes.

**MS. BETH SYMES:** Absolutely, yes.

**MS. HILLA KERNER:** And we believe that men are not inherently violent and we believe that men can change, but from thousands of years of patriarchal
civilization, we know that men are not going to change unless they are pressed to. Would you agree with this statement?

**MS. FAY BLANEY:** Who are you asking?

**MS. HILLA KERNER:** Fay.

**MS. FAY BLANEY:** I think that we live in, you’ve already partially answered that, we do live in a patriarchal society which gives men power, and men aren’t willing to give up that power. And the only solution as I can see it is empowering women through us working together; women organising with women and identifying those issues of patriarchy.

Men haven’t been quick to address patriarchy in this National Inquiry across this country. What men have done instead is jumped on this bandwagon and start to try and organise us. Which I find extremely offensive, that they would get in here and say, “We wanna stop violence against women and so we’re gonna work with the women.”

Instead they should be talking to other men and making other men accountable; there’s far too many examples of Indigenous leadership covering up for other Indigenous men when they’re perpetrators of violence.

**MS. HILLA KERNER:** Thank you so much. Tracy and Fay, I believe that you will agree with me based on your submissions yesterday. Is poverty the key
vulnerability for women and the welfare rate, from your experience and from Fay experience and from what we know all over the country, based on knowing the submission, is unliveable? And that it keeps women vulnerable to men’s violence?

And Tracy, you asserted yesterday, I want to confirm that lack of security prevents women from leaving abusive men?

**MS. TRACY DENNISTON:** Yes.

**MS. HILLA KERNER:** And Fay, you asserted yesterday that poverty pushes women to prostitution?

**MS. FAY BLANEY:** Yes.

**MS. HILLA KERNER:** Naomi, you said yesterday something to the effect that the way essential services, and I’m doing essential because obviously the government do not find them essential and do not deliver them. The way they are delivered to Indigenous people leaves—

**MS CHRISTA BIG CANOE:** Sorry, one moment. You can ask questions and not make submissions.

**MS HILLA KERNER:** Okay.

**MS CHRISTA BIG CANOE:** You can’t start a submission, you have to ask a question.

**MS. HILLA KERNER:** Okay. I just wanna to assure, every submission has a question at its end. (laughs) A lot of question marks my paper.
MS CHRISTA BIG CANOE: I understand your positions, but in this process, we ask for questions, because otherwise you’re making submissions from your party’s perspective, and the purpose of cross-examination is to ask the answers of the witness of testified questions. You will have later opportunities in closing submissions. So I do appreciate that you have a lot of questions with question marks, but for the purpose of this, could you please stick to questions?

MS. HILLA KERNER: Yes, I appreciate it, and I don’t mean to be argumentative and I appreciate your advice.

MS. CHRISTA BIG CANOE: Thank you, and if we can start time again, please.

MS. HILLA KERNER: So you said something to the affect that the way essential services are delivered to Indigenous women leaves them in a desperate position?

MS. TRACY DENNISTON: Hum, mmm.

MS. HILLA KERNER: Thank you. Fay, you referred to the Pickton case twice already, in this hearing. Do you agree that most of, if not all of the Pickton victims, were women from the Downtown Eastside of Vancouver?

MS. FAY BLANEY: Yes.

MS. HILLA KERNER: They had their life completely controlled by the state and what the state
failed to deliver to them?

**MS. FAY BLANEY:** Yes.

**MS. HILLA KERNER:** They slept in homelessness shelter or single-room occupation, which are rotten old motels rooms, that’s the place in Vancouver that one can afford if they’re recipient of welfare check?

**MS. FAY BLANEY:** There’s a huge amount of homelessness in Vancouver. I’ve been really devastated to see our elders in the Downtown Eastside, living in shelters.

They come into the city for health reason, sometimes. One elder I know had cancer and she was forced to live in Vancouver and was in shelters for over a year and a half.

And other women, like other women are homeless, and the single resident occupancies, the SROs over flowing.

**MS. HILLA KERNER:** Right.

**MS. FAY BLANEY:** But they’re not exactly ideal situations as well. The women in there don’t feel safe and sometimes they refuse to go home because of the lack of safety that they feel in those conditions.

Working at the Downtown Eastside Women Centre, I think each day we fed about 350 women lunch, like, they just don’t, the welfare check doesn’t go far
enough to be able to feed them, to meet their basic needs. Definitely doesn’t cover rent.

**MS. HILLA KERNER:** Thank you. And I will go back to the women that we know as Pickton’s victims.

So you established that they’re very poor, if they were mother, their children were reprehended or raised by others?

**MS. FAY BLANEY:** Yes. The apprehension rate is astronomical. We saw the stats yesterday of 55% in BC, in the area of Downtown Eastside.

**MS. HILLA KERNER:** Thank you. And we know that his victims were women in prostitution, addicted to drugs, and we know...

Would you confirm what we know, that there are not enough detox for women available on the demand level or recovery programs for women who are struggling with drug addiction?

**MS. FAY BLANEY:** Yes, that was established in the Opal Inquiry, I believe, and women’s groups continue to call for more detox. And yesterday I said that we needed women only detox. Recovery and treatment are, there isn’t enough.

There’s also an issue with the harm reduction policy. I realized the importance of having that to keep people alive when they’re engaged in really harmful
drugs. There is very little focus on other aspects of the
harm reduction policy, and there’s, like, no priority given
to abstinence from, and there’s no protest to walk that
journey to abstinence.

MS. HILLA KERNER: Thank you. And would you
agree that those conditions of women’s lives that are
directly result from state failure to provide them
meaningful and comprehensible services, made them
completely vulnerable to Pickton?

MS. FAY BLANEY: Yes. I think for Indigenous
women who we’re talking about here, it’s some of the issues
that Naiomi raised about what happens on the reserves. So
many women do, like, what Tracy was saying, they flee the
reserve and I fled the reserve. And they end up in the
city and the city is not exactly a welcoming environment.

There are huge problems around just being
able to survive, and as I said, the numbers of homelessness
seemed to be just skyrocketing, due to this neo-liberal era
that we’re currently living in.

MS. HILLA KERNER: Right. And I want to make
a point about the women’s vulnerability. We also know that
Pickton was a known john, and which means a man who buy
women in prostitution. And we know that, I know you’re
familiar with the old laws before Bill 36, that would allow
the criminal justice system and the police to arrest men
who buy women in prostitution.

Would you agree with me that if the police would have done their job at the time and they would arrest him much earlier for buying women, many women’s lives, many of his victims’ lives would be saved?

**MS. FAY BLANEY:** Yes, there is a lot of documented evidence that the police were negligent in their responsibilities. I think that the killing could have stopped years earlier if they had done their work and not been, I think, they discriminate against Indigenous women in the Downtown Eastside.

**MS. HILLA KERNER:** Thank you. Naiomi, you spoke yesterday about the child welfare system as an example of a failing service.

In our experience, the child welfare system is always involved when the mother is poor and Indigenous woman. And from our experience, and I would like to know if you can confirm it, instead of helping mothers with economic needs, with childcare and housing, they will sanction women who cannot provide their kids with what the state deems essential?

**MS. NAIOMI METALLIC:** Absolutely, and I always say that that was the finding in the caring society decision that Indigenous children overwhelmingly tend to be taken into care for reasons of neglect, which are often
conditions outside of the mother's control.

**MS. HILLA KERNER:** Thank you. And would you confirm our experience that when it comes to male violence the child welfare workers will not press the police or the Crown to stop the men, but they will put the responsibility on the woman, and when she fails they will apprehend or sanction her with apprehending the children?

**MS. NAIOMI METALLIC:** I'm not -- I can't speak to direct experience on that question. My understanding is that sometimes the reaction of social workers to situations of violence simply, you know, involve the taking of children without perhaps looking at more deeply what's going on there, but I am not -- I don't have extreme expertise in that.

**MS. HILLA KERNER:** Okay. To Tracy and Fay now, would you agree that if we look at the impoverishing income assistant rates, the sanctions and the demand of child welfare system, I understand you said you cannot relate to that in particular norm, and is the utter failure of the criminal justice system to hold the abusive men accountable, would you agree that we can say that the state is enabling and maybe even colluding this male violence against women? Fay?

**MS. FAY BLANEY:** Of course they are. I mean, the answer is pretty obvious, from my perspective. I
mean, we have a police department in Vancouver that doesn't enforce the prostitution laws. It allows it to continue. And it seems to me that they are enabling the abuse of Indigenous women in the downtown east side. There are so many that are involved in survival sex work and they don't consider our -- the level of poverty that we're in because of inadequate rates of the social assistance.

**MS. HILLA KERNER:** Tracy, would you agree that the statement they made about impoverishing, income assistant rates and the failure of the criminal justice system allow us to say that the state is enabling and maybe even colluding with male violence against women?

**MS. CHRISTA BIG CANOE:** The state, sorry.

**MS. HILLA KERNER:** The different state -- the state and province.

**MS. CHRISTA BIG CANOE:** Sorry, just to clarify, are you saying state as in like ---

**MS. HILLA KERNER:** So the Canadian state ---

**MS. CHRISTA BIG CANOE:** Okay.

**MS. HILLA KERNER:** --- and its extensions.

**MS. CHRISTA BIG CANOE:** So I'm not sure if she's going to be able to answer that in her area of knowledge. Did you want to rephrase it, so limit it?

**MS. HILLA KERNER:** No, I'll just move on.

Thank you.
Fay, you spoke yesterday about consciousness raising, women coming together to reveal to each other the conditions of their lives and to understand them as a shared experience, it is a reflection of women's oppression, and which means the jargons that we use as a personal is a political. And you describe how women in A1 and other places come together to organise, to press for social change and transformation. Would you agree that many services in this context, essential services, are essential services?

**MS. FAY BLANEY:** Did you say feminist services?

**MS. HILLA KERNER:** Yes, feminist services and I want to know if you will agree that they're feminist services, not only because they saves women lives -- of course, because of that -- but because it allows them to come together to support and strategise with each other, to have the feminist experience of consciousness raising and organising that you spoke about. So unlike other services, it also allow women to come together and to transform their situation as oppressed.

**MS. FAY BLANEY:** I think that transformation is key. I mentioned yesterday that my friend Cherry Smiley (ph) was talking about the parallels between women who stay in violent and abusive relationships and those that are
caught in prostitution and often caught up in addictions. And the healing process, as many, you know, have attested to in this process, the healing process is a very long journey. And the service delivery models are not ideal. Like, when you go to western models of healing, it almost feels like you're being blamed for the circumstance that you're in because it's so individualised.

And in the feminist framework you do examine and analyse together as a group what's going on. And like I said we don't sit there and just continue to complain about what's going on. We actually take the next step of taking action and we take action together.

And within that political process, a huge part of our healing journey happens. Within that process we are educated about systems and policies and beliefs that impact us. So that's why I was advocating so much yesterday about the importance of having feminist frameworks and the consciousness raising process be integral to what I'm recommending for Indigenous women. And I've seen it play out time and time again.

And, you know, your organisation supported us to do the two meetings before the Inquiry began so that Indigenous women could learn, you know, what was about to happen.

**MS. HILLA KERNER:** Thank you.
MS. FAY BLANEY: And there they -- it was amazing what happened to those women in those three days and you witnessed that. You witnessed what happened to the Indigenous women and how we came together.

MS. HILLA KERNER: Thank you.

Naiomi, you spoke yesterday about the role of law as a key element of democracy. You confirming that?

MS. NAIOMI METALLIC: Yes.

MS. HILLA KERNER: You argue that when it comes to delivery of essential services First Nations' peoples are not benefitting from the rule of law.

MS. NAIOMI METALLIC: Yes.

MS. HILLA KERNER: So would it be true to say that First Nations' people in that aspect do not have democracy?

MS. NAIOMI METALLIC: Well, democracy and rule of law are related in distinct concepts, but they sort of, you know, inform each other. To the extent that there are elections in some communities, I mean, some people say that's a form of some sort of nuance in that, but I think within the greater, broader Canadian society we are certainly -- some people do vote who are Indigenous. Some people don't. It's a conscious choice. But -- so they may have that. But I think the -- perhaps the broader question maybe that you're getting at, maybe you can clarify is ---
MS. HILLA KERNER: Yes. Okay.

MS. NAIOMI METALLIC: --- simply that ---

MS. HILLA KERNER: Because I ---

MS. NAIOMI METALLIC: Yeah.

MS. HILLA KERNER: --- I want -- since you spoke earlier about substantive equality versus formal equality ---

MS. NAIOMI METALLIC: Yes.

MS. HILLA KERNER: --- I want to separate between formal democracy and ---

MS. NAIOMI METALLIC: Right.

MS. HILLA KERNER: --- real democracy. So let's see if you can agree with that.

My collective and political support, any form of self governments or sovereignty, or any form of social organising that will provide each member an equal share of power and an equal share of resources -- and when we say "each member", we mean women too -- which we believe is crucial to manifestation of real democracy. Would you agree that real share -- equal share of power and equal share of resources is a manifestation of democracy?

MS. NAIOMI METALLIC: Yes. I would only qualify that by saying that it should be up to the tradition -- not just the traditions. Traditions can evolve as well. I just wanted to not sort of make it into
one particular type of -- you know, democracy may not
necessarily reflect potentially everyone having one vote.
I'm just trying to make room for whatever the collective
group, and the voice of women have to be prominent in that.
I don't disagree with that whatsoever. But I just want to
make space for whatever it is the particular group ---

MS. HILLA KERNER: Yeah, I do not mean the
western form of ---

MS. NAIOMI METALLIC: Okay.

MS. HILLA KERNER: --- democracy.

MS. NAIOMI METALLIC: Otherwise I agree with
your point. I just ---

MS. HILLA KERNER: No.

MS. NAIOMI METALLIC: --- wanted to make
that nuance.

MS. HILLA KERNER: Fay, you mentioned
yesterday about the systemic racism and the treatment of
Indigenous people to justify Indigenous peoples'
oppression. And you mentioned today the systemic
oppression of women. And I would like -- it's an open
question -- if you can say a few words about the similarity
and the difference between sexism, misogyny, patriarchy as
a form of oppression based on sex and racism, colonialism
as a form of oppression based on race.

MS. FAY BLANEY: Wow. My goodness, I don't
know how to answer that.

Sexism as we know is informed by patriarchy.

What I was getting at yesterday about systemic racism is the belief that we're inferior and that we deserve to be in the lower echelons of Canadian society. And I would say that it's the same belief systems that inform patriarchy where the men in our communities often believe that we're not capable of leadership or responsibility or power.

MS. HILLA KERNER: Would you agree that similar principle works on the oppression of capitalism in relation to poor? And when we talk about intersection lands, we mean understanding Indigenous women's lives so the oppression of the race of Indigenous peoples through the oppression of their sex as women and through oppression of their economic class, which is poverty?

MS. FAY BLANEY: Yes. There is a book written about poor bashing, and often the wealthy do blame the poor for the poverty that they live with without looking at the systemic process that keeps them there.

MS. HILLA KERNER: Thank you.

I want to thank the witnesses, I want to thank the Commissioners and lead counsel.

MS. CHRISTA BIG CANOE: Thank you.

Chief Commissioner and Commissioners, I would suggest that now is an opportune time for a break
because the next party withstanding will actually be allotted 50 minutes.

And I would actually ask that it be 20 minutes and that counsel meet in Room H, please, for just a brief 5-minute meeting, and then we will -- it will entitle us to 15.

So can we have a 20-minute break?

CHIEF COMMISSIONER MARION BULLER: M'hm.

MS. CHRISTA BIG CANOE: It's now 9:55, so I'm asking to come back at 10:15, please.

CHIEF COMMISSIONER MARION BULLER: Yes.

--- Upon recessing at 9:58 a.m.

--- Upon resuming at 10:26 a.m.

MS. CHRISTA BIG CANOE: If we can recommence, I'd like to call the next party withstanding, the Assembly of First Nations. Julie McGregor will be doing the cross-examination on behalf of them.

Again, Counsel -- I'm sorry, I just introduced you -- but once you start asking the first question, the time will begin.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

MS. McGregor:

MS. JULIE McGregor: Good morning, Chief Commissioner and Commissioners and panel members. As Christa mentioned, my name is Julie McGregor. I'm an
Algonquin from Kitigan Zibi Anishinabeg in Quebec, and I represent the Assembly of First Nations.

I'd like to begin by acknowledging the territory we are on of the Huron-Wendat, and I'd like to thank the Elder for her prayer. I would also like to thank the Assembly of Manitoba Chiefs for designating their time to the Assembly of First Nations.

As I mentioned, I represent the Assembly of First Nations, which is a national advocacy organization. It represents First Nation citizens in Canada and includes more 900,000 people living in 634 First Nation communities across Canada.

So as the FN is my client, much of my questions will be directed to Ms. Blaney and Professor Metallic this morning.

And specifically, I'd like my evidence to deal with how their evidence -- sorry, I would like my questions to deal with how their evidence relates to First Nations.

So for my first question, I'd like to direct it to Ms. Blaney.

In August of 2017, the National Inquiry had its first expert hearing on Indigenous laws and legal traditions. Were you aware of this?

**MS. FAY BLANEY:** No.
MS. JULIE McGREGOR: Okay. What I wanted to do, what my intention was to discuss the relationship between this hearing and human rights, which was Indigenous law and human rights. But during your presentation, you spoke about cultural clashes and the dual world that you live in, your academic life versus your way of life, your traditional way of life. Is that correct?

MS. FAY BLANEY: Yes.

MS. JULIE McGREGOR: Based on your evidence and expertise, can you speak to, if any, cultural clashes you have observed or lived that exist between human rights, which focuses on the individual libertarian rights and -- of humans and individuals, and your way of being and knowing and the laws of your nation, your traditional laws?

MS. FAY BLANEY: Yes. I realize that the International Human Rights Declaration was developed after the Second World War at a time when a lot of the nations around the world were still under colonialism and under Western ideals, and so it is developed from quite an individualistic perspective. And our collective way of viewing the world is not really included in that.

Human rights -- I didn't really -- my evidence isn't really focused on the international instruments, per se, like I'm not looking at the Declaration or even the Indigenous Declaration or the
Seedaw Declaration, I am primarily interested in this work from a grassroots perspective. I mean, that was the discussion before we arrived here of who would this panel consist of.

My concern with focusing on international human rights instruments is the fact that there are no mechanisms in place to monitor or enforce any of those things. So I think the knowledge and expertise of our natural rights exists with us at the grassroots level.

**MS. JULIE McGREGOR:** So you don't think that the UN Declaration on the Rights of Indigenous People is an instrument which could be used for furthering traditional knowledge, traditional laws?

**MS. FAY BLANEY:** Well, I wouldn't want to undermine all the work that's gone into that. I know that a lot of people have devoted a lot of time and energy, and I commend them for the work that they have done. It's just not necessarily an area that I focus on.

I've looked at some of those things, and -- from my gendered lens, and I always say when I look at things developed within the Indigenous community, oh, they forgot the women or there's a mention here or there about Indigenous women. But you don't recognize and absolute presence of Indigenous women because it would be a different document if women were involved in the process.
Very much in line with what I said about the Universal Human Rights Declaration, if our tribal or community -- communal societies were included, it would be a different universal declaration.

**MS. JULIE McGREGOR:** Thank you. Based on your evidence, you discuss the Fraser River Journey for Justice?

**MS. FAY BLANEY:** Yes.

**MS. JULIE McGREGOR:** You stated that you heard from many women who have experienced violence, and that in your experience there was so many Indigenous women who had similar stories. Is that correct?

**MS. FAY BLANEY:** Absolutely.

**MS. JULIE McGREGOR:** In all of these instances and these experiences you heard, were the perpetrators of violence Indigenous men?

**MS. FAY BLANEY:** I wouldn't say solely. In the communities, of course. You know, on Reserve, I don't think we experience the same dynamic as they would in the States, for instance, where perpetrators are coming on to the Reserves are non-Indigenous people. So in the communities, it would be Indigenous men.

But when it comes to urban centres, the perpetrators are a broad mix. And in the last question, or Hilla was asking me about the intersections of race, class
and gender, and in all of those hierarchy's Indigenous women are at the bottom. And so, the perpetrators come from all those areas. It comes from wealthy white men, it comes from the people that are new to our country. We're lower in status than anybody in Canadian society, so we're targeted by all of those.

So I would say in the urban areas, it's probably equally divided between Indigenous and non-Indigenous, but in our communities, it is primarily Indigenous, and often people in our families.

MS. JULIE McGREGOR: Do you -- so you would agree that, you know, in urban settings, but -- that non-Indigenous men are perpetrators of violence against Indigenous women?

MS. FAY BLANEY: Yeah, that's what I just said. About half, thereabouts.

MS. JULIE McGREGOR: Are you -- so I want to explore the idea of natural resource extraction and the relationship it has with violence against Indigenous women. Are you aware of the term "man camps"?

MS. FAY BLANEY: Yes. I read the Human Rights Watch report that they did in Northern B.C., and in that report, they talked about the level of service delivery and the fact that there is zero increase in service delivery for the safety and protection of people
within those communities. And of course, the most
marginalized are the ones that are the most exploited.

So they were looking at areas like -- I think it was Fort St. John in Northern B.C. where there is a lot of oil and gas exploration and those kinds of things.

**MS. JULIE McGregor:** So you would agree that there natural resource extraction and the lack of services provided for Indigenous communities, First Nation Communities, and those surrounding areas would lead to the protection and safety of those Indigenous women from those First Nations?

**MS. FAY Blaney:** I don’t think Human Rights Watch was really looking at the programs and services within the Indigenous community. I think they were looking at the town itself. So there wasn’t, for instance, an increase in policing, you know, women’s service, the women’s centres or anti-violence centres, transition houses. So it doesn’t really factor any of those things in to ensure the safety of women and children, girls.

**MS. JULIE McGregor:** Thank you. In your evidence you discussed how women are targeted because of their gender. What are the ways in which Indigenous women are targeted specifically, and why?

**MS. FAY Blaney:** I think women are targeted within our communities because we -- there are no
consequences really. Usually there -- the violence is perpetrated with impunity. We self-police ourselves to ensure that we don’t go to the outside world and talk about the violence. I think in my testimony yesterday I talked about the Ontario Native Women’s Association when they produced their very first report in 1989, and your organization opposed the release of their Breaking the Silence report because you thought that the level of racism would be harmful for Indigenous men. And so it’s really difficult for Indigenous women to break the silence when we’re constantly being silenced within our own communities.

**MS. JULIE McGregor:** You talked in your testimony about the empowerment of Indigenous women and throughout the community hearings that have happened across Canada. We’ve heard of the strength and resilience of many Indigenous women who were put in very dire circumstances. Would you agree that Indigenous women themselves are inherently powerful?

**MS. FAY BLANEY:** We are.

**MS. JULIE McGregor:** That’s ---

**MS. FAY BLANEY:** We are.

**MS. JULIE McGregor:** My second part to that is that what’s missing here is a lack of opportunities for Indigenous women to participate in either economies or have, I guess, comparable services to non-Indigenous women.
MS. FAY BLANEY: I think those opportunities are probably available, as they would be to men, but I think it’s the dynamic in the community. I made reference to the Royal Commission on Aboriginal Peoples that told us that primarily the university educated status Indian members were women. And yet, the leading positions were occupied by men.

So you know, maybe the opportunities are there but we just are not able to access those opportunities due to the sexism and misogyny, this attitude that women are not capable. And yesterday I also made reference to the triangle, you know, where we have our personal experiences and we often blame ourselves for the short -- supposed shortcomings that we have, or disadvantages, or what have you. But the other aspects of the triangle are equally important. It’s the belief systems which you know, undermine us and it’s the laws and policies, practices, regulations, that we encounter.

MS. JULIE McGREGOR: You mentioned in urban areas you think the perpetrators are about 50/50 Indigenous, non-Indigenous. And you mentioned that they feel they can treat Indigenous women however they feel like it, without impunity. Why do you feel that? Why do you think that these non-Indigenous perpetrators of sexual violence who target Indigenous women feel they can do that
without impunity?

**MS. FAY BLANEY:** I think they’ve openly said that in a number of cases. The Green River killer said that he targets prostitutes and he targets poor women because he knows that no one’s going to pay attention. And in Vancouver that was proven to be true in the Pickton case where the police didn’t listen to anybody whenever they came to report a missing person.

And in the downtown east side they -- the organizations commissioned a report to see what the relationship was. Well, it was actually a report on the need for safety and security of women, and in the outcome, the findings of that report -- I’m not sure if it’s okay for me to talk about a report that’s not here. It’s called “Getting to the Roots” and in that report they talk about how they wouldn’t go to the police. When they’re at risk, when they’re feeling unsafe, the women would rather go to each other and to friends, the people that they know for support when they’re at risk, when they’re in danger.

So that gives you an indication of the trust level that they have with the police. I know the police are trying to remedy that right now, but I’m not so sure that I agree with the ways in which they’re trying to remedy it.

**MS. JULIE McGregor:** Why’s that?
MS. FAY BLANEY: Well, I’m old, as you know. And I’ve been doing this for a long time. In the ‘90s when I was involved with a counselling agency on alcohol and drug counselling, we had a relationship with the police and we had quarterly meetings with them. We drove the agenda. We determined the agenda, and the counselors brought cases forward to the police. We currently have a sister watch and I don’t see it as being community driven.

I have huge concerns about the fact that Indigenous women don’t sit in roles of power or privilege. The issues that I’ve been raising forever is that Indigenous women need to have greater roles in issues that affect our lives.

MS. JULIE McGREGOR: Ms. Blaney, are you aware that the AFN includes two First Nations women, Regional Chiefs?

MS. FAY BLANEY: Yes.

MS. JULIE McGREGOR: Did you know that the CEO of the AFN is a First Nations woman?

MS. FAY BLANEY: No, I didn’t.

MS. JULIE McGREGOR: Are you aware that over half of the directors of the Assembly of First Nations are First Nations women?

MS. JULIE McGregor: Did you know that over half of the staff of the Assembly of First Nations are First Nations women?

MS. FAY BLANEY: I’m not surprised. A lot of band offices are like 90 percent women. They run the place, but they don’t lead them.

MS. JULIE McGregor: You spoke in your -- you spoke in your evidence about the lack of capacity in our communities for services for First Nations. In today’s reality of underfunding, for example, the recent -- which Professor Metallic referred to in her evidence, the child welfare cases -- that the federal government discriminates against First Nations’ children on reserves in that circumstance. Do you agree that First Nations across Canada are overwhelmingly underfunded for gender-based violence and healing programs?

MS. FAY BLANEY: I actually worked with my own band for a time in the early 2000s as a Treaty Manager, and I was on council. And I started a women’s group to try and address the gang rapes that were happening on my reserve and the brutalization of women and children. And I went to some of the -- like, the Health Authority and to Indian Affairs, and I got the same answer over, and over, and over, that there’s no funding for violence against women.
I also know that the welfare rates on reserve are way worse than the welfare rights -- rates off reserve. So I do know the crunch that happens on reserve, and I know the lateral violence that comes from the membership against anybody that sits on the band council or works in the band office.

**MS. JULIE McGregor:** Would you agree that the federal government has a responsibility to fund gender-based violence prevention and healing programs?

**MS. FAY Blaney:** Yes. Of course.

**MS. JULIE McGregor:** Yesterday in your response to Commissioner Audette’s questions regarding the 1951 amendments to the *Indian Act* you stated that the following -- that following the Bill C-31 Act amendments, that the names of First Nations women who had regained their status were made public and that those women were pushed out of their communities. Is it your evidence that this occurred in all First Nations across Canada, or were you making a generalized comment based on the stories you’ve heard?

**MS. FAY Blaney:** No, I didn’t say that. I said that in 1951, they were required to publicly post the Band membership list. When children were born, those children could be contested by the membership and I do know individuals that had their membership contested with other
Band members coming forward and saying that child has either a non-status or a non-Indigenous father and they were struck from the Band membership list.

**MS. JULIE McGROR:** So that is your evidence based on stories or experiences that individuals have advised you about?

**MS. FAY BLANEY:** The Aboriginal Women's Action Network did a research project in 1998 and '97 on Bill C-31. We were compelled through consciousness raising groups that we should have another look at what was happening under Bill C-31. The law was passed in '85 and yet the women coming forward were saying that they still had no rights, that they weren't welcomed back onto the reserves. And I think there's a community in the Maritimes that are all Bill C-31 people and that is due to the fact that communities don't include them.

In our research, we worked with a law student and she did extensive research on the cases that were currently going forward, as well as historic cases. So the evidence that I'm giving about Bill C-31 comes from a great deal of research on many fronts.

There's our own literature search and then there's the legal search, and then we accompanied that with the participatory action research that we undertook in which we had about 27 women from all around the province
that came to our gathering and they each went home and conducted interviews on these questions of how their rights were being met and they were pretty consistent. Their rights weren't being met on their reserves.

**MS. JULIE McGregor:** I just have two final questions for you for clarification purposes.

When you stated that First Nations perpetuate a patriarchal power structure by denying their traditional societies are in fact matriarchal, would you agree that not all First Nations across Canada are patriarchal and that there are in fact many First Nations in Canada that follow traditional systems of matriarchal governance?

**MS. FAY Blaney:** They are probably few and far between.

**MS. JULIE McGregor:** But are there some that do have matriarchal traditional governance?

**MS. FAY Blaney:** There may be. I haven't researched that question. I just -- I know that we really need to research a lot of questions around the power imbalance. That was one of my recommendations yesterday was to have a serious look at this notion of balance in our communities. We know that there's no balance and yet whenever we try to put women forward, there's always someone saying what about the men. And you know, we have
to have balance here, so they attempt to bring Indigenous
men into circles where we're trying to have women only
spaces.

So there might be but it's not widely heard
of. It's not a role model community that we're aspiring to
follow. We do know that there are male leaders that are
saying that patriarchy is their tradition even though we
know for a fact that matriarchy is their ancestry.

**MS. JULIE McGREGOR:** So there are no First
Nations across Canada that are role models for matriarchal
governance?

**MS. FAY BLANEY:** I haven't heard of one.

**MS. JULIE McGREGOR:** Okay. Thank you.

I'm going to move my questions now to --
turn my question to Professor Metallic. Professor, in your
evidence, you discuss the evolution of essential service
delivery on reserve.

**MS. NAIOMI METALLIC:** Yes.

**MS. JULIE McGREGOR:** You discuss the post-
war era and how there was a realization that services
provided to First Nations were not the same as the rest of
Canada. Is that correct?

**MS. NAIOMI METALLIC:** Yes.

**MS. JULIE McGREGOR:** You mentioned that
there was an impetus for the inclusion -- that the impetus
for the inclusion of section 88 of the *Indian Act* was in fact this, that there was this understanding that there was this lack of services provided to First Nations. Correct?

**MS. NAIOMI METALLIC:** Yeah. There was a joint committee struck by Canada at the Senate and House and they looked at this issue for a few years and, yeah, one of their recommendations was that there would be -- that provinces and territories should have a greater role. And my evidence was that one of Canada's initial responses to that was to put section 88 into the *Indian Act*.

**MS. JULIE McGREGOR:** So would you describe it as Canada's first -- that section 88 was Canada's first attempt to offload litigations onto the provinces?

**MS. NAIOMI METALLIC:** I don't know if it was maybe their first attempt. There could have been earlier attempts before in 1951 but with respect to the delivery of how we now think of essential services as a sort of social safety net and trying to download that to the provinces, yes.

**MS. JULIE McGREGOR:** And so this lead to the negotiation. Your evidence stated that this led to the negotiation, the federal government negotiation -- negotiating, sorry, funding agreements between the provinces and which often -- which was exemplified in the *Caring Society* case that have led to inequitable funding in
comparison to funding provided to the provinces and territories, so inequitable funding provided to First Nations rather than the funding provided to the provinces and the territories for essential services. Correct?

MS. NAIOMI METALLIC: Yeah. Over the course of -- at first it was simply the -- well, it was negotiation for -- the initial negotiations in the fifties and sixties were after the sort of lack of success on section 88 because the provinces sort of balked at that and said, you know, we're not going to take over these services unless you pay for them. And over the next 10-15 years or so, some agreements were come to especially with respect to child welfare services where there was a split. I believe in most cases -- yeah, so there was a split in terms of payment but the bulk of it is usually paid by the federal government.

Other areas not so successful in terms of negotiating that takeover and so the feds ended up offering the services themselves to these treasury board authorities. So that was the first types of agreements. And then later I said that when some -- you know, after the White Paper and the reaction to that, then the feds started negotiating funding agreements with First Nations themselves for the delivery of these services. So two different types of agreements, just to make that
distinction clear.

MS. JULIE McGREGOR: Thank you. Therefore, is it a fair statement that First Nations, the on-reserve population, have experienced the brunt of the funding inequities as opposed to other Indigenous groups in Canada?

MS. NAIOMI METALLIC: I haven't researched other groups in Canada, so I'm not going to pretend to suggest that. You know, there's a term that's used sometimes in human rights "it's not a race to the bottom, every world at the bottom", you know what I mean.

So I don't want to get into, you know, we're worse off than you are but I know that we're really -- we're bad off, right, and I think that that's what the Commission needs to hear.

MS. JULIE McGREGOR: Yeah. I don't think -- I think what I was trying to say is that because of the way that funding structure occurred ---

MS. NAIOMI METALLIC: Yeah.

MS. JULIE McGREGOR: -- that it targeted First Nations because they were the ones that were left out of the provincial sphere of things of service delivery. Is that correct?

MS. NAIOMI METALLIC: Yes, yes. So they in negotiations that happened between the province and the feds, First Nations generally were not included in that.
It's interesting with respect to child welfare, there was a point there -- it's talked about in this decision that came out in 2017 called Brown about the Sixties Scoop but they talk about these discussions between the feds and the provinces at this time and there was this ministers' meeting and actually talked about how in the delivery of these services or in transferring or downloading to the provinces, there should be the consent of Indigenous groups.

But it's found in Brown and that and it seems across the board that didn't happen, even though all the politicians recognized that the consent for these types of service to be downloaded and applied on reserves, there actually wasn't.

So Indigenous people were by and large left out of those conversations until maybe later the funding agreements with the First Nations about the program devolution. But event then, as I said, the agreements for the most part in my opinion are sort of take it or leave it. So they've been -- you know, they've been offered pots -- you know, my comment yesterday about pots of money. They've been offered money for delivery of services often with very little negotiation and the formulas and the amounts are determined by the federal government.

**MS. JULIE McGregor:** Thank you.
So based on your evidence and your research you've done, is it a fair statement to say that in order for these types of funding inequities in service provision to First Nations on reserves to end, First Nations need to assert their jurisdiction? Their assertions of jurisdiction must be recognized and supported with the appropriate resources to take over these services and provide them to their people?

**MS. NAIOMI METALLIC:** Yeah, that's what I think the solution is.

**MS. JULIE McGREGOR:** In light of the historic disadvantage a First Nation's people -- the historic disadvantage that First Nations face, and as a result of more than a century of discrimination, which you've provided in your evidence, discrimination of federal policies and the current patterns and practices of underfunding in Canada, which was exemplified in the Caring Society case, together these perpetuate the historical advantages which amount to discrimination. Would you agree with that?

**MS. NAIOMI METALLIC:** Sorry, can you say that again? Sorry.

**MS. JULIE McGREGOR:** Sorry. In light of the historic disadvantage First Nations face because of the historical discrimination that they've had -- that they
faced, the current patterns and practices of underfunding in Canada perpetuate that historical disadvantage ---

**MS. NAIOMI METALLIC:** Yeah.

**MS. JULIE McGREGOR:** --- and discrimination.

**MS. NAIOMI METALLIC:** Perpetuate ---

**MS. JULIE McGREGOR:** That amount to ---

**MS. NAIOMI METALLIC:** Yeah.

**MS. JULIE McGREGOR:** --- discrimination, yeah.

**MS. NAIOMI METALLIC:** Yeah. So my evidence yesterday is that I think that they exacerbate it. So, yes, there are intergenerational impacts and the damage that we feel from that translate into how our communities work, but this is making it so much worse because we're not able -- our communities are not able to get ahead, and the Auditor General has said that and so has the Special Rapporteur referred to it, but we're not moving ahead because of that.

**MS. JULIE McGREGOR:** So it's a fair statement that we're stuck in one place because the historical disadvantages and discrimination are continually perpetuated by the system today.

**MS. NAIOMI METALLIC:** Making it worse.

**MS. JULIE McGREGOR:** Making it worse, exacerbating it.
MS. NAIOMI METALLIC: Yeah.

MS. JULIE McGREGOR: And this discrimination, the -- and this discrimination affects the collective; correct? Like the ---

MS. NAIOMI METALLIC: Yes. Absolutely. The individual and the collective. It's all affected.

MS. JULIE McGREGOR: Would you agree that, based on the research you've done, that Indigenous individuals or First Nations who do not reside on reserve or receive services from First Nations, that population generally receives services from the province that are in most cases comparable to non-Indigenous people?

MS. NAIOMI METALLIC: So I would say a couple things on that. Some of the research that I did around social assistance -- so some of the policies that the federal government has with respect to social assistance is that the Bands cannot provide welfare or even any assistance to their community members. And often that's not well understood so they feel like they're being abandoned by their community when, in fact, under the policy they're not actually allowed to. And if they do, that money will get clawed back from the First Nation government itself.

And, also, if an officer, community member in welfare is under provincial welfare, if they receive
monies -- and this happens sometimes in the case of treaty entitlements or other monies -- that can get clawed back under the provincial system. So I don't know if they're any better off.

And often what we've -- some people -- in some of the interviews we did last year, we heard from people who were both living on the on and off reserve system. And some said that, you know, living on the off reserve system was worse as some of the rules are stricter, or that they didn't understand all the rules. So there are -- you know, it's -- if they're not able to sort of navigate even the provincial system there can sometimes be quite a bit of problems with access too.

So I don't know if it's any better. I just know that it seems that people are having a hard time, certainly within the on reserve system, and there we found that the rates are not comparable and also even the expanse of services wasn't comparable. There may be other issues that present themselves in the provincial system too, which I didn't study as fully. I just heard some things as we were doing the more on reserve focus research.

**MS. JULIE McGregor:** Yeah. Would you agree that based on the work you've done that a lot of service providers on First Nations are non-Indigenous service providers?
MS. NAIOMI METALLIC: No.

MS. JULIE McGREGOR: Or that provide services. Sorry, let me clarify that. Service providers providing services to First Nations and on many cases are non-Indigenous organisations or service providers.

MS. NAIOMI METALLIC: So when I'm thinking about the -- like, let's say, social assistance, my experience -- and I haven't gone across the country, I looked mostly at the Maritimes, but most of what they call social development administrators, SDAs, often they were community members. They were members of the community. I think some -- you know, child welfare might be a different issue I think in some places, so maybe that's what you were thinking.

MS. JULIE McGREGOR: Yeah, I was thinking more ---

MS. NAIOMI METALLIC: Often ---

MS. JULIE McGREGOR: --- with your experience of your work on the child welfare case and ---

MS. NAIOMI METALLIC: Right.

MS. JULIE McGREGOR: --- your research there. A lot of CFS, Child Family Services ---

MS. NAIOMI METALLIC: Yeah.

MS. JULIE McGREGOR: --- providers are non-Indigenous; is that correct?
MS. NAIOMI METALLIC: So, yeah, and maybe the point you're trying to make is in terms of where you require the professionalization or there's a requirement that people who deliver services have to have a social work degree. I mean, we obviously do have people who have social work degrees. Some of them are at the table. But there are -- yeah, in delivery of some services for certain, particularly where there's that government may impose some form of credentialization, it may happen that more of the people who are providing the service are non-Indigenous or non-First Nations.

MS. JULIE McGREGOR: And would you agree that if First Nations were provided the appropriate resources to take over these essential services, providing these essential services, like in the child welfare circumstance ---

MS. NAIOMI METALLIC: Yeah.

MS. JULIE McGREGOR: --- that there would be a greater level of accountability to the communities because non-Indigenous service providers, child welfare service providers often don't have accountability to the communities that they serve.

MS. NAIOMI METALLIC: Yeah. No, I would agree with that. I mean, I think that there is -- hearing from some of the stuff that Fay was talking about too, I
mean, there's lots of healing that needs to happen and
there's lots of governance work that we need to do, but no
question do I feel that if services were delivered by our
own people who have a sense of what the needs are of people
that that helps. I mean, it's not to denigrate the role
that, you know, allies and non-Indigenous people have been
playing, but there is a real importance of -- you know,
when people from our communities are helping, we know --
you know the issues, you know.

MS. JULIE McGREGOR: M'hm. And I'm just
going to segue that into the culturally appropriate
services. So in certain jurisdictions the legislative
scheme entitles children to the provision of culturally
appropriate services, so, for example, the Manitoba CFS and
the Ontario Child and Family Services Act.

MS. NAIOMI METALLIC: M'hm.

MS. JULIE McGREGOR: And I'm not going to
ask you to -- whether you're familiar with those Acts or
not, I'm just providing them as examples. But the problem
is, in those circumstances, it's that how this -- these
requirements for culturally appropriate services are
interpreted by the provincial government, how it plays out
in practice in terms of day-to-day delivery of culturally
appropriate services is haphazard and, in some cases,
inappropriate or inadequate for the -- for Indigenous
children. I would suggest that as a result the Child Welfare System then perpetuates assimilation or cultural assimilation where you have different groups all, you know, engaging in cultural activities that necessarily don't reflect their background.

Do you agree with that comment? And when -- what should be done to address the problematic practical implication of this cultural assimilation?

MS. NAIOMI METALLIC: So I'll tell you how I understood the question and then I'll answer it if I've understood it properly.

MS. JULIE McGregor: Okay.

MS. NAIOMI METALLIC: That there are certain jurisdictions, provincial jurisdictions that have done -- gone some way in their laws to accommodate Indigenous difference.

MS. JULIE McGregor: Yes.

MS. NAIOMI METALLIC: But I think what you're suggesting is that in some cases they have -- that although they're doing that -- some form of accommodation, it's not really translating into real results on the ground.

MS. JULIE McGregor: Yes.

MS. NAIOMI METALLIC: And what do I think about that or what can improve that?
MS. JULIE McGREGOR: M'hm.

MS. NAIOMI METALLIC: I talk a little bit in my paper -- I do think that there are roles for -- there is this -- you know, there are provinces and territories in the federal government and I do think that there are roles for the province and territories to play, but I don't think that that should take up all the space that should be given to Indigenous people to try to come up with solutions that address their problems and they're the best suited. And I do think that it is problematic sometimes.

I don't want to completely suggest that, you know, there isn't a role for provinces to play, especially around things like Jordan's Principle where we want to make sure that if there is a service that actually is delivered by the province they should be able to pay for it. But when it -- and I also think that provincial staff, if they are going to have to necessarily interact with Indigenous people should be culturally competent.

But it shouldn't be the be all and end all when it comes to looking at solutions that we should just say, oh, well, the provinces can come -- you know, tweak their legislation. Often provinces won't go that far. That's one of my concerns is that they may not go far enough to accommodate. They also might feel constrained by legislative or, you know, the division of powers to
accommodate fully. And also, you know, are they well placed to create culturally appropriate roles. If it's a bunch of non-Indigenous people who have not, or barely ever, stepped foot in a community, are they well suited.

So I have real concerns about simply saying the solution is just for the provinces to do more accommodation within their legislation. I think they have a role to play. I don't think that they're the -- you know, that's the solution.

**MS. JULIE McGREGOR:** So they have a role to play but First Nations should be the driver in that -- in those sorts of circumstances.

**MS. NAIOMI METALLIC:** absolutely, yes.

**MS. JULIE McGREGOR:** Would you agree with that?

**MS. NAIOMI METALLIC:** Yes.

**MS. JULIE McGREGOR:** So, I just want to segue now into human rights law, and your discussion of the Child and Family Services case. So, would you agree that human rights law frequently requires a comparator group?

**MS. NAIOMI METALLIC:** Yes, although the Supreme Court in -- oh, God, the name is escaping me, but a more recent case has talked about -- Whitler (ph), that, you know, this idea of mirroring comparative groups can be
inappropriate, because sometimes you just have one group
that is very different from everybody else. And so, you
can’t use those comparator groups.

    MS. JULIE MCGREGOR: Okay. So, generally,
does human rights law ---

    MS. NAIOMI METALLIC: Yes, with caution.

    MS. JULIE MCGREGOR: Caution noted. Would
you agree that an analysis based on substantive equality,
and there was discussion earlier about substantive
equality, focuses much less on some imagined comparator
group, but much more on the service or benefit that is at
issue, meaning the group that receives the full benefit of
the service?

    MS. NAIOMI METALLIC: Are you asking me if
it should -- that should be the focus?

    MS. JULIE MCGREGOR: Yes. Well, do you
agree with me that it should be ---

    MS. NAIOMI METALLIC: Yes, it should be
about the needs of the group in question, and not simply
whether some other group that is differently situated,
they’re getting about what they get.

    MS. JULIE MCGREGOR: So, you agree that the
conversation around this should not be on the substantive
equality, informal or formal equality, but the needs base,
the need -- what need is equitable -- what the need is
equitable funding and address current forms of discrimination, and also historical disadvantage. So, the needs of equitable funding should address current forms of discrimination and the historical disadvantage?

**MS. NAIOMI METALLIC:** I agree that that is the definition of substantive equality, as it relates to Indigenous people.

**MS. JULIE MCGREGOR:** Do you agree that First Nations require more in terms of funding programs and services than other Canadians are getting to address their needs and to overcome the historic disadvantages that they faced as a collective?

**MS. NAIOMI METALLIC:** I can’t say -- you know, I, again, don’t want to get into races to the bottom. I don’t know what the needs are of actual Canadian people or new immigrants. They have particular needs, too. What I do think is the case is that substantive equality actually requires that the needs and circumstances of Indigenous people, and they have extreme needs; right? Because of the history of colonialism, because of the geographic remotesness of some of our communities, because of the intergenerational harm, because of all those things, they have special needs. Whether they are more or less than other needy groups in Canada, I don’t know, but that doesn’t matter. It’s the fact that those are the needs
that need to be addressed.

MS. JULIE MCGREGOR: Well, I think what I mean is that, I’m not -- again, I’m not trying to get into the issue of a race to the bottom. It’s more of First Nations have a unique experience in Canada. We’ve had that history of colonialism that many other groups have not.

MS. NAIOMI METALLIC: Yes.

MS. JULIE MCGREGOR: So, it is that unique history that we have to address and overcome, and that just bringing substantive equality so that First Nations are at levels with other groups in Canada, or the Canadian population in general, doesn’t account for that historical experience.

MS. NAIOMI METALLIC: The way I understand real substantive equality is to recognize that difference. I think your definition or how you were just using “substantive equality” is actually formal, where it’s just saying we’re just going to bring you up to the level of where, you know, privileged, let’s say, settler Canadians are at. That’s formal equality. But, to say that, you know, you have particular needs that need to be addressed, and we need to look at what they are and look at your particular circumstances, that’s actually substantive equality.

So, I don’t have a problem with substantive
equality, because that is -- I think that that is -- it does reflect actual needs. Yes.

**MS. JULIE MCGREGOR:** And, I think what I was trying to do was tie in that with the fact of the historical disadvantage of First Nations. So, you agree that there is that tie in right there?

**MS. NAIOMI METALLIC:** Absolutely.

**MS. JULIE MCGREGOR:** Okay. Yesterday, you gave evidence on the child welfare case filed by the Caring Society and the AFN. Are you aware that the tribunal in that case, the Canadian Human Rights Tribunal, ordered Canada to pay for services based on need?

**MS. NAIOMI METALLIC:** Yes, I am.

**MS. JULIE MCGREGOR:** Can you describe in human rights’ terms what needs-based funding entails?

**MS. NAIOMI METALLIC:** So, in the -- so in the specific context of child welfare, I mean, without getting too deep into what the funding formulas were, they said that the funding formulas actually have to not just be based on some arbitrary number, which they had been under the different funding formulas they had, but had to reflect that, you know, factors of remoteness and the actual amount of children who were in care -- and actually, I think one of the most recent remedial orders actually talked about them having to, you know, fully fund the cost of prevention
services. So, they get into quite a bit of detail on what needs to be covered, and it has to really reflect the needs. That’s clear.

**MS. JULIE MCGREGOR:** Okay. And, I want to discuss a little bit more about the issue of stereotypes, which you discussed yesterday. I think it’s interesting that you point out that there was -- that the severe underfunding and the -- well, correct me if I’m wrong. That the severe underfunding experienced by First Nations has led to stereotypes -- ironically, it has led to stereotypes that some individuals hold that First Nations leadership can’t handle their money, they’re corrupt, and so forth.

Would you agree that Canadians in general and the public, and probably those who hold those misinformed views, need to be better aware of the realities of First Nations living on reserve?

**MS. NAOMI METALLIC:** Absolutely.

**MS. JULIE MCGREGOR:** And, to clarify, is it your evidence that it is the federal government who has a responsibility for sustaining this dysfunctional narrative about First Nations, and that, you know, they can’t handle the funding, or they can’t handle the money, or they’re not equipped to do that?

**MS. NAOMI METALLIC:** In part, it’s there for certain, and I talk about this in the paper, but I
mean, this was a barely concealed narrative within some of the comments that were made by ministers under the last administration; right? So, I mean, certainly not perpetuating those messages. But, I think everybody has a role to play in that; provincial governments, higher education, school systems. I mean, we don’t learn any of this stuff in the school systems.

Law schools and other professional schools, everybody has a role to play in dispelling these myths, and people need to learn about these problems. I mean, people sort of think that Canada is this bastion of human rights, and we have this wonderful international reputation but, you know, there are human rights violations of Indigenous communities going on every day under our noses, and we’re barely talking about it.

MS. JULIE MCGREGOR: And, that, you know, would you agree that education, including education of our -- of Canadian governments and departments needs to occur more often about these dysfunctional funding systems that are happening right now, and these human rights issues that you’ve alluded to?

MS. NAIOMI METALLIC: Yes. Absolutely. Various forms of government. I think there needs to be more happening than just that education. As I’ve suggested, I think that we really need to look closely at
the role, and there’s some work that’s started to happen.
You know, the splitting of INAC between this new -- what is
it called? CIRNA for short, and DIS, but the two
different, some of that is based on what RCAP was
suggesting, although that was only one small part of what
RCAP suggested. So, we need to see more. I think we need
to look at the role of the department. So, education
there, particularly that department, is quite key, but
there are other systemic structural things that need to
happen there, too.

**MS. JULIE MCGREGOR:** And, I just want to
end, and I’m conscious I have 4.5 minutes left, just
talking about the funding relationships, and in many cases,
the impacts of those dysfunctional funding or under
funding, those impacts that they have on First Nations, in
many cases, First Nations’ leadership are forced to make
difficult decisions regarding essential services. Would
you agree with that?

**MS. NAIOMI METALLIC:** Yes.

**MS. JULIE MCGREGOR:** So, would you agree
also that if these funding systems were remedied, and that
goes back to the equality issue, but that we would see in
First Nations greater access to essential services, and
perhaps much better services that are provided if we had a
situation where the leadership weren’t having to make those
difficult decisions?

**MS. NAIOMI METALLIC:** No question there would be an improvement, but I wouldn’t just want to see it just being -- I mean, there definitely has to be increases of funding, and all of that has to be addressed. But, my larger point is that it’s not just the funding. I mean, funding is key, absolutely necessary, but there’s also a bunch of structural changes that I think need to happen in order to ensure that, yeah, this government because it’s -- of its sunny ways is going to inject a bunch of money in and then the next government is going to come, has perhaps less sunny ways and then they're going to ignore the...

Like you cannot have a situation that -- we've seen this pattern over and over again, where, you know, a new government comes in and their agenda is not Indigenous issues and then the next one is. We need to put in strong structural mechanisms to make sure that our needs are not forgotten or can be forgotten or lightly dismissed by a different government.

**MS. JULIE McGREGOR:** And can you just clarify what those structural ---?

**MS. NAIOMI METALLIC:** I feel that simply just allowing governments to create policies and sort of executive acts or just having these funding agreements are -- have allowed -- although maybe sometimes they have
seemed like, you know, a good thing because they allow flexibility or at least they're giving funding for services -- have allowed, I think, many levels of government, Canada and provinces and territories to really ignore their obligations to Indigenous people and sort of say that they're just doing these things because they're good policy things but not because they have any legal obligations.

So I want to -- I do think that, you know, short of constitutional amendments, I mean, I think that there needs to be, you know, some of these accountabilities set out in legislation because that will create a stronger basis for us to hold the governments accountable.

**MS. JULIE McGregor:** And that those structures have to be based in First Nations' beliefs, traditions, laws and that they -- First Nations have to be the driver for that?

**MS. NAIOMI Metallic:** I definitely feel that First Nations have to be the driver. And I'll make a couple of distinctions, because I know that the whole talk of legislation gives some people concern or cause.

There's two different sort of things we're talking about. There's what First Nations do, you know, in delivering service. I think that potentially legislation could actually help implement the inherent right to self-govern around that and sort of help do that. But then
there's all the things that other governments have to do in assisting us; right? So that's a whole other set of obligations.

I think those could be clearly set out. Indigenous people have to be part of setting what those are out, but sort of the -- I just want to make the distinction between those two things to help see that there's this -- it's not just the government setting out what Indigenous people have to do, it's also what they as themselves as government have to do, and I think those should be clearly enshrined in legislation.

MS. JULIE McGregor: M'hm. Okay. Those are my questions. Miigwech to the panel and to the Commissioners.

MS. NAIOMI Metallic: Thank you.

MS. CHRISTA Big Canoe: Thank you, Ms. McGregor.

Next, I would like to invite the representatives for Women Walking Together. They will come for their cross-examination and will have 25 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

MS. OKEMAYSIM-SICOTTE:

MS. DARLENE OKEMAYSIM-SICOTTE: I'm Darlene Okemaysim-Sicotte, and I represent Iskwewuk E-wichiwitochik, Women Walking Together, in Saskatoon,
Saskatchewan in Treaty 6 territory. We're ad-hoc and a concerned citizen group. We have no government funding, no office. We've been doing volunteer work on this for 12 years.

And I just want to thank the parties this morning and all the testimony yesterday from all the experts.

So my first question is to Fay.

**MS. CHRISTA BIG CANOE:** And so, can you start the clock? Thanks.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Fay, in your devotion to educating and mobilizing Canadians on the impacts of colonization understanding, how do you see reconciliation playing a role in educating and mobilizing Canadians?

**MS. FAY BLANEY:** I think I -- well, there's a whole bunch of different answers to that, I suppose. As an educator, I know the importance of the work that post-secondary educators are working on to try and get things accredited. My dear friend, Sharon McIvor, was just talking about that over the weekend and the challenges that she faces.

In the post-secondary level, in the institutions that I taught at, English programs were mandatory, and so any student, whether they were in
kinesiology or journalism, or whatever it was, they had to take English. And she's fighting for the university to make it mandatory that they take education -- be educated on what's happened to us in the residential school system. And yesterday, I did share a model that -- one that I'm working in, which is holding reconciliation circles.

It's really hard to track the progress and to have a champion to address the needs at a whole variety of different levels. The danger that we're running into right now is that everybody knows the buzzwords and the code words to say we have Indigenous inclusion, but they're just words.

It's kind of like where we were at with territorial acknowledgement. Everybody was adopting this sexy idea. I'm on -- like in my area, we're on Musqueam, Squamish and Tsleil-Waututh territory, but what are we really doing about the fact that we're on unceded territory?

So there is a lot of work in a whole variety of different sectors in Canadian society to address the education of the non-native people with what we're going through.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Do you have hope for true reconciliation?

**MS. FAY BLANEY:** I keep working on it.
Sometimes I get really discouraged, but I guess I have to have hope if I'm continuing to do it.

I devote some of my time towards reconciliation. Most of my time is -- and I keep saying how old I am, but most of my time is devoted towards women's issues. I really have to make choices about where my time goes. And I recognize the importance of the actions that are happening in B.C.

Like right now, the big thing going on is Kinder-Morgan, looking after the environment. And I fought that fight in my own homelands. I took up fights against racism as well, but right now in my golden years, I want to devote all my time and energy towards the rights of Indigenous women just because of the long way that we have to go and the way that we sit at the bottom of all these different hierarchy's.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. Fay, how can settler society and allies assist in doing this reconciliation alongside with entities like AWAN?

MS. FAY BLANEY: Well, in the reconciliation work, the woman that I work with is non-Indigenous, and in our circles, we do have really mixed groups. I said yesterday that when they come into the circle they're entering our space. That has to be clear right up front that these settlers are entering our space, and that
usually makes a huge difference.

And I also said in my presentation yesterday that I really believe in alliance building with non-Aboriginal feminists. I think the level of silencing that we have in our communities about male violence against women is -- it's so difficult for women to not only speak out but to be educated on the levels of patriarchy.

You know, we talk about normalization of violence, and there have been -- I think there was a book written over a decade ago called Black Eyes All of the Time. That's what we experience. It's very normal. And when you look at the statistics, it's like 80 percent. And that's what AWAN said a long time ago, and I think it's still up there for Indigenous women in our communities.

So -- yeah. Education is really critical.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. Fay, my next few questions are about your testimony yesterday on the memorial watches -- marches.

MS. FAY BLANEY: M'hm.

MS. DARLENE OKEMAYSIM-SICOTTE: In your participation with the Women's Memorial March, does this march get city funding?

MS. FAY BLANEY: No. No. The women fundraise at the beginning of the year.

MS. DARLENE OKEMAYSIM-SICOTTE: Does the
memorial march get provincial funding?

MS. FAY BLANEY: No. No government funding whatsoever.

MS. DARLENE OKEMAYSIM-SICOTTE: Does the memorial march involve family stories and full participation?

MS. FAY BLANEY: Family stories, for sure. There are families that give testimony in the first part of the march. What I've been pushing for a whole lot more is families of the heart. We've really adopted that idea that we have families of the heart, that we have the families that we create in the cities, and it seems to be a tough sell, but not so much in the downtown east side because there’s strong ties amongst the women that live in the downtown east side. My cousins that I mentioned that are involved in prostitution, they’ve been there since they were little girls and that’s like 30, 40 years. So they really develop ties with one another. So ---

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. This still goes to the memorial march. Does the police service involve themselves in the speaking of the march?

MS. FAY BLANEY: In the speaking, no.

MS. DARLENE OKEMAYSIM-SICOTTE: Do the police involve themselves in the planning?

MS. FAY BLANEY: No.
MS. DARLENE OKEMAYSIM-SICOTTE: Do the police ---

MS. FAY BLANEY: They get told by the committee what we’re doing.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay.

MS. FAY BLANEY: They get told the route and they ask questions ---

MS. DARLENE OKEMAYSIM-SICOTTE: Okay.

MS. FAY BLANEY: --- and we answer them.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. In a big city like Vancouver, does any of the participants ever experience acts of prejudice, racism, for example, like jeers and profanity?

MS. FAY BLANEY: In the march?

MS. DARLENE OKEMAYSIM-SICOTTE: Yes.

MS. FAY BLANEY: The march is huge. I don’t think anyone would have the audacity to do that because it’s into the thousands now, I think. Every year we have such large numbers.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. I’m going back to -- Fay, you spoke of conciseness raising. That’s the first time I’m hearing it, being from the prairies, is it different from awareness and advocacy? If so, can you expand?

MS. FAY BLANEY: No, not really. It’s -- it
was a term brought on by the second wave feminists, just in -- and in our culture we talk about healing circles. In education they talk about popular education. So it’s just a way of including people at the grassroots level rather than having a hierarchy. You know, we -- we get told to do -- what to do, when to do it all the time, and we had that in residential school. But this is an opportunity for us to have a say in our own lives. It’s very empowering.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. In --

MS. FAY BLANEY: And the second part you said was about action. It always has to have action. It would be meaningless if we just sat and talked. I mean, we have to respond to the issues that we’re confronted with as well.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay. In your restorative justice policy and in your testimony yesterday, I sense that the process would not go well for like convicted adults due to the structure of power imbalances of the abuser and the abused. Even though this is one of your positions, would you support Tracy’s mentions of the accused to have their justice, their healing, their remedy in violence and battery of women and children?

MS. FAY BLANEY: You want me to debate
Tracy, I don’t think so. I don’t support restorative justice in cases of male violence against women, and I’ll give you an example of what happened to us on the Journey for Justice. We rafted over two weeks along the Fraser River and held focus groups, and we had it planned like to the minute. We had things planned and what we were going to do. Out of the blue we heard about this pole raising that was happening to honour women that were reinstated under Bill C-31, and so we looked like Teletubbies, anyway these women with colourful lifejackets climbing up off of the riverbanks. We were coming off of our rafts and climbing up this little hill to the park where the ceremony was happening. So that was quite the sight to take in.

But when we arrived they had an Elder in the front row and we knew that Elder had engaged in, I think it would be called ritual abuse. He was working at a counselling agency that I was working at and in the sweat lodge ceremony he was sexually abusing women. So it could be called sexual violence or ritual abuse. I think both fit. And we called him out and we didn’t name him, but we called him out and said we know -- we know who you are and you know who you are and you know what you’ve done, and it’s not okay. And we talked about it.

So there’s a couple of things to this story. One relating to restorative justice is that Elder is very
respected in that community. The fact that he was sitting
right in the front row says that that community holds him
in high esteem. So he could very well be one of the people
sitting in the healing circle or a sentencing circle, and
whose side do you think he would take in cases of sexual
assault since he himself is an offender? So that was one
side of the story that I’d really like to tell.

The other side of the story is that when we
were doing an evaluation, the woman from that territory
told us in the evaluation that a lot of Indigenous men from
that community thought we were talking to them.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.

**MS. FAY BLANEY:** I mean, that’s just
flabbergasting and upsetting, but it just ---

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.

Despite your feelings about restorative justice in those
experiences, what would you recommend to Tracy in her
territory about an alternate restorative justice?

**MS. FAY BLANEY:** I can’t really recommend to
the Inuit people how they should conduct themselves. That
would be really presumptuous of me to do that. All I can
do is advocate for the Indigenous women that I work with,
which is mainly the First Nations. Now, if Tracy wanted me
to come there and work with her, I would be so happy to do
so. I have been in the north, I’ve been invited and they
like hearing what I say about, you know, women and male
violence and feminism and those sorts of things. I mean,
they appreciate that, and they have invited me in the past.
I’ve been to Yellowknife a couple of times. So -- but
yeah. No, I wouldn’t recommend to Inuit people.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. And
you -- this is going towards your -- Fay, public awareness
and education activities and collaborations, I would think,
finding Dawn.

**MS. FAY BLANEY:** M’hm.

**MS. DARLENE OKEMAYSIM-SICOTTE:** You were
part of that documentary, I would call it?

**MS. FAY BLANEY:** Yeah. Yeah.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Could you
share who the filmmaker was?

**MS. FAY BLANEY:** Oh, sure. Yeah, it’s
Christine Welsh. I’m a huge fan of hers. She’s a Metis
woman that used to teach at the University of Victoria.
Her first film was called “Woman in the Shadows” and
because she looks like me she really had to explore her
Indigenous identity. And the other members of her family
wanted to identify white all the time, and she just felt
out of place. So she did this documentary on her own
search and she mapped out her Metis heritage. It’s a very
powerful film and she wrote -- she did another film called
“Keepers of the Fire”. And it’s women warriors. She does a great job in doing films.

And in that film, “Finding Dawn” who she is referring to is Dawn Crey one of the women that was disappeared in the downtown east side. And she looked at Daleen Bosse in Saskatchewan, where you guys are from, and she looked at the Highway of Tears. She just looked at this phenomenon that we’re going through with so many murdered and missing Indigenous women and girls. But she didn’t want to portray us as victims, similar to the last questioner asking about the resilience of Indigenous women. In the face of so many of us going missing we are resilient, and we are strong, and we don’t give up. We keep organizing. We keep surviving. This past birthday for my daughter I got her a sweatshirt that says, “I am resilient”. You know, I’m still here. And that’s it with us, we’re still here and we’re still surviving. So she wanted to present, I don’t know if we’re called, I guess we’re activists or role models.

So she interviewed me and Janice Acres (phon.) to show the work that we continue to do to, in my case, be very active, and in Janice’s case, she’s a writer and educator, I’m an educator as well.

So we’re active on this issue, we’re not just taking the violence; we’re doing something about it.
MS. DARLENE OKEMAYSIM-SICOTTE: Okay. And in Finding Dawn, did she allude to the focus of Pickton during the time?

MS. FAY BLANEY: Yes, that’s where the film started. She looked down, and that’s where Dawn Cray (phon.) came into the story, she did look at Pickton.

MS. DARLENE OKEMAYSIM-SICOTTE: You are educators, that means you’ve created curriculum and learning. Did you create only kind of learning mechanism with Finding Dawn?

MS. FAY BLANEY: Yes, I did the guide that goes with the film and it’s on the National Film Board website. I have done curriculum design at the basic literacy level, as well.

And I do that often when I’m doing my speeches or my workshops. I did that for my, in spite of what the AFN might think of me, I did that in my band as well, with 3-D, and I did a series of, like, ten workshops. So I do develop curriculum.

No, I can hear you but you’re—I think her mic is off.

MS. DARLENE OKEMAYSIM-SICOTTE: Here we go.

With the study guide and your curriculum, what would be the age appropriate environment for the learner?

MS. FAY BLANEY: Well, I’ve always taught
adults, so it’s intended for an adult audience, and it’s intended for them at the end of it to take action on the issue that they’re confronting.

**MS. DARLENE OKEMAYSIM-SICOTTE:** With your study guide, how would you feel about allowing or authorizing settler society delivery of that work, would you, yes or no?

**MS. FAY BLANEY:** It may happen, because it’s out there. I sort of understand the question you’re getting at, it’s often dangerous to have members of that power group being in a position to interpret the information. It is a touchy subject, but it’s out there, I think, it’s... gonna happen.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Yes. If you had the power, a magic wand, would you suggest to all the presidents and vice-presidents and academia across the country, to have a mandatory course missing and murdered Aboriginal women and girls?

**MS. FAY BLANEY:** I think that Jordan might teach him. I did make it part of almost every course that I taught, I brought my students to the Memorial March. “The Murdered and Missing” is a really important piece.

I think I was a news bulletin to a lot of my students about the 1951 amendment to the Indian Act and the urbanisation of Native people at that time. And they never
knew about it, they never knew about residential school.

And did you know that in the ’51 amendment, the majority of the people at the hearings were the priest and the Indian agents, and the Native people really had a hard time getting into to be heard? (laughs)

So those things I taught in my classrooms, and definitely the education system has a long way to go. It was a huge struggle just to get residential school into the elementary and secondary level. And as Sharon McIver says, it’s really difficult, even at the post-secondary level in this day and age.

And I’d like the Prime Minister to take a course (laughs), I’d like to teach him a thing or two.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Yes, good idea.

After the production of Finding Dawn and your participation in the curriculum and teaching, do you feel that Canadians are capable of deeply understanding this analysis of the disappearances and deaths of the missing and murdered Indigenous women and girls?

**MS. FAY BLANEY:** Are they capable?

I think they could, there could be some movement. I don’t know that they would ever know what we go through fully, but they have to try. I think they have to try and understand. I know there’s a lot of them that
are digging in their heels.

The reconciliations circle that I’m organising with my friend Kyser (phon.) right now, we’re doing it, she’s going to kick me if she hears me not remembering the date, but it’s in the end of September.

So we’re doing that with church groups, and some of those folks in those groups talk about not being able to include their or bring their parishioners on board. They’re at that level of wanting to acknowledge the territorial lots or hear a speaker and that’s enough. And it’s really difficult to deepen that understanding or to bring about a willingness.

And it’s a power dynamic, where people with privilege just aren’t that anxious to give up their privilege, and you know, that’s the argument that I’m making about the power relations between Indigenous men and women as well that there’s a power of relation there. And it’s very difficult to convince Indigenous men that they should stop violence when they’ve benefit from it.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Going back to your reconciliation activities and mobilizing, do you work with other groups or big entities, like Amnesty International, Human Rights Watch New York, those kind of, to do that kind of work?

**MS. FAY BLANEY:** I don’t really participate
at the international level anymore. I used to when I was involved with NAC.

Mainly, I work at the grassroots level and I work with the local community. We have an excellent program, the Reconciliation Circles that we do now are very affective and I think that’s the way that we reach people, cause they don’t know what they don’t know. When they get into our circles, they soon begin to realize that they know nothing, and that goes from there.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. That’s the end of my questions, thank you very much.

**MS. CHRISTA BIG CANOE:** Thank you to the representatives of Women Walking Together.

Chief Commissioner and Commissioners, I would suggest that we do call one more prior to a lunch break, because I believe even though it will go a little after 12, that it’ll be going... well into the schedule. So on that bases, I’m gonna ask and request that Alternative Women’s Association, please, come forward to begin your cross-examination.

**CHIEF COMMISSIONER MARION BULLER:** Three minute break.

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. DIANE MATTE:**

**MS. DIANE MATTE:** Vous ne pouvez peut-être
pas donner d’informations détaillées, mais est-ce que vous avez une connaissance de la forme que prend la prostitution pour les femmes inuites? Excusez-moi, je vais répéter. Vous n’avez peut-être pas le détail du nombre de la situation en tant que telle, mais ce qui est connu, disons, dans les communautés inuites par rapport au lien entre... ou le vécu des femmes inuites par rapport à la prostitution, est-ce que vous pouvez quand même nous donner quelques indications ou pas du tout?

**MS. TRACY DENNISTON:** No. I can't really answer that question. I'm sorry.

**MS. DIANE MATTE :** Ce n’était pas pour vous piéger, mais c’était pour noter qu’effectivement, il y a très peu d’information qui existe sur les réalités de la prostitution en général, des femmes en général ou des enfants et plus particulièrement des femmes autochtones. La clé a soumis à Fay Blaney hier un document qu’on a produit, je pense ; malheureusement, je pense qu’il n’y a pas eu distribution du document aux autres personnes. Je ne sais pas si les commissaires l’ont eu? C’est un dépliant sur les femmes autochtones et la prostitution?

**MS MICHELLE AUDETTE :** Si vous permettez, le document a été soumis à l’expert.

**MS. DIANE MATTE :** Okay, c’est beau. Mais les commissaires en ont une copie également. Fay, I am going
to... je vais te poser des questions en fonction de ce
document-là plus particulièrement. Donc, c’est basé sur une
recherche que la Clé a fait sur les besoins des femmes dans
la prostitution et les survivantes de la prostitution en
2014, dans le cadre duquel nous avons eu la possibilité de
parler avec 16 femmes autochtones de Val-d’Or et Montréal.

Les données qui ressortent de façon plus
particulière parlent entre autres de l’âge d’entrée des
femmes dans la prostitution, des femmes autochtones dans la
prostitution. L’une des premières données dont on parle
dans notre dépliant, c’est que 46 % des femmes autochtones
qui ont répondu au questionnaire ou qui ont été
interviewées sont entrées dans la prostitution en bas de
18 ans, avant l’âge de 18 ans. J’aimerais bien que tu me
dises : est-ce que c’est la réalité telle que toi, la
connais, par rapport à la question des femmes autochtones
et la prostitution à travers le Canada ou, à tout le moins,
en Colombie-Britannique?

**MS. FAY BLANEY :** Mary Ellen Turpel-Lafond
released a report in 2016, and it was a report on the
sexual abuse of children in the foster care system. And
she said that of the cases that she examined over a three-
year period, the total number of Indigenous girls in care
was about 25 percent, and yet the number of sexually abused
Indigenous girls was at about 67-68 percent.
So Indigenous girls are targeted in foster care, they're targeted in school yards. There's an attempt to recruit because it's the same issue with impunity, that they don't really care that -- what they're doing because they don't feel like anyone is going to hold them accountable anyway.

So there is a big issue, especially with children in foster care, I think.

**MS. DIANE MATTE** : Okay. Dans notre recherche, également, quand on regardait les facteurs d’entrée, en fait... excusez-moi, c’est l’aller-retour des appareils. Dans notre recherche, on regardait également les facteurs d’entrées. Qu’est-ce qui amène les femmes dans la prostitution? Évidemment, on a posé la question aux femmes autochtones également. Et, pas nécessairement dans un ordre de grandeur, mais dans les facteurs qui les ont amenés, les femmes mentionnaient d’une part le fait que les hommes leur demandent des actes sexuels. La question d’avoir perdu leurs enfants, également, tout le rapport avec les services sociaux et plus particulièrement les services de protection de la jeunesse, le fait de connaître une personne qui est dans l’industrie du sexe, soit un membre de la famille ou des amis. Aussi, évidemment, la question de la pauvreté et l’absence d’argent, la question des dépendances à la drogue et évidemment, le fait d’avoir été victime très souvent
d’agression sexuelle, comme des push factor, comme on dit en anglais.

J’aimerais savoir aussi : peux-tu nous parler de ta connaissance des facteurs qui amènent les femmes autochtones dans la prostitution?

**MS. FAY BLANEY:** I think the same holds true for what you have here with regard to having their children apprehended. I think the separation from culture and community is one of the factors.

With my cousins, there was a time in my community where we were forced to relocate, the government had an end isolation policy and our people were scattered into three main areas, and one of them was the downtown east side. And so, my cousins grew up there. They have no knowledge of our language or our culture, and they have no education, no educational opportunities, no employment opportunities, and so they just -- they end up being stuck there.

The thing with child apprehension, I just -- I can't fathom the pain associated with losing your children.

In the report that you cite here with Melissa Farley and Jackie Lynne. I know Jackie Lynne, she's a Métis woman, and in their research, they talk about what I just mentioned, that there's so much sexual violence
in our childhoods as it is, and they think, okay, I might
as well just do this because now I'll get paid for doing
it, rather than just being abused.

Addictions is pretty prevalent. I
definitely went through my stage of addictions. I started
running when I was about 13 years old, and I really started
getting into alcohol, mostly, and then towards the end of
it getting into some drugs.

And it was my politicization that pulled me
out of that downward spiral. And I'm very active in the
native sobriety movement in Vancouver. Not so active now,
because I'm just busy doing this stuff, but I've been there
for like a lot of years and I support Indigenous women
coming into the program.

And that was another finding in their
research, was that addictions were often at play. So
childhood sexual violence, addictions, child apprehensions,
forced prostitution is one of the factors as well.

MS. DIANE MATTE: Okay. Dans les femmes
autochtones à qui nous avons parlé, si je veux les comparer
avec les femmes non autochtones qui ont participé à la
recherche, elles avaient un vécu de violence sexuelle,
physique, psychologique beaucoup plus élevé que les femmes
non autochtones. Elles donnaient, évidemment, comme impact
de ça ou on constatait comme impact de ça la piètre estime
de soi.

Les femmes autochtones nous parlaient également du fait que la stigmatisation qu’elles vivent comme femmes dans la prostitution, surtout celles qui sont dans la prostitution de rue, elle est plus acceptable encore pour elles que la stigmatisation qu’elles vivent comme femmes autochtones ; je pense entre autres à Val-D’Or particulièrement.

Et ça ne nous a pas étonné en tant que tel, mais disons que comme on utilise souvent la terminologie de stigmatisation des femmes dans la prostitution pour défendre l’industrie du sexe, j’aimerais avoir ton avis sur comment, dans le cadre d’une telle recherche, pourquoi la stigmatisation, donc le racisme colonialiste que les femmes subissent, est plus importante pour elles encore que la façon dont on regarde la prostitution?

**MS. FAY BLANEY :** So I did talk about sitting at the bottom of these various hierarchy's along the lines of race and socioeconomic status, and of our gender. I think the -- for us in the Indigenous community, we are really attached to our Indigenous heritage, and -- and yet, we've been forced to -- not minimize, to condemn it.

Like in the residential schools, we were taught that it was -- that we had to do better than our
parents, that they were no good. And I think that message is fairly consistent within Canadian society.

I mean, last year, MacLean's released an article about the racism in Manitoba, and that's one of those times when the media took note. I think that we are put down an awful lot, and that is a really integral part of who we are.

The stigma associated with prostitution, I don't think it's a big leap from the stigma that we feel as sexual abuse survivors. Marcia Crosby is one of the Indigenous women who writes about the horror that she went through in her childhood where she was sexually abused and tried to tell her grandma about it. And in the article, she's asking why -- why grandma, why are you silent? Like, why are you not trying to help me and why are you doing nothing about this?

So I think it's akin to the institutionalization that we went through in residential school and then continuing in other institutions. So it's a graduation from incest and sexual abuse into the street level prostitution.

I'm not sure if I answered. I'm not sure if I heard your question correctly.

**MS. DIANE MATTE:** Oui, je pense que c'était correct - avec la traduction, c'est toujours un peu plus
compliqué, mais non, c’est correct, ça va. Je crois qu’hier, dans votre témoignage, vous avez parlé du dommage que fait aussi l’utilisation des termes « travail du sexe », particulièrement pour les femmes autochtones.

J’aimerais que tu élabores là-dessus : pourquoi est-ce une terminologie qui est dangereuse pour les femmes?

**MS. FAY BLANEY** : Yeah, this is at the heart of my passion. It seems that the word "sex worker" is identifying it as a viable profession, and it's like, in my opinion, the normalization of violence or the normalization of having black eyes all of the time, or even the normalization of the sexual violence that we go through and then we graduate into prostitution.

The so-called progressive lobby in this country, including the governments on the left, are really in favour of the legalization of prostitution. And the ones that need to have a voice in that process are Indigenous women, and we don't have an organized voice. And -- but what I experienced is that when I encounter Indigenous women, they overwhelming are abolitionists like I am. Sherry Smiley was just presenting at the symposium I was at on the weekend, and she had done a focus group, and the women were survivors of prostitution in her focus group. And she was telling them about this term "sex work", and she explained to them that it was
about making this a job, a career, a profession. And those women were horrified. They said, "Who is doing that?" And she said, "Oh, the universities." And they were saying, "Which one?"

And Julie Bindle writes a book about the pimping of prostitution. There is a huge promotion of this notion that it's a feminist right to be able to sell your body for -- you know, for sexual purposes.

And we have that progressive group, you know, of university professors across this country that are promoting it as a viable profession, but I wish they would ask us what we think about it. I think that the debates around sexual consent, like they said that Cindy Gladue consented, and then she died at the end of that consent. I don't know, you know, what their definition of consent is.

But when you look at the lives of Indigenous women that are coming out of foster care and are estranged or coming out of our Reserves and fleeing violence, where is the choice in that? It's similar to the choice that the social workers give us when they're at the hospital doorstep trying to take our children. You have a choice here. You either voluntarily place your child into care or we will apprehend. Like those are the two choices.

And -- you know, the women that are really struggling and not wanting to come out of our communities
but are being forced out of our communities, where is the choice in that?

But -- and so this whole notion of consent is highly problematic because the segment of society that have the smallest amount of choice are being promoted as they're choosing prostitution or they're choosing sex work.

And they're -- and they are building a whole industry around it. I just really -- I often use the word "poverty pimps" because that's what they are, these groups that really benefit from delivering programs and services to women that are lost in that world of prostitution and there is no way out.

**MS. DIANE MATTE** : Parlant de sortie de la prostitution, l'une des données qu'on a ramassées avec notre étude, c'est que chez les femmes autochtones, encore une fois, le pourcentage était encore plus élevé ; il y avait 91 % des femmes autochtones qui étaient dans la prostitution au moment de l'enquête qui souhaite quitter l'industrie du sexe et seulement 6 % d'entre elles connaissaient des ressources pour les aider à en sortir.

On travaille, comme CLÉ (phon.), depuis plusieurs années... je sais que tu connais aussi des groupes qui le font pour s'assurer justement qu'on offre des alternatives aux femmes et qu'on offre du soutien pour en sortir, incluant des compensations, incluant des services
de désintox pour femmes seulement, l’effacement des casiers judiciaires... il y a une longue liste de recommandations ou de propositions qu’on met de l’avant.

Mais il demeure qu’effectivement, il y a une méconnaissance de la possibilité de sortir de la prostitution. Nous, on l’associe beaucoup avec l’adoption d’une analyse basée sur la réduction des méfaits et non pas sur une visée de stopper la prostitution comme forme de violence envers les femmes. J’aimerais savoir ce que tu penses de cette visée-là.

INTERLOCUTRICE NON-IDENTIFIÉE: Je m’excuse Madame Matte, quelle est votre question? Parce que vous semblez faire une soumission plutôt que de poser une question...

MS. DIANE MATTE : Oui, ça, j’aime ça faire des soumissions! [Rires] En fait, c’est le pourcentage, parce qu’effectivement, 91 % des femmes veulent sortir, seulement 6 % connaissent des ressources et il existe peu de ressources, on le sait. Donc, j’aimerais t’entendre là-dessus, vous entendre là-dessus, sur cette question de sortie de la prostitution.

MS. FAY BLANEY : Again, that’s addressed in the research that Jackie Lynne did with Melissa Farley in the downtown east side, and I think her number was 95 percent. She said 95 percent of the women wanted to get
out of prostitution.

And in terms of the resources and services. You know, when the action was being taken by the -- in the courts, at the Supreme Court level, we were arguing for the Nordic model. And the Nordic model is very much a model that looks at not only the law, like you were in favour of protecting prostituted women and prosecuting pimps and Johns in that process.

The other part of that model includes -- well, in their case, in the Nordic regions of the world, they take seriously the issue of the status of women, and that's what we're missing here in Canada. Women in general, and Indigenous women, in particular, do not have equality, substantive equality in this country. We still are deemed to be a lower class. And -- so we -- so that piece of the formula is missing.

And you mentioned detox. We've already talked about the inability of women to escape the addictions. It's a vicious cycle to be caught in an addiction and needing to do prostitution to be able to get money for more of the addictive substance, and I guess your last question kind of fits in here as well, because the groups that I call the poverty pimps, I mean, they deliver services to women that are prostituting, such as false eyelashes, and lipstick, and stilettos, and miniskirts and,
you know, all these things that you require to participate in that. And, they don’t pay enough attention to her aspiration to get out. You know, there isn’t a whole lot of beds out there to be able to exit. And, in Vancouver, the ones that I know of are Christian based, and you know our relationship with Christianity through the residential schools. And, to immerse myself in a program that’s about Jesus is not a program I want to be in.

And so, I think the statistics that you have here are very similar there, and they are what I’m hearing as well, although what I’m hearing is anecdotal evidence. But, what Jackie Lynn did is an actual research project, and she -- I think her number is at 95 percent, and I’m just wondering if it’s -- I don’t know the legal process here, but is it possible to get Jackie Lynn’s article in as an exhibit here, or into evidence?

**MS. DIANNE MATTE:** We can discuss that outside of my clock.

**MS. FAY BLANEY:** Okay.

**MS. DIANNE MATTE:** Because there’s nothing left, almost.

En fait, justement je voulais savoir, tu as parlé beaucoup de libération de la parole des femmes autochtones. Je serais très intéressée de savoir ce que tu recommanderais à la Commission et au mouvement féministe
pour libérer cette parole sur la question de la violence
envers les femmes et particulièrement la question de la
prostitution. En une minute.

(RIRES/LAUGHTER)

**MS. FAY BLANEY:** Giving women voice? It’s an issue that I’m passionate about, and I’ve been
advocating here all along that we need an independent
women’s movement. We need an independent Indigenous
women’s movement, and for women, prostituted women, I know
the importance of peer support, and that could have been
me. I just think -- I often think that could have been me
because of what was happening in my life as a youth when I
was running, when I was 13. So, you know, I just somehow
missed having to go through that. So, the autonomous
women’s movement, I think, is what we really need here to
address that issue.

**MS. DIANNE MATTE:** Thank you. I have 15 seconds. Merci beaucoup. J’imagine j’ai pas le temps de
poser une autre question. Merci beaucoup, Fay, de ta
présentation ici et merci beaucoup à la Commission
ingégalement.

**MS. FANNY WYLDE:** Merci beaucoup, Madame Matte.

**CHIEF COMMISSIONER MARION BULLER:** Just for
clarification of our record, are you seeking that Native
Women and Prostitution - A Reality Check be marked as an exhibit?

**MS. CHRISTA BIG CANOE:** Do the parties which to have this exhibited?

**MS. DIANE MATTE:** Est-ce qu'on parle du dépliant ou de la recherche dont Fay parlait dans le ---

**Mme FANNY WYLDE:** En fait, Madame Matte, le document auquel vous faisiez référence et que vous avez distribué à l'expert et également aux Commissaires, est-ce que vous désirez le produire en preuve?

**Mme DIANE MATTE:** Oui, oui.

**Mme FANNY WYLDE:** Alors la réponse est oui.

**Mme DIANE MATTE:** Y en d'autres aussi mais je pouvais pas les -- j'ai pas eu le temps de les donner à Fay. Y a d'autres recherches qui auraient pu être soumises.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

Native Women and Prostitution - A Reality Check, is the next exhibit, please.

--- **EXHIBIT NO./PIÈCE No. A22:**

Colour printout of Concertation des luttes contre l'exploitation sexuelle pamphlet “Native Women and Prostitution: A Reality Check” (two pages)

Submitted by: Dianne Matte,
Representative for Concertation des luttes contre l’exploitation sexuelle

**MS. CHRISTA BIG CANOE:** Chief Commissioner and Commissioners, we would like to request that we take the lunch break now, but we are proposing that we break until 1:00. So, it gives us approximately 40 minutes for lunch, and then we can come back. We can advise at this point that we’ve heard from half of the parties that we will be crossing. And so, that would afford us the remainder of the afternoon to complete it.

**CHIEF COMMISSIONER MARION BULLER:** Okay, thank you. 1:00.

--- Upon recessing at 12:21
--- Upon resuming at 13:32

**MS. CHRISTA BIG CANOE:** Good afternoon, Chief Commissioner, Commissioners. We’d like to recommence. We are calling next the Ontario Native Women’s Association. They have 25 minutes. Before we start the time, counsel will just be doing a brief introduction and explanation, and then I will ask for the time to start.

**MS. CHRISTINA COMACCHIO:** Good afternoon, Commissioners. My name is Christina Comacchio. I’m counsel for the Ontario Native Women’s Association, but Cora-Lee McGuire-Cyrette is going to actually be doing the questioning today, and I’m just going to take a step back.
MS. CHRISTA BIG CANOE: Thank you. So, Cora, please come up. Feel free to come up, and you will have 25 minutes once you start asking your first question.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MRS. CORA-LEE McGUIRE-CYRETTE :

MRS. CORA-LEE McGUIRE-CYRETTE: Okay. I’ve just got a small introduction at the beginning, prior to the questions.

MS. CHRISTA BIG CANOE: Yes, just a short one.

MRS. CORA-LEE McGUIRE-CYRETTE: Yes. I have issues with the title of cross-examination. My culture and history is about story-telling and oral history as part of our culture and traditions. And so, I really do want to note that I don’t feel what I’m about to do is cross-examination for my fellow Indigenous women and Indigenous men -- man who is on the panel here today.

My intent is to honour missing and murdered Indigenous women and girls. My vision is to create safety and address sexual violence today. And so, I really want to honour and acknowledge that this is story telling from my perspective, and I don’t mean any disrespect of any of the questions I’m about to ask.

MS. CHRISTA BIG CANOE: Okay. So, we can start the time, please.
MRS. CORA-LEE McGUIRE-CYRETTE: Bonjour,


(States name and where she’s from in Native language). I want to start by thanking, honouring Indigenous women and girls that have been affected by the reason we’re here today in the National Inquiry, including my own cousin who has been murdered, and I have not seen her voice represented throughout the past couple of days, and I want to bring her forward here today. And, she’s not the only one who has suffered, as we also do have family members living within violence regularly and day-to-day.

And so, I’m coming here today to bring forward those stories that have not been heard, and to look at how we create safety within a human rights framework to honour the stories and the reasons why we’re here today, to honour missing and murdered Indigenous women and girls, and the families that have been affected by this.

I also want to begin by asking Naiomi, if that’s okay. I will seek your permission for asking questions. That’s part of our culture and our history, is to seek permission, and I believe that’s also a way that we give voice back to women, is we ask their permission. And so, I will ask your permission as we go through.

MS. NAIOMI METALLIC: You have my permission.
MRS. CORA-LEE McGUIRE-CYRETTE: Thank you.

In your experience as a lawyer, has the Supreme Court of Canada recognized stories as a form of evidence in the western legal system?

MS. NAIOMI METALLIC: A little bit, but not a lot. Do you want me to elaborate?

MRS. CORA-LEE McGUIRE-CYRETTE: Yes, please.

MS. NAIOMI METALLIC: So, in the Section 35 cases on Aboriginal rights, to date, I believe I think starting maybe in Van Der Peet, the court does talk about how in defining Aboriginal rights, they must take into account -- courts must take into account the Aboriginal perspective. That’s what they call it. And, they’ve done a better job sometimes than others in some cases of bringing that in. Probably the best example I can give is the Tsilhqot’in case, which did recognise Aboriginal title in parts of B.C. and their stories -- stories, law, from the Tsilhqot’in people came in to inform that, but many scholars write that the courts are not doing enough to recognise not just the perspective but the laws and that we need to go further in that regard.

MRS. CORA-LEE McGUIRE-CYRETTE: M’hm. Thank you.

So, Fay, I may -- can I ask your permission to ask you a question as well?
MS. FAY BLANEY: Yes.

MRS. CORA-LEE McGUIRE-CYRETTE: When you were speaking you spoke to a lot of stories that you have been tasked and are responsible to bring forward. And so would you agree that storytelling and bringing forward the woman's voices is part of our culture and our history and is needed in order to honour women's voices?

MS. FAY BLANEY: Yes.

MRS. CORA-LEE McGUIRE-CYRETTE: Thank you.

Naiomi ---

MS. NAIOMI METALLIC: M'hm.

MRS. CORA-LEE McGUIRE-CYRETTE: --- as you spoke to the Indian Act quite a bit in your report and in your paper ---

MS. NAIOMI METALLIC: M'hm.

MRS. CORA-LEE McGUIRE-CYRETTE: --- can you connect the Indian Act and violence against Indigenous women for me?

MS. NAIOMI METALLIC: Where does one start on that one? I mean, there's so many things. I think Fay also spoke about it. I mean, in my paper there's a whole bunch of stuff I didn't talk about, right, because in mine it was mostly focussed on the absence of structures around services, but you could talk at length, we could have a whole day or a whole week perhaps on the impacts of the
status roles, right, and the long and sordid history going
back to, you know, the first definitions and all the rules
on that. Then you can talk about all the rules around
elections and how women didn't have the right to vote. And
I'm sure there's a bunch of other ways that you could point
---

MRS. CORA-LEE McGUIRE-CYRETTE: M'hm.

MS. NAIOMI METALLIC: --- to sort of
patriarchy that's been built into and how it's defined our
identities and ---

MRS. CORA-LEE McGUIRE-CYRETTE: Yeah.

MS. NAIOMI METALLIC: So, yeah.

MRS. CORA-LEE McGUIRE-CYRETTE: Perfect.

MS. NAIOMI METALLIC: You got all day?

MRS. CORA-LEE McGUIRE-CYRETTE: Yeah. Thank
you. I just wanted it referenced.

MS. NAIOMI METALLIC: Thanks.

MRS. CORA-LEE McGUIRE-CYRETTE: Based on
your research and understanding, how might the permanent
mechanisms, as you referenced in your report, distinct to
Indigenous women's organisations be established?

MS. NAIOMI METALLIC: Sorry, can you just
repeat the question again? I just want to make sure I
understand it.

MRS. CORA-LEE McGUIRE-CYRETTE: Yeah, so in
your report you reference mechanisms ---

MS. NAIOMI METALLIC: M'hm.

MRS. CORA-LEE McGUIRE-CYRETTE: --- and looking at how to create distinct Indigenous women's mechanisms be established?

MS. NAIOMI METALLIC: So what I'm mostly getting at in my report, just to be clear, that I -- there's a bigger conversation to be had around the recognition of inherent rights and how we do that and how we introduce Indigenous law. So my piece here is mostly just about the essential services, right, so that a lot of my recommendations are on that. I have other papers where I've explored other things like what our CAP had recommended in terms of the way to move forward on the recognition of inherent rights and different Acts to be introduced in terms of recognising that.

So, you know, and I don't have all the answers and I don't ---

MRS. CORA-LEE McGUIRE-CYRETTE: Yeah.

MS. NAIOMI METALLIC: --- pretend to. And, you know, really it's about going back to communities.

And I think to sort of echo some of the stuff that we've heard from Fay, it needs to be that women's voices need to be prominent in their community grassroots, and also people who have been acting in
positions of leadership too. I think that those were conversations. But I think that there are things like the Royal Commission on Aboriginal Peoples that give us at least starting points and tools to work with. So the best I can do is point back there.

MRS. CORA-LEE McGUIRE-CYRETTE: M'hm. Thank you.

One last question for you.

MS. NAIOMI METALLIC: Okay.

MRS. CORA-LEE McGUIRE-CYRETTE: In your paper you spoke about the discrimination of the Indian Act. Do you believe that it is acceptable that First Nations' women's rights to be free from gender based discrimination in the Indian Act is currently being delayed due to the duty to consult with elected Band councils? Do you believe this is a form of discrimination?

MS. NAIOMI METALLIC: Well, I didn't exactly get in -- I wasn't really thinking about that big question around, like, I think you were talking about what's happened since the Descheneaux decision and the second process that the federal -- I mean -- yeah, the government is -- it's really complex and nuance, and so I don't like giving binary answers. Yes it is or no, it -- or isn't. I mean, it's complicated. And yet there are people who have argued that, you know, it's just -- should be 6.1.A all the
way and let's go that route. Other people have said that
we need to, you know, figure out how this is going to work.
And I don't know. It's really complex and I don't know if
I can give, like, a straight answer.

There are resourcing issues that do have to
be addressed. I mean, this is what happened with Bill C31
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MRS. CORA-LEE McGUIRE-CYRETTE: Yeah.

MS. NAIOMI METALLIC: --- right, and the
government sort of ignored the resourcing issues, somewhat
fixed ---

MRS. CORA-LEE McGUIRE-CYRETTE: Yeah.

MS. NAIOMI METALLIC: --- but didn't really
and created a bunch of new problems in the definitions
under Bill C31. And so there are, you know, there is going
to have to be, you know, some discussion around that, but I
take your point too that, you know, there are women who
have been waiting for a really long time.

So I don't have the answers on this one,
just to say that I think it's extremely complex. And there
are discussions that have to happen; right? To figure out
--- I mean, we're talking about how there's no housing, how
people don't have any. So government has to step up and
have discussions with us and we have to point -- give them
pointed questions about well, what are you going to do
about that? If we are going to say, yes, everyone -- you know, there's more status Indians. Can they come home?

MRS. CORA-LEE McGUIRE-CYRETTE: Yes.

MS. NAIOMI METALLIC: And can we actually give them homes?

MRS. CORA-LEE McGUIRE-CYRETTE: Thank you.

MS. NAIOMI METALLIC: Thank you.

MRS. CORA-LEE McGUIRE-CYRETTE: Fay, I have a question -- a follow-up question to you. Do you believe that there is a link between the status register and Indigenous women's identity?

MS. FAY BLANEY: Well, there is a link in the sense that we're denied access to our homelands. If you'll recall on yesterday when I was being qualified as an expert witness, I did -- the first thing I said is that a big part of who we are is our ties to our land and our territory. And so when you're not allowed to go on your territory, when you're not allowed to practice your rights and your responsibilities of teaching the young ones your language and your culture, it's -- yeah, but it's a big barrier.

MRS. CORA-LEE McGUIRE-CYRETTE: M'hm. Thank you.

Tim, may I ask you a question?

MR. TIM ARGETSINGER: Yes.
MRS. CORA-LEE McGUIRE-CYRETTE: In your experience as a health policy analyst, are you aware of any research related to the impact of trauma related to Indigenous women's health?

MR. TIM ARGETSINGER: Indigenous women's health?

MRS. CORA-LEE McGUIRE-CYRETTE: Yes. Violence -- so if you look at trauma and the impacts of trauma and violence on Indigenous women, do you know -- have you seen any research or studies or have any expertise related to how this trauma affects her health?

MR. TIM ARGETSINGER: I have. I can't pinpoint or cite at the moment the specific articles or which population.

MRS. CORA-LEE McGUIRE-CYRETTE: M'hm. Would you agree of -- I can reframe it a little bit then. Would you agree that trauma has an impact on health?

MR. TIM ARGETSINGER: Absolutely. Come to think of it, the 2007/2008 Inuit Health Survey is an example of research that looked -- that used a number of different measures, among them the measures or the indicators that it looked at were experiences of violence, including child sexual abuse, associations between those experiences and current self reported mental health status at the time that the survey was carried out. Those are
linked.

So that -- I'm just citing an example of ---

MRS. CORA-LEE McGUIRE-CYRETTE: M'hm.

MR. TIM ARGETSINGER: --- of research that

you could point to.

MRS. CORA-LEE McGUIRE-CYRETTE: Thank you.

Tracy, may I ask you a question?

MS. TRACY DENNISTON: Yes.

MRS. CORA-LEE McGUIRE-CYRETTE: Yesterday

you mentioned several barriers facing women related to

violence, vulnerabilities and their lack of agencies in

their life and options in support of services. Based on

your experience as a frontline worker, what is your

recommendations for safety planning?

MS. TRACY DENNISTON: A part of safety

planning I think is the bigger problems we have -- need

addressed like the housing. If we had more housing, I

think that would be an issue to -- that would be a safety

plan for our women, they were able to have bigger access to

more services as well.

MRS. CORA-LEE McGUIRE-CYRETTE: Do you

believe safety planning for escaping and fleeing violence

is a necessity?

MS. TRACY DENNISTON: Yes, I think it does.

It's important, but I don't think it's done very often.
Like, and when you say safety planning in regards to just working with the women you mean?

**MRS. CORA-LEE McGuire-Cyrette:** Women who are escaping violence. That's -- within the shelter experience is women escaping violence and the need to look at creating safety plans for them, you know.

**MS. TRACY DENNISTON:** Yes.

**MRS. CORA-LEE McGuire-Cyrette:** Yeah. Okay. Thank you.

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

**MRS. CORA-LEE McGuire-Cyrette:** Fay, you spoke to Indigenous women's power imbalance. How do you -- how can you -- how can Indigenous women overcome these barriers?

**MS. FAY BLANEY:** I don't think we can overcome them individually, and that's very much a western idea anyway to have so much individualism. I've talked about working together as Indigenous women and the need for the federal government to step up and take the responsibility that is guaranteed to us in the charter of rights and freedoms that we have substantive equality.

And so, we need that funding reinstated and we need support to be able to establish autonomous or independent women’s groups. I think that’s what we need to do.
MRS. CORA-LEE McGUIRE-CYRETTE: I agree. May I ask you a question about sexual violence?

MS. FAY BLANEY: Yes.

MRS. CORA-LEE McGUIRE-CYRETTE: You spoke very courageously about sexual violence, and I wanted to acknowledge your bravery and honour you with these questions.

MS. FAY BLANEY: Thank you.

MRS. CORA-LEE McGUIRE-CYRETTE: Feel free not to answer any of them. Do you believe that work around sexual violence needs to be led by survivors of sexual violence?

MS. FAY BLANEY: I mean, it helps in my own healing process, I’m thinking about that.

I had an excellent therapist that worked with the Indigenous community and she worked with us in-group. She wasn’t a survivor herself, but she knew that we had a culture of collectivity or communal work. And so, my healing process was through that.

I do believe that peer support is very important amongst us and it goes along with the ideal of us doing consciousness-raising groups together. And I did find issues that are finding our commonalities and analysing power relations and what puts us at the bottom of these hierarchies and then being able to respond to it.
MRS. CORA-LEE McGUIRE-CYRETTE: Do you believe that a specific Indigenous women and girls sexual violence action plan is needed, that has a gender-based and trauma informed basis?

MS. FAY BLANEY: That would be fabulous if they would pay that much attention to it.

MRS. CORA-LEE McGUIRE-CYRETTE: Would you make that as a recommendation for the National Inquiry?

MS. FAY BLANEY: I would agree with that recommendation.

MRS. CORA-LEE McGUIRE-CYRETTE: Do you agree that permanent mechanisms for stabilized Indigenous women’s autonomous organisations is needed?

MS. FAY BLANEY: Yes, I think that was from the last question. I do believe that our groups require core funding.

At the end of the time that women’s groups were receiving funding, they discontinued core-funding. We can’t function with project-based funding, it just doesn’t work.

MRS. CORA-LEE McGUIRE-CYRETTE: Do you agree that the work of these organisations include the right to articulate their needs, priorities, safety, dignity, culture, traditional, history and aspirations?

MS. FAY BLANEY: Which groups?
MRS. CORA-LEE McGUIRE-CYRETTE: Indigenous Women’s Autonomous Organisations?

MS. FAY BLANEY: Yes, I don’t remember all the list, but yes, I think we should be self-determining, self-actualizing, and be independent.

I know that earlier this morning I was being told by the assembly of First Nations that they had all these women working there. But their mandate is not to address Indigenous women’s concerns per say, it may be part of, but it’s not the main focus.

And in the case of what you’re describing, Indigenous women would be the primary focus, so that’s where it should be coming from.

MRS. CORA-LEE McGUIRE-CYRETTE: Do you agree Indigenous women have the right to have input in decision-making power on issues that affect them?

MS. FAY BLANEY: That was one of my recommendations yesterday, I was saying that once we’re established that there should be a duty to consult and accommodate Indigenous women.

I know that Nwac (phon.) went to court for that, Charlottetown, a court, the constitutional discussions where they were trying to be included in the consultation on the constitution. And I think that should be an ongoing, a permanent condition for the bans as well as the state.
Like, federal and provincial governments should be required to consult with us, and I think, I hope that this Inquiry goes a long way to acknowledging and recognizing the fact that colonization is experienced very differently by men than it is by women. We have a very different experience of colonization.

MRS. CORA-LEE McGUIRE-CYRETTE: I have questions for the entire panel, I have a couple in here. So do you agree safety of Indigenous women is a human right and a priority that needs to be the foundation of the Commissioners final report?

MS. FAY BLANEY: It’s urgent. Yes, I think it is.

MRS. CORA-LEE McGUIRE-CYRETTE: Naiomi? Sorry, it’s for the whole panel.

MS. NAIOMI METALLIC: Okay, sorry, I missed that part. So the question is whether I think that the needs of women is a human right?

MRS. CORA-LEE McGUIRE-CYRETTE: Safety.

MS. NAIOMI METALLIC: Safety, yes.

MRS. CORA-LEE McGUIRE-CYRETTE: The specific safety of Indigenous women and that would be the foundation in the Commissioners final report.

MS. NAIOMI METALLIC: Yes, and I think that is informed even, you know, it’s informed by various things
but even Canadian constitutional and human rights documents
support that right, section 7 and section 15 of the charter,
and also international human rights stuff, so absolutely.

MRS. CORA-LEE McGUIRE-CYRETTE: Tim?

M. TIMOTHY ARGETSINGER: Yes, I agree.

MRS. CORA-LEE McGUIRE-CYRETTE: Tracy?

MS. TRACY DENNISTON: Same, yes, I agree.

MRS. CORA-LEE McGUIRE-CYRETTE: One of the
recommendations in the interim report of the National
Inquiry is to re-establish the Aboriginal healing
foundation.

Do you agree with this recommendation and
should it be a priority with the trauma informed gendered
lens?

MS. FAY BLANEY: Yes, I agree. I think that
the federal government needs to go after the Catholic Church
again to get that money back, and it has to have gender-
focus.

I like the way that they were doing it in
BC, they had sexual abuse groups for women and they had
separate ones for men, and it was highly effective.

MS. NAIOMI METALLIC: Yes, I agree with the
AHF being re-instated and having a mandate to do really
important work.

M. TIMOTHY ARGETSINGER: I don’t know enough
about your organisation, so I can’t say one way or the other.

MRS. CORA-LEE McGUIRE-CYRETTE: Tracy?

MS. TRACY DENNISTON: Same with Tim. I really don’t know enough about the organisation as well.

MRS. CORA-LEE McGUIRE-CYRETTE: Thank you.

Do you have any recommendations for the Commissioners on how to implement these recommendations?

MS. FAY BLANEY: Which recommendations?

MRS. CORA-LEE McGUIRE-CYRETTE: The recommendations that will come out of the National Inquiry and for your recommendations specifically, as the expert panel.

MS. FAY BLANEY: Well, I hope they take our recommendations seriously. I don’t know what it’s gonna look like in the final report.

I am concerned about what I came here to say, which is that it has a gendered lens. I think in terms of implementation that’s gonna be a huge task in the Indigenous community. And I’m quite afraid that it’s gonna be like the Royal Commission report and other, like, the Manitoba Aboriginal Justice Inquiry report. I hope it won’t be left, be ignored.

MS. NAIOMI METALLIC: The same, there’s been so many inquiries in this that’s been raised, all that. You
know, there’s still outstanding recommendations, but you know, there’s one that seems to be having some staying power, which is the TRC cause to actions.

So I don’t know if there’s any other way to, you know, get governments to comply with, you know, recommendations from Commissions. Except that there needs to be, you know, I think, public pressure and support.

And so hopefully the message gets out and it has, you know, more comments from this Commission also has a sort of moral force to move other institutions in Canada, including government, to do what they should be doing.

M. TIMOTHY ARGETSINGER: I haven’t myself articulated specific recommendations, but I would, based on what I’ve all been hearing, the framing of the issue is incredibly important.

The human rights framework approach is important, linking Canada’s solemn commitments and obligations to various human rights instruments, which implicate a number of obligations related to some of the basic needs. We’ve heard a lot about in the last day or so, such as housing, right to food, safety, and then the larger issue of violence against women and girls and how gaps or failures to act on those obligations, create vulnerability.

I think that framing is incredibly important. So I mean, my, the extend that I have firm
recommendations, it is just to keep the focus on those things.

**MS. TRACY DENNISTON:** I too also didn’t give recommendations, but just from a community-based perspective, I see many reports coming in, people doing -- giving recommendations, and I just hope that from these recommendations, there’s action put into place, and there is funding implemented for more programming to happen for our smaller, isolated communities, because I find we get left out quite often. So, I just hope something comes out of this.

**MRS. CORA-LEE McGUIRE-CYRETTE:** One or two final last questions. Would you agree that the work moving forward from here for the Commissioners must stay focused in on missing and murdered Indigenous women and girls and have a gendered lens that is based off of how to create safety for the women that have been affected by this Inquiry and the purpose and reason why we’re here?

So, I’m looking to stay focused on if you have expertise and are willing to agree that the future work must stay focused in on women, violence against Indigenous women that have led to their murders, as well as that it has to look at how to counteract this from a place of safety, and how to create safety within legislation in all of your expert testimony.
MS. FAY BLANEY: Are you asking me?

MRS. CORA-LEE McGUIRE-CYRETTE: Yes.

MS. FAY BLANEY: Okay. I am concerned that we deviate from exactly what you said. I still am pushing for this Inquiry to focus in much more on what you’re talking about, that we focus in on Indigenous women’s issues, and especially the issue of violence against women, and from my perspective, male violence against women, and that the final report focus on that. And, they are hearing about other things, though, and some of the questions are based on other things than that. And so, I’m concerned, but I hope that they will focus in on that.

MS. NAIOMI METALLIC: I’m afraid I’m not 100 percent sure about what the other things are. I don’t know if that’s, sort of, vaguely references to stuff I was talking about, because I do think that there’s a broader holistic lens, too, and I completely agree. I mean, what Fay said as well, there are root causes. I mean, a lot of those root causes have been identified in previous Commissions as well. I don’t know. Maybe you can enlighten me on what -- if there is a hard distinction. But, certainly, like, the root causes of poverty, and structures and systems that continue them, if that’s the other part that shouldn’t be less focused, I don’t know, because I think that those are so key to what are sort of
-- what give roots to the violence.

MRS. CORA-LEE McGUIRE-CYRETTE: My time is up.

MS. CHRISTA BIG CANOE: But, the question you did ask can be answered, because you asked all panel members. So, if Tim and Tracy want to answer, they can.

MR. TIM ARGETSINGER: Sure. I mean, I myself, I don’t completely understand the question, so I’d ask, I guess. Yes, I agree. That’s what the focus should generally be.

MS. TRACY DENNISTON: I agree, too, that the focus should be that too, as well, but in regards to -- can you ask the question again? Because I really -- I’m struggling to understand what you mean.

MRS. CORA-LEE McGUIRE-CYRETTE: Yes. Do you agree that the focus of the work of the Commissioners and the Inquiry moving forward must stay focused in on Indigenous women and ways to create safety for Indigenous women?

MS. TRACY DENNISTON: Yes, I agree with that, but I also cannot separate the men in our communities that still need some help as well. So, for me, that’s the part that’s included. That would be important for my region.

MS. CHRISTA BIG CANOE: Thank you. And,
that is time. Thank you.

MRS. CORA-LEE McGUIRE-CYRETTE: Migwetch.

MS. CHRISTA BIG CANOE: Chief Commissioner and Commissioners, the next party that we will be calling is the Treaty Alliance Northern Ontario for Nishnawbe Aski Nation and Grand Council Treaty 3. They will have 25 minutes.

MS. KRYSTYN ORDYNIEC: Good afternoon.

MS. CHRISTA BIG CANOE: So, yes, if you could just introduce yourself? And then once you start asking questions, the time will start.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. KRYSTYN ORDYNIEC:

MS. KRYSTYN ORDYNIEC: So, my name is Krystyn Ordyniec. I’m a representative for the Treaty Alliance, and I do have more to say as an introduction, but I’m happy to have my time begin before I do that.

MS. CHRISTA BIG CANOE: Yes.

MS. KRYSTYN ORDYNIEC: Sure. (Speaks in Native language), bonjour, hello. I’m here as a representative of the Treaty Alliance of Northern Ontario, which is composed of Nishnawbe Aski Nation, as well as Grand Council Treaty 3, and that represents 77 communities in Northern Ontario and Eastern Manitoba. And, with me, I’m honoured to have Deputy Grand Chief Anna Betty
Achneepineskum beside me, and on her behalf and on the behalf of all of our communities, I want to deliver a message that is a reminder to everybody that the Indigenous women who went missing or murdered were not on welfare, addicted to drugs, or sex trade workers. They became a statistic and part of a category simply because they were Indigenous. So, for our 77 communities today, we want to let them know that we stand with them through this process as we continue on through the hearings, especially given the remote nature of the community.

So, my first question will be to Naiomi. In your study and experience, have you focused at all on the demographic of young Indigenous women or -- young Indigenous women who are aging out of the child welfare system so that is that they are no longer in care or the protection of the legislation?

**MS. NAIOMI METALLIC:** No, I’m sorry, that hasn’t been yet a focus of my research.

**MS. KRYSTYN ORDYNIEC:** Do you believe that that’s an important part of service delivery as you’ve studied it?

**MS. NAIOMI METALLIC:** I’ve had limited exposure to it, although it does certainly seem, from what I have read, it does seem that there is a real issue at the aging-out stage, and there’s not a lot of supports or
transitions, and people are sort of -- they’re immediately out and without any supports.

**MS. KRYSTYN ORDYNIEC:** Okay. Fay, perhaps I could ask you. In your work, have you worked with individuals that have just come -- young girls that have just come out of the childcare system, and if so, are there specific supports that you believe are important for them?

**MS. FAY BLANEY:** I haven’t worked with them directly. I worked with moms that have had their children apprehended in the past. I haven’t done it for quite a while, but I have paid close attention to it, and I’m sure that you heard me mention Mary Ellen Turpel Lafond’s research, for instance, and there are quite a few research documents that she has conducted on children that are aging out.

And, there is a young woman in the Lower Mainland that was living in a tent after she aged out, and she was found -- she was killed in her tent, and there’s many stories like that. One of my close friends, her daughter died after she aged out from a drug overdose. And, measures are being taken in B.C. It’s kind of weird. You’re talking about different jurisdictions, but in B.C., they are making efforts to address that, so they’re providing support after that age, for instance. Like, the age that they leave their foster homes. They’re able to
access higher education and other types of supports.

MS. KRYSTYN ORDYNIEC: Thank you. So, you would agree that that is a very important part of protecting the women through this process?

MS. FAY BLANEY: It is really serious. Like, it’s serious in terms of the safety aspect that I’ve described, and it’s also quite important from the cultural and community aspect, because if they’ve grown up in care all of their lives, they’re, you know, floating out there in the middle of the deep blue sea with no connections to family or community often. And so, it’s very critical that they have the support that they need, especially since the state are stealing them from us to begin with, and they’re not responsible for what has happened to them, and yet, they’re left to fend for themselves after they’ve aged out.

MS. KRYSTYN ORDYNIEC: Thank you. And, you mentioned remaining connected to the family and community. Is there anything specifically you could point to that has worked as a measure to ensure that young girls and women are able to connect to their communities?

MS. FAY BLANEY: I really like the program that we had before. We used to have the family reunification program that was run out of the United Native Nations, and Viola is behind me, one of the presidents of that organization, but it's no longer. And we now have
delegated authority, and I understand that the family
reunification happens with that group.

    But yeah, I have huge concerns about
delegeted authority because the central power and control
still lies with the provincial government. So I would
really like to see that family reunification program come
back to our people.

    And the famous one from our home is Liz
Hall. Everybody knows Liz Hall because she reunited so
many people when they reach that age they start to look for
their families. She has a record of them.

    MS. KRYSTYN ORDYNIEC: Thank you. So in
terms of a specific -- specific strategies, you would
agree, then, that it has to be also community driven and
come from the communities?

    MS. FAY BLANEY: Yes. Well, that one was
community driven. There's other measures. That was just
one example. There is other things.

    Like at the Friendship Centre, they hold
family nights, and on Tuesday night it's Pow Wow Night, and
on Wednesday night, it's West Coast Family Night, and then
-- I don't know which night is Métis Night, but Yvonne
Chartrand continues to teach people about Métis culture and
traditions and jigging.

    So those kinds of initiatives are really
important, and people do come out, especially when there's a special event. So that -- people that are not from B.C., you now, there's a night there where they can come and see themselves recognized in the cultural celebration.

**MS. KRYSTYN ORDYNIEC:** And how do you -- how would you describe the -- and if you would agree with me that there is a disconnect between people that come from communities to urban areas and knowing about certain initiatives and programming like that. Is that an issue for you?

**MS. FAY BLANEY:** Yeah, it was an issue for me when I came into the city. I mean, I'm -- I can identify with what Tracy was saying. She thinks that this is huge where we are now and it's disorienting because there are so many people.

And I felt that way when I first came out of the city, and there wasn't much. Thank goodness for people like Marge White that started the Friendship Centre in Vancouver.

**MS. KRYSTYN ORDYNIEC:** Thank you.

And Tracy, perhaps I can ask you the same question. I know you referenced that you were able to identify and educate yourself on certain things because you realized that things were wrong. And what were the supports in place, or what measures could you point to that
assisted you as you move forward in your life?

**MS. TRACY DENNISTON:** The thing that

supported me the most was my parents. My dad wasn't -- he was very uneducated, he didn't have an education. So throughout my whole life, he was a big part of my role modelling of saying -- making sure education was important, for me to get my education.

But to him it was Grade 12, like Grade 12 was everything. But then, for me, I knew in order for me to go on we needed more education to get through in just getting a job. Like Grade 12 wasn't going to cut it anymore.

So our Nunatsiavut Government was a big key player in helping us because they do provide education services for us. We can apply for and then they do fund us to go to school. So that was a big key one that helped me, and also, the support from the communities knowing that we needed our own people to come back to work, it was a big part.

**MS. KRYSTYN ORDYNIEC:** Thank you. Do you believe that all your community members have the awareness of those services that helped you?

**MS. TRACY DENNISTON:** Yes, but I think also in saying that, it's very hard to leave a community when you're used to a smaller area and having to go to bigger
centres, where sometimes it's not as easy to get by. Like
when you don't have the support of your family, like
there's some level of independence you've got to be able to
have in order to survive without... Because our
communities are very family oriented, so we -- everybody
helps each other.

MS. KRYSTYN ORDYNIEC: I'm going to move on,
actually. The question is directed at Tim.

Yesterday, you mentioned, and I -- correct
me if I'm wrong, in your cross, you said that the cost of
living of Inuit individuals is the highest of any in
Canada. And I just wondered if you could point me to where
you got that statistic from?

MR. TIMOTHY ARGETSINGER: There isn't any
one statistic from which you could draw that conclusion.
The statement comes from my awareness of costs of food,
costs of housing and just general living costs that tend to
be two to three times higher in Inuit Nunavut than in other
parts, most other parts of Canada.

MS. KRYSTYN ORDYNIEC: Sure. Would it be
fair to say that other Northern and remote communities in
Canada would face those same types of issues that you
describe in your report and in your evidence yesterday?

MR. TIMOTHY ARGETSINGER: Can you say that
again?
MS. KRYSTYN ORDYNIEC: Would it be fair to say that other remote northern communities in Canada face the same struggles and issues that you described yesterday in your testimony and in your reporting?

MR. TIMOTHY ARGETSINGER: With regard to cost of living ---

MS. KRYSTYN ORDYNIEC: That's right.

MR. TIMOTHY ARGETSINGER: --- specifically?

MS. KRYSTYN ORDYNIEC: Yes.

MR. TIMOTHY ARGETSINGER: I'd be speculating, but I assume so, yeah.

MS. KRYSTYN ORDYNIEC: Do you know of any reports that specifically will address remoteness and the northern aspect of cost of living across Canada?

MR. TIMOTHY ARGETSINGER: What do you mean by address?

MS. KRYSTYN ORDYNIEC: Are there any reports that specifically ---

MR. TIMOTHY ARGETSINGER: Just talk about it?

MS. KRYSTYN ORDYNIEC: --- speak to -- yes.

MR. TIMOTHY ARGETSINGER: Yeah. I -- Inuit Tapiriit Kanatami's submission -- recent submission on the potential revisions to the NNC Program is something that I could share with the Commission, where those issues are
discussed as well as potential solutions to improve the program, which is a federally-funded food subsidy program.

The way the subsidy works is that the retailer is subsidized to reduce or intent to pass on the subsidy to the consumer. And that's an example.

**MS. KRYSTYN ORDYNIEC:** And are -- do you think that the country as a whole is truly aware of the issues that -- the remoteness issues that are faced by your communities and other northern communities?

**MR. TIMOTHY ARGETSINGER:** That the country as a whole?

**MS. KRYSTYN ORDYNIEC:** That's right.

**MR. TIMOTHY ARGETSINGER:** Meaning, every Canadian? Most Canadians?

**MS. KRYSTYN ORDYNIEC:** Most Canadians.

**MR. TIMOTHY ARGETSINGER:** No.

**MS. KRYSTYN ORDYNIEC:** And what type of study or research do you think is required to truly capture the issues that are going on in your communities in northern communities in Canada?

**MR. TIMOTHY ARGETSINGER:** Can you say that again?

**MS. KRYSTYN ORDYNIEC:** What type of research or methodology, would it be traditional research, or would you have recommendations as to how to address northern
issues or remoteness issues?

**MR. TIMOTHY ARGETSINGER:** I mean, it's complicated. To cite one example, so the Inuit Health Survey, 2007-2008 Inuit Health Survey, has been really useful in the work that we do in providing point in time data on a number of indicators.

In the last federal budget, there was an allocation for the development of -- of a permanent Inuit health survey, which would be incredibly useful for providing longitudinal data. So if you had that point in time information every year over a number of years, it would tell us a lot about how things may or may not be changing in some of the areas I have talked about in ways that say Statistics Canada data or Aboriginal Peoples survey data just don't get into the details about.

So -- I mean, that's something that we believe is necessary in the work that we do.

**MS. KRYSTYN ORDYNIEC:** Thank you.

And I will address this question to Tracy. In terms of resource allocation for things like shelters for women who are fleeing violence, would you agree that there are more resource allocated to urban centres than your communities?

**MS. TRACY DENNISTON:** I can't answer that because I don't know if -- how -- what the... In urban
centres, meaning access to more resources while in an urban city?

MS. KRYSTYN ORDYNIEC: That's right.

MS. TRACY DENNISTON: Yes. Yes.

MS. KRYSTYN ORDYNIEC: Okay. And if your communities had access to those same resources, how do you think that the conversations would change with the individuals that you deal with on a daily basis?

TRACY DENNISTON: I don't think we would see as many women in the shelters, honestly, because if they had access to the resources out in urban cities compared to in our small communities, then I think they would be able to build ourself up I guess to be able to know that they can do stuff on their own. It's hard. It's a really tough spot.

MS. KRYSTYN ORDYNIEC: Thank you. And I recognise that and I thank you all for your time.

Thank you.

MS. CHRISTA BIG CANOE: Commissioners, if we can call the next? We'll be asking Families for Justice to please come up. Families for Justice will have 25 minutes. Your counsel can introduce themselves briefly and once we start asking the question we'll start the time.

MS. SUZAN FRASER: Hello. My name's Suzan Fraser. I'm here on behalf of Families for Justice, which
is a name that we gave an organisation -- well, a group of
20 families, and so they sought and obtained standing at
this Inquiry, from across the country, from British
Columbia, from Saskatchewan, from Alberta, from Manitoba,
Ontario and Quebec.

They lost daughters. They lost mothers.

Vanessa Brousseau (ph) lost her sister, Pamela Holipen (ph), in December 14th, 2003 when she disappeared one night and never returned. So the families waited for answers. They're grateful for you to be here and we're grateful, Commissioners, for the opportunity to participate in the process.

So ---

MS. CHRISTA BIG CANOE: You can start.

MS. SUZAN FRASER: --- I'm finished my introduction.

CROSS-EXAMINATION BY/CROSS-EXAMINATION BY MS. SUZAN FRASER:

MS. SUZAN FRASER: I have listened with interest to all of the experience and expertise that you bring to the issues, panel members, and want to just summarise what I think I understand. And forgive me because it's my tradition to -- and by that I mean my legal tradition to ask things in a binary way, but I'll try to respect the need to expand, if that's the case.

We've heard from all of you about the impact
of colonization. I understand that that history of
colonization, although not explicitly referenced by any of
you today, includes Canada's attempt at cultural genocide
through the residential school program.

So am I right that when you speak of
colonization you're speaking of Canada's attempts as
cultural genocide? Fay, is that -- am I right?

MS. FAY BLANEY: Do I include residential
school in that?

MS. SUZAN FRASER: Yes.

MS. FAY BLANEY: I absolutely do.

MS. SUZAN FRASER: And you -- do you accept
that that -- that residential schools were an attempt at
cultural genocide?

MS. FAY BLANEY: They were.

MS. SUZAN FRASER: Yes.

MS. FAY BLANEY: They definitely were. I
mean, they made every effort to try and paint a different
picture of that and it's fairly recently that we've come to
recognise what the true intention was, which is what you're
describing.

MS. SUZAN FRASER: Right. And so it's not
just about arriving on this territory, settling here,
introducing a new form of law, but it's actually that
history which is not fairly well accepted that this was an
attempted cultural genocide. And I take it everybody on
the panel I think is nodding their heads. If anybody
disagrees with me -- so we have a unanimous agreement that
that history of colonization includes an attempt to
eradicate culture.

And so but I think we can also agree that
Canada's attempts at assimilation have failed and should no
longer be attempted.

MS. CHRISTA BIG CANOE: So is that a
question you're directing to any one of the ---

MS. SUZAN FRASER: Yes.

MS. CHRISTA BIG CANOE: --- members or all
of them?

MS. SUZAN FRASER: Yes. Right? That we --
perhaps Professor Metallic.

MS. NAIOMI METALLIC: Okay.

MS. SUZAN FRASER: Just in terms of I think
you ---

MS. NAIOMI METALLIC: I agree, but I do
think that there are aspects of current policy that are
continuing to colonize and assimilate.

MS. SUZAN FRASER: Right. So that it's not
as overt but that the impact of some of the ongoing issues
that you're discussing can play out in the same way as an
attempt to assimilate Indigenous people.
MS. NAIOMI METALLIC: Yeah, and they are playing out in that way.

MS. SUZAN FRASER: Right. And we have that because people are forced to leave communities to obtain education because there's inequality within those communities. And that's one example.

MS. NAIOMI METALLIC: Yeah. I think it's the lack of recognition of, you know, Indigenous control, sovereignty, whatever you want to call that, and also providing the resources and support to actually do that and repair past harms. But, yes, your example's one.

MS. SUZAN FRASER: Right. But it just -- it seemed to me you were all quite generous to Canadians and the history of colonization by not actually using terms of genocide, cultural genocide and assimilation, because those are really at the heart of some of the issues in terms of the root causes.

MS. NAIOMI METALLIC: Absolutely.

MS. FAY BLANEY: I did talk about colonialism and neo-colonialism. I think that the new colonialism that we have now is having our own people do the colonizing on our own and the delegated authority is a good example of that where we still have state control but it's our own people being the new Indian agents.

MS. SUZAN FRASER: Okay. And so what we're
seeing now in Canada now in terms of its -- the harm that is being perpetrated on Indigenous communities is by the failure to provide the opportunities to communities to protect their children, protect their women by affording them equal advantage to other communities. Is that fair, Professor Metallic?

**MS. NAIOMI METALLIC:** Yes, I would say so.

**MS. SUZAN FRASER:** Okay. And so one of the things that I think I'm hearing from you is that for communities to rebuild or communities to recover that there is a need for services to meet the self-identified needs of the community rather than being imposed top down. Is that fair? I'm going to -- I think just in terms of time I'll just direct the questions to Professor Metallic, and if I see that there's some disagreement in the -- feel free to jump in. I'm quite happy. But is that fair, Professor Metallic?

**MS. NAIOMI METALLIC:** Yes, so the question was giving the control to the communities would be ---

**MS. SUZAN FRASER:** Yes.

**MS. NAIOMI METALLIC:** Yeah, I mean, that's part of it. I think there's accountabilities that also have to be built into that, significantly and sufficient and adequate and permanent funding.

**MS. SUZAN FRASER:** Right. So I'm going to
go there in a minute.

**MS. NAIOMI METALLIC:** Okay.

**MS. SUZAN FRASER:** So but I just want to sort of talk about what we need to look forward. So building capacity within communities and listening to the self-identified needs rather than imposing solutions top down, is -- would be place -- a good way to go?

**MS. NAIOMI METALLIC:** Yes.

**MS. SUZAN FRASER:** Okay.

**MS. FAY BLANEY:** I would say though that you're speaking about communities as if we're a homogeneous, unified group. And what I've been saying in the past couple of days is that we're not. And that overwhelmingly Indigenous women are the ones that are driven out of the communities. And the group that you're representing I respect and appreciate and love them for all the work and the advocacy that they have done and they've played a huge role in making this Inquiry possible. But there is another group of women that aren't adequately represented and I really apologise to the previous group that were up that were saying, you know, we're not all prostitutes and we're not all in urban areas and those sorts of things. But those people are neglected.

**MS. SUZAN FRASER:** ---

**MS. FAY BLANEY:** So if you're talking about
community control of programming, there's a huge problem there. There's a big problem. And she's talking about accountability, but how do we do that when there's zero accountability right now and, you know, internally we've had our debates about who are Indian Act chiefs responsible to. In the Indian Act it says they're responsible to the Department of Indian Affairs. And what about the membership that they represent and how do they enforce what it is that they want? And so there's no mechanism to go back to respecting Indigenous women. So if you're downloading these programs to -- I shouldn’t use the word downloading, I take that back. But if the control is going back to Indigenous communities, how do you ensure that Indigenous women have a large role in that process when we don’t -- we have zero balance, zero respect right now, and we’re not going to be included in that process.

**MS. SUZAN FRASER:** Right. Where ---

**MS. FAY BLANEY:** So that’s the outside issue that I was talking about earlier.

**MS. SUZAN FRASER:** Okay. I don’t -- I don’t think you know all of the people in my group in terms of the assumptions that you’ve built into the questions about the group of women and families that I represent. But I’m going to put that aside for a minute and just go to where, what you were talking about.
communities, I think what you’re saying to me is that what works for a Dene woman who happens to be living in Calgary, Alberta may not be the same thing that the women in Nane in -- need. That we have to actually look, we can’t just apply a broad brush to what women need in Canada. You actually need to go ---

MS. FAY BLANEY: I don’t know if that’s what I was saying. I was talking about the need for women to have a role within their own communities. I don’t know how we build that in because we don’t have a model right now. We’ve have been colonized for how long, you’re calling it genocide, you know, call it what you will. I know what it is. I’ve lived it and the fact is that in my community I’m this small, you know? With all my sobriety, and my education, and my political experience, and everything that I bring to it. I go home and that’s how big I am. You know, my needs count for nothing, you know? And I apologize for getting so emotional, but I’m very passionate about this.

This is an issue of the silencing of Indigenous women. When we start downloading or -- I keep using that word, but I don’t mean downloading. There is an article that was written by Sharon McIvor year ago that said, I’m scared of self-government and I don’t blame her one bit. Heaven forget -- forbid that we should ever get
self-government because then we truly will have a neo-colonial state where we’re -- we have these men in charge of us and making decisions on our behalf. We don’t have democracy and accountability in our communities yet.

MS. SUZAN FRASER: I appreciate ---

MS. FAY BLANEY: Because we’re still under the Indian Act.

MS. SUZAN FRASER: I appreciate those words and I appreciate that passion. And I don’t think you should even apologize for the passion that you bring to the issues. I want to -- what I was actually -- where I was going is actually looking to survivors of violence and looking to them to identify their needs and what they need in their community.

So for example, if somebody is being human trafficked in Winnipeg, that we actually look to the victims of human trafficking to say, “How can we help you exit?” How can we -- and if those women are calling for exit plans and shelters and 24-hour services within Winnipeg, then that’s a place to start in terms of building a service. But that might be completely different than empowering women in your community who have no voice, who may need a robust funding for feminist organizations that can build the capacity of the women in that community to allow their voices to be heard.
What -- all I was trying to say is that the principal -- the proposition I was trying to put was that the principled approach is to hear the voices of women, hear the voices of survivors and to listen to them to build the services around them. And to build from them.

**MS. FAY BLANEY:** That’s fabulous, that’s good. You’re directing your question to Naiomi, her research is in the area of on reserve. If you’re talking about Winnipeg or maybe my city, Vancouver, that’s a whole different ball game. We’re not talking about the Indian Act and the ways that programs and services are delivered there.

**MS. SUZAN FRASER:** Yes. And simply the proposition I would put to you, Ms. Blaney, and to Professor Metallic, would be that we can’t just assume that one size fits all, or one solution fits all because of the diversity that we have across the country. Is that fair?

**MS. FAY BLANEY:** I’m sorry, are you talking to me?

**MS. SUZAN FRASER:** I was, yes.

**MS. FAY BLANEY:** Oh. I didn’t hear the question. I zoned out. I’m getting a little upset.

**MS. SUZAN FRASER:** That’s all right. That’s all right. The point being that we can’t assume that what works in one community works for people who are living in a
completely different part of the province. That actually, if we’re looking for solutions, it has to be meeting the needs of the women in a particular community. And that might be very different across the country.

**MS. FAY BLANEY:** Yeah, we’ve been homogenised. I mean there’s a pan-Indian -- a pan-Indianism going on as well and I know that we were asked that about the Inuit story that was shared yesterday. We were asked to think about that with an offender being incarcerated in the south and having to undergo healing therapy in a completely different culture. So we are in a place of having our cultures erased and we don’t get to work within our own cultural communities. Smudging for example, isn’t my culture and it’s been a chore having that recognized in Vancouver, because everybody smudges in Vancouver. And finally, with the work of some of my B.C. sisters, like Bernie here and Audrey, we are now having some of our cultural ways be brought back. So there is differences among cultures on one level.

There’s also privilege differences amongst our people. I mean, we -- you can’t assume that all Homathko women are all the same. There are some -- I mean I do have the privilege of my education and my sobriety, but on the other hand, I have my political views which put me on the bottom rung of the ladder. And there are other
women that have -- from my home that are extremely wealthy
and earn a really good salary and their views around
prostitution are probably way different than my views
because they’re never going to have to do it, right?

**MS. SUZAN FRASER:** Yes.

**MS. FAY BLANEY:** And in an urban setting
you’re talking about the differences there. In the lower
mainland we have every culture there of First Nations,
Inuit, Metis, and you know that there’s differences amongst
those three groups as well. And I just learned from my
friend Tracy that there’s different Inuit dialects.

**MS. SUZAN FRASER:** Thank you. I think those
are all important issues. I’m going to switch hears now
and just talk a little bit about the First Nations Caring
Society decision. So I’m going to have some questions for
Professor Metallic, just to understand the backdrop of that
and how that plays out. But I understand from that
decision that it was -- it’s certainly not easily won.
That the -- Ms. Blackstock on behalf of First Nations
Caring Society had to fight a long battle at the beginning
of that decision, even for the tribunal to even be able to
hear it. So there was a jurisdictional battle at the
outset of that case. Is that right?

**MS. NAIOMI METALLIC:** Yes. That’s right. I
think it started in 2007, and at one point the tribunal, it
was a different composition, the first sort of composition of the tribunal. There was a motion to dismiss the entire case on the basis that a -- that you couldn’t use -- going back to a question earlier that I got from Julie about comparator groups, that you couldn’t compare what the provinces were doing to what the federal government were doing. And that almost got thrown out on that basis, but then it was J.R.’d, Judicially Reviewed, to the federal Court and the Federal Court of Appeal.

So it got saved on that basis and there was also things that came up about Cindy Blackstock being retaliated against and her privacy -- she had government officials following her and keeping tabs on her. So a very, very hard fought battle. And she’s written about that in a recent article on that that’s in the McGill Law Journal, so it’s a good read.

MS. SUZAN FRASER: Right. So there’s -- so the issue of retaliation, there’s the issue of jurisdictional fight that relied on the contribution of many lawyers, is my understanding.

MS. FAY BLANEY: Pro bono.

MS. SUZAN FRASER: Yes, pro bono lawyers. And her personal fortitude to endure all of that on behalf of First Nations children.

MS. FAY BLANEY: Yes.
MS. SUZAN FRASER: And she actually, in terms of the retaliation, there was a finding of retaliation under the Canadian Human Rights Act, that was a separate hearing.

MS. FAY BLANEY: That’s right.

MS. SUZAN FRASER: And even though they were successful on that decision, they have -- First Nations Caring Society had to go back to the tribunal four times to get compliance orders in order to get the federal government to comply with the tribunal’s decision.

MS. FAY BLANEY: That’s right.

MS. SUZAN FRASER: So even though you win, it may not actually make a difference on the ground, right?

MS. FAY BLANEY: Yes.

MS. SUZAN FRASER: And so that when we look at litigation and the ability to litigate, we have to remember always that that’s out -- thought to be a last resort, just in terms of the fortitude and resources that it requires, right?

MS. FAY BLANEY: Yeah.

MS. SUZAN FRASER: And that in an ideal world people would comply with their obligations and treat people equally, right?

MS. FAY BLANEY: In an ideal world, yes.

MS. SUZAN FRASER: Without being ordered to
or forced to.

MS. FAY BLANEY: Yes.

MS. SUZAN FRASER: Right. And it should go without saying that our rights are our rights, is that we actually don’t have to go to Court to enforce them.

MS. FAY BLANEY: In an ideal world.

MS. SUZAN FRASER: Right. So -- and, just in terms of the number of children that are affected in the First Nations Caring Society, I understand from hearing Cindy Blackstock speak that we’re talking -- you know, at one point in time, I heard her say 163,000 children in care in Canada.

MS. NAIOMI METALLIC: I’ve heard, yes, a similar number.


MS. NAIOMI METALLIC: Yes, I’ve heard her say that many times.

MS. SUZAN FRASER: Okay? And so, that equates to 187,000 years of children living away from their parents; right?

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: You’ve heard her say that as well?
MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: Okay. So, then, when we look at that decision, and we go -- part of that decision is the distinction between prevention and protection services; right? So, what they call protection services is actually the apprehension of children and placing them in foster care or other arrangements.

MS. NAIOMI METALLIC: That’s right.

MS. SUZAN FRASER: And, the protection services are the things that get offered in other communities. In fact, in the south, in Toronto, for example, 90 percent of the work is done on a prevention basis. Are you familiar with that sort of differential?

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: So that what isn’t funded in First Nations communities are those preventative services.

MS. NAIOMI METALLIC: That’s right. The case involves a couple of different funding agreements, one called Directive 20-1, and that had no dollars for prevention, and then there was a more recent 2007 call for short EPFAs. I talk a little more in the paper. There was some prevention dollars, but certainly not sufficient, and it turned out that they had to either dip into operating funds for prevention dollars or go without those services.
MS. SUZAN FRASER: And so, when you combine that with some of the structural inequalities in terms of housing and poverty, there’s no opportunity to prevent -- to do the prevention work within communities because of the lack of funding, but also the lack of local resources like alternative housing arrangements.

MS. NAIOMI METALLIC: Yes. Yes, that’s -- and I’ve even heard, you know, sometimes because of the fact that communities have, like, all those different services bundled in one budget, this has been an argument made for why there should be agencies and First Nations child welfare agencies sort of separate, so that in certain situations, you know, bands have sort of gone to a point of desperation where they dip into different budgets. You know, they dip into child welfare, probably something in social assistance, or in education from housing, because they’re all insufficient. And so, yes, they all end up, you know, using these different budgets, because they’re all underfunded, and they all impact on each other.

MS. SUZAN FRASER: Right. And so, then, I just want to take it one step further to talk about funding agreements versus a regulated framework for the provision of services. So, moving away from child welfare and using social benefits as an example, are you familiar with an Ontario scheme for providing a provision of social welfare
benefits like Ontario Disability Support Program or other social benefits?

MS. NAIOMI METALLIC: Vaguely, yes, but I’ll try.

MS. SUZAN FRASER: You have -- but in most provinces and Ontario, there are regulations that govern when you’re entitled to receive social benefits.

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: How much they are, and in the circumstances in which you’re to get them; right?

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: And, that’s what you’re talking about when you talk about regulated frameworks?

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: So that when you apply to get benefits, you actually know the criteria you have to meet?

MS. NAIOMI METALLIC: Mm-hmm.

MS. SUZAN FRASER: And, if you don’t meet that criteria, then you can apply for a review, or you can appeal that.

MS. NAIOMI METALLIC: An appeal. Yes.

MS. SUZAN FRASER: And so, when you work through funding agreements, you take away that ability to say this is the actual legislated and regulatory
entitlements, but also, the ability to review it, as you’ve stated in your evidence in-chief.

**MS. NAOMI METALLIC:** There are some -- so, under the policies that Indigenous Affairs has developed, the ones that I’m familiar with from the Maritimes, in theory, there is, you know, sort of an informal appeal mechanism such that if you didn’t like the benefits or you were denied a benefit for social assistance, you could appeal it either to a social development administrator for the Band or the Band Council itself. But, there’s not the same sort of mechanisms to really judicially review it or appeal it in the same way that you would under, sort of, the provincial systems.

And, within the funding agreements, there’s virtually -- there is a way to -- there’s a dispute resolution mechanism built into most of the funding agreements, expect they have so many exceptions that it’s basically hollowed out. You can’t review, or you can’t bring a dispute to policy issues, to funding. There’s a variety. I mention it in the paper.

**MS. SUZAN FRASER:** Right. Okay. So, I just want to shift gears, because I’m running short of time, to the comments that you made, Professor Metallic, on the question of reports and previous reports. And, I’m going to put some questions to Professor Gunn when she comes
tomorrow about a number of studies. And, as I understand, there’s over 50 studies that have reviewed the causes of violence, and hundreds of recommendations that had been made about violence towards Indigenous women, and are you familiar with that sort of broad number? I’m going to take -- I expect we’ll hear that from her.

So, I’m just -- the information that you have provided to us today, I’m putting the paper aside, but the themes of poverty, inequality, food insecurity, substandard housing - all these issues where the community’s capacity to care for themselves has been reduced because of government policy, these are not surprises that we’re hearing in 2018; right?

**MS. NAIOMI METALLIC:** Right.

**MS. SUZAN FRASER:** We’ve heard all of these issues before.

**MS. NAIOMI METALLIC:** Yes.

**MS. SUZAN FRASER:** These are issues that have been reported on for many, many years.

**MS. NAIOMI METALLIC:** Yes.

**MS. SUZAN FRASER:** For decades in some cases.

**MS. NAIOMI METALLIC:** Some of the general stuff comes from the mid-1990’s.

**MS. SUZAN FRASER:** Right? And, even though
the date may change, over time, the issues don’t -- we
haven’t really -- and I think the Inuit statistics sort of
give life to that, that there hasn’t really been
substantial change and, in fact, sometimes things get
worse.

MS. NAIOMI METALLIC: Right.

MS. SUZAN FRASER: And so, political will is
one answer in terms of enforcement, but also, having us
look -- pushing for -- in your view, one of the ways to
make change is to push for legislation that speaks to
entitlements and rights so that those become actionable,
because that’s the only point in time where you can
actually enforce something, is if you go to court?

MS. NAIOMI METALLIC: I think that’s part of
it. Also, clearly setting out government accountability.
So, not just the First Nations’ rights side of it, but
also, the governments’ accountabilities.

MS. SUZAN FRASER: Yes. I was thinking more
of government accountability.

MS. NAIOMI METALLIC: Yes.

MS. SUZAN FRASER: But, actually, if you’re
going to create a program, that that program actually
should have its genesis and could have its genesis in
legislation in order to be enforceable?

MS. NAIOMI METALLIC: Well, it would make it
more of an essential service as well, aside from just sort of a program that may or may not have funding. We often hear that, that these are not actually viewed by government as essential services so much, because there’s no -- they’re not actually enshrined anywhere. And, there’s actually a court decision from last year where -- regarding policing where the federal government and the provincial government, it was Quebec that was involved, basically said these are just -- you know, these are just agreements. These are just contracts for these services, and that’s all they are.

MS. SUZAN FRASER: Thank you very much.

MS. CHRISTA BIG CANOE: Thank you, Ms. Fraser.

MS. SUZAN FRASER: Thank you very much, Commissioners.

MS. CHRISTA BIG CANOE: Chief Commissioner and Commissioners, I’m going to propose that we do call the next party and then have a break. The next party is welcome to come up. It is Native Women’s Association of Canada, and they will have 20 minutes, as they had designated or assigned five of their minutes to Pauktuutit this morning.

So, counsel, please feel free to introduce yourself, and then once you ---
MS. VIRGINIA LOMAX: I was actually hoping -- could I respectfully ask to take the 10-minute break now?

MS. CHRISTA BIG CANOE: Okay. Commissioners, can we take the break now? Ten minutes? Yes, thank you.

MS. VIRGINIA LOMAX: Thank you.

--- Upon recessing at 14:45

--- Upon resuming at 15:09

MS. CHRISTA BIG CANOE: Chief Commissioner?

CHIEF COMMISSIONER MARION BULLER: Thank you. Just before we get started, I want to remind all counsel present of our Rule 45(b) that states, “Parties granted standing to examine witnesses in Parts 2 and/or 3 may then have an opportunity to question the witness in a non-traumatizing manner to the extent of their interest.” That’s just a gentle reminder. Thank you. Go ahead.

MS. CHRISTA BIG CANOE: Thank you. I’d like to call the next party that will be doing cross-examination, which is Native Women’s Association of Canada. They have 20 minutes, because they had assigned some minutes to other counsel.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. LOMAX:

MS. VIRGINIA LOMAX: Good afternoon. Before I -- oh, I am Virginia Lomax. I'm legal counsel to the
Native Women's Association of Canada.

Before I begin my questions, I have some questions about my questions.

(LAUGHTER/RIRES)

MS. VIRGINIA LOMAX: First of all, I'd like to ask the witnesses, may I address you all by your first names?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And to Fay, is it okay with you if I begin by questioning you?

MS. FAY BLANEY: If you wish.

MS. VIRGINIA LOMAX: May I begin with you?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: Thank you.

So yesterday, you spoke of an initiative where you invited settlers to join you on your territory to follow your protocols and to hear your stories and to also tell their stories of how their settler background unfolded. Is that correct?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: Can you tell me some of the reactions ---

MS. FAY BLANEY: I'm sorry. This was off.

Okay.

MS. VIRGINIA LOMAX: Can you tell me some of
the reactions that you received from some of those settlers?

**MS. FAY BLANEY:** It's always quite an awakening. Always you see a dramatic shift in people when they at first come into the room thinking of all their entitlements that they think they have, and then they begin the gradual process or the gradual realization that they don't actually have the entitlements that they thought they did, and they begin to understand what unceded means when we're talking about our traditional territory.

**MS. VIRGINIA LOMAX:** And so -- did you observe changes in the settlers' attitudes through this initiative?

**MS. FAY BLANEY:** Yes, I have.

**MS. VIRGINIA LOMAX:** Do you think that this initiative would be as effective if settlers were somehow required to engage in this process, either through a school program or through, say a mandatory workplace training if it were, for example, government workers?

**MS. FAY BLANEY:** I would be very reluctant to make it mandatory. I think you can't force people to change, and the ones that do come, they're coming due to a willingness to learn and to engage.

**MS. VIRGINIA LOMAX:** And so, this is a program better suited for people who are already open to
hearing stories and sharing their own?

MS. FAY BLANEY: M'hm. I've never tried the
other way, so I don't know. Maybe it would work, but I --
I kind of doubt it.

MS. VIRGINIA LOMAX: Thank you. And you
mentioned yesterday that a gendered lens is required when
discussing colonialism; correct?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And you mentioned
yesterday that removing Indigenous women from power and
governance was a distinct function of colonialism; correct?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And is it fair to say
that part of reconciliation and decolonization is restoring
Indigenous women to power and governance decisions?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: Do you agree that a
government that wishes to pursue reconciliation and
decolonization must have Indigenous women at all government
decisions that may impact their human rights and the lives
of Indigenous women and girls?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And you have
extensively studied and advocated against violence against
Indigenous women and girls; correct?
MS. FAY BLANEY: That's right.

MS. VIRGINIA LOMAX: And as an expert before this Inquiry, do you agree that there are many areas of law and policy that impact or intersect with violence against Indigenous women and girls?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: Would these areas include legal reform?

MS. FAY BLANEY: Legal reform? Yes.

MS. VIRGINIA LOMAX: Criminal justice?

MS. FAY BLANEY: M'hm. Criminal justice.

MS. VIRGINIA LOMAX: Housing?

MS. FAY BLANEY: Housing is definitely an area.

MS. VIRGINIA LOMAX: And poverty?

MS. FAY BLANEY: Housing and poverty is an area that Tracy spoke about, so yes, I would agree with that.

MS. VIRGINIA LOMAX: And economic development?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And corrections and prisons?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And environment and
conservation?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And natural resource extraction?

MS. FAY BLANEY: Definitely, yeah.

MS. VIRGINIA LOMAX: And land management?

MS. FAY BLANEY: Those are areas that Indigenous women should have a role in but do not.

MS. VIRGINIA LOMAX: And even something like food security?

MS. FAY BLANEY: Yes, food security.

MS. VIRGINIA LOMAX: And child welfare?

MS. FAY BLANEY: M'hm.

MS. VIRGINIA LOMAX: And education?

MS. FAY BLANEY: And education.

MS. VIRGINIA LOMAX: Even science technology and innovation?

MS. FAY BLANEY: Yes.

MS. VIRGINIA LOMAX: And infrastructure?

MS. FAY BLANEY: Buildings? Yes.

MS. VIRGINIA LOMAX: And so, would you agree then that in order to properly address violence against Indigenous women and Indigenous women and girls' human rights, reconciliation and decolonization, Indigenous women must be directly involved in governance and decision-making
in all of the aforementioned areas?

**MS. FAY BLANEY:** I agree with that.

**MS. VIRGINIA LOMAX:** Thank you very much.

My next questions are for Naimoi.

You spoke about needing a system to make the government accountable for funding decisions and for coming -- making good on funding promises yesterday. Is that correct?

**MS. NAIOMI METALLIC:** M'hm. Yes.

**MS. VIRGINIA LOMAX:** And can you give me an idea of what this system might look like?

**MS. NAIOMI METALLIC:** So there has been suggestions before that actually the sort of funding arrangements could be legislated, that there could be a provision, yes, set out in law that sort of set out the parameters around funding so that they're more secure. I think there are examples from the U.S.

I think that RCAP also talked about it, I think that the AFN has also suggested that at some point, and there's some reference to some of those sources in my paper. Yeah. So I think that there is some models to look at. I also suggested yesterday that we needed maybe to also look at not just contribution agreements but what the feds do with the provinces and territories for intergovernmental transfers.
MS. VIRGINIA LOMAX: And so specifically, you could maybe give me some ideas of what a -- a mechanism for enforcing that type of funding might look like?

MS. NAIOMI METALLIC: Well, if there's legislation, it may well -- you know, there -- it could -- you can take it to court if they're not actually abiding by the law. So I think those sorts of mechanisms are -- you know, provide clear avenues, and maybe there can be dispute resolution mechanisms built into that as well, so long as they're robust.

But -- you know, the whole idea of putting things into law is that there would be greater mechanisms for both in discussing it and when it's being passed, and at the same time, also having mechanisms to enforce it. Right now, there's not a lot.

MS. VIRGINIA LOMAX: And so, if this Inquiry were to recommend specific funding for the many different issues that cause violence and lack of safety for Indigenous women and girls, as well as two-spirited LGBTQ+ individuals, for example, in housing or education, healing funds, could the funding model that you are describing, could that enforcement structure also work for that funding?

MS. NAIOMI METALLIC: Well, I would hope that there would be some recommendation that there be more
permanent structures and maybe some suggestions on what
those can look like. I mean, I'm just thinking back to the
reports that I'm familiar with.

Like the Marshall -- the Donald Marshall
Junior report from Nova Scotia, which is about the wrongful
conviction. But there was, you know, 81 recommendations
that came from that. Part of that being a Mi'kmaq justice
initiatives and a Mi'kmaq court.

And what happens you see is those little
projects that get sort of implemented over the years, and
then they stop funding them; right? And that's happened
over and over again. So there's got to be a way to figure
out a better way to actually enforce these things in a
long-term way.

**MS. VIRGINIA LOMAX:** And speaking about
long-term enforcement, do you think it would be possible to
adapt that type of mechanism to intangible and
non-financial recommendations that could come with regard
to even UN human rights decisions or recommendations coming
out of public inquiries?

**MS. NAIOMI METALLIC:** I'm not entirely sure
of the question, but if you're asking if it's like basic
standards, like if there should be legislation about what
are the government's obligations with respect to providing
adequate sustainable housing, I think you could do that.
You could say you should have legislation that actually
sets out your obligations.

MS. VIRGINIA LOMAX: Thank you.
And so, my next questions are for Tracy.

You mentioned yesterday that you keep statistics of
admissions to your shelter. Is that correct?

MS. TRACY DENNISTON: Yes.

MS. VIRGINIA LOMAX: And -- but can you give
me an idea of what types of statistics you're able to
gather?

MS. TRACY DENNISTON: Can you explain?

MS. VIRGINIA LOMAX: Sure. I can narrow
down my questions a little bit better. Do you have
statistics of how many youth access your services?

MS. TRACY DENNISTON: Yes.

MS. VIRGINIA LOMAX: And do you happen to
know those statistics right now?

MS. TRACY DENNISTON: Yes.

MS. VIRGINIA LOMAX: So can you give me an
idea of maybe how many youth are accessing your services on
maybe a monthly basis?

MS. TRACY DENNISTON: Well, I just started
my position in January, so since then there have been one.

MS. VIRGINIA LOMAX: Okay. And do you keep
any sort of statistics on two-spirit LGBTQ+ people who are
accessing your services?

    MS. TRACY DENNISTON: No.

    MS. VIRGINIA LOMAX: Okay. Do you know of any other services in your area that are specific to two-spirit LGBTQ+ individuals who are seeking safety from violence?

    MS. TRACY DENNISTON: No.

    MS. VIRGINIA LOMAX: You spoke of violence against women as normalized in your communities yesterday. Is that correct?

    MS. TRACY DENNISTON: Yes.

    MS. VIRGINIA LOMAX: Have you witnessed the same normalization of violence against two-spirit LGBTQ+ or gender-diverse people in your communities?

    MS. TRACY DENNISTON: No, I don’t think so.

    MS. VIRGINIA LOMAX: Okay, thank you.

    MS. TRACY DENNISTON: Thank you.

    MS. VIRGINIA LOMAX: And for Timothy, do the social determinants of health that you spoke of yesterday drive inequalities for Inuit youth differently than for adults?

    MR. TIMOTHY ARGETSINGER: I would say yes but I'd say that's the case of every population.

    MS. VIRGINIA LOMAX: Can you give me an idea of how the impacts may be different between Inuit youth and
Inuit adults?

MR. TIMOTHY ARGETSINGER: Say that again, sorry?

MS. VIRGINIA LOMAX: Sorry. Can you give an idea of the differences of the impacts on Inuit youth and Inuit adults, if you know?

MR. TIMOTHY ARGETSINGER: I think maybe what you're referring to are -- maybe are social inequities, social and economic inequities rather than social determinants. If I were to give you an idea, I could just say generally that youth who may lack the resources that an adult has to things like employment opportunities, to resources, that that limits their agency in a way that maybe an adult would -- might experience something in a different way. Does that make sense?

MS. VIRGINIA LOMAX: Yes, thank you. So do these same determinants drive inequalities differently for Inuit 2S and LGBTQ+ individuals than maybe straight-identified individuals?

MR. TIMOTHY ARGETSINGER: I don’t know.

MS. VIRGINIA LOMAX: Okay. And you mentioned in your testimony yesterday that you're aware of one addiction services in your region. Does this service have any resources or strategies specific to Inuit youth?

MR. TIMOTHY ARGETSINGER: I'm not sure.
MS. VIRGINIA LOMAX: And do you know if there are any strategies specific to Inuit 2S LGBTQ+ individuals?

MR. TIMOTHY ARGETSINGER: I'm not aware of any.

MS. VIRGINIA LOMAX: Okay. I think I'm going to end my questioning here for today then. Thank you very much.

MS. CHRISTA BIG CANOE: Thank you. The next party that we would like to call up is the Battered Women's Support Services.

So the Battered Women's Support Services actually has 50 minutes, that's five-zero. If we could please set that on the clock? And if you could introduce yourselves.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANEMKI WEDOM:

MS. ANGELA MacDOUGALL: Good afternoon. Thank you to the Elders, the Commissioners, Chief Council and witnesses. My name is Angela MacDougall and I am with Battered Women's Support Services and I'm with my colleague Anemki Wedom and we are sharing our time today. Anemki will begin.

MS. CHRISTA BIG CANOE: Okay. And so we can start time.
MS. ANEMKI WEDOM: Qukshiem (phon.)

grandmothers, qukshiem (phon.) to the people of this territory for your continued generosity, for sharing your beautiful land with us and I want to say qukshiem (phon.) to the Elders for offering the beautiful prayer today to give us strengths for good mind to be able to share in a good way the challenges that our Indigenous women and girls face across Kanata.

So I would like to first of all ask my first question to Fay. In your responsibility as a matriarch and as a grandmother, could you share with us some of the cultural worldviews that can help deconstruct patriarchy within our communities?

MS. FAY BLANEY: Our cultural worldviews, well I think that there's a lot in our culture that we can work with. One of them is our language. In our language, well first of all, we believe in not talking a whole bunch and that we spend a lot of time reflecting and engaging with our spirituality.

I think within our spirituality, there is a lot of room for us to be able to -- like in my way we go and I think in a lot of different cultures too we go off except for us we do it for like a whole year. You go and bathe in the river for a full year and just be off on your own. And I think in those ways, when we're separated from
this western society, it's a lot of time to think about
what's been happening in your community.

I think right now we're so immersed in
what's going on in the community such as the addictions and
the poverty, the efforts at our assimilation, like all of
that stuff is really bearing down heavily. But if we were
to return to the land and be part of the land, I think it
would shift a whole bunch of things for a lot of us.

I don't know. We're so colonized and
assimilated, like in my community, we were part of the
burning that happened in 1900. They asked us to bring all
of our ceremonial objects and our masks and everything and
they burned it and we weren't allowed to look back and yet,
people continued to do that.

And so the bringing back of our culture and
our tradition is -- it's very challenging but it's being
done bit by bit and there are some young people in my
community now, including my daughter and my niece, that
continue to go bathing in the river.

Yesterday morning, I talked about my own
puberty rights and bathing in the river every day for a
whole year. I think that really helped me to grow up and
it helped me to recognize my role as an adult in that
community but I had teachers all around me. And so it
makes it challenging to think about teachers right now. I
think that I'm one of, you know, the last that did that and there's a huge gap until now.

But I think some of those ways can help and there are parts of the teachings that are with other nations as well. We have relatives. Like there's the groups that speak my language, there's three other communities and then there's the other Coast Salish people and then there's the Interior Salish and we have bits and pieces of that. It's very challenging though to access those teachings when we're so busy and caught up in this world.

**MS. ANEMKI WEDOM:** Could you share with us what your definition of a feminist is and does your Indigenous heritage influence that definition?

**MS. FAY BLANEY:** Yes. Yesterday I did begin -- when I was being asked about that, I began by saying that, you know, like all my other family and relatives, I do have a very strong attachment to the land and the territory and it means so much to me when I'm there.

There are women's places in my territory that we go to for various things and you known my Auntie Florence, I mean she's been like one of my main teachers in my life. In fact, she like shoved me into the women's movement early on and she was the one that did that work long before I did.
What I understand of feminism at its very basic is that it's putting women at the centre of the conversation and that is extremely rare anywhere we go. I really love the -- you know, as I've said many times here that I love the consciousness raising and I mentioned to these women that it’s very similar to the healing circles that we do, where we sit in circle and we share. And, I love the things that come out of our consciousness raising. That’s a key part of feminism, that the personal is political, and it really helped me in university to understand systems of oppression. And, it’s hard when you’re, like, in the oppression to name what it is, and when I was studying at SFU and taking my history degree, I didn’t have a word for the fact that there was nothing in the university for me except this one course on Maritime fur trade. And, it was upon entering into women’s studies and applying those models and looking at systems of oppression that I was able to take from that model and apply it to my experiences as an Indigenous woman, and that meant a whole lot to me.

MS. ANEMKI WEDOM: Through your efforts on the research relating to the Indian Act and Bill C-31, can you -- did you come across, in any of your research, the impacts of the Indian Act’s policy on state of paternity and how that impacts on women fleeing violence from their
communities? Particularly in relation to their rights and 
benefits, if they’ve been violated by someone within their 
member community, and the way it seems to work is that 
they’re automatically designated a different category in 
the Indian Act.

MS. FAY BLANEY: Yes. And, you supported us 
when we did the Bill C-31 research, and we shared stuff 
with you. One of the things that we discovered about that 
paternity is that I was so impressed with this one chief. 
He claimed all the children of the single moms on his 
reserve, because it guaranteed that they would have Section 
6(1) status, rather than having -- because if the fathers 
aren’t willing to be written onto the birth certificate, 
then the child is automatically relegated to a different 
category, 6(2) possibly.

And so, I think that was a pretty heroic 
effort on the part of that chief, but that’s one case and 
one community, and there were quite a few people that got 
half status, as we call it, Section 6(2) status, and that 
was the issue that Sharon McIvor was fighting in courts, 
along with others like Lynn Gayle (ph). There were quite a 
few women, isolated pockets all across the country that 
were fighting on the case of Bill C-31 after its passage 
and obtaining their rights.

MS. ANEMKI WEDOM: I’d like to ask Professor
Metallic some questions regarding your area of expertise
and discussing the Constitution as well as discussing, you
know, potential legislation to address the funding
inequalities for Indigenous peoples across Canada. And, I
guess one of the things that came out very loud and clear
on the First Nations Childcare and Society decision was not
only in terms of the rights of the children with regard to
equitable support for funding of services, but the other
critical piece that came out was the denial of their rights
because of residency.

And so, we have a situation where a lot of
Indigenous women that are fleeing violence away from their
territories, because of the lack of housing, because of the
lack of funding, the lack of supports, it’s basically
causing forced displacement, and I’m wondering if you could
elaborate on that aspect of it?

MS. NAIOMI METALLIC: Are you asking me
about Jordan’s Principle?

MS. ANEMKI WEDOM: Yes.

MS. NAIOMI METALLIC: Okay. So, the
decision also very much confirmed Jordan’s Principle, which
is that, you know, a child should not be denied, you know,
basic services because two other levels of government are
bickering over who has to pay the bills; right? And, that
was -- I mean, Jordan’s Principle was something that was
before Parliament, and Parliament agreed to it, but then adopted a very narrow interpretation. And, one of the wonderful things about the decision from the tribunal is that it adopts the broadest possible interpretation of Jordan’s Principle.

So, it’s not just about the most disabled children having access to certain services for children with disability; it’s about all services, and it’s about ensuring that they get equitable, timely access, and jurisdictional disputes do not get in the way.

**MS. ANEMKI WEDOM:** Tim, you alluded to the idea of utilizing a human rights lens framework to apply standards with regard to access to services for Inuit, regardless of where they live and how they’re being denied accessibility of service, whether it’s health, or shelters, or housing. I’m wondering, can you offer some insights on how we can use those instruments to ensure that Canada and provinces and territories have become in compliance with those international human rights standards, as well as addressing it in terms of the prevention of violence lens context as well? Because it seems the way that services are funded, it’s short term. And so, I’m just wondering if you have any insights you could offer, and how we could implement that as part of making Canada accountable?

**MR. TIM ARGETSINGER:** Yes, I believe my
colleague Dalee Sambo will be speaking about this a bit tomorrow, but just to give you, I guess, a short elaboration on the point, human rights framework, it’s a way of understanding the challenge. It’s a lens through which we can understand the nature of the inequities that are being experienced. That’s one side of it. The other piece of it, in my mind, is how we use a human-rights-based framework or approach to create remedies for those challenges or solutions.

In the work that we’ve done at ITK, one of our recommendations to this government is that it explore the creation of an Indigenous Human Rights Tribunal that could be utilized by Indigenous peoples and communities to seek remedies for specific human rights abuses. Right now, there isn’t -- there is a Human Rights Commission, but my understanding of it, my limited understanding of the work that it does is that it doesn’t have a strong focus specifically on Indigenous peoples and issues. Hopefully that’s helpful.

**MS. ANEMKI WEDOM:** I’d like to ask Tracy my last question before I turn it over to my colleague. Yesterday, you shared the profound trauma invoked against Indigenous peoples and Inuit people as well as the result of the residential school. And, what I’m curious to know within your area, I know that there was a settlement
agreement through the residential school in ITK, along with other communities received a settlement agreement.

But, I guess my question is with the limitations that are faced within our communities around addressing the multiple trauma, because what I find is that you can’t address the trauma without addressing multiple trauma. So, for example, in human rights law, if I want to file a complaint, I have to decide, “Oh, am I going to file it as a woman, or am I going to file it as an Indigenous woman?” So, the way the human rights framework works, it doesn’t take into account the systemic challenges of discrimination faced by women and girls specifically, particularly when it’s multiple forms of discrimination and abuse.

So, I’m wondering if you have any recommendations on how we can better address the historic collective trauma and its rippling effects as a result of residential school? And there other part is; how do we -- how can we better reach out to the men to address the harms that they’ve invoked as a result of the trauma that they may have experienced? And it’s not to have that presented as an excuse, but it’s a reality in our communities.

**MS. CHRISTA BIG CANOE:** There’s no objection to either question but maybe if she answer the first one and then you ask the second? Because it’s a lot for her to
MS. TRACY DENNISTON: The first part of the question was around -- can you just explain the first part of the question again? Sorry.

MS. ANEMKI WEDOM: In terms of the impacts of trauma created through residential schools, and how we can better address that through services in the communities, because it’s not really being adequately addressed.

MS. TRACY DENNISTON: No. I even still think for even for me as a -- even though I didn’t attend residential school myself, I still feel the impacts myself as a person from a family who has attended residential school. I don’t think there's enough information out about what the symptoms are of what families had endured as they went through residential school and relocation, and those things -- there's all these symptoms that people are displaying and it can come out in hurt, it can come out in substance abuse, and all those kinds of things.

There’s a bunch of different things and I still really can’t even pinpoint myself because I’m still a part of the struggle of understanding where it all fits. And I can see where -- as a community member, I can understand some of the symptoms but I don’t know how to put to words how to deal with that.
So I’m still -- the scenario that we haven’t really touched on -- like, even though we know they’re symptoms, it’s just that I think we’re so confused that we don’t know where we are.

**MS. ANGELA MacDOUGALL:** Was there one more question that you had?

**MS. ANEMKI WEDOM:** That’s fine.

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANGELA MacDOUGALL:**

**MS. ANGELA MacDOUGALL:** Okay.

I wonder if I may direct my first question to Tim, please?

I enjoyed reading the *Examining the Justice System in Nunavut*. I understand that you wrote that document.

In the document you have several recommendations; I think there are eight recommendations that related to justice and health and social issues.

Recommendation number 5, you refer to the *Family Abuse Intervention Act*. Would you be willing to tell us what that Act is, please?

**MR. TIM ARGETSINGER:** You’re testing my memory a bit. I am reading ---

**MS. ANGELA MacDOUGALL:** May I offer a suggestion? Is it a policy that relates to how police
respond to violence, or how community responds to violence?

MR. TIM ARGETSINGER: The Act is a piece of Territorial legislation.

MS. ANGELA MacDOUGALL: Okay. And what is -- to achieve which purpose?

MR. TIM ARGETSINGER: I’m actually reading this at the moment -- right now.

MS. CHRISTA BIG CANOE: If I might state, too, for one party has a copy as well, that’s referenced on page 2 of that report that’s been put into that exhibit, Examining the Justice System in Nunavut, so...

MS. ANGELA MacDOUGALL: In the recommendation you point to a few -- at least two instruments, one is a community intervention order and the emergency protection order which I know that both -- both you and Tracy spoke to yesterday.

I’m interested in hearing more about how the criminal system and the Territorial system respond systemically to the Criminal Code, as it relates to assault.

MR. TIM ARGETSINGER: In Nunavut?

MS. ANGELA MacDOUGALL: Yes, please.

MR. TIM ARGETSINGER: Again, I mean, this is a six-year-old document that I’m looking at for the first time in six years.
MS. ANGELA MacDOUGALL: Okay.

MR. TIM ARGETSINGER: I feel ill-equipped to recite the contents of the report. And things may have changed. I just don’t have the comfort level.

MS. ANGELA MacDOUGALL: Okay, thank you.

Tracy, any comment? Any thoughts for you and your frontline work with women?

MS. TRACY DENNISTON: Is that in relation to the emergency protection order?

MS. ANGELA MacDOUGALL: The emergency protection order and the community intervention order.

MS. TRACY DENNISTON: Can you reframe the question, please? Sorry.

MS. ANGELA MacDOUGALL: Certainly. I’m curious if you -- well, maybe I’ll reframe it better than I did the first time.

I’m curious how you may work or if those tools are available to you as a frontline worker in supporting women, if a community intervention order, an emergency protection order specifically, in your frontline work?

MS. TRACY DENNISTON: Yes, they are available.

MS. ANGELA MacDOUGALL: Would you be willing to comment on the effectiveness of both of those tools, in
terms of women’s safety?

MS. TRACY DENNISTON: It’s effectiveness?

MS. ANGELA MacDOUGALL: Yes, please.

MS. TRACY DENNISTON: This is just my opinion, and as a community person I feel the emergency protection orders are not effective in our communities, based on the remoteness and how small our communities are, I feel safety would not be guaranteed for women.

MS. ANGELA MacDOUGALL: Thank you. Thank you.

Fay, I wonder if I may ask a question that’s related, and it’s the B.C. context. You spoke, I believe yesterday or maybe it was today, about the Violence Against Women in Relationships Policy, would you be willing to tell us a bit about that policy as you understand it?

MS. FAY BLANEY: Well, at one point, women used to be expected to be the ones to press the charges. And the policy that came in, I don’t know when it came in but we did have a workshop on it during the Journey for Justice in 2000. And at that time I understand that the police were required, or compelled, to be the ones to press the charges against the offender.

MS. ANGELA MacDOUGALL: Thank you.

So some of the jargon that we’ve been using in anti-violence circles and feminist circles is calling it
a polar arrest policy that taking the responsibility from the woman and putting it into the police; that they do a proper investigation if they’ve been called to a, quote-unquote, “domestic violence situation”.

**MS. TRACY DENNISTON:** Yes.

**MS. ANGELA MacDOUGALL:** I’m wondering in your work -- in your frontline work for you, Fay, and for you also, Tracy, if you’re noticing in your work where women are being arrested and maybe charged for allegedly perpetrating domestic violence, when there has been a history where the woman has been a victim?

**MS. FAY BLANEY:** I’ve heard a lot of that and we call it cross-charging.

So when women are in the situation where they’re being brutalized, they’re not allowed to defend themselves in any way, shape, or form, and if they do then they’re charged also, and both are arrested. And that poses a lot of risk for the other policy that we learned about, the Children who Witness Violence Policy. So if there are reports of what they call domestic violence, there’s a danger that the child may be apprehended.

**MS. ANGELA MacDOUGALL:** Thank you.

Tracy, any thoughts in your experience?

**MS. TRACY DENNISTON:** Yeah. In my work as a frontline worker I have seen experiences where women were
actually charged as well as the men in relationships. And
it had a negative impact because it ended up causing more
problems for the whole family.

**MS. ANGELA MacDOUGALL:** Thank you for that.

Fay, we are in the same -- we work in the
same community and I’m wondering, in the community that we
work in, if you’ve noticed in British Columbia that
Indigenous women -- or have you have heard that Indigenous
women are more likely to be charged with an offence
compared with other, quote-unquote, “Canadians”?

**MS. FAY BLANEY:** I haven’t heard about this
particular situation but I have heard that the numbers of
Indigenous women and Black women is, like, skyrocketing in
the prison system. I’m not sure what those arrests are
for, though.

**MS. ANGELA MacDOUGALL:** So would you say,
then, that some of the work that feminists have done early
in the nineties, and even prior to that, was to bring a
level of accountability to the systems, and one of those
systems would be the police system; that they would take
male violence against women seriously and that they would
investigate; how do we understand -- and that we fought for
we wanted to see there was effort for there to be a policy
such as VAWR Policy? How do we explain now in 2018 that we
would see women being arrested? How might you characterize
that, understand that?

**MS. FAY BLANEY:** Well, I think it’s similar to the backlash that we’ve experienced on the anti-racism front as well where when there’s affirmative action, it becomes the dominant group that take advantage of those measures and say, “We’re experiencing discrimination based on race.” And so I would say that, you know, that’s happening in anti-violence as well, that the gains that feminists make in anti-violence are -- they turn into a backlash.

**MS. ANGELA MacDOUGALL:** Thank you.

I’ve heard from, I think, all of the witnesses, some version of an analysis and a way of framing these issues is to have an interconnection of colonization and patriarchy, poverty. I don’t know that everybody has said that themselves but I’ve heard some version of it in some way.

And I’m wondering if we’re wanting to think about how we’re framing the issues and if we’re talking about a gendered lens and wanting to apply a gendered lens more comprehensively through this process and through any recommendations and through any subsequent legislation and policies and regulations.

How can we thoroughly understand the relationship, how -- could you give us a sense of how we
could thoroughly understand the relationship of gender and race with respect to Indigenous women, and would it be limiting to have a framing of the issues, in terms of gender only?

**MS. FAY BLANEY:** To separate out the two?

**MS. ANGELA MacDOUGALL:** I’m suggesting that the -- I’m wondering if it might be better that they’re not separated. That we think about some -- that there’s an opportunity -- let me know if you think this is something to contemplate -- where we understand that Indigenous women experience a version of misogyny and racism where we don’t know where the misogyny begins and where the racism ends, that they’re merged.

**MS. FAY BLANEY:** Yes, it’s an issue that I have faced forever and ever and ever. I mean, when I -- when the feminist movement was thriving and there were women’s groups, I was challenging the women’s groups for the racism that I experienced there and tried to get a seat at the table. And now there’s been this attack on women’s groups and so we’re just struggling to survive as women’s groups.

And in this particular circumstance with the National Inquiry, I have been extremely alarmed that they have forgotten the gendered lens; that they have spent so much time on the colonial aspect without looking at the
gendered. And I’m not advocating that we divide them all up but I’ve been, like, really gung-ho going forward on just the gendered lens just because there -- it’s been not taken seriously enough. And so I’ve been really pushing.

**MS. ANGELA MacDOUGALL:** Thank you.

**MS. FAY BLANEY:** But I do appreciate what you’re saying about looking at the intersections, like with the work on housing.

But an earlier part of your question where you were talking about how do we get from here to there? I guess that’s where there’s some disagreement amongst us. And from my perspective I think that a self-analysis as Indigenous people is very critical to understand in the larger political scheme of things where we sit and what are the systems of oppression that affect us.

So I don’t want healing to be just conducted by those doctors and those psychiatrists and those counsellors and those treatment centres and detox centres.

All this focus on service delivery really bothers me because it’s still a colonial model with someone from the outside coming to fix you. And what I would really like to see is a revolution in the hearts of Indigenous women, and I guess at another level, Indigenous peoples, but currently my focus is on the revolution for Indigenous women that, you know, we can organize on our
own, we can make changes on our own, and we need to end the
discrimination on our own.

And just getting back to your question on
how do we decolonize, I just -- I forgot to mention that
the clan system is something that we really lost, and how
we organized our family systems. And that’s been so
devastating for us. And if we’re able to return to our own
kinship systems it’ll be a different world altogether.

MS. ANGELA MacDOUGALL: Thank you.

Tracy, I have a question to expand a bit on
a comment that you made yesterday, and a response to a
question.

You spoke about women who are pregnant need
to travel in order to have their babies.

MS. TRACY DENNISTON: Yes.

MS. ANGELA MacDOUGALL: And I think I heard,
maybe it was you or Tim, that said Ottawa even, that’s one
location where women have to go a month in advance?

MR. TIM ARGETSINGER: Just to clarify, I
mean, there are a number of -- so there are birthing
centres in some communities.

MS. ANGELA MacDOUGALL: Okay.

MR. TIM ARGETSINGER: Like Salluit or
Puvirnituq or Inujjuaq, for example, where there are -- I’m
spacing on the term, people who assist in birth.
MS. ANGELA MacDOUGALL: Like midwives, or...?

MR. TIM ARGETSINGER: Midwives.

MS. ANGELA MacDOUGALL: Midwives.

MR. TIM ARGETSINGER: In cases of complications in some cases -- or, for example, if someone -- if it looked like someone might need to get a C-section, for example, and they were living in Rankin Inlet where there is a birthing centre, they might need to travel outside of the territory to give birth. So it depends on the community.

MS. ANGELA MacDOUGALL: Thank you.

Any comment, Tracy, for you, your experience, you know, women travelling and sort of what happens for women particularly; women maybe that you know through your work, specifically, who’ve experienced violence?

MS. TRACY DENNISTON: Experienced violence while they were waiting to have their -- like ---

MS. ANGELA MacDOUGALL: They’re pregnant. Like, some of the stats tell us that pregnant women are at greater risk and do experience physical violence. And so I’m wondering -- I’m just wanting to get a picture of pregnant women and violence and their healthcare.

MS. TRACY DENNISTON: Yeah, our pregnant
women have to leave a month in advance for their babies
unless they sign a waiver to say they’re allowed to stay
for another two weeks. I think that impacts some women’s
decisions because sometimes they may have other children
that they’re taking care of, even though the husband or the
partner is involved. Sometimes it may mean that they’re
putting their child -- unborn child at risk because they
need to stay to help for the other two because it’s too
long of a timeframe for them to be gone for a month versus
the two weeks.

MS. ANGELA MacDOUGALL: Okay.

MS. TRACY DENNISTON: I could see some of
that being a part of the decision-making in women’s minds.

MS. ANGELA MacDOUGALL: Thank you.

Do you have experience where Child
Protective Services become involved in essence where women
have given birth to their children outside of the community
at one of the birthing centres or one of the larger urban
settings?

MS. TRACY DENNISTON: Yes.

MS. ANGELA MacDOUGALL: And have the
children been removed?

MS. TRACY DENNISTON: Yes, right at birth.

MS. ANGELA MacDOUGALL: Are you able to
comment on what you noticed; were women able to return, do
women -- do they end up -- do they stay -- like, sort of
getting a sense of what happens in those situations?

**MS. TRACY DENNISTON:** Just from my
experience from a community perspective and knowing what’s
happening, because our communities are so small, the
majority of the families -- well, the mothers who end up
going their children removed when they’re giving birth
are usually ones who have had prior children apprehended.
And because of the risk, I guess, that they have with the
other children and no change happening with the mother or
the parents, then they do take the children who are unborn
-- right at birth when they’re birthed, they do -- they are
apprehended from Child Services and put out in foster
homes.

**MS. ANGELA MacDOUGALL:** Have you had
instances where women have not returned home after the
children have been removed? Just to, say, they stay in the
community where they had the child?

**MS. TRACY DENNISTON:** No, not that I can
recall.

**MS. ANGELA MacDOUGALL:** Okay. Thank you.
I’d just like to spend the last few moments
here talking a bit about accountability for those that
perpetrate violence.

And in your CV, Tim, you have done work in
Alaska, and I think you may still be involved with some --
an organization there, doing work?

MR. TIM ARGETSINGER: Yeah, I’m from Alaska.

MS. ANGELA MacDOUGALL: And I notice that
you had spoken about with respect to men’s role in ending
violence against women with respect to domestic and sexual
violence. Would you be able to speak about that a bit?

MR. TIMOTHY ARGETSINGER: Sure. So the --
what you’re referring to is an op-ed I wrote some years ago
relating to the Violence Against Women Act in the U.S. and
its reauthorization. And there was a conversation in the
country at the time among American Indian, Alaska Native
community, about the issue.

And the way -- and I took issue with the way
that the challenge was being characterized. It was relying
and -- without going into too much details, it was relying
on a statistic that was published. It was -- the
misrepresentation of a statistic that was published in a
report, an Amnesty International report ---

MS. ANGELA MacDOUGALL: M’hm.

MR. TIMOTHY ARGETSINGER: --- which
characterized violence against American Indian and Alaska
Native women as -- the way that the statistic was being
mischaracterized is that non-Native men were the main
culprits in violence against Alaska Native and American
Indian women.

**MS. ANGELA MacDOUGALL:** And we've heard evidence here today that that's not the experience of Indigenous women entirely?

**MR. TIMOTHY ARGETSINGER:** Yeah. I mean, that's U.S. context.

**MS. ANGELA MacDOUGALL:** For sure. For sure. Would it be okay for me to read a line that you -- from the op-ed, just near the end?

**MR. TIMOTHY ARGETSINGER:** Sure.

**MS. ANGELA MacDOUGALL:** Thank you. You write:

"At the end of the day, the only way to prevent rape and domestic violence is to teach men not to rape and batter women."  (As read)

Would you agree with that today?

**MR. TIMOTHY ARGETSINGER:** Absolutely.

**MS. ANGELA MacDOUGALL:** I'm wondering if we could talk a bit now about accountability. And I know that Fay, I've watched you work over the years relating to restorative justice. And one of the things that we understand and that has been researched is that it is contraindicated when in domestic and sexual violence situations however it's used ---
249 CROSS-EXAMINATION (MacDougall)

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- continues to be used.

Would you be willing to give us a sense, then, and I'm thinking about the communities that are overpoliced and under protected, such as Indigenous communities in terms of the -- and there's lots of statistics all around Canada to tell it -- to show that as far as the relationship between RCMP and municipal police over policing with respect to criminalizing survival ---

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- and under protecting as far as, you know, we talked about just now about women that are experiencing domestic violence being arrested for defending themselves.

MS. FAY BLANEY: Yeah. Anecdotal evidence I'll give. I haven't done a lot of research in this area. Anecdotal evidence. There are some women from my Reserve that have been murdered and the police have done nothing about it. And that hurts a lot when you think about, you know, your own community and you know the women that have died as a result of male violence.

MS. ANGELA MacDOUGALL: Recognizing that the RCMP has had a historical role to move Indigenous people off the lands in order for ---
MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- the government and business corporations and settlers to have access ---

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- and the role of RCMP in that and then municipal police thereafter.

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: And thinking about, you know, women's safety. To what extent do you think that police can be part of a woman's safety plan?

MS. FAY BLANEY: I really have my doubts.

I'm trying to be grown up about it and trying to, you know, be positive and think that we could build a relationship, but I'm really sceptical. Just because there's so many bad things that they're doing right now. My friend here can tell you story that she shared at the Inquiry when it was in Vancouver. The women in Val D'or and what happened to them and just so many other stories of what the police are doing.

The women within the police the force that are currently charging for the sexual harassment that they've endured, and the Native women that are within those ranks that haven't really come out and spoken about what's happened to them. Because we know the double whammy that they get as Indigenous women.
Occasionally, they'll get someone that -- some Native officers in there, but they just don't seem to have a critical mass. I think that's one of the issues, is that it's overwhelmingly like white men that occupy the police force.

And we had George. I'm pretty sure you guys remember George from a while ago. He was fabulous. And he used to come to family night and everybody in the community knew him.

But in my Reserve, we had a Native man, he was Nisga'a, and he was being belittled and insulted over the police scanner. On my Reserve, everybody have a scanner because they want to know when the cops are coming. And on the scanner, they would say really gross things about this Native cop. They would say very demeaning, very racist things about him, and that's not very long ago.

And also, very recently, I -- I have a cousin at home who was being brutalized by her husband, and they're deep in addictions. I mean, they're -- I'm trying to adopt my grandnephew from that family, my cousins, my relatives, and they're like third generation into the foster care system. So needless to say, there's addictions because of all the anguish they've been through.

My cousin was getting beaten up and she called the cops, and he said, "Oh, well we'll throw him in
jail overnight if you can give us a blow job", to her. So that was like a few months ago.

And so, our relationship with the cops is hugely problematic. And again, I reiterate, I wish that this Inquiry had that included in their terms of reference to be able to look at policing and the huge egregious problems that are there that they seem to be doing with impunity.

MS. ANGELA MacDOUGALL: Thank you. So thinking of the limitations and the problems with restorative justice, and recognizing that police services are not only ineffective but actually can do harm in terms of arresting ---

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- Indigenous women for defending themselves ---

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: --- and thinking about how communities then can, you know, build accountability for men that are abusive, while ensuring women's safety.

MS. FAY BLANEY: M'hm.

MS. ANGELA MacDOUGALL: Right?

That was the reason why I asked the question earlier, Tim, regarding the community intervention order.
I was -- I'm always thoughtful about which ways communities are taking on some of these challenges.

One of the things that I've heard about in regions and in British Columbia in Indigenous communities is about banishing.


MS. ANGELA MacDOUGALL: Banishing.

MS. FAY BLANEY: Yeah. Yeah, yeah.

MS. ANGELA MacDOUGALL: I'm wondering if anybody feel -- anybody on the panel feels comfortable speaking a bit about that concept.

MS. FAY BLANEY: I was just with Sharon McIvor, and she says she'd like to roll the clock back 150 years to that time of banishment. Yeah, we're always tickled at that prospect of being able to banish offenders from our communities.

But seriously, the restorative justice models that we know of haven't been working. The cases where -- you know the famous film about Hollow Water, I understand from recent reports that the levels of sexual violence, particularly against children, have not diminished, they haven't decreased any.

So what does that tell us about this alternative justice model as a means of addressing or trying to stem the tide of male violence against women and
children? It confirms what I thought to begin with, that it silences those that are being victimized and empowers victims to remain in the community.

I think -- the laws in the country, I think that's a theme that we've heard throughout. There currently are laws, human rights protections and laws in place, and it's a matter of getting the state to enforce the laws that exist.

And, you know, we talked about the Valware (phon.) Policy. Like they need to examine themselves, the police forces, and they need to be teachable, you know, in being involved with LEAF and some of these other groups that deal with judges in the horrible cases in Alberta. I think there's a couple over there that has been spoken about with -- that the judge that -- I think his name is Robin Camp; is it? In that case there was an effort to try and educate the judiciary on sexual assault, but predominantly women think that judges are unteachable. Those judges that perpetrate those kinds of I would say crimes, they don't want to be taught. They don't want feminists coming in and educating them on sexual violence. They just don't want any of that, what they see as a special lobby coming in and educating them, and that's a huge problem.

And so I would venture to say the same holds
true for the police, but we do need political will from higher up to begin to make them do their job. And they're not doing their job.

**MS. ANGELA MacDOUGALL:** So given, you know, all these limitations, I'm wondering, Professor Metallic, in your work and as you I guess imagine and contemplate effective strategies, I wasn't sure if I heard you speak earlier, and if you did I apologise that I may have missed that, to the ways in which a gender lens would be applied through addressing the service issues, the legislation, the regulation and policy.

**MS. NAIOMI METALLIC:** It's not something that my paper specifically addresses, and but I think getting to -- I mean, I guess I could say it's not as much in my area as an expertise but, I mean, I agree with a lot of what I'm hearing coming from Fay and I can, you know, see some of the arguments that are being forward put.

We were talking earlier a little bit on the break about, you know, the point that she made around the fear and this -- she said it was expressed by, you know, people like Sharon McIvor who said earlier, you know, that she wrote a paper called "I'm Afraid of Self Government" and sort of concerns about. So it was weird having a bit of a conversation.

It's like but we need to move forward out of
this colonial structure because it's keeping us all down; right? But at the same time, I can completely see the fears, particularly of Indigenous feminists who say, well, we don't want a system that is simply just going to recreate the harms; right?

And so, I mean -- and I don't have all the answers, but like there's got to be a way out of it. We can't, you know, say in one not to move the other, so how do they move forward together?

And I don't have all the answers to this, as I say, but there's got to be a way that we can talk about moving forward in a way that involves, you know, Indigenous control but it's not an Indigenous control that's simply just mimicking the patriarchy and -- and, again, I'll repeat that I don't have all the answers.

But, you know, there's people who are doing amazing work. And the last expert panel that you had had, like, Hadley Friedland and Val Napoleon and they talked about the use of our Indigenous laws and returning to our original teachings. And to me that -- I guess that's the thing that I go back to as well and I'm not an expert in this either, but I do think that there's great people who are doing great work.

And, you know, our original teachings were not to have this patriarchy, as Fay was saying; right? So
I think that that's where the answer lies.

**MS. ANGELA MacDOUGALL:** Okay. Thank you.

I have one final question relating to the Gladue ---

**MS. NAIOMI METALLIC:** Okay.

**MS. ANGELA MacDOUGALL:** --- Principle and thinking about violence against women and accountability. Have you seen instances where the Gladue Principle has been applied in power-based offences, such as sexual assault, domestic violence?

**MS. FAY BLANEY:** Yes, I did mention that yesterday. Due to confidentiality I can't really say her name, but it was a situation where the man murdered his partner and they have a little girl. And that happened, like, a couple years ago, maybe three years ago. And now in the sentencing process they are using Gladue. And my cousin is -- like, the really big thing on her mind and she keeps repeating it is that he can get off on a light sentence but what is he doing to address what he did and he's going to get out a lot sooner and what's -- is he going to go and kill another woman when he comes out?

And also, the other complication with that is that she is adopting her niece's -- this is her niece that was murdered. She's adopting that baby. I mean, she's not a baby. She's probably about four, five. And
she needs to know if the baby girl is going to be safe to visit with him and she's afraid the court's going to compel her to make that little girl go and visit her father.

And so there isn't accountability there as far as she's concerned because she doesn't see a mechanism that's going to make him do something.

And that case that I raised yesterday isn't a Gladue decision but it's along the similar lines of accountability where that -- the guy on Indian Horse that was charged with the brutality against those women, they did force him to go and get treatment for his addictions, but he has refused to do anything regarding his violent behaviour towards those women. And he was happy to apologise, which I roll my eyeballs at right now.

He apologises now when, you know, he's on the firing line and the world is looking at him for his bad behaviour. You know, fine time to apologise. Why didn't he make amends a long time ago? Why didn't he make amends by addressing his behaviour?

So I guess that's an issue with the penal system where, you know, it's a huge problem with penal system. Some of the members from my Band have been incarcerated, including members of my family, for sexual violence, and nothing happens while they're in prison. They're not compelled to take any kind of program to deal
with what they have done. And so they come back into the community and they're unrehabilitated but they're much more seriously damaged because of what they went through in prison.

**MS. ANGELA MACDOUGALL:** Thank you. And with that our time is up.

**MS. CHRISTA BIG CANOE:** Thank you very much.

**MS. ANGELA MACDOUGALL:** Thank you.

**MS. CHRISTA BIG CANOE:** Next we'd like to invite up West Coast LEAF. West Coast LEAF will have 15 minutes because they assigned the 10 minutes to another party.

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. RAJI MANGAT:**

**MS. RAJI MANGAT:** I'm good, yeah. I guess I'm just going to start.

My name is Raji Mangat, and as Christa said, I represent West Coast LEAF. Thank you to the witnesses on the panel for sharing their insights today and yesterday. Much of what I had hoped to explore with you has already been covered very well by my friends here today, a hazard when you appear so late in the day, but I do have a few questions, specifically for Professor Metallic, and maybe one for Tracy Denniston if I get the time.

Professor Metallic, are you familiar with
the best interests of the child legal standard?

MS. NAIOMI METALLIC: You mean the general one that's supplied in family law?

MS. RAJI MANGAT: Yeah.

MS. NAIOMI METALLIC: Yes.

MS. RAJI MANGAT: That's the -- yes, exactly.

So I wanted to explore with you whether and how the current system of program delivery on reserve that you described in your paper, which I think was marked maybe as Exhibit 13 yesterday, how that engages the best interests of children as well as more generally the safety of women and children.

So I'll ask if you'd agree would me -- with the proposition rather that the best interests of children are inextricably linked to the lived experiences of the female caregivers in their lives. And by female caregivers I mean the mothers, the grandmothers, the aunties, the sisters.

MS. NAIOMI METALLIC: Yeah, I mean, it's a broad term and I think that that's part of the problem that, you know, if you -- some of the scholarship that I've read around that you can sort of insert into best interests of the child if you're coming from a very specific Eurocentric sort of model, you might see it one particular
way versus somebody in a community that has a holistic lens
and is ---

**MS. RAJI MANGAT:** M'hm.

**MS. NAIOMI METALLIC:** --- collective.

So but I think, you know, the way that you just described it, I think that that is a better way to see the best interests of the child than perhaps one from a very narrow lens of that's only focussed on perhaps economic rights or something to that effect, or economic wellbeing.

**MS. RAJI MANGAT:** Thank you.

So, what I’d like to kind of do with that acknowledgment on your part is that would you agree with me, then, that it’s important to look at the services that are provided to children and youth on reserve together with the services that are provided to female caregivers?

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** That we can’t isolate those things?

**MS. NAIOMI METALLIC:** Yes, and that was actually commented on in the decision itself, that you cannot separate child welfare services from all the other services, and I think that you’re right to sort of even add that additional lens, in particular about the caregiver, the caregiver’s relationship to the child. I mean, in many
Indigenous communities, I mean, kinship models are quite broad; right? So, we have many caregivers, but primary caregiver, givers, perhaps, I think that that’s a -- you’re suggesting an interesting approach.

**MS. RAJI MANGAT:** Yes. Absolutely. So, that would not include just what we might, in a western model, think about as the parent or the mother.

**MS. NAIOMI METALLIC:** That’s right.

**MS. RAJI MANGAT:** But, also, the many mothers, the many caregivers, kinship carers in many Indigenous cultures.

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** So, then, when we -- sort of, taking that a little bit further, would you agree that our understanding of how child welfare services are administered and funded, and to whom the supports are directed - particularly, I’m thinking of children on reserves here - that that can’t be isolated, again, from the socio-economic status, the health and the safety of those female caregivers that we just talked about.

**MS. NAIOMI METALLIC:** I agree.

**MS. RAJI MANGAT:** And, if Indigenous women lack that safety and the supports, whether that’s on reserve or in urban communities, or in the remote northern communities that both Mr. Argetsinger and Tracy Denniston
spoke about, that that would put Indigenous children at risk of removal from their community.

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** Do you agree with that?

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** Risk of being harmed themselves, having violence perpetrated on them themselves?

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** And then, of course, well, maybe not of course. Would you agree with me that that lack of safety and supports for women would exacerbate that sort of harm to women as well?

**MS. NAIOMI METALLIC:** Yes.

**MS. RAJI MANGAT:** So, I’d like to just switch gears a little bit, and I had a number of questions, but they were covered off by other people. So, I’m just kind of flipping through here a little bit. You know, maybe this is a little bit of my cynicism, but earlier, you were talking about maybe how can some of the, sort of, service delivery -- how can this be legislated in some way so that it does have that rule of law that’s missing at the current moment? And, this might be, you know, sort of having some experience with having -- trying to have things legislated and sort of seeing bills die on the table and all of that sort of stuff.
MS. NAIOMI METALLIC: Yes.

MS. RAJI MANGAT: I wonder if you have any thoughts about whether Section 35(4) of the Constitution, which is guaranteeing Aboriginal and treaty rights equally to male and female persons has a role here to play? I know, you know, you talked a bit yesterday about how the expansiveness of understanding what that means. We are not there yet, but I would be interested in hearing if you see a role, because that’s something that’s constitutional; right? That’s not just going to be legislation that we have to try to get passed.

MS. NAIOMI METALLIC: Yes. 35(4) has not received much attention, nor has many of the other interpretive provisions in the Charter or the broader Constitution Act, 1982. But, sometimes LEAF has made arguments on, you know, Section 25 and 28 as well. So, I think that there is, you know, work -- you can bolster arguments with those provisions, and it’s very clear. I mean, there’s a section of the Charter itself that also underlines that, you know, rights have to be guaranteed equally to male and female. But, they go that extra step in 35(4) to underline it again with respect to Aboriginal rights. And, I think it’s a matter of also more expansively understanding what Aboriginal rights means, and the current government has been talking about
how, you know, the UN Declaration on the Rights of Indigenous People is going to provide us with a full box of rights, and maybe other speakers or other experts here will say that.

But, you know, in moving in that direction, I think that that’s true, that underlining the fact that these rights are guaranteed equally to male and females is important, and I think there’s language in the UN Declaration, too, along those lines and other experts can speak to that later in the week.

**MS. RAJI MANGAT**: Yes, absolutely. Thank you. And, now I will -- I do have time for my question to Tracy Denniston. You just shared with Ms. McDougall that experience of knowing about the removal of infants from their mothers right at birth. And, in one instance, I think that you just mentioned was because that mother had had other children of hers removed.

**MS. TRACY DENNISTON**: Yes.

**MS. RAJI MANGAT**: And so, that was kind of the ---

**MS. TRACY DENNISTON**: Yes.

**MS. RAJI MANGAT**: Okay. I’ve just learned of a recent experience in British Columbia where a baby was removed -- an Indigenous baby was removed from his mother right after birth, and the explanation was that the mother
herself had been removed from her family. Have you ever
heard of anything like that happening in the communities
that you work in?

**MS. TRACY DENNISTON:** No.

**MS. RAJI MANGAT:** Okay.

**MS. TRACY DENNISTON:** The only times I’ve ever heard of it was because they’ve already had prior
children and they were removed based on reasons they had
for that time, for those other children, and they weren’t
-- no changes were being done, I think.

**MS. RAJI MANGAT:** I see. Okay. Thank you. I’m done with my time.

**MS. FANNY WYLDE:** Thank you. The next
standing party is Regina/Treaty Status Indian Services.
So, Chief Commissioner and Commissioners, that standing
party has 25 minutes. So, I would invite you to introduce
yourself, and once you ask your first question, we can
start the clock. Thank you.

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ERICA BEAUDIN:**

**MS. ERICA BEAUDIN:** First of all, I would
like to acknowledge the welcome to this territory in which
I’m a guest from Treaty 4. Secondly, I would like to thank
the knowledge keepers and elders for their prayers and
medicines that we’re all protected by. Finally, I would
like to ask for every one’s prayers for two people from Treaty 4 and Treaty 6, in which the Province of Saskatchewan is now located. We have two active searches going on as we speak, one in Saskatchewan and one in B.C. One search is for a 4-year-old boy, and the second is for a 33-year-old woman. I know we all hope and pray they make their way home to their families and communities.

My name is Erica Beaudin. I am the executive director of the Regina/Treaty Status Indian Services Incorporated, and we provide direct services and advocacies for families of MMIWG2S, as well as sit at various government tables to address the systemic issues of MMIWG2S.

In an around Regina, we have the Cree, Salteaux, Nekota, Dakota, Lakota and Métis that have distinct languages, traditions and cultures. I’m a citizen of the Cowessess First Nation, and the Maryvale (ph) Métis community. My husband is Salteaux Dakota, and my children are Mi’kmaw citizens of Membertou First Nation from their father. So, I guess you can call us an urban Indigenous Heinz 57 family.

Before I get into my questions, I will disclose that as part of my life experiences or traumas is incest, sexual abuse and intimate-partner violence. These experiences have impacted the way -- this is the first time
I’ve disclosed this, so pardon me -- have impacted the way I interact with families, as well as my scholarly and community studies. My first questions are for Ms. Fay Blaney.

Question one: Thank you for your discussion on our collective journey as Indigenous women for equity and equality. I also thank you for your fierce advocacy, for the safety and security of our women. My first question is, you state that all First Nations were matriarchal. We have over 500 Indigenous tribes in Canada. Do you stand by this statement?

MS. FAY BLANEY: No, I do not. I said most of us are, and I can’t speak for everybody. I know that there are some nations that were not, and even in my Coast Salish community that I’m from, we were matriarchal, but sometimes we didn’t follow that. So, I can’t speak for everybody. I don’t know that they all were.

MS. ERICA BEAUDIN: Okay, thank you. For those tribes who state they have always been patriarchal, what is a way forward for gender equality in this situation?

MS. FAY BLANEY: Well, those women have been fighting in the courts. I think one example is the three bands in Alberta. Those Indigenous women have banned together and consistently fought for access to their
homelands. Like in '85, the women that were being
reinstated were being reinstated for both Indian status and
the Band membership, and those women were denied that
access to their homelands. So they continued to ban
together and fight.

**MS. ERICA BEAUDIN:** Okay. So do you feel
that it is possible, and if so, is it possible for equity
and equality in matriarchal societies as well?

**MS. FAY BLANEY:** I think it would take us a
long way to that. I don't know that we were completely
absent of male violence pre-contact. It may have happened.
But I think the protections under the clan systems that
existed there would give us much greater protection.

As my aunties described it to me, they --
all the women lived together with sisters and grandmothers
and aunties, and it was the men that left the community to
go and live with their wife.

**MS. ERICA BEAUDIN:** M'hm.

**MS. FAY BLANEY:** And I think if I had all of
those women living with me, that there would be far less
opportunity for men to harm me in any way, shape or form,
and if they did, there would be severe consequences coming
from all those women that are surrounding me. So I do have
a lot of hope for the strengthening of our communities
through that process.
MS. ERICA BEAUDIN: Thank you. Yesterday, you spoke to your belief that alliances between Indigenous and non-Indigenous women is assisting to create equality and equity. The women's movements since the time of suffragettes have shown that when there is a decision to be made between non-Indigenous women and Indigenous women or men, non-Indigenous women historically have chosen race over gender.

MS. FAY BLANEY: M'hm.

MS. ERICA BEAUDIN: Do you believe this to be true?

MS. FAY BLANEY: Oh, yeah. I mean, they -- the suffrage movement -- I'm a history student so I know those things. The suffrage movement in Canada that fought for the vote and got it in 1917, they didn't care about the fact that we didn't get the vote until the early sixties. And there are other issues like that in our history.

But I also think that women have been allies of our different movements. As it is today, they support reconciliation, they're supporting some of our land claims and treaty negotiations, well, Aboriginal rights oriented kinds of issues.

I remember participating in that occupation that I spoke about yesterday of Indian Affairs when I was very young. And I was behind those walls for eight days
and living there all the time.

And we were on the inside and there were
women -- the feminist movement, the women's movement were
outside those doors by the elevator. They were looking --
they were protecting and guarding us. And there were
points in there that we were really discouraged because the
cops were wanting to use their battering rams to come and
arrest us.

And one night, we were feeling really down,
and we looked out the window and there were -- 14 floors
down, there were these women below with their candles and
they were holding a vigil on our behalf. And years later,
I found out that one of those women was Lee Lakeman.

Lee Lakeman means a lot to me today. She's
one of the godmothers, I guess, of Vancouver Rape Relief
and Women's Shelter.

I did start working with the women's
movement when I got involved in the National Action
Committee on the Status of Women in the mid-nineties. And
at that point, they were going through an amazing
transition process.

They were doing a lot of affirmative action.
They had their first woman of colour president in Sunera
Thobani, and then the following presidency was with Joan
Grant-Cummings, a black woman.
And so they were working at Affirmative Action. Shortly after that they developed a position for me so that -- they insisted that they would have an Aboriginal vice-president and chair so that we were represented in women's concerns.

And I think the transition houses across the country are coming along. There was a day and an age where I was really annoyed with them because they were run by everybody else and the services being delivered were mostly for Indigenous women. But I think some of that is beginning to change and they are recognizing the importance of having us on board. And -- so we've been working as allies for -- well, I have been since those mid-nineties.

So yeah, I do take into account the racism historically, and recognize that the progress that has been made.

**MS. ERICA BEAUDIN:** Thank you. You have stated that Indigenous men are the still the leaders and decisionmakers and women carry those directives out. What is the role of Indigenous men in creating an equal and equitable Indigenous society?

**MS. FAY BLANEY:** Well, I really like what Angela read of Tim's. You know, I -- that's what I think that -- in terms of male violence against women, I think it is the men's responsibility to hold other men accountable
for male violence in very real ways.

Like on my Reserve, an Elder, he was
sexually assaulting the very young ones, like under age, it
was, you know, child sexual exploitation, and he'd been
getting away with it for quite a while. But when it came
up into the public, the Chief stood behind that Elder and
the charges never moved forward.

And I think that that dynamic has been going
on -- I mean, it's -- again, I haven't studied it. I don't
have actual research data to show you. I'm just sharing my
experience in organizing with Indigenous women and my own
experience of that issue.

**MS. ERICA BEAUDIN:** Thank you for that. You
stated that you don't believe in restorative justice, how
it works and that you don't support it when it comes to
Indigenous women being abused by Indigenous men. Do you
then support a completely Western concept of justice, with
men being dealt with by the Canadian judicial system that
is racist in its entirety?

**MS. FAY BLANEY:** I think the courts don't
deal with it very effectively either.

**MS. ERICA BEAUDIN:** M'hm.

**MS. FAY BLANEY:** I still don't support
restorative justice, though, being applied to our
communities because I think it's a much worse colonial
model.

The restorative justice that they introduced to us was not even Indigenous to this land, it was indigenous to another continent, even, when they first brought it in.

And who talked about banishment? Was that Angela? Our version of justice was banishment, and it was pretty fatal. You know, if someone was banished, that would be the end.

And I think -- my memory fails me, but I think someone else, maybe from your territory, talked about removing a portion of their nose to indicate what they had done so that they wouldn't be able to gain access to another community as well so that it definitely meant the end of their lives.

I can't see -- that Elder that I spoke about on my Reserve that raped that 13 year old girl, I cannot see him sitting in a healing circle sentencing another offender. We know which side that he'll be on.

And also, when you think about the levels of socialization, and Sharon McIvor would say brainwashing, that we've undergone to believe in a patriarchal model, it's very difficult to have women in our communities side with victims or women that have been sexually assaulted as well.
But when we were doing that research, what we found out was -- I don't know the exact ratio, but you know, there's -- and probably the Chief Commissioner would know the answer to those -- to these issues. So if you're putting an offender through the justice system where they go through the court system and then get incarcerated, there's a dollar value attached to that.

But what they gave to the community was a tiny little drop in the bucket. So the communities were so under resourced that they weren't able to do anything effective with those folks that were being charged and anyway, even if they threw a whole bunch of money at us, I still would not support the idea of offenders in a community having any say over what happens to those that are being victimized by male violence.

Whether it's sexual assault or wife battering or child abuse, I wouldn't want to see those systems -- those situations being brought into restorative justice and for now I guess I would rather go with the Canadian state even though it has -- that it's steeped in racism.

MS. ERICA BEAUDIN: So in the case of intimate partner violence or domestic violence, what would be an idea or your, I guess, solution if you will -- and you can just say Erica, no -- for family reunification if
it's desired by the woman?

**MS. FAY BLANEY:** I mean if she wanted to do that, I mean whom am I to stand in the way of that? I would really like an opportunity to sit and talk with her and for other feminists to sit and talk with her to understand her place in the world.

You know, for myself when I went through so much sexual violence as a child, like starting at three years old and onward, when I got to like 14, I didn't understand boundaries. I didn't know this was my body and they're not allowed to touch it and it was a process of growing, of sobering up, of, you know, going through the healing process to reach a point of recognizing that this body is mine and I don't have to allow everyone to violate my boundaries.

And so I think for women that are in -- if they're a battered wife that they maybe can see some hope in going back at some point but I think that they really need to reclaim their power before any of that happens and have some assurances in place.

It's a really tough one. I have cousins that are -- they just refuse. They've taken all their kids away from them and they still refuse to be apart. And so it's a choice of do I want my children or my spouse, and that woman has chosen her spouse every time and all six of
her children ended up in care.

**MS. ERICA BEAUDIN:** You spoke about the Gladue decision in that Indigenous men's reality and background should not be considered when they are charged with intimate partner or other types of violence against Indigenous women.

What do you believe would be fair in this case?

**MS. FAY BLANEY:** Well, I did mention earlier that they should be compelled to go through programming. I know that some people like my friend Doreen Sterling did a whole lot of work on people that are charged with sexual assault and indigenized the corrections programs and a lot of people find a great deal of benefit from that program.

But there are some offenders that just refuse to go through any kind of program like my cousin that I just mentioned who her niece was just killed and they are not making him undergo any kind of healing program. Yet, he's benefitted from Gladue and she says well, he has this residential school experience. What about my niece? She's never coming back. This child is going to grow up without a mother.

**MS. ERICA BEAUDIN:** Would you support Gladue for women who are charged of filing offences against men or children?
MS. FAY BLANEY: Well there's a whole body of literature around -- I don't know if that's what you're talking about but a lot of women retaliate after years of abuse and sometimes it results in the death of that man and I don't think the criminal justice system adequately factors in the levels of violence that they've endured to the extent that Gladue does for your -- you know, what you've been through through colonization. They don't apply that same thing to women and what they have been through in battering or violent relationships. And women often do get killed after they leave too. That's the other factor.

MS. ERICA BEAUDIN: Yes, that is definitely a factor. So back to the clarification of a previous question, would you consider restorative justice measures if restorative justice programs were properly funded and had a feminist lens, or do you believe this would still not be a solution?

MS. FAY BLANEY: I think that there's merit to the Gladue decision especially since I understand that there is a really steep increase in the numbers of Indigenous and Black women that are being incarcerated today. I don’t know what explains that steep rise in those numbers. It's just very scary that our young women are being -- are growing in numbers to being incarcerated. So something has to be done about that.
MS. ERICA BEAUDIN: Since the push by families of MMIWG two-spirited to have government address this issue, government or systems that govern and support such as the RCMP have come out with reports and stated they believe that Indigenous men are mostly responsible for Indigenous women being murdered or going missing.

Do you believe this to be true? Does this message create a blame and therefore it is not worthy of being addressed by the Canadian nation as a whole?

And then finally because I know that I'm asking multiple questions here, does this belief excuse non-Indigenous men from taking responsibility?

MS. FAY BLANEY: I know that in their racism, they do try to blame Indigenous men. On the other side of that racism equation, they're telling Indigenous women not to talk about indigenous men.

I have a friend who is working on her PhD in this area of male violence against women and she's getting a lot of pushback. There are people saying you cannot talk about Indigenous men and male violence and so there's that pushback that's going on.

I don't think Indigenous men are perpetrating wife battering or male violence against women more than the general population. I just think that the issue is Indigenous women and the fact that we are targeted
much more from all men because of the hierarchies that we are at the bottom of, whether it's poverty or if it's our Indigenous status or because we're women.

   MS. ERICA BEAUDIN: Okay, thank you.

   I'm cognizant of the time and so I'm going to try quickly to go through these and pick out what questions are the most pertinent.

   But my next question is, as well as being a survivor of intergenerational effects of residential school myself, I have also been working with MMIWG two families since 2004. Since then, I have found there's a direct correlation between both issues.

   Do you believe that MMIWG is a result of the genocidal nature of residential schools or do you feel it is a coincidence?

   MS. FAY BLANEY: No, it's definitely not a coincidence and I do work in the area of residential school and I'm a survivor of residential school. My auntie tells me that in her time, they always told her that, oh those men, they only want one thing, and then -- or those boys, and then they would tell the boys the same thing and it really created disfunction, like sexual disfunction amongst our people.

   And not to mention the fact that so many of us were sexually abused and molested in residential school
and I think the way that it's exacerbated today is the fact that in the IAP, they really lowballed us in terms of the settlement and we did not get the same benefits that the women's movement had fought for for such a long time around various forms of sexual assault. We were really lowballed. So it conveys to us very clearly that we're nothing. You know, that's what it told us and it conveys that to our whole community. So we're definitely treated like what they expect that we're nothing.

**MS. ERICA BEAUDIN:** Many of our families are single parent households headed by women. What role do you believe we, as Indigenous women, play in continuing the patriarchy through our sons? What would be initial suggestions or recommendations we require to break these cycles to create allies in our sons?

**MS. FAY BLANEY:** Yeah. I would definitely not want to beat up on those moms. I wouldn't say it's their fault that they raise patriarchal sons. You know, in the diagram that I laid out yesterday of the triangle, I think you could have the most perfect mom and all the struggles that she's up against as a single mom, and you would still have patriarchal sons because of the beliefs in Canadian society.

Like my boy, he tried so darn hard to have a gun when he was growing up, but I said no bloody way. When
he wanted a doll, I got him his Stacy right away. And even with that, you know, we still have patriarchy.

I reflect back on Celia Haig-Brown, who was my first senior supervisor for my Masters. She said that every settler should start off by saying my name is so-and-so and I'm a racist because this is a racist society.

I would apply that same notion to the men. I mean, we are steeped in patriarchy, and we live in a patriarchal society.

**MS. ERICA BEAUDIN:** Thank you.

**MS. FAY BLANEY:** All the laws, everything.

**MS. ERICA BEAUDIN:** My son had plenty of dolls and Barbies as well, no guns.

You mentioned the Pickton case yesterday and mentioned -- I'm very cognizant of the time, and I don't think I'll get to Professor Metallic. But you mentioned the Pickton case yesterday and mentioned victim services.

Oftentimes, victim services are assigned to be the primary workers on behalf of the police services with families of MMIWG2S. Do you believe that victim services should sit with police services, or do you believe that families would be better served by community-based organizations to advocate with and for them with police?

**MS. FAY BLANEY:** I think they're better off
outside, like within the different organizations. I really have issues with the way that they conduct themselves. And I don't want to use up all your time. I'll just answer that way.

**MS. ERICA BEAUDIN:** Thank you very much.

I have -- I guess I'll have -- thank you very, very much for your patience and answering my questions. And I volunteer to be a soldier in the revolution.

(LAUGHTER/RIRES)

**MS. ERICA BEAUDIN:** Now, for questions for Professor Metallic. And I did originally have five, but I'll just do one.

Yesterday, when you discussed rules of law and government's responsibility to act in a way that's transparent, the National Inquiry and its Commissioners have come under intense fire and criticism from many MMIWG families and organizations. If a person took a closer look, do you believe that much of the criticism surrounding the administration of the National Inquiry would show that government, in particular, Privy Council, did not apply a rule of law in their role in the National Inquiry?

In other words, did the government and its systems set up processes and timelines they ---?

**MS. CHRISTA BIG CANOE:** So I'm sorry. I'm
going to have to stop you because Professor Metallic may, and she can weigh in if she feels she can answer this, but she may not have enough information or have looked at the information required.

You're all of a sudden talking not just about a terms of reference but a whole host of things, like administrative documents that she would never see. So I don't know if you want to rephrase that.

MS. ERICA BEAUDIN: Well, I could rephrase, or else I'll just withdraw it. So I'll leave that for maybe somebody else to ask.

MS. NAIOMI METALLIC: I think it's a stinger point, but yeah, I don't think I'm the best person to answer it.

MS. ERICA BEAUDIN: All right. In other words, the government and its systems set up processes and timelines they did not take responsibility for because they didn't write down their own rules, and therefore, they became -- they -- therefore, they become flexible for them, and we, as Indigenous people, would have difficulty holding them accountable, and therefore, the blame of any perceived failings of this National Inquiry would be easily put on the Commissioners and staff.

MS. NAIOMI METALLIC: I think that's more of a rhetorical question; right?
(LAUGHTER/RIRES)

MS. NAIOMI METALLIC: I mean, I think -- it's a point that has been certainly been made, and I think you've raised about those things, and I am sympathetic to those arguments. I don't have ---

MS. CHRISTA BIG CANOE: Enough information.

MS. NAIOMI METALLIC: It's a bit of a hard one to answer.

MS. CHRISTA BIG CANOE: I would just suggest she doesn't have enough information before her to answer more than what she has.

MS. ERICA BEAUDIN: That's fine. That's my final question. Thank you very much.

MS. CHRISTA BIG CANOE: Yeah. Perfect.

So that actually concludes the cross-examination. So Chief Commissioner and Commissioners, I am requesting a short break, but what remains for this particular panel is your opportunity to ask questions in re-examination. I can anticipate that Commission counsel will probably require 10 to 15 minutes for re-examination.

So if we could take 10 minutes, and it's 4:55. If we could be back at 5:05, that would be great.

--- Upon recessing at 4:55 p.m./

l'audience est suspendue à 16h55

--- Upon resuming at 5:12 p.m./
l'audience est reprise à 17h12

MS. CHRISTA BIG CANOE: Chief Commissioner and Commissioners, just for the record purposes. Cross-examination is now closed, and I understand that you, at a number of times when witnesses were speaking, deferred your questions until after cross. So I invite you to ask your questions.

Commissioner Eyolfson?

COMMISSIONER EYOLFSON: Thank you.

QUESTIONS BY/QUESTIONS PAR LE COMMISSIONER EYOLFSON:

COMMISSIONER EYOLFSON: I just have a couple of follow up questions.

Ms. Blaney, if I could just ask you. A couple of times you spoke about consciousness-raising and the benefits of getting together and having consciousness-raising, I know it's a bit like a healing circle. You mentioned a few of the benefits of -- coming out of that, women being able to take control over their own minds.

So I wonder if you can comment any further on any of the benefits of that, and also, is there anything that can be done to better support that sort of consciousness-raising, like in terms of recommendations going forward?

MS. FAY BLANEY: Yes. One of the topics that we were talking about during the break is -- and I'm
not naming anybody -- but you know I am very open about the sexual violence that I went through in my childhood, like starting at the age of 3, and it just went on and on until I started running at the age of 13.

And I was like so deeply ashamed of that fact. And so one way that I dealt with it was through alcohol and drugs, and I did that not too long. Like I sobered up pretty quick from my political work.

But we don't often think that the next person has gone through the very same thing, or the next woman has gone through the very same thing. And often, her courage gives me courage when she says well I went through this. And I'm able to quietly, you know, in my little corner say, oh my goodness, she went through that too.

And so it very much fits within the triangle that I mentioned yesterday, where we have our personal experiences and the personal can become political in the process of consciousness-raising. Because in our talking with one another, we're able to identify the perpetrators, like which systems or institutions are causing harm, such as the topic that was flying earlier before the break around child apprehension of babies right at the hospital. And I've advocated for a whole bunch of those very recently, so we're very much still targeted by that.

But when we're sitting in, you know, what
started out as a drop-in for Indigenous women, we got to that place of raising our consciousness collectively to recognize that we were all experiencing gendered violence and racism and poor bashing together. And then we really began to -- like women right away are saying, we should go tell them off, or you know, whatever these actions are that they're talking about, they want to do something.

And from those tiny budding roots of rage and anger, we can actually begin the conversation of what kind of action should we be taking, and we begin to plan and strategize. And from that, we developed the Aboriginal Women's Action Network.

It was those women in that circle in the early nineties where we were being battered around pretty badly, and we came together, and the simple aboriginal tradition of bringing in refreshments and pastries and fruit and whatever. And pretty soon they're sharing clothes with each other and sharing babysitting service with each other, and you build a community.

And you asked -- the second part of your question was asking how do we ensure that that happens or what measures can we take to see that that does happen. And I think our -- the way that we got there was through the Vancouver Status of Women. They offered us a space to do our drop-ins. We had drop-ins every Tuesday and
Thursday and we got the word out.

And -- so it was through women's centres and I really maintain that women need the right to be organised and the Women's Centres are so critical. And do I need to say again, substantive equality. Federal government reinstate funding to women's groups across this country so that we're able to work together and organise together and address these issues that are plaguing us right now.

COMMISSIONER EYOLFSON: Thank you very much.

I just had a follow-up question for Professor Metallic as well. Talking about the Caring Society case, you were asked about the compliance issue, having to go back about four times regarding compliance. I'm just wondering if you can explain a little bit further or add any further comments on what the compliance issue is or was and where the matter is right now in terms of compliance.

MS. NAIOMI METALLIC: I'm going to have to consult my notes on that one. Just a sec.

Yeah, so the way that the remedies were structured, there was the sort of immediate ones and sort of long-term ones. And so I think the dispute to date that's gone back and forth, and this is just from my readings and I hadn't prepared to -- I didn't reread all the compliance orders, but it's about whether, you know,
the government was complying with the immediate order to,
you know, to ensure that funding was equal, substantively
equal in the immediate term.

And the most recent orders -- yeah, the 2018
one actually told Canada to cease its discriminatory
funding practices and not -- of not fully funding the cost
of prevention. So my understanding is that there was this
sort of back and forth after the decision came down, then
the budget came down and I believe the government felt that
the budget was responding to the decision. That was one of
the first compliance orders. And anyway, it was
established that -- or it was argued that -- yeah, that
still was not complying with that order.

So to this point it's just been about
compliance with that initial order and the larger issues of
broader reform, we've not even gotten to that point yet.

And some of the concerns that had been
raised by the parties, but I think they're in -- they have
been resolving this and I know that the new Minister
Philpott, they have been -- the parties have been working
together. But one was that, you know, that sometimes
consultation was being used as an excuse for inaction for
implementing immediate relief, but I think the parties are
closer now. And I'm sorry I can't speak to that better.

COMMISSIONER EYOLFSON: Thank you very much.
MS. NAIOMI METALLIC: Okay.

COMMISSIONER EYOLFSON: Those are all my questions.

QUESTIONS BY/QUESTIONS PAR LE COMMISSIONER ROBINSON:

COMMISSIONER QAJAQ ROBINSON: Thank you. Thank you to all of you. And thank you for all the questions. Questions raise questions and that happened here too, so I have a number of questions. I was hoping I could start with you, Tim.

There was some discussion I think by Professor Metallic about dynamics in governance and I guess jurisdiction being a little bit different for Inuit in a modern land claims context. And you shared with us that in Inuit Nunangat the four regions have -- I guess four or five different -- I guess the offshore in Nunavik is the fifth one in my mind -- different land claim agreements. Of the current land claim agreements and self-governance agreements in place in Inuit Nunangat, how many of those convey or allow for Inuit jurisdiction or self-determination on the factors outlined in ITK's report on the social determinants of Inuit health?

So, for example, in the four regions of the four Inuit organisations or governments, how many have actual jurisdiction over housing, for example?

MR. TIM ARGETSINGER: My understanding is
that of the four Inuit land claim regions that only
Nunatsiavut is a Inuit self government and would have
jurisdiction over certain social areas.

COMMISSIONER QAQAQ ROBINSON: And in the
other regions do Inuit organisations or governments have an
ability to influence or be part of the decision making when
it comes to essential services?

MR. TIM ARGETSINGER: It varies. So the
agreement I suppose I'm most familiar with is the Nunavut
agreement. In Article 32 it is intended to create an
obligation for the government of Nunavut, as well as the
federal government, to basically seek the -- I won't put it
that way -- to basically engage with Nunavut Tunngavik,
which is the Inuit representational organisation in
Nunavut, on social policy and legislation.

So how that would work, let's say education
legislation is that there would be the expectation from the
Inuit that Inuit would have a partnership role, or at least
an advisor role, in the development of legislation. But
that article is the subject, as you can probably imagine,
of oftentimes of acrimony, of different interpretations, of
potentially litigation, so it's there but it is not perfect
by any means.

COMMISSIONER QAQAQ ROBINSON: And Professor
Metallic in the child welfare context talked about the
decision-making involvement of Indigenous peoples being largely dependent on state political will. Is that something that when it comes to essential services and the key areas, sort of jurisdictional areas where these -- that these essential -- or these social determinants are related to, is this sort of dependence on political will a reality for Inuit as well when it comes to these factors in these areas?

MR. TIM ARGETSINGER: I think what you may be getting at is whether or not Inuit have any jurisdiction over the areas that -- and influence the social determinants of health. In some cases they do, in most cases I would say no. So, again, the Nunatsiavut government I don't know its departments, all this departments well. But, for example, the Nunatsiavut government doesn't have jurisdiction over its education system. In Nunavut it is the government of Nunavut is a public government. There's not an Inuit government, at least in the area of education policy. The government of Northwest Territories has jurisdiction over education in the Inuvialuit settlement region. In Nunavik it's the Kativik regional government, which again is a public government so.

COMMISSIONER QAJAQ ROBINSON: Thank you. It is what I'm getting at, this issue of jurisdiction, this
issue of decision making.

And, Professor Metallic, in your presentation under sort of the practical principles moving forward you identified in the area of making space, this term or concept of vacating jurisdiction. Would you elaborate on that a little bit more?

**MS. NAIOMI METALLIC:** So, you know, there’s different models or approaches that one can take to Indigenous groups, you know, gaining control. And I talked a little bit about it yesterday in terms of, you know, some have taken the just do it model where they just say, well, the heck with what -- whether we’ve go -- you know, got the other governments on side, we’re just going to -- we’re just going to do it. And some have done that in the area — different areas, sometimes child welfare or other areas, and sometimes they run up against, you know, the challenge. They may end up litigating or something like this. But you know, what’s sort of the concept of vacating jurisdiction I guess, can be seen as a couple of ways. There are some cases where governments -- other governments have either given their permission or agreed to, or -- not that they have to give their permission, I’m just saying that they haven’t been involved in the group that has asserted that they have to do it, and sometimes they’ve just sort of accepted that.
There’s a few examples where I think that given the Spallumcheen bylaw on child welfare, I think you might be able to make an -- I mean, the government recognized it under a Section 81 bylaw, but at the same time, so Spallumcheen was allowed to pass a child welfare bylaw and exercise quite a bit of jurisdiction. And they passed it both under inherent right, which they should be able to, but they also tied it to an Indian Act bylaw. And anyway, the other levels of government, it seems to sort of gave them that space, right? So there’s that sort of, you know, I guess forbearance, or just not -- not challenging that.

Then you can have sort of more active ways of recognition, there can be recognition in legislation. And ARCAP talked about vacating jurisdiction which in fact, perhaps the -- a government could have something that may not necessarily recognize jurisdiction and legislation, but they may say, we’re not going to be exercising our jurisdiction.

There’s a few pieces of legislation and certain provinces, for example, that in New Brunswick, I’ll just take that one because it’s top of mind. In -- with respect to Social Assistance, they have a provision in their statute that says that their laws do not apply on reserve, right? Which potentially you can see it both
ways, one being problematic. But you know -- but they’re not asserting any jurisdiction in that area. And you might go look at ARCAP and have your researchers look at what they meant in terms of vacating jurisdiction, but they’re actually saying -- pulling back and actually not legislating and making it very clear that they’re not asserting jurisdiction in an area.

**COMMISSIONER QAJAQ ROBINSON:** You said earlier in response to another question other than Constitutional reform, this could be done. For example, the creation of legislative reform frameworks. So I guess when you look at jurisdiction that’s where it’s defined to a large degree in the Constitution. I invite you to go there. I guess what I hear a lot is that this space, the vacation of space is subject to another government who’s assumed that jurisdiction or holds it in one way or another, legally or not is another question. Gives it up, or doesn’t occupy that space and lets Indigenous Peoples occupy it piecemeal. Is that sustainable, or do we have to go further and reopen the Constitution?

**MS. NAIOMI METALLIC:** It’s a great question. Other smarter people than me have tackled it.

**COMMISSIONER QAJAQ ROBINSON:** I asked well.

**MS. NAIOMI METALLIC:** So ARCAP considered this as well, and Mary Ellen Turpel and Peter Hogg wrote
papers on this and you know, there’s been developments in
the law since. So let’s first start there. But you know,
this was post the Charlottetown Accord, which would have
included a provision that would have amended Section 35 to
specifically recognize the inherent right to self-
government. And yeah, so the conclusion and ARCAP adopted
this, that it’s a right recognized under Section 35 and
that it is -- that is supported by customary international
law and now you would say, UNDRIP as well. There’s some
Court decisions I’ll touch on in a sec too.

There was -- well, let me talk about them
now. For those of you from British Columbia, but the
Campbell decision where the Judge in that case, based on
the fact that Canada has had a self-government policy and
has signed several self-government agreements which were
challenged in Court twice, and in both decisions upheld by
the Court. So you know, and some of the argument was that,
well, how can you have -- sign these agreements when we
don’t have a specific provision in the Constitution Act
actually, you know, recognizing that. And in the Campbell
decision they said there is the jurisdiction outside of 91
and 92 of the Constitution and so that doesn’t take up all
this space.

The other decision which was more recent,
Chief Mountain sort of more saw it as delegated forms of
governance. Which I understand is problematic and I don’t
think -- I think that they were just sort of, you know,
trying to avoid that. But I think the approach -- the
interesting approach is in the B.C. Campbell case, and I
think also that, you know, our Constitution has to be read
consistent with international law as well. So I think the
arguments are there that you don’t -- you don’t need that
recognition in Constitutional law, you don’t have to reopen
the Constitution in order to do that. And you know, the
United States is an example that one can look at. They’ve
had jurisprudence since the mid-1800s that have recognized
the inherent right to self-government without a specific
provision in their Constitution recognizing that.

But in the ’60s, and ’70s, and ’80s, and
John Burrows writes on this and a few other authors,
they’ve has much more legislation that is not about giving
permission to the Indigenous groups. It’s a fine
distinction, I’ll grant it, but it’s about implementing
that inherent jurisdiction and setting in place the ways to
do that. So there is a John Burrows article, and I can
pull up my computer after to sort of, perhaps the
Commission should have that as well. And he does make that
comparison and talks about how the U.S. has a much more
robust history of passing legislation which is not about
giving the rights, it’s about implementing and recognizing
them and that there is perhaps something to be learned from
that approach. That’s okay? I’ll find that reference.

COMMISSIONER QAJAQ ROBINSON: That would be
great, thank you.

In terms of -- with recognition and with
frameworks in place that afford that, we’ve heard a number
of times, questions about actionability and recourse, and
that being an issue. You raised it as well in the context
of the child welfare case that -- the absence of that
framework is difficult because it fails to have obligations
and standards and whatnot identified. Mr. Argetsinger
raised that idea of an Indigenous Human Rights Tribunal.
In world where, sort of those frameworks were clear, what
do you think of this, this idea?

MS. NAIOMI METALLIC: I thought it was a
great idea. I wrote it down, but I forgot it since then,
but I actually do think that there needs to be more robust
remedies. So around the child welfare decision and the
four compliance orders, I mean, I did say I think that they
are trying to work on it and resolve it. But you know,
there’s been rumblings that there’s -- it’s really
difficult to -- what do you do when a government doesn’t do
what a tribunal has ordered in Canada for it to do, you
know? And so there’s some questions around, like, can you
actually hold the government of Canada in contempt for not
following through? And so there’s been some, you know, issues around that.

And there’s been some other decisions, the one I was -- the case I was involved with there was sort of a point where we thought, I don’t think they’re actually following what the Court ordered them to do in an injunction, and we tried to look at whether we could actually force the government to comply with the order. So there does -- there’s some real, I think important work that you’re hitting on and that Tim hit on, that there needs to be something more robust to give Indigenous people more remedies. Because right now the Courts are a poor substitute for that, even the Canadian Human Rights Tribunal was not made in such a way, or that -- to really address or thinking about the particular challenges that Indigenous people face.

So Cindy talks about, in one of her papers that she wrote, like how Supreme Court of Canada decision not too long ago decided that the Commission cannot order cost, right? And she wouldn’t have got as far in that case after whatever, nine years, had she not had a bunch of great lawyers who did it pro bono, right? And she can’t even get costs in that decision, right? And it’s so hard to bring these cases forward. So I think that a model that will allow that sort of remedies and also take into account
the real power imbalance and try to figure out a way to
resolve that, that would be great. So I’m in favour of his
idea.

**COMMISSIONER QAJAQ ROBINSON:** Tim, do you
want to raise a little bit more of the context around that
idea, or ---

**MR. TIMOTHY ARGETSINGER:** Sure. Maybe I can
just reference the place where it’s discussed in quite a
bit more detail than time probably allows for right now.
But so ITK released a couple of -- has released a couple of
position papers on implementation of the UN Declaration on
the Rights of Indigenous Peoples.

As many of you may know, the Government of
Canada -- the current government committed to implementing
the UN Declaration in a statement made in, I guess, it was
May 2016 at the UN Permanent Forum in New York. But the
way it's characterized the manner in which the rights that
are affirmed in the Declaration should be or will be
implemented is problematic in the sense that the -- to
simplify, the way in which those rights -- the government
often frames those rights is as if they can be -- going to
cherry-pick from the Declaration and implement it through
discrete pieces of legislation or through policy changes
that don't necessarily take into account the fact that
human rights work together in a integrated in a holistic
manner.

So anyway, the -- those -- among our recommendations is that a Indigenous human rights body would be necessary to create -- it all comes down to this idea of what is a right without a remedy. And when we talk about the rights, like a did a bit yesterday, such as right to housing or food, shelter, if there isn't some remedy in place within Canada that allows for individuals or communities to seek redress for the government's failings in those areas, then we're not going to necessarily see the action required that we're all hoping for and talking about.

COMMISSIONER QAJAQ ROBINSON: Thank you both very much.

We hear from a lot of the families and survivors that we have heard from, and there is -- there is these political rights, governance rights at play, and then the rights, like life, liberty and security of the person, individual and collective rights.

And I'm not sure exactly how to phrase this as a question, but when you're talking about exercising those rights, when there is issues with having clean water in your community and having access to food, having access to healthcare, having access to these fundamental essential services is an issue, there's huge interplay between those
fundamental rights and sort of the more political collective of rights.

Do either -- anybody on the panel want to talk a little bit about that? It's so broad, and I'm sorry. It's just something that I am thinking about, is in the interconnectedness and the indivisibility of rights from each other is really important, I think, as we're looking at the issue of violence against Indigenous women and girls.

So perhaps I'll just leave it at that, rather than going -- unless you want to.

**MS. NAIOMI METALLIC:** It may -- I'm not sure, but it may go back to -- I think I was taken by something that Fay said too when she referenced that paper that Cindy McIvor wrote about, you know -- what was it called again? I wrote it down somewhere. You said, "I'm afraid of self-government." That's what her paper was called.

And just the -- you know, there is, I think, a fear, and legitimate fear, perhaps, that if we're going to be -- if did go to self-government that we'd somehow be replicating patriarchal systems; right? And that was, I think, brought home by a lot of things that Fay said, and I think it is, as I say, a legitimate fear.

But at the same time my next reaction, and
I'm just trying to work these things out too, is that -- but -- like the answer can't be that we do nothing; right? Or we stay in this or we allow colonial governments to continue to call the...

I mean, the only way forward is one that gives more control, but we have to figure out a way within providing that control that it's fair and equitable and it reflects the voices of women, right, in a really important way. And I don't have all the answers of how we do that.

Again, I kind of like copped that one. I didn't cop out. I think the real answer is it's -- I think -- international law and our own Indigenous laws can help us. And you've heard from some experts, and we'll hear from more experts who maybe can help us flesh out what that is. It's the best place that I can come to, but I don't have all the answers. You might have answers.

COMMISSIONER QAJAQ ROBINSON: Okay. Thank you.

One of -- and Fay, thank you -- you spoke about this, and Tracy, you did as well, this idea of rights. Well, if you don't know what your rights are, and you don't have a recourse, what is that thing really? And I've heard from families talking about, well, it's just a piece of paper in this government office until it means something to me on the ground.
Is access to information about rights, about entitlements an issue you see in your communities? So Tracy and Fay?

**MS. TRACY DENNISTON:** Yes. It's something that we -- I don't know if it's based on us not asking for it, or -- yeah. It's not provided, so it's not really explained. So it's something that we really don't take much interest in, I guess. It's just something we just don't do.

**MS. FAY BLANEY:** I think in a climate of the normalization of violence, your right to safety is just not even brought to bear on the circumstance. And it is a double-edged sword, because we're also dealing with racism from the larger society.

And so one of the things I mentioned yesterday is that we're deemed to be traitors when we're calling in the police or any outside forces, yet if we do nothing the end result could be our own death, you know, and I have seen that happen.

**COMMISSIONER QAJAQ ROBINSON:** Yeah.

**MS. FAY BLANEY:** So I think our rights are meaningless when -- you know, in those circumstances in our own communities.

**COMMISSIONER QAJAQ ROBINSON:** Now, there were some questions asked about access to justice, like
access to legal services. Do you think that that plays a role in that continued inability to access and exercise those rights?

**MS. FAY BLANEY:** Oh, yeah, for sure. In B.C. we've -- I think the women's groups, I haven't been that engaged with that struggle, but it's definitely impacted women that there were all the cuts to Legal Aid in our province.

**COMMISSIONER QAJAQ ROBINSON:** Tracy, is that something in Nunatsiavut?

**MS. TRACY DENNISTON:** Yeah. I think it's a problem in our community. And the way our court systems work in our remote communities is there -- it's a flying court system. It comes in, and usually when people want to access services for the court it's just very last minute when -- just before court gets in. And there's just not no time to spend with the victims or the offenders to deal with information, making sure they understand all the information. I think that's a problem.

**COMMISSIONER QAJAQ ROBINSON:** So it's mostly for criminal law ---

**MS. TRACY DENNISTON:** Yeah.

**COMMISSIONER QAJAQ ROBINSON:** --- am I right? So if you have a family law case or you have an issue with ---
MS. TRACY DENNISTON: Family law comes in.

COMMISSIONER QAJAQ ROBINSON: Okay.

MS. TRACY DENNISTON: Family law comes in as well, but then I find they're only there for -- we only have circuit court like probably 10 or 12 times a year. They come in to deal with court matters.

COMMISSIONER QAJAQ ROBINSON: Okay. Do they assist with any other access to essential service type issues, like Legal Aid?

MS. TRACY DENNISTON: I don't know.

COMMISSIONER QAJAQ ROBINSON: Okay. Okay.

I think those are all my questions, and I thank you all so much. Nakurmiik.

COMMISSAIRE MICHELÉE AUDETTE: Merci, Qajaq.

Still learning my Inuktitut.

(LAUGHTER/RIRES)

QUESTIONS BY/QUESTIONS PAR LA COMMISSAIRE AUDETTE :

COMMISSAIRE MICHELÉE AUDETTE: Alors, je vais profiter de la traduction simultanée pour pouvoir poser quelques questions en français et je vais commencer avec Mme Metallic.

Professeur Metallic, juste pour... vous savez que l’Enquête nationale a aussi comme mandant de faire l’éducation auprès des canadiens et canadiennes sur des questions très importantes pour les femmes autochtones,
Les familles et les victimes.

Les Premières nations au Canada, ceux et celles qui sont statuées, nous sommes régies sous la Loi sur les indiens, n’est-ce pas? Est-ce qu’il est vrai de dire qu’avec cette loi-là nous sommes considérés comme des mineurs?

Mme NAIOMI METALLIC: Minorités ou...

COMMISSAIRE MICHÈLE AUDETTE: Non, mineurs en bas de 18 ans.

Mme NAIOMI METALLIC: Je ne sais pas si je comprends tout à fait.

COMMISSAIRE MICHÈLE AUDETTE: Je ne sais pas c’est quoi en anglais considéré sous la responsabilité de...

Mme NAIOMI METALLIC: La tutelle ou quelque chose...

COMMISSAIRE MICHÈLE AUDETTE: La tutelle, oui.

Mme NAIOMI METALLIC: Oui, oui, oui. Bien, tu sais, une des doctrines que la Cour suprême du Canada avait développée pendant... ç’a commencé dans la cause Garren en 1983, mais le concept d’une obligation fiduciaire c’est des fois... même il y avait des causes avant ça plus... avant ça qu’ils ont parlé de l’obligation fiduciaire et puis des fois il y a quelqu’un qui critique
ça comme ça nous garde comme des enfants. Ça nous traite de cette manière. C’est une idée vraiment paternaliste que le Canada est le papa et nous sommes les enfants.

Mais je dirais qu’en même temps, peut-être qu’il y a une autre notion, la notion de la nation. La nation ça serait une idée qui aurait quand même des concepts.

La bonne chose avec l’obligation fiduciaire, ça met des obligations sur le fédéral. Et puis même je dis, quand j’enseigne mes cours, qu’on marque des obligations sur le Canada et puis la loi nous donne pas beaucoup. Alors la Cour suprême est venue avec l’idée de la fiduciaire... l’obligation fiduciaire.

Puis après des fils d’années, ils n’ont pas aimé ça parce que ça donnait trop d’obligations. Alors ils ont commencé de parler de l’honneur de la Couronne.

COMMISSAIRE MICHÈLE AUDETTE: O.k.

Mme NAIOMI METALLIC: Ils sont toujours en recherche des concepts qu’on pourrait utiliser pour garder l’état plus comptable, tu sais. Puis en tout cas, on a besoin de quelque chose qui garde l’état comptable assez mais qui en même temps nous respecte pas comme des enfants mais comme des partenaires.

COMMISSAIRE MICHÈLE AUDETTE: O.k.

Mme NAIOMI METALLIC: Je ne sais pas si ça
répond aux questions?

**COMISSAIRE MICHÈLE AUDETTE:** Oui, ça répond.

Puis dans la *Loi sur les indiens*, n’étant pas avocate de mon côté, mon interprétation, lorsque j’ai fait la lecture de cette loi-là, c’est une loi qui régit mon présent et mon futur mais ne protège pas ma langue innue, ne reconnaît pas ma langue innue. Est-ce vrai?

**Mme NAIOMI METALLIC:** C’est vrai.

**COMISSAIRE MICHÈLE AUDETTE:** Ne reconnaît pas ma spiritualité.

**Mme NAIOMI METALLIC:** Bien non.

**COMISSAIRE MICHÈLE AUDETTE:** Ne reconnaît pas que je pourrais avoir des droits et des responsabilités comme les Canadiens et Canadiennes.

**Mme NAIOMI METALLIC:** Non.

**COMISSAIRE MICHÈLE AUDETTE:** Alors cette loi-là, c’est ce qui me fait penser que je suis traitée comme un enfant quand je fais une lecture, n’étant pas avocate.

Est-ce qu’en 2018 il est normal que les Premières nations statuées en vertu de cette loi-là soient traitées de la sorte?

**Mme NAIOMI METALLIC:** Non. J’aimerais nuancer un petit peu, mais tu as bien raison. Puis il y a
des manières que la loi... ben, la loi est utilisée pendant plus d’une centaine d’années pour nous assimiler.

Une chose que je pourrais dire par rapport à la loi, mais il y aurait d’autres manières de le faire, c’est l’idée d’avoir des terres collectives, tu sais, mais au même bout, de tout régir comment les communautés gèrent leurs argents et puis comment ils laissent leurs successions et toutes ces choses comme ça. Le monde dirait qu’on devrait avoir notre propre... le propre contrôle là-dessus.

Alors, non, on n’a pas besoin d’un Acte indien en 2018. Mais au même bout, le seul souci que j’aurais c’est qu’on ne veut pas dire ça et tout perdre. On veut pas que ce soit The White Paper encore, tu sais. On a les droits collectifs. On a des terres collectives. On veut plus de terres collectives ou on veut le choix d’avoir des terres collectives ou individuelles, mais on veut le choix. On veut pas que ce soit dicté.

**COMMISSAIRE MICHÈLE AUDETTE:** Donc c’est un exercice qui doit se faire de façon graduelle et intelligente, si je...

**Mme NAIOMI METALLIC:** Oui.

**COMMISSAIRE MICHÈLE AUDETTE:** Et sachant...

**Mme NAIOMI METALLIC:** Mais pas si graduel que ça. They’ve had a lot of time.
COMMISSAIRE MICHÈLE AUDETTE: O.k. Mais ça doit se faire.

Mme NAIOMI METALLIC: Oui.

COMMISSAIRE MICHÈLE AUDETTE: Pour avoir été témoin dans la lecture de plusieurs rapports et puis témoins lors des rencontres, oui, on a plus de femmes autochtones en politique, et je les félicite. Elles ont tout mon respect. Mais on entend par ces femmes-cheffes, la plupart, ou femmes conseillères, cette difficulté d’accéder à ces postes de décision ou d’influence. Bon, ça c’est une réalité qu’on entend. Mme Blaney l’a mentionné à quelques reprises. En ce moment, la loi n’offre pas des dispositions pour soutenir les femmes à aller en politique.

Alors pensez-vous que ça devrait être des recommandations dans le cadre de cette enquête-là de soutenir les femmes, peu importe leur statut social, leur revenu, et ainsi de suite, de pouvoir les soutenir en termes de formation ou de services pour faire en sorte qu’elles aussi aient accès à ces postes-là, influence et de leadership?

Mme NAIOMI METALLIC: Bien sûr, je pense que ça serait une bonne idée.

COMMISSAIRE MICHÈLE AUDETTE: O.k. Merci beaucoup.

Et pour terminer, pour ceux et celles qui
nous écoutent, la Loi sur les Indiens définit qui est Indien, qui ne l’est pas mais ne définit pas qui est Innu, qui est Atikamekw, qui est Mohawk, qui est Anishinaabe et ainsi de suite.

Mme NAIOMI METALLIC: M’hm.

COMMISSAIRE MICHÈLE AUDETTE: On s’entend là-dessus. Donc on naît avec un numéro de bande, n’est-ce pas? Moi, je suis une 6-2... maintenant 6-1, pour vrai. J’ai upgradé a-t-on dit. J’ai su ça il y a quelques semaines.

Mme NAIOMI METALLIC: Félicitations.

(RIRES/LAUGHTER)

COMMISSAIRE MICHÈLE AUDETTE: C’est une cute anecdote, mais c’est pas l’espace pour le faire.

Bon, de façon hypothétique, je suis une 6-2. Ma question va être pour Mme Blaney et Professeur Metallic. Vous avez, à quelques reprises, mentionné toutes les femmes qui ont perdu leur statut avant ’85 ou leurs droits au cours de l’histoire. Ça, on vous a entendu le mentionner dans votre présentation... vos présentations. On s’entend que c’est une histoire qui s’est déroulée à travers le Canada, tant pour les femmes métis, les femmes inuit, les femmes des Premières nations. On s’entend là-dessus.

Pour la Loi sur les Indiens, en 1985 arrive la Loi C-31 qui redonne le statut aux femmes ayant marié un
non-Indien. C’est ce qu’on m’apprend. C’est ce qu’on nous enseigne dans les rapports et c’est ce qu’on vit.

Étiez-vous au courant... vous avez mentionné, pardon, avec un échange avec Mme Thomas... Viola Thomas... l’obligation de divulguer le nom du père. C’est un règlement. Ce n’est pas un article de la Loi sur les Indiens, n’est-ce pas?

Mme NAIOMI METALLIC: Oui.

MS. FAY BLANEY: I don’t know.

Mme NAIOMI METALLIC: Oui, c’est une politique, oui.

COMMISSAIRE MICHÈLE AUDETTE: C’est une politique.

Mme NAIOMI METALLIC: Oui, c’est ça. Puis il y a une décision récente de la Cour de l’Ontario d’appel Gueld, qui en parle.

COMMISSAIRE MICHÈLE AUDETTE: Parfait.

Donc ce qui veut dire pour moi, 6-2... oublions que je suis upgradée, là... ce qui veut dire si depuis 1985 je mets au monde... aye, puis j’en ai mis cinq au monde, là, vraiment une maman fière... mais dans des circonstances difficiles, je me retrouve en situation de violence familiale, je me sauve de mon milieu. Le père signe pas parce que je suis plus dans la maison. Qu’est-ce qui arrive avec mon enfant? Je suis une 6-2.
Mme NAIOMI METALLIC: Tu veux pas mettre son nom sur le certificat de...

COMISSAIRE MICHÈLE AUDETTE: Je peux pas pour des raisons de survie et de sécurité.

Mme NAIOMI METALLIC: La politique, je pense que... ben, je pense maintenant elle est inconstitutionnelle, mais pas totalement. Mais oui, ça rendrait que tes enfants probablement se seront dit que... ben, ils diraient que le papa est pas statué, alors ils seront pas un statut indien.

COMISSAIRE MICHÈLE AUDETTE: Donc si vous me dites le papa n’est pas statué, donc il y a une présomption d’un père non-autochtone?

Mme NAIOMI METALLIC: C’est ça.

COMISSAIRE MICHÈLE AUDETTE: D’accord. Il est écrit « père blanc », comme si les Canadiens étaient tous blancs, mais...

Alors ça l’a aussi un impact si mon conjoint meurt ou un suicide ou un viol?

Mme NAIOMI METALLIC: M’hm.

COMISSAIRE MICHÈLE AUDETTE: La loi va présumer, n’est-ce pas, que le père est non-Indien, donc il n’y a pas de statut pour cet enfant-là?

J’habite à Attawapiskat.

Seule l’avion peut se rendre là où la route
d'hiver. J'habite à Schefferville. Seul le train ou l'avion peut se rendre là.

Est-ce qu'il est vrai dans certains moments les conseils de bande vont offrir des services seulement aux gens statués, les services essentiels? C'est les règlements j'imagine. C'est la loi.

Mme NAIOMI METALLIC: Si je pourrais répondre, y a une décision du tribunal des droits humains et de la personne, j'oublie le nom, mais c'était une cause -- mais la chose avec certains conseils de bande, ils reçoivent seulement de l'argent pour donner des services à ceux et celles qui sont statués d'habitude dans leur convention d'emplacement.

Mais y avait une décision du tribunal -- j'oublie le nom mais je pourrais le retrouver -- qui a dit que s'ils sont vivants sur la réserve, faut que tu leur offres les services mais les conseils de bande sont défendus de -- si tu vivais à côté de la communauté mais pas dans la réserve, ils pourraient pas te donner des services.

COMMISSAIRE MICHELÉE AUDETTE: Oui. Mais on sait aussi que les communautés sont sous-financées.

Mme NAIOMI METALLIC: Oui.

COMISSAIRE MICHELÉE AUDETTE: Alors c'est difficile de répondre à des situations comme celle-là.
Donc je comprends, merci.

Puis pour terminer, d'après vous, est-ce que les Canadiennes qui mettent au monde un enfant dont le père n'a pas signé la paternité de cet enfant-là, est-ce que l'hôpital ou un service essentiel va être refusé à une Canadienne qui a un enfant sans père?

Mme NAIOMI METALLIC: Non, je pense que les lois sur la citoyenneté canadienne te laissent avoir un parent pour être un citoyen.

COMMISSAIRE MICHELLE AUDETTE: Bon, merci beaucoup pour cette information-là.

Alors pour Fay, est-ce que vous avez entendu dans votre recherche au niveau du C-31, sur la loi C-31, des situations de mères qui se sont retrouvées avec des -- à cause du règlement ou de la politique de divulguer le nom du père dans des situations d'injustice?

MS. FAY BLANEY: We spoke to women that had been sexually assaulted and didn't want to name the offender. That came up a few times in the work that we did on Bill C-31.

COMMISSIONER MICHELLE AUDETTE: And what was the impact on their children?

MS. FAY BLANEY: Then she -- then the children lose status or they get half status.

COMMISSAIRE MICHELLE AUDETTE: Alors merci
beaucoup là pour nous expliquer et de répondre à mes questions-là au sujet du règlement-là instauré depuis 1985 sur l'obligation de divulguer le nom du père.

D'après vous, quelles seraient les solutions ou les recommandations face à cette politique? La maintenir, l'abolir?

**Mme NAIOMI METALLIC:** Celui-là pour sûr l'abolir. Y a pas de question. Excusez. Pour moi c'est de l'abolir puis y a plusieurs rapports même avant la décision Guelt (phon.) que le monde soulevait le problème avec celui-là. Pourquoi pas prendre la parole de la mère? Mais même c'est tout le problème avec le fait que le statut indien est déterminé sur le "second generation cut-off rule", puis ça c'est un grand problème.

**COMMISSAIRE MICHÈLE AUDETTE:** O.k. Merci beaucoup.

Maintenant mes questions sont pour nos panellistes, nos experts et gardiens du savoir-là inuit. Moi-même je suis, comme commissaire mais comme femme aussi, à l'apprentissage de votre richesse, de votre culture, de vos savoirs. Et je suis très, très, très attentive à tout ce qu'on a entendu dans les témoignages lors des audiences à Rankin Inlet ou lors des rencontres informelles avec des organisations de femmes inuites, pour femmes inuites, ou pour les Inuits aussi.
Et j'étais surprise je vous dirais parce qu'on doit rester neutre là comme commissaire mais on est aussi très, très humain puis moi je peux pas rester neutre par rapport à ça. Tout ce qui est question de sécurité, tout ce qui est question de survie, qu'on soit Inuit, Première Nation ou Canadienne-là, je suis convaincue pour moi c'est un droit que tout le monde doit avoir d'être en sécurité.

Et lorsqu'on a entendu les témoignages des femmes qui habitent le nord, qui étaient en situation de détresse puis que dans leur famille de façon intergénérationnelle les grands-parents, eux comme parents, et leurs enfants et petits-enfants pouvaient vivre aussi cette situation de détresse et plusieurs raisons amenaient cette réalité-là et qu'elle se retrouvaient sans services au niveau de la santé mentale, sans services adaptés culturellement à votre culture à vous.

Pouvez-vous me dire dans les 54 communautés ou villages qu'y a pour le peuple inuit, y a combien de centres de désintoxication ou de vouloir reprendre sa vie en main? Combien de centres aussi pour soutenir la situation de crise-là, "suicide centre", des centres-là contre le suicide? Et ce qui m'a frappé c'est hier matin en lisant un article du Huffington Post qui disait 12 suicides, tentatives de suicide en deux semaines dans une
région chez les Inuits. C'était ici là au Canada-là.

Est-ce qu'y a des centres pour soutenir la santé mentale de votre peuple? Si oui, combien?

**MS. TRACY DENNISTON:** For Nunatsiavut regions, there's different parts to that. I need to answer in different ways. So there are mental health services available through the hospital and if you want services but sometimes that can be a barrier if you don’t want service from a person who is from outside. So that is a barrier but you can still have services. Sometimes it works to their advantage, sometimes it doesn't. So it's all dependent on the person.

But in regards to detoxing and treatment, there's none in our communities, none. Like if a person wanted to get off drugs or if they wanted to get off -- if they wanted to stop drinking, they had an alcohol problem, they wanted to stop, they need to detox, they wouldn't be able to get those services in our communities. They would have to go -- the closest place is in Newfoundland somewhere. Corner Brook would be for the detox.

And treatment, if they want to go for treatment, then a lot of families end up having to being forced to get treatment because they need to get their treatment done in order to get their children back based on apprehension of their children and sometimes it's through
Corner Brook, sometimes it's through other like First Nations' places where they offer treatment in Nova Scotia or somewhere -- somewhere not even closely connected to our culture but still maybe better than Newfoundland because it's not of the same culture. Like the services that we have are not of the same culture.

So if there's something else that I'm supposed to -- am I missing something else?

COMMISSAIRE MICHÈLE AUDETTE:  Non.

MS. TRACY DENNISTON:  Okay.

COMMISSIONER MICHÈLE AUDETTE:  How many centres do you have, you said none.

MS. TRACY DENNISTON:  We have zero, zero detox. For the heavier issues, we don’t have the services that are required.

COMMISSIONER MICHÈLE AUDETTE:  And what about for suicide crisis, where do they go? Is there centres or places?

MS. TRACY DENNISTON:  There's a -- there is -- when I finished my bachelor of social program, I worked as a mental health and addictions counsellor in my home community and one of my problems for me was I said I would never put one of my own people in jail but that was what I had to do in order for the person's safety based on the policy that I had to follow according to my job rules. But
for me that was only a band-aid solution because you were dealing with it at that time.

To me we're not dealing with the root issues of the problems that cause them to get to these places of wanting to commit suicide, heavy drinking issues. Those are the things that we struggle with and I still feel there needs to be a lot of work in that area for Nunatsiavut anyway.

MR. TIMOTHY ARGESINGER: I had mentioned earlier that Kuujjuaq is the only community that has a dedicated Inuit-specific addictions treatment centre.

COMMISSIONER MICHÈLE AUDETTE: In Quebec?

MR. TIMOTHY ARGESINGER: In Inuit-Nunangat. So of the communities within Inuit-Nunangat that is the only one. But that is discounting, potentially, programs that have the same intended outcome that -- but that may lack a dedicated intake facility.

COMMISSAIRE MICHÈLE AUDETTE: Et pour terminer, je veux saluer le courage de toutes ces femmes et familles inuit qui sont venues nous parler, que ce soit en audience publique ou audience privée, ou déclarations. De venir nous dire qu’elles ont le désir de vouloir se sortir de ces situations-là, de vouloir vivre et non survivre, ça, elles ont toute mon admiration.

Ce qui m’a fait réagir, on nous a expliqué
MR. TIMOTHY ARGETSINGER: So there's a difference between -- I mean, when you talk about mental health services, it's a really general term, but there's a difference between say counselling or psychiatric care, for example. So there are communities, say the Ilisaqsivik Program in Clyde River in Nunavut, they have Inuit-specific counselling that they provide, they train Inuit counsellors.

When it comes to psychiatric care in the territory, and I'm just talking about the area that I know the most about, the psychiatrists are coming in, flying into communities, evaluating, potentially prescribing medication, you know, adjusting dosages and making those kinds of decisions and then -- and leaving again.

So it -- you know, in our National Inuit Suicide Prevention Strategy, I mean, we focus a lot on our -- what are often called upstream measures in where risk begins, beginning in early childhood and even prenatally.

So I guess to answer your question, it
differs from region to region and from community to
community in terms of just the access that someone might
have to mental health services.

It -- oftentimes, unfortunately, it comes to
somebody who is, you know, at risk, potentially attempting
suicide or -- and then the intervention is at that point
would even be, you know, someone ending up in a jail cell
because they are under the influence and they might be
feeling suicidal and expressing that to someone. So that's
-- that is just generally speaking the picture.

COMMISSIONER MICHÈLE AUDETTE: Thank you.

Alors pour terminer, juste pour reprendre un
commentaire de Tracy, et j’ai vu dans votre rapport,
Timothy, qu’il y a en effet des centres correctionnels dans
vos régions, mais il n’y a pas de centre qui a une approche
préventive. Donc, on peut parler des centres de traitement
ou des centres pour contrer le suicide et ainsi de suite,
mais on a des centres pour punir les gens... comment on
appelle ça... des services correctionnels.

Je vous dirais pour ma part, pour avoir été
témoin, les gens disent que vous êtes loin. Beaucoup de
gens canadiens, et moi je disais ça avant, vous êtes loin.
Et Qajaq m’a dit, « C’est toi qui est loin. » Depuis ce
temps-là je dis plus jamais « Vous êtes loin. » Nous
sommes loin de vous, qu’on soit Premières nations ou le
Canada en général et vous méritez de vous faire connaître.

Merci à ceux et à celles lorsqu’on est allé dans votre région... dans une de vos régions... pour la première fois de ma vie j’ai mangé à terre avec tout le monde et pour moi c’est gravé ici et puis ici pour le restant de mes jours. Et je le dis encore, le Canada mérite de vous connaître et j’espère, par cette enquête-ci, par les nombreux rapports que vous avez faits, que des recommandations qui existent depuis longtemps, éventuellement les nôtres, que les gens qui ont le bâton magique et qui ont cette capacité-là d’amener... de donner vie à ces recommandations-là, ça, je le souhaite sincèrement.

Et je reprends un terme qui a été dit par les gens ici, il va falloir une volonté politique pour que cela se réalise et on va faire en sorte, pour ma part... je veux retourner là-bas un jour, manger encore avec vous-autres.

Alors merci à ceux et celles qui nous ont accueillis et soyez fiers de votre belle culture. Elle est riche. Elle est vivante. Merci.

(TELEPHONE RINGING/TÉLÉPHONE SONNE)

COMMISSIONER MICHÈLE AUDETTE: That’s my mom.

(LAUGHTER/RIRES)
COMMISSIONER MICHÈLE AUDETTE: I used to charge at AFN when their phone rang. Makumik. Merci.

QUESTIONS BY/QUESTIONS PAR CHIEF COMMISSIONER MARION BULLER:

CHIEF COMMISSIONER MARION BULLER: As Counsel said earlier, going last is a little bit easier because people have already asked the questions. So thank you, Panelists, all, for being here today, and yesterday as well.

Starting off, Mr. Argetsinger, you said yesterday that the youthful, if that's the right word, population of Inuit is putting pressure on housing stock or housing supply. Is that pressure in terms of type of housing, amount of housing, or both, or something else?

MR. TIMOTHY ARGETSINGER: I -- all right.

So the statement was that rapid population growth is putting a strain on existing housing stock, such that with allocations for -- federal allocations for the provision of social housing and annual budgets that it's not -- the quantities aren't great enough to keep up with the growing need.

CHIEF COMMISSIONER MARION BULLER: Thank you.

Professor Metallic, in reading the Daniels decision together with the Caring Society decision, what
sage advice would you give to Métis communities and
organizations across Canada?

**MS. NAIOMI METALLIC:** It's an interesting
one. You know, with all the, you know, stuff that happened
post Descheneaux and now these things going on, and then
I'm thinking, why are we still fighting on status when
Daniels tells us that we're all at the party? I don't know
about it being a party so much.

But -- yeah. In terms of -- I mean, we have
Daniels that tells us that they're part of the federal
government's obligation, but when the government's been
arguing for a long time that it has no obligations... I
suppose it would have meaning if, you know, we had
governments that were truly willing to accept that, you
know, they have certain obligations to provide services.

And yes. If you read them both together,
then similarly, there would be obligations with Canada with
respect to the Métis for essential services as well.

Now, some provinces have been playing more
of a role with Métis but, you know, there’s ways that those
things can sort of operate together. But you’re absolutely
right, that you could read those two together to also find
obligations on Canada towards Métis.

Could I take one thing to add to the comment
about housing, just if that’s okay? Because I meant to
raise this, and since you asked about housing.

I had a student who wrote a -- back on my theme about that, you know, these are policies and they’re not written. I had a student write a paper last semester about the interaction between INAC’s housing policy and default management. Because he said there was a community that we’re aware of in New Brunswick who hadn’t built a house for 14 years because they were under third-party management.

And when you’re under third-party management, you can’t get any funding to build a house. And the reason they went into debt in the first place is because they built some houses. And so they have a massive overhead, yet -- it’s funny but it’s so sad, too, because, I mean, this is a community where you have this massive overcrowding.

So the student wanted to write a paper on it and one of the things she wanted to do was find INAC’s housing policy, and I didn’t have it. And she looked online.

And so she ended up writing the department and she received it I think a week before her paper was due and it was -- so she received a copy of it and she sent it to me for my records.

It’s a document from 1996, it still says
“Draft” on it, it’s nowhere available online, and it’s typewritten. You know, and that’s what governs -- and I can provide a copy of that to the Commission if you’d like it as well. And, you know, it says something like, “We see the main obligation of the First Nations to provide housing.” Right?

But this is what we have to govern policy for -- like, one of the -- how many times did we hear, “housing” the last couple of days, and that’s their policy that’s for housing.

So I just wanted to raise that because I didn't have a chance.

**CHIEF COMMISSIONER MARION BULLER:** I would like to see that.

**MS. NAIOMI METALLIC:** I will send it to you.

**CHIEF COMMISSIONER MARION BULLER:** Thank you.

Again, Professor Metallic, assuming for the moment that Indigenous people and organizations and governments across Canada are asserting rights, are domestic courts the proper venue, or are international court the proper venue for dealing with those types of disputes?

**MS. NAIOMI METALLIC:** A lot of people would say that domestic courts are just not there yet to
understand these issues. Most of the judges who are
sitting do not have an appropriate understanding of these
issues. I know that there’s more judicial education that
is happening now.

I mean, our courts are still very reticent
over socioeconomic rights. I know they’re also very
deferential to government, especially when it comes to
socioeconomic rights and things about -- I write about this
in my paper that often because there is no legislation
they’re even more deferential and government lawyers argue
strenuously that you have to be deferential because this is
only policy, and these sorts of things. So governments
benefits in some respects from not legislating.

But, you know, another -- probably some of
our experts are going to talk about domestic -- or
international courts can speak about that better but
there’s lots of reasons to argue that domestic courts are
still very much not in a position to really address a lot
of these issues. And maybe something more, like, you know,
a tribunal that is -- you know, has -- building on Tim’s
earlier suggestion but maybe a tribunal that has, you know,
a very specific mandate, and to consider particular
international documents and other things. Maybe that is an
approach.

But our courts, they’re still a lot to be
desired. I mean, once in a while we get some really great
decisions but a lot of times we don’t. And, again, there's
all the access to justice issues. And even to get to
court, how hard that is because there’s, again, this
imbalance of power where the government has essentially
taxpayer dollars to be able to fight and fight and fight,
and they often do. And we don’t even get to hear a lot of
these cases on the merits, if a First Nation can even get
to the doors of the courtroom.

CHIEF COMMISSIONER MARION BULLER: Thank
you.

Ms. Denniston, I just want to clarify
something that you just said. In answer to a question that
Commissioner Audette asked, you said in response to suicide
treatment, rehab, and detox, that we’re not dealing with
the root issues or not addressing the root issues. Did you
mean that on an individual basis or on a community basis?
Could you clarify that, please?

MS. TRACY DENNISTON: On a community basis.
I feel this is where the problem exists, is in all our
communities, relocation, intergenerational trauma, and also
residential school impacts.

And I just wanted to add -- I’m glad you
asked me the question because I just wanted to clarify on
behalf of -- after Tim finished, in our communities,
suicide prevention, we don’t have -- if there was a suicide attempt, and that happens quite often, they’re sent out either -- they’re either video-conferenced by the clinic in our communities by a doctor in Goose Bay who says if he’s okay to be left to go home or whatever. If not, if it’s pretty bad then they get sent to Goose Bay for -- on a medivac flight. And sometimes they can go -- if it’s a weekend, they’re released and come back to our community Monday without any services, it’s just -- it’s based on risk and then their risk assessment. And they’re released based on what they’re saying that they’re no longer suicidal but they just had an attempt.

CHIEF COMMISSIONER MARION BULLER: Okay,

Ms. Blaney, I have a series of questions for you. Yesterday you referred to harm reduction strategies in your evidence. What, if any, affect do harm reduction strategies have on the safety of Indigenous women and girls?

MS. FAY BLANEY: I don’t think they’re having much effect, in terms of the Fentanyl crisis that’s going on right now. The stats that I hear is that in the Canadian population, the -- it’s men primarily that are overdosing, but amongst Indigenous women it’s pretty much half and half, men and women.
So I don’t think they’ve been very successful in helping people to achieve a healthy lifestyle from the addictions.

Chief Commissioner Marion Buller: Also yesterday you mentioned a program called Sister Watch that exists -- or used to exist in Vancouver. Similar programs existed across the country. Based on your experience what, if any, affect do those types of programs or services have on the safety of Indigenous women and girls?

Ms. Fay Blaney: The women that I worked with in the downtown eastside were very critical of the program. They really didn’t like having these emergency telephone lines on street corners that they could call in cases of emergency. And then whey do call, they receive an answering service, and so it doesn’t do anything to address the urgent situation that they find themselves in.

Another concern that they had was that they weren’t able to come directly with issues and concerns that they had to the meeting. If something was happening with them, that they had to go through an advocate and they didn’t want to do that.

The women in my group they just pooh-poohed it when I wanted to do it as an issue that we could work on, you know, learn more about and see what we could do to contribute it. And the women in my group were just opposed
to it; they didn’t like it at all.

CHIEF COMMISSIONER MARION BULLER: Earlier on today, Ms. Blaney you said that the United Nations human rights instruments were developed post-World War II, and the Indigenous worldview is not included in those instruments, at the writing of those instruments. You went on to say that they would look different.

What do you think those instruments would look like if the Indigenous worldview was included?

MS. FAY BLANEY: Well, the other Indigenous peoples around the world are also tribal like we are and collective in our outlook on the world, and so I think that much more of our rights would have been protected if it had included these other Indigenous nations around the world.

But, you know, I think the countries from the south are critical due to the fact that it was developed without their involvement as they were under colonial regimes.

CHIEF COMMISSIONER MARION BULLER: Do you think that human rights would have been defined differently?

MS. FAY BLANEY: It may have been. I think that our rights and responsibilities are really important to us as Indigenous peoples. It’s not just about individual rights. It is about our responsibility to
community. And, you know, we were talking about that yesterday, about my puberty rights and how I was being groomed to be responsible for my community. And this goes like across the board for every single homasku (phonetic) person. Every person would have been groomed to be responsible to the community. And so individual rights are -- it’s kind of -- you know, it doesn’t quite fit.

CHIEF COMMISSIONER MARION BULLER: M’hm.

Okay.

And again, Ms. Blaney, we’ve heard from women who have been chiefs and councilors ---

MS. FAY BLANEY: M’hm.

CHIEF COMMISSIONER MARION BULLER: --- in their communities. We’ve also heard from them about the horrible lateral violence that they experienced as a result of their roles as chief and/or councilors. You described your own experience and ---

MS. FAY BLANEY: M’hm.

CHIEF COMMISSIONER MARION BULLER: --- used the term “one-term wonders” ---

MS. FAY BLANEY: Yes.

CHIEF COMMISSIONER MARION BULLER: --- which is quite appropriate.

We’ve also heard about encouraging women to participate in politics. Is it reasonable to expect women
to participate more in community politics as band
councilors chiefs without addressing the core issue of the
impact of patriarchy?

MS. FAY BLANEY: I think in the meantime,
and this has been my thought for the past few years,
because my community is in extreme turmoil; it’s really
toxic, and every time you try and have a discussion with
anybody, they condemn you in a really derogatory way. I
just got that a couple of days ago. Before I came, I was —
— someone was criticizing the Chief, and I made a comment,
and I got told off on Facebook.

So it just seems to me that this whole
system with the Indian Act is so pathetic, and it’s just
not worth my time to participate in band politics.

I was advising this young woman that I know
to not run because she was so busy with language. She was
teaching her children, even though she was really
struggling with the language, and she was participating in
the ceremony that I spoke of, the river bathing, and she
was bringing back drumming and singing. My sister did that
too before she -- my sister suicided, but she was one of
the first to bring drumming and singing to our community.
And all of those seem to build community in a much more
effective way than trying to sit on the Band Council or in
the Band office and try and effect change that way. I
think that a whole lot more can be achieved by working with
our culture and our language and being on the land and
working with the youth.

Currently, the youth are -- yeah, I just got
really triggered when I was listening to my Inuit friends
and what’s happening with their youth, and it’s like that
in my community as well. The youth are being sexually
abused so young. I just think that if some of the youth
took up this passion of bringing back our language and our
culture and going out onto the land -- we also were
relocated and we’re landlocked, which really is horrible.
We don’t have stories of the land because it’s not the land
we were on, and we aren’t beside the water. I mean, I
learned the water. I learned to swim really young and
could operate boats and could access the seafood resources
and all of that. Now the people are landlocked and there’s
no clams; there’s no fish, I mean, just highways and
airports.

And so my idea of revolution in my homelands
is just people saying “To hell with the Indian Act and the
Band Council and let’s build our community over here.” And
they’re sort of on the brink of that right now. Some of
those people that are condemning me, they’re also involved
in the singing and the drumming and going back to the land.
So, you know, it’s a process.
CHIEF COMMISSIONER MARION BULLER: Thank you, Ms. Big Canoe. Those are my questions.

RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MS. CHRISTA BIG CANOE:

MS. CHRISTA BIG CANOE: Thank you, Commissioners and Chief Commissioner.

The nature of my re-examination is relatively short and technical, but I do make -- I’m making one request, and that is that I speak first to Mr. Argetsinger because he will probably have to leave after questions as a matter of travel. And if I may proceed that way?

And I would just like to say to the panel I only have clarification questions in re-examination for Tim and for Naiomi. Actually, the Commissioners did, through their questions actually, draw out where I did have some clarification. So through the other two witnesses, that was helpful.

So if I may ask you a question, Tim? And so I just want to be clear, this is more of a technical clarification, and I’m not actually -- my intention of asking this question is not to change or to try to get you to change your position on anything contained in the document or the positions you took in terms of shelters.

So there was a document that we put into
evidence earlier -- the Nunavut Shelter Contact Information
I think is what we called it -- and we heard that that was
prepared by Puuktutitit (phonetic). I am just simply going
to ask if it’s possible for you to make an undertaking to
confirm, because if I understand, looking at this list, do
you know that it’s true that all of these exist?

MR. TIMOTHY ARGETSINGER: I haven’t
personally vetted the list. I mean, I appreciate that
somebody gathered the names of the shelters, but I haven’t
called each and every region to verify.

MS. CHRISTA BIG CANOE: And so what I’m
simply asking if it’s possible for you to please undertake
to do that vetting. I’m not presuming the list is
inaccurate. I just want you to vet it, because when you
answered questions, you answered them while reflecting on
this list. Is that true?

MR. TIMOTHY ARGETSINGER: Yes.

MS. CHRISTA BIG CANOE: Okay. And so if I
could have you undertake to email Commission Counsel Violet
Ford, just confirming, and then we will share that email
with the Commissioners and all of the parties with
standing.

And that’s actually my only point of
clarification for you. And again, there’s no assumption
that it’s inaccurate. We just want to make sure if we’re
putting that evidence that. So that’s just a tactical matter.

And again, I wanted to thank you. If you do feel you need to leave, I understand.

And my other tactical and remaining questions are for Naiomi. Obviously you have been sharing, both in your chief, but the questions out of re-examination only drive out of what we’ve heard in cross or subsequent questions.

**MS. NAIOMI METALLIC:** M’hm.

**MS. CHRISTA BIG CANOE:** And we have been hearing throughout the last two days about the First Nations Child and Caring Society. What I do note is we’ve never put on record the actual case citation. So it’s a simple question: can you give me the case citation?

**MS. NAIOMI METALLIC:** So just starting at the 216, so 216 CHRT 2.

**MS. CHRISTA BIG CANOE:** Okay. And we’re not going to put that into exhibit because it’s case law, and so we can just recognize it as an authority. And that seems simple, but I want to make sure that it’s reflected in the record, the case we’ve been talking about, and you’ve referred to it as the Letter decision.

I also wanted a few follow-up questions. So is it true that the panel retains -- so when I say the
panel, I mean the Canadian Human Rights Tribunal -- retains jurisdiction over the matter until any orders are fully implemented?

MS. NAIOMI METALLIC: Yes.

MS. CHRISTA BIG CANOE: And that’s important because parties today asked about the continuing orders, and so has one of the Commissioners. So as long as the orders are not implemented, the Canadian Human Rights Tribunal actually retains jurisdiction over that?

MS. NAIOMI METALLIC: Yes.

MS. CHRISTA BIG CANOE: Okay. And so because they retain jurisdiction, I just want to check with you, and if you could please provide your opinion. These are decisions that are decisions that have been made and they can’t be unserved. Is that fair, in a current process. Like there's been no -- there has -- you had mentioned earlier that the -- it had not been appealed.

MS. NAIOMI METALLIC: Right. So the 216 CHRT2 decision has not been appealed, and the four compliance orders, I understand one was judicially reviewed the the federal court but then the parties have since settled. So that is my understanding.

MS. CHRISTA BIG CANOE: Okay. So -- and other -- just so I'm clear on this too. I understand, and I'll give you an example, others, such as the TRC, have
made calls to action for Canada to follow the decisions.
In your opinion, can this Inquiry and should it make
recommendations to follow the decisions and compliance
orders?

**MS. NAIOMI METALLIC:** It should. I mean, a
government should follow a Tribunal order if it hasn't
appealed it, but yes. I mean, I see no harm in this, you
know, re-emphasizing the need to comply with and to work
with the parties towards the reform that the Tribunal so
strongly urged.

**MS. CHRISTA BIG CANOE:** Right. And in your
opinion, this Inquiry and making that type of call of
action or a recommendation wouldn't be meddling with the
jurisdiction that the Canadian Human Right Tribunal had,
would it?

**MS. NAIOMI METALLIC:** I haven't researched
the issue, and I don't know the creative arguments that
could be made by the other side on that sort of -- I can't
see with the decision that is, you know, standing and
binding for another body, but I don't -- I haven't
researched this, I say. But I don't see the harm in
another body saying, we expect that Canada should fully
implement that decision.

**MS. CHRISTA BIG CANOE:** And thank you.

**MS. NAIOMI METALLIC:** But that's just me.
MS. CHRISTA BIG CANOE: Again, we've been talking -- you've been talking about a number of issues, and they were raised today by different parties. For the purpose of speed, I'll some just read the question right through.

MS. NAIOMI METALLIC: Sure.

MS. CHRISTA BIG CANOE: You've been talking about the fact that the Tribunal found -- and you've used different acronyms, but the decision uses the acronym AANDC -- is -- was acting pursuant to its 91(24). You said that in-chief and when you were asked questions today in relation to the responsibility or the issue.

Paragraph 84 of the decision actually says something similar to what you did. So I'm going to read it, or do you want read it?

MS. NAIOMI METALLIC: Sure. I can read it, if you like. Section -- paragraph 84 says -- right before this, this is talking about that although -- just to context-wise -- federal government took a programming and funding approach and talks a little about section 88, and then 84 says -- well, leading into 84, at the end of -- the last sentence of 83 says:

"However, this delegation and programing/funding approach does not diminish AANDC's constitutional
"AANDC [or INAC] should not be allowed to evade its responsibilities to [First Nations] children[s] and families residing on reserve by delegating implementation of child and family services to FNCFS Agencies or [the] provinces/territor[ies]."

MS. CHRISTA BIG CANOE: Right. And so my question, just for more clarification, is so you're agreeing, in your opinion -- and this is a similar position that you've made -- in your opinion you support the Tribunal's finding on this. And is this what derives -- when you were talking about this issue around the -- particularly, the funding or the government or jurisdiction not being allowed to evade, is this where you derive that authority from, or is there more to it?

MS. NAIOMI METALLIC: When I talk about in the paper one of the aspects that is so important about this case, this is this area of the decision. But it goes on -- really, the passage probably goes on to about the 115th paragraph. But it's a long section, but it talks about how Canada has section 91(24) jurisdiction when it comes to child welfare.
And yes, just because it chooses to delegate aspects of that to the province, it doesn't mean that it doesn't -- it still has section 91(24) jurisdiction.

**MS. CHRISTA BIG CANOE:** Thanks. And I just wanted one more question in relation to Jordan's principle and what the decision actually has to say about Jordan's principle. Because you did answer questions in relation to Jordan's principle today. I just want to clarify or have you expand slightly ---

**MS. NAIOMI METALLIC:** M'hm.

**MS. CHRISTA BIG CANOE:** --- so that we can understand.

The decision references, in paragraph 351, Jordan's principle being the child first principle you discussed earlier today. And there's a conversation in the case, and particularly in that paragraph, about -- between departments in the same government.

**MS. NAIOMI METALLIC:** That's right.

**MS. CHRISTA BIG CANOE:** So not only the jurisdictions between Canada and provincial territories, but also -- or between departments in the same government. And I know that most of the questions you answered today were in relation to differing jurisdictions as opposed to between departmental.

So I'm wondering if you can help us
understand a little bit about Jordan's principle when it's
-- you know, when you -- the principle that one
jurisdiction where the child is, who is supposed to be
receiving the services, rather than them battling it out as
a provincial or a federal.

But is it true that even if it was between
two federal departments, so say, someone was having a
concurrent issue, so maybe medical as one service but
another service was -- would exist out of a different
department, there can't -- Jordan's principle applies that
too. That that same jurisdiction, even departmentally...
Because -- and the reason I ask this question is the way
government sometimes silo their services -- their essential
services.

So can you please explain to us how Jordan's
principle would apply, even to one jurisdiction as between
departments of that jurisdiction?

**MS. NAIOMI METALLIC:** Sorry. One of the
areas that came up in the case was the fact that not only
were there disputes between the provinces and the federal
government with respect to services, and I did sort of
gloss this over, but one area that came up quite
significantly was that there could be disputes between
Health Canada versus INAC over who had the responsibility
over service, or other departments, but that being one of
the main ones.

And so the Tribunal underlined that Jordan's principle is not just about interjurisdictional disputes between the provincial governments and the federal government, but it also includes interdepartmental disputes. And that -- that Jordan's principle says that there shouldn't be this debate while the child waits for service.

MS. CHRISTA BIG CANOE: Right. And then just to clarify. You know, part of the position you've given -- and this is the question. Because when we look at Jordan's principle, it seems to always be applying to other jurisdictions. Where is the Indigenous perspective or where is the Indigenous jurisdiction in the whole concept of Jordan's principle, other than trying to enforce it?

MS. NAOMI METALLIC: It's a question? I think -- I don't think it was -- I think that's an excellent point, and potentially it comes up... I mean at this point, the issue is, is that most of the -- it's services provided, right, and who's paying for the services.

And -- so this would -- maybe the question assumes that, you know, the First Nations jurisdiction could also fund the service, but at this point, you know, the -- you know, the communities do require, and I think
there's an obligation to fund the services from, you know, other levels of government as well.

So -- no, you're right. It didn't come up in the case, but possibly when that actually becomes a reality, potentially that could be part of what we understand as Jordan's principle.

And I think the biggest issue and the reality is, is that -- again, going back to my presentation yesterday -- Indigenous issues and especially the funding and also control has always been a hot potato issue, right, and it's always been bounced back and forth primarily between provinces and the federal government, but also between departments too. So that's really what this was addressing.

**MS. CHRISTA BIG CANOE:** And just in terms of the first question I asked you about the case in the first place, and I mean, it may seem obvious given all that you've presented. But should the -- should this Inquiry make recommendations, not just the bare minimum recommendations, but recommendations to endorse and support the broad interpretation that the Canadian Human Rights Tribunal has to Jordan's principles in areas of all essential services?

**MS. NAIOMI METALLIC:** Yes. And I think that's consistent with the decision.
MS. CHRISTA BIG CANOE: Thank you. Those are my questions of clarification.

The examination is complete, and so this panel is finished. So -- and I understand there may be -- I'm not sure, before I ask you to close if there'll be a prayer or anything. So...

CHIEF COMMISSIONER BULLER: Yeah. Yes, the grandmothers are just getting us organized here. We have a tradition with all of the witnesses who come and share their truths with us, and the -- it's to give gifts.

And our gifts for you are two-fold. First -- well, three, I guess. First, is our heartfelt thanks that you've come for two days and shared your knowledge with us. Our second way of thanking you is to give you eagle feathers, hold you up, lift you up when you need to be lifted and held up.

And also, we have our own little experiment going on, and I hope you have better luck then I did. We have seeds for you to plant, and it goes back to when we first started this national inquiry. We hoped that new growth, new hope, would come out of the hearings that we held. So we have seeds and we're going to ask you to plant them. If something grows, would you please take a picture and send it to us, so we can keep track. As I said, better luck than me.
So please, I hope you will accept our heartfelt thanks and our gifts to you. It’s been indeed a real pleasure to spend the last two days with you. We’ll also make sure that Mr. Argetsinger gets his. So then we’ve finished. We’ll hear from the grandmothers.

**MS. CHRISTA BIG CANOE:** I’ll move out of your way so they can do this.

**CHIEF COMMISSIONER MARION BULLER:** I would like to ask -- yeah, she has a beautiful information about the feathers. Oh, there she is.

**AUDREY:** I would love to raise my hands to you and say Hetsulka (phon.) for just being experts, being humans. The feathers that are here today are from Musqueam or Sechelt in B.C. And they are the white feathers, the warrior feathers because the work you’re doing of putting yourself out on the front lines and out on the tip of the spear is exemplifying what a warrior does look like in our society today. So merci.

**MS. LAUREEN “Blu” WALTERS-GAUDIO:** So we’d just like you to hold your places for a few minutes. We’re going to have our Inuit grandmother speak first, then we’re going to have our local Elder speak second. I will go third today. We’re also going to have our women here, our pillars of our communities drum us out today, and to the Coast Salish Song as well as -- sorry, the Women’s Warrior
Song in honour of all those women, girls, two spirit, LGBTQ, we’ve talked about. So please hold your places for a few minutes until we finish this part and then you’ll all be able to have a restful evening.

So we’re going to all stand for our Inuit grandmother. She has asked that she’s going to do an Inuit closing prayer for you.

**MS. REBECCA VEVEE:** Today -- is that on?

Thank you for everybody people talking today. Some people give me crying because they touch my heart, and this is my land which I want to pray for God for my thank you. Would you people holding hand because we’re standing, sit down all day, and people we have a good time, we have bad time, you know. We’re going to pray for my language. Thank you.

(Speaking in Native Language)

Thank you, Lord for providing us time together. I can’t hear some of the words. God, we know you love us all. Thank you, Lord. Those who aren’t among us have lost a relative, thank you God through Jesus name, Amen.

**MS. PÉNÉLOPE GUAY:** Alors, je vais remercier nos ancêtres, remercier nos grands-mères, nos grands-pères, nos frères, nos sœurs, les femmes disparues et assassinées. Je les ai bien senti présentes dans cette salle pour nous supporter.
Je vois qu’on a fait beaucoup de travail mental. Je vous ai trouvé courageuses et courageux. Je vous ai regardé souvent. Ça se sentait, la fatigue, mais vous avez resté là à poser toutes ces questions pour savoir la vérité, savoir qu’est-ce qui va se passer dans l’avenir.

Je suis vraiment honorée de participer à cette page d’histoire, puis je vous remercie beaucoup et j’espère ce soir de vous détendre l’esprit et de faire danser le cœur. Je vous remercie beaucoup.

**MS. LAUREEN “Blu” WALTERS-GUAY**: You can all sit down now for a minute because I have the gift of gab. So you can sit.

So we started off this morning in welcoming in those ancestors. But I just want to share something very briefly with you that one of my teachers told me a story of how in the very beginning when those boats arrived here, they looked at us and we were healthy. We were well. We had no psychiatric institutions. We had no hospitals. We had no need of any outside help and they couldn’t figure out how were they going to conquer us.

So they went away and they pondered and when they came back they said, “We’ve figured it out” and they went to the different villages. The first step they did was they handed them that alcohol, and that alcohol they said, “Here this is the spirit, it will help you.” That’s
the name we call our alcohol spirits. And they sat back
and they watched and after a little while their plan had
started to work, because that alcohol had changed our
thinking, changed our understanding, changed who we were as
people. And they seen that we were no longer being
supportive of each other and caring and gentle.

They went away and they said, “Okay, so it’s
working. We’re causing a disruption. So next we’re going
to introduce the idea of violence to them.” So they went
and sat and they taught them those behaviours of the
patrilineal way, that men are superior. When women are not
listening, they would just give them a slap and our men
learned that and our women learned that as well. And they
said, “The plan is working. Now we have their minds not
well, now we have them abusing each other.”

Since that time our people have not been
well. And we talk about mental health, we talk about
addictions, we talk about how we’re going to bring people
back together. I don’t listen to a lot of the academic
presentation and it’s meant with no disrespect. It’s that
I can’t understand them because my PhD is in L-A-N-D,
right? And I don’t speak that language, so it’s not meant
as disrespect, but our words happen to come back because
ancestor tell me what was said, they translated to me and I
can offer the words back out to the people.
So we need to go back to our original ways to be well again. We don’t need to rely on other systems. We have those things in place. We have our traditional laws which supersede Canadian law.

We talk about the child welfare system. I talked about this in British Columbia. How are you going to fix this? Give our children back. Pay our kinships; pay our grandmothers, our aunties, our uncles, our cousins, for taking care of our own children. Bring back our own healers; bring back our own doctors. We knew how to take care of ourselves.

So systemic things need to be changed and it starts with us as Indigenous people. That spirit of alcohol, the spirits of those drugs, we have to put them down and walk away from them and go back to our original ways. Because if we’re not strong as a community, how are we going to call in other people to help us if we don’t even know what we need ourselves, because we’re clouded.

So I wanted to share that with you because that person that I see has a very good understanding, a very good vision that it starts with us and we have to go back to that.

So I want to thank those ancestors for coming today and thank them for allowing our guests, our witnesses, our expert, our knowledge keepers to share their
knowledge with us, to bring us a different understanding. So we honour them for the work that they did over the last two days.

Those ancestors will travel with you and help you on your journeys. You have those feathers, you have those helpers now. You have that connection back to the land, back to who we are as Indigenous people. You have the tools that you need through the way of education, and now through the tools of our original ways. So they’ll help you with your balance in your journey as you walk, and thank you for coming today.

We thank each and every one of you again for coming today. Those ancestors, those ones that welcomed us to this territory, this land that is being welcoming every day to us we honour that and say Hai Hai; Meegwetch. Thank you for bringing us here to your territory.

As we set out the pillars of our community, our women were our strengths. And no better way to close off today than to have our women stand here, and drum you out, and to drum into our ideas that we need to honour our women; those that have gone missing, those that have been murdered, and those that are still hear to speak, to bring the words to us. So they’re going to do this honour song, and we’re all going to do it, and you’re all welcome to sing with it.
At the end, we ask those ancestors to go back to where they sit so that we can call them in the morning again and they can come and be present with us.

I’ve been doing this work for 54 years so these stories have been going on for as long as I’ve known them. Plus all my ancestors know these stories that we’re hearing.

Let’s make it stop so that we don’t have to keep telling these stories. Let’s pick up the strength of those who have already walked the journey and bring us this information. Now that we’re wiser and we know things, it becomes our responsibility to act, so give it voice, give it strength, and our women singers are going to give it voice and strength.

We’re waiting for Audrey so I can talk more.

Aren’t you lucky?

MS. LAUREEN WATERS:  Audrey will lead us off.

--- Upon adjourning at 7:07 p.m.
LEGAL DICTA-TYPIST’S CERTIFICATE

I, Nadia Rainville, Court Transcriber, hereby certify that I have transcribed the foregoing and it is a true and accurate transcript of the digital audio provided in this matter.

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Nadia Rainville

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Nadia Rainville

May 15, 2018