Panel 1: “Models for Delivery of Victims Services to Indigenous Peoples”

John Phelps, Chief Federal Prosecutor, Yukon Region;

Leanne Gardiner, Director of the Community Justice and Policing Division for the Department of Justice, Government of the Northwest Territories;

Naomi Giff-MacKinnon, Senior Policy Analyst, Government of Canada

Betty Ann Pottruff, Q.C., Senior Advisor, Government of Saskatchewan

INTERNATIONAL REPORTING INC.
In her testimony at line 18 on page 36 and continuing on to page 37 of this transcript, Ms. Betty-Ann Pottruff, QC, described the North Sask Victim Services model as “a community-based model”, which she no longer holds to be accurate.

Through her counsel, Ms. Barbara Mysko, Ms. Pottruff has requested that the official record be corrected. In her sworn affidavit, Ms. Pottruff provided the following correction:

“[The] North Sask Victim Services (NSVS) is in fact a Police-based Victim Services program. It is, however, much larger than the other programs in the province, serving the entire Northern Administration District (NAD) in Saskatchewan. The NSVS board of directors, like all other RCMP based programs, is comprised of community members from the NAD, and RCMP members. Because the program is so large with multiple staff and a significantly larger budget, Government has created an Executive Director position for this program.”

Ms. Mysko submitted the application for this correction on June 14, 2018. There was no objection recorded by any of the Parties and the Commissioners granted Ms. Mysko’s request on July 18, 2018.
### III

#### APPEARANCES

<table>
<thead>
<tr>
<th>Organization</th>
<th>Representative/Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal Women’s Action Network</td>
<td>Fay Blaney (Representative)</td>
</tr>
<tr>
<td></td>
<td>MiKenze Jordan (Representative)</td>
</tr>
<tr>
<td>Assembly of First Nations</td>
<td>Julie McGregor (Legal Counsel)</td>
</tr>
<tr>
<td>Assembly of Manitoba Chiefs</td>
<td>Joëlle Pastora Sala (Legal Counsel)</td>
</tr>
<tr>
<td>Awo Taan Healing Lodge Society</td>
<td>Darrin Blain (Legal Counsel)</td>
</tr>
<tr>
<td>Canadian Association of Chiefs of Police</td>
<td>Ashley Smith (Legal Counsel)</td>
</tr>
<tr>
<td>Directeur des poursuites criminelles et pénales</td>
<td>Anny Bernier (Legal Counsel)</td>
</tr>
<tr>
<td>Eastern Door Indigenous Women’s Association</td>
<td>Natalie D. Clifford (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Cheryl Maloney (Representative)</td>
</tr>
<tr>
<td>Government of Alberta</td>
<td>Nicole Pfeifer (Legal Counsel)</td>
</tr>
<tr>
<td>Government of British Columbia</td>
<td>Jean Walters (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Rachel Holmes (Representative)</td>
</tr>
<tr>
<td></td>
<td>Emily Arthur (Representative)</td>
</tr>
<tr>
<td>Government of Canada</td>
<td>Anne Turley (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Anne McConville (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Sarah Churchill-Joly (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Tania Took (Paralegal)</td>
</tr>
<tr>
<td></td>
<td>Jennifer Clarke (Paralegal)</td>
</tr>
<tr>
<td>Government of Manitoba</td>
<td>Coral Lang (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Kendra Jarvinen (Legal Counsel)</td>
</tr>
</tbody>
</table>
## IV

### APPEARANCES

<table>
<thead>
<tr>
<th>Government of New Brunswick</th>
<th>Maya Hamou (Legal Counsel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government of Newfoundland and Labrador</td>
<td>Denise Spencer (Legal Counsel)</td>
</tr>
<tr>
<td>Government of Northwest Territories</td>
<td>Karin Taylor (Legal Counsel)</td>
</tr>
<tr>
<td>Government of Nova Scotia</td>
<td>Sean Foreman (Legal Counsel)</td>
</tr>
<tr>
<td>Government of Ontario</td>
<td>Julian Roy (Legal Counsel)</td>
</tr>
<tr>
<td>Government of Saskatchewan</td>
<td>Barbara Mysko (Legal Counsel)</td>
</tr>
<tr>
<td>Government of Yukon</td>
<td>Jennifer England (Representative)</td>
</tr>
<tr>
<td></td>
<td>Fia Jampolsky (Legal Counsel)</td>
</tr>
<tr>
<td>Independent First Nations</td>
<td>Sarah Beamish (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Diane Maracle-Nadjiwan (Representative)</td>
</tr>
<tr>
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<td>Rachelle Venne (Representative)</td>
</tr>
<tr>
<td>Inuit Tapiriit Kanatami</td>
<td>Elizabeth Zarpa (Legal Counsel)</td>
</tr>
<tr>
<td>MMIWG Manitoba Coalition</td>
<td>Catherine Dunn (Legal Counsel)</td>
</tr>
<tr>
<td></td>
<td>Hilda Anderson-Pyrz (Representative)</td>
</tr>
<tr>
<td>Manitoba Keewatinowi Okimakanak</td>
<td>Jessica Barlow (Legal Counsel)</td>
</tr>
<tr>
<td>Native Women’s Association of Canada</td>
<td>Virginia Lomax (Legal Counsel)</td>
</tr>
<tr>
<td>Nishnawbe Aski Nation/Grand Council Treaty 3; Treaty Alliance Northern Ontario</td>
<td>Nishnawbe Aski Nation Deputy Grand Chief Anna Betty Achneepineskum Krystyn Ordyniec (Legal Counsel) Amanda Byrd (Law student)</td>
</tr>
</tbody>
</table>
V

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Pauktuutit, AnânauKatiget
Beth Symes (Legal Counsel)
Tumingit, Saturviit, Ottawa
Inuit Children’s Centre, and
Manitoba Inuit Association

Regina Treaty Status Indian Services, Inc
Erica Beaudin (Representative)

Saskatchewan Association of Chiefs of Police
Katrina Swan (Legal Counsel)

Winnipeg Police Service
Kimberly Carswell (Legal Counsel)
VI

TABLE OF CONTENTS

Truth-Gathering Process Part 2 Volume 2

Panel 1: Models for Delivery of Victims Services to Indigenous Peoples (continued)

Chair: Meredith Porter, Commission Counsel

Second Chair: Breen Ouellette, Commission Counsel

Witness: John Phelps, Chief Federal Prosecutor, Yukon Region

Counsel: Anne McConville for Government of Canada

Witness: Leanne Gardiner, Director of the Community Justice and Policing Division for the Department of Justice, Government of the Northwest Territories;

Counsel: Karin Taylor and Brad Patzer for Government of Northwest Territories

Witness: Naomi Giff-MacKinnon, Senior Policy Analyst, Government of Canada

Counsel: Anne Turley for Government of Canada

Witness: Betty Ann Pottruff, Q.C., Senior Advisor, Government of Saskatchewan

Counsel: Barbara Mysko for Government of Saskatchewan

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


Clerk: Maryiam Khoury

Registrar: Bryan Zandberg
# TABLE OF CONTENTS

| Opening Comments                                      | 1 |
| Drumming Ceremony                                    | 3 |
| **JOHN PHELPS, Cross-Examined by Mr. Blain**          | 7 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Mr. Blain** | 12 |
| **LEANNE GARDINER, Cross-Examined by Mr. Blain**     | 14 |
| **JOHN PHELPS, Cross-Examined by Ms. Beaudin**       | 21 |
| **LEANNE GARDINER, Cross-Examined by Ms. Beaudin**   | 32 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Beaudin** | 35 |
| **JOHN PHELPS, LEANNE GARDINER, NAOMI GIFF-MCKINNON,**| 38 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Blaney** | 53 |
| **JOHN PHELPS, Cross-Examined by Ms. McGregor**      | 63 |
| **NAOMI GIFF-MACKINNON, Cross-Examined by Ms. McGregor** | 70 |
| **JOHN PHELPS, Cross-Examined by Ms. Pastora Sala**  | 80 |
| **LEANNE GARDINER, Cross-Examined by Ms. Pastora Sala** | 90 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Beamish** | 96 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Ordyniec** | 101 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Lomax** | 107 |
| **BETTY ANN POTTRUFF, Q.C., Questions by the Commissioners** | 127 |
| **BETTY ANN POTTRUFF, Q.C., Cross-Examined by Ms. Barlow** | 130 |
| **NAOMI GIFF-MACKINNON, Cross-Examined by Ms. Barlow** | 136 |
| **JOHN PHELPS, Cross-Examined by Ms. Lomax**         | 144 |
| **LEANNE GARDINER, Cross-Examined by Ms. Lomax**     | 151 |
| **JOHN PHELPS, Cross-Examined by Ms. Clifford**      | 159 |
| **NAOMI GIFF-MACKINNON, Cross-Examined by Ms. Clifford** | 159 |
# VIII
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Name</th>
<th>Details</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Cross-Examined by Ms. Ordyniec</td>
<td>165</td>
</tr>
<tr>
<td>BETTY ANN POTTRUFF, Q.C.</td>
<td>Cross-Examined by Ms. Mysko</td>
<td>176</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Cross-Examined by Ms. Zarpa</td>
<td>181</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Cross-Examined by Ms. Zarpa</td>
<td>183</td>
</tr>
<tr>
<td>LEANNE GARDINER</td>
<td>Cross-Examined by Ms. Zarpa</td>
<td>195</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Cross-Examined by Ms. Beamish</td>
<td>199</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Cross-Examined by Ms. Beamish</td>
<td>203</td>
</tr>
<tr>
<td>LEANNE GARDINER</td>
<td>Cross-Examined by Ms. Beamish</td>
<td>208</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Cross-Examined by Ms. Dunn</td>
<td>216</td>
</tr>
<tr>
<td>LEANNE GARDINER</td>
<td>Cross-Examined by Ms. Dunn</td>
<td>219</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Cross-Examined by Ms. Dunn</td>
<td>223</td>
</tr>
<tr>
<td>LEANNE GARDINER, NAOMI GIFF-MACKINNON</td>
<td>Cross-Examined by Ms. Big Canoe</td>
<td>232</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Cross-Examined by Ms. Big Canoe</td>
<td></td>
</tr>
<tr>
<td>LEANNE GARDINER</td>
<td>Questions by the Commissioners</td>
<td>205</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Questions by the Commissioners</td>
<td>263</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Questions by the Commissioners</td>
<td>266</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Questions by the Commissioners</td>
<td>288</td>
</tr>
<tr>
<td>LEANNE GARDINER</td>
<td>Questions by the Commissioners</td>
<td>300</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Questions by the Commissioners</td>
<td>307</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Questions by the Commissioners</td>
<td>315</td>
</tr>
<tr>
<td>NAOMI GIFF-MACKINNON</td>
<td>Re-Examination by Ms. McConville</td>
<td>320</td>
</tr>
<tr>
<td>JOHN PHELPS</td>
<td>Re-Examination by Ms. Turley</td>
<td>321</td>
</tr>
</tbody>
</table>
# IX

## LIST OF EXHIBITS

<table>
<thead>
<tr>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Panel 1A: Models for Delivery of Victims services</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>to Indigenous Peoples</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Witness:</strong> Betty Ann Pottruff, Q.C.</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Saskatchewan Domestic Violence Death Review Interim Report, Pilot – Phase 1</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>(May 2017), Saskatchewan Ministry of Justice (35 pages)</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Saskatchewan Domestic Violence Death Review Final Report, (May 24, 2018),</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Saskatchewan Ministry of Justice (50 pages)</td>
<td></td>
</tr>
</tbody>
</table>

All exhibits submitted by Meredith Porter, Commission Counsel.
<table>
<thead>
<tr>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>PAGE</th>
</tr>
</thead>
</table>

All exhibits submitted by Anne Turley, Legal Counsel for Government of Canada.
--- Upon commencing on Tuesday, May 29, 2018 at 8:20 a.m.

--- OPENING COMMENTS

MR. JASON GOODSTRIKER: Good morning, everybody. Good morning, attorneys, commissioners.

Amongst the Blackfoot people, we have a very sacred order that we're all expected to join when we get to that age of maturity. Anyway, I'm -- I'm a little bit away from it, but -- but Spike and Alvine are members of that order. I'm a -- I'm a helper of those people, so -- of the Sun Dance, when our Sun Dance happens and our ceremony times happen, we all are assumed to -- to that time. And I'd like to ask Spike and -- or, sorry, Alvine and -- I always call him Spike, but anyway, Ina (ph) to come on up here and come and have a word of prayer today so that we can begin. They're going to help us.

And then we're going to have a song because it's something that you're in this area, and, Madam Commissioner, we're very honoured to have you, to have us, to have a prayer. So (speaking in Native language).

MR. SPIKE EAGLE SPEAKER: (Speaking in Native language).

Good morning, I hope everybody had good rest last night. I just wanted to mention that when my wife and I were first asked to come up here to do some of this
prayer and all that, we didn't really know what this Inquiry was really about, we just thought it was kind of another culture workshop or something, but we had a chance to sit back there yesterday and listen to all the stuff and not realizing the people's pain, their loss. And we talked about it last night, and I said, "You know, there's a lot of people that -- thousands of our people are hurting."

And when I got to my room, the way I felt, I just sat down and I started to pray. And that's the way I was raised. I was taught that when you're struggling with your own spirit, you have to sit down and reconnect and you have to pray, and that's what I done. So I feel a lot better today, and I'm going to offer this prayer so that today would be a very good day for all of us.

People that have sorrows, people that have lost loved ones, we're going to pray for those people and that things -- they could have some kind of resolutions to some of their losses and their problems. (Speaking in Native language).

MR. JASON GOODSTRIKER: Thank you to the Eagle Speaker family. Just put your hand on your heart and say, "Hey, hey." Now, you're all Blackfoots. (LAUGHTER)

MR. JASON GOODSTRIKER: We're going to ask our nephew to sing a song. You don't have to stand up,
just enjoy it. He's going to sing it, and he told me that
it's kind of like an arising song, just to lift your
spirits, so enjoy. And if you want to dance chicken dance,
you can go ahead.

--- DRUMMING CEREMONY

MR. JASON GOODSTRIKER: Thank you. Thank
you. Well, we're in the beginning. I don't know about you,
but I want to go get my bows and arrows and go get my land
back after that song.

(LAUGHTER)

MR. JASON GOODSTRIKER: Okay. My Elder just
asked me what my Blackfoot name was, and I didn't introduce
it yesterday. But in the Indian way, down the road,
whenever you people meet each other, it's common experience
to introduce each other with your Indian name. And mine is
(speaking in Native language). It means the warrior that
rode a red horse.

But today's a special day, and we'll allow
you Madam Commissioner to begin. I have six daughters, and
I have a wife, and I have a whole bunch of aunties, and some
went to the next world, and it's about this and their day
today. So thank you, again, to all of those that testified.
And welcome, again, to Blackfoot country. And remember you
can only eat steak twice a week, so --

(LAUGHTER)
MR. JASON GOODSTRIKER: So tonight, Michèle, maybe I’ll buy you a salad or something, or fish or something. Thank you. Enjoy. Enjoy today.

COMMISSIONER MICHÈLE AUDETTE: I have to buy something for him, or?

UNIDENTIFIED SPEAKER: I think he’s going to buy for you.

COMMISSIONER MICHÈLE AUDETTE: Okay.

UNIDENTIFIED SPEAKER: (Indiscernible) I have steak too.

CHIEF COMMISSIONER MARION BULLER: I’ll ask counsel to take their places as well as witnesses, please.

MS. MEREDITH PORTER: Good morning. Good morning. Good morning, Chief Commissioner, Commissioners. I have a couple -- there’s a few housekeeping items that I did want to speak to prior to getting started with the cross-examination of the witnesses. First, I did want to mention to the parties with standing, that if they had questions that they wanted to direct to Betty Ann Pottruff, as you are aware, she will be leaving early this afternoon. So if you did have any questions that you did want to put to her prior to her departure, if you could go to the first table and see Francine Merasty, she’s got her hand up. Just identify yourself to her, and have a chance to speak with her, so she’s aware of -- of who will be posing questions
later on this morning. Thank you.

The other issue that I wanted to speak to, I’m aware that yesterday on the record it was noted that the witnesses that are appearing as part of the victim services panels were referred to as experts on the record. And I just wanted to clarify on the record that they have not been brought in as experts, nor have they been qualified as experts. So I do just want to note that on the record. I think that was an error. That came up yesterday.

The final issue that I did want to speak to was with respect to the party that cross-examined at the end of the day yesterday, she had spoken to a couple of documents in her questions, and I don’t believe those had been tendered as exhibits. So I will speak to them briefly, and in -- in particular, she had made reference to both the interim and the final report of the Saskatchewan Domestic Violence Death Review Report. And I am going to then now request that both the interim report and the final report, I believe copies have been provided to all Commissioners, and I do have a copy here for the Registrar. So at this time, I request that they be tendered as exhibits in relation to the cross-examination of the party counsel for Pauktuutit, she spoke to them yesterday.

CHIEF COMMISSIONER MARION BULLER: Okay. The interim report dated May 2017 will be Exhibit 21.
--- EXHIBIT NO. 21:
Saskatchewan Domestic Violence Death Review Interim Report, Pilot – Phase 1 (May 2017), Saskatchewan Ministry of Justice (35 pages)

CHIEF COMMISSIONER MARION BULLER: And the Saskatchewan Domestic Death Review Report, May 24th, 2018, will be Exhibit 22.

--- EXHIBIT NO. 22:
Saskatchewan Domestic Violence Death Review Final Report, (May 24, 2018), Saskatchewan Ministry of Justice (50 pages)

MS. MEREDITH PORTER: Thank you very much. All right. Thank you very much. We’ll continue then with the questions from the parties with standing. And then next party that I would like to invite up to question the witnesses with their -- in cross-examination is Awo Taan Healing Lodge Society. And I note that counsel for the Awo Taan has 24 minutes.

MR. DARRIN BLAIN: Thank you very much, and good morning, Chief Commissioner Buller. Good morning, Commissioners. Good morning to the Elders. It’s an honour for me to be here in Blackfoot Territory, Treaty 7 Territory. I’ll always cherish my days as general counsel
to the Blackfoot Nation, a hundred kilometres to the east of here. For those of you who I haven’t met, my name is Darrin Blain. I’m a lawyer in private practice here in Calgary. I’ve just finished my 800th Indian residential school hearing. And welcome to my hometown. Good morning. Mr. Phelps, good morning.

MR. JOHN PHELPS: Morning.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MR. BLAIN:

MR. DARRIN BLAIN: Sir, I take it that you’re aware of our Supreme Court of Canada decision known as Jordan.

MR. JOHN PHELPS: Yes, I am.

MR. DARRIN BLAIN: I wonder if you could comment briefly on the intersection of Jordan and the work that the people in your office do with the victims. And what I’m wondering, specifically, if we can have a -- a chat with the Commission this morning about -- I -- I’d like to know whether or not the failure of victims and witnesses to come forward are resulting in cases being thrown out as contemplated in Jordan?

MR. JOHN PHELPS: As indicated yesterday, my perspective comes from my practice being in the Yukon Territory, and my responsibility over the Yukon Territory. We’re quite fortunate, unlike many other jurisdictions in
Canada, to not be experiencing a significant impact from the Jordan decision. Our -- our courts are able to hear matters in a timely fashion. And we have not lost a significant prosecution as a result of Jordan to date. So I’m unable to assist in answering that question because we haven’t had that experience.

MR. DARRIN BLAIN: Very well. And I wonder if the services that are provided by your office are provided in all of the traditional languages of -- of the people that you serve?

MR. JOHN PHELPS: They are not, no.

MR. DARRIN BLAIN: Could that be a recommendation to the Commission, sir?

MR. JOHN PHELPS: It’s certainly a priority in Nunavut for -- for us, and it is provided in Nunavut. The significance in our jurisdiction in the Yukon may be less so because we don’t face the language barrier that’s experienced on the East Coast, so I -- I -- I’m not too sure that I can answer the question. I don’t know if it would be a better service to victims or not, but I don’t -- and I don’t know that it would result in better communication for them on the West Coast, in the Yukon Territory. I don’t have the answer to that, and I don’t have an opinion one way or another.

MR. DARRIN BLAIN: Very well. Thank you.
You painted a picture yesterday -- excuse me -- of the services that your office provides, and as I understand it, people who have been subpoenaed as witnesses and have witnessed something traumatic, potentially, they’re contacted by your office. There’s some kind of link made up between your office and these people made in court preparation, people who are going to court as -- as witnesses. I have a few appointed questions in that regard. When your office contacts them, are they given a gender choice of representative from your office? The reason I ask that is because it’s been my experience in sitting with hundreds of sexual assault victims that women often like to speak to women and -- and -- and so forth.

**MR. JOHN PHELPS:** Unfortunately, we -- we don’t presently have that luxury. Crown Witness Coordinators in the Yukon Territory are female at this time. I think across the North -- it hasn’t always been the case, but given the turnover I spoke about yesterday, currently, for example, they’re all female in the Yukon and we -- there may be one male to assist, so it can be very difficult to give the opportunity of gender of choice. With the prosecution service, we have a much better balance, male to female, and that would be an -- an option that could be canvassed, although to answer your question, it’s not offered.
MR. DARRIN BLAIN: I wonder if that might be a recommendation to the Commission.

MR. JOHN PHELPS: I -- I would -- I wouldn’t see why not. Thank you, sir.

MR. DARRIN BLAIN: You mentioned just now about prosecutors, and I’m wondering if you can comment on the existence or the complement of First Nation prosecutors in your -- in your courts.

MR. JOHN PHELPS: I -- I don’t have the statistic for the other two regions. We have 1 out of 12 in the Yukon.

MR. DARRIN BLAIN: In -- in your perspective and in what you deal with in the trenches on a day-to-day basis, I wonder if the addition of more First Nation prosecutors ought to be a recommendation to the Commission, sir.

MR. JOHN PHELPS: The only concern -- the reason why I’m pausing is -- is not that I have any concern with the recommendation whatsoever. It’s just the -- the ability to staff those positions. We don’t seem to attract applications as frequently as one would hope from First Nation candidates, not particularly, with my experience in the Yukon. We had in our complement one born and raised Yukon First Nation individual who articled and spent ten years with us, but that was an anomaly, not the norm. I
MR. DARRIN BLAIN: Thank you very much. And just an -- I suppose as a gentle reminder for you and I that we don’t necessarily need to be concerned with how we’re going to get that done or how the Commissioners are going to put that into the report, just that it might be something that would benefit our people, which takes me to judges. When you talk about the judges that the CWC folks and -- and the witnesses are appearing in front of, can you talk about the composition of the bench in your area and whether there are -- are any First Nation judges?

MR. JOHN PHELPS: Sorry again. I’m only pausing because I’m not familiar with the other two territories, so I can’t be certain. Certainly in the Yukon, there are no First Nation judges.

MR. DARRIN BLAIN: I wonder if that might be a recommendation to the Commission, sir.

MR. JOHN PHELPS: Certainly.

MR. DARRIN BLAIN: Thank you. You talked about, in your -- your presentation, sir, about -- my impression was that you gave your program a pretty decent report card, and you talked about a complaints process so that, if my understanding is that if a victim or somebody
that’s being helped by your -- by your program wants to
complain about how things went, they have the right to do
that. I wonder if there are any First Nation people hearing
complaints in that process or Elders or cultural advisors.
I wonder if there’s any of that involved in that.

MR. JOHN PHELPS: No, there’s not.

MR. DARRIN BLAIN: I wonder if that might be
a recommendation to your Commission, sir.

MR. JOHN PHELPS: I have no objection to
that.

MR. DARRIN BLAIN: Thank you. I turn now to
Ms. Pottruff. Good morning, ma’am.

MS. BETTY ANN POTTRUFF: Morning.

BETTY ANN POTTRUFF, Q.C., Previously Affirmed:
CROSS-EXAMINATION BY MR. BLAIN:

MR. DARRIN BLAIN: The first item of business
is for me and my family to bring our condolences to your
province. We understand that, with our extended family in
your great province, that we have -- your province has
suffered a great loss with the hockey team bus tragedy
occurring just south of Tisdale. I’ve driven that road and
we -- we’re all human beings, we all suffer the loss of
others, and I want to give you our heartfelt condolences as
a matter of housekeeping and -- and -- and a good morning to
you, Ma’am.
You -- you talked about, as I understand your presentation, that part of your dynamic was to make justice more accessible, reformed, and relevant, and -- and that -- and I acknowledge that you are very senior in the Government of Saskatchewan. Is that correct?

**MS. BETTY ANN POTTRUFF:** I’ve been there a long time.

(LAUGHTER)

**MR. DARRIN BLAIN:** That’s what -- that’s what you mentioned. My -- my one question for you this morning is about criminal law reform and whether or not the Province of Saskatchewan is involved in Criminal Code reform, and I’m thinking about sentencing for people who harm Indigenous women and girls.

**MS. BETTY ANN POTTRUFF:** I think I can only provide you with a very general answer on that. There are a -- a number of ongoing federal, provincial, territorial committees that -- that deal with criminal law reform. I’ve been part of those committees in the past, and certainly sentencing is one of the areas that is always under review and is currently under review.

**MR. DARRIN BLAIN:** And is it your recommendation to the Commissioners that it continue to be under review for the purposes of reviewing sentences for people who harm Aboriginal women and children?
MS. BETTY ANN POTTRUFF: I -- I think that sentencing is an -- always an area where, in fact, we can be more innovative and -- and look at ways to better serve both the victim and the offender, and certainly that includes Indigenous women and girls.

MR. DARRIN BLAIN: Thank you. Those are my questions for you this morning. I understand you’re leaving early, and -- and I wish you safe travels. Just bear with me for a second. I’m just reviewing my notes. Ms. Gardiner, good morning.

MS. LEANNE GARDINER: Morning.

LEANNE GARDINER, Previously Affirmed:

CROSS-EXAMINATION BY MR. BLAIN:

MR. DARRIN BLAIN: Now, as I understand your presentation, as I understand what you do, and I -- and I acknowledge the hard work that you do and that your office does. I don't think working with victims is easy work, whether they be before a court hearing or after a court hearing, so just a nudge and an acknowledgement of the work that your office does.

I have to be real frank about something. It really sounds like your folks are underqualified. And don't get mad at me for saying that. I think we would both agree that when you're working with people who have been traumatized by sexual violence, whether they be women or
children, and that's what we're talking about in this Inquiry -- and I'm not trying to be disrespectful to the men that are also traumatized, that there is significant and remarkable psychological impact and need for the women and for the children who either experienced it or have unfortunately witnessed that, or may have witnessed their mother being killed, that sort of thing, the need is so great, it's acute.

It -- do I understand you to be telling the Commission that there is no real special training required for your people that are -- your staff that are going out and meeting with this -- these dear people? Can you comment on that?

**MS. LEANNE GARDINER:** Yes, thank you for your question. I just want to qualify a bit just so we're on the same page. I don't have staff members that report to me that are providing that frontline service. We're not typically serving victims directly out of our office. We have a community-based program where we're providing funding to sponsoring organizations to provide that frontline service that reflects the context of the community that they're serving.

So when it comes to their qualifications, because I think me kind of establishing our model doesn't take away from your comments, of course, about training,
and I agree wholeheartedly with what you say about the reality of victims of crime and tragedy and where they are and their needs, and their needs sometimes being acute and requiring additional services that our victim services providers are not equipped to provide. So as I mentioned, they're not, for the most part -- we do have some providers that are trained as social workers and a variety of other backgrounds, we have some that are not.

It really is up to communities to decide who they want to staff those positions with, with our support, as far as background. Sometimes we help prepare the job descriptions that they might put out for -- to hire. We provide all of that support and communities decide who is best suited to do that work.

That being said, I have a responsibility in my role, absolutely, to do my best to help provide the opportunities to support that skillset and to build that skillset, so that's why we do -- we do some of the work we do around training. We support communities to apply for additional funding, if that's required, to support that training.

I want to mention as well that our territory has been involved with a Pan-Territorial project with the other two territories in partnership with the Northern Institute of Social Justice in the Yukon, with Yukon
College, about an essential -- it's the essential
skills -- my apologies if I get the acronym
wrong -- essential skills for northern victim services
worker. So the goal -- and right now there's a draft of
modules for all of those essential skills, that the
intention of these positions, or these providers, is to
provide the initial contact, as well as ongoing support.

That -- and when I say "referrals," that
includes referrals to professionals who have the training
to be supporting people in their varying degrees of need.
It also -- and when I say "referral," I want to make sure,
because we had some discussion yesterday, referral is not
sending someone down the street to a different program.
This program in general, and I can say consistently, even
though all these different organizations are running
programs in communities, they're not typically sending
people down the street to a different service. They're
finding out exactly what they need, and they're
walking -- they're walking them there. Sometimes they're
waiting until they're done and continuing to provide the
service.

So I hear your concern, and I agree that
it's something we have to always keep in mind and keep
coming back to make sure that in a real time way the
experiences that our providers are having, that we're
looking at that and making sure they have access to what
they need to do their jobs safely, and safely for their own
long-term wellbeing as well.

MR. DARRIN BLAINE: M'hm.

MS. LEANNE GARDINER: I hope that answers
your question.

MR. DARRIN BLAINE: It does answer it. I'm
wondering if we could rephrase some of it. We're here to
make recommendations to this -- to the Commission. I
wonder if I could ask you a few pointed questions about
your work and the world that you work in and the people
that you work -- that you work with and that are working
with these vulnerable women and children and others.

Would it be your recommendation today,
Ms. Gardiner, to the Commission that more First Nation
service providers, frontline workers, be hired and funded
and be properly qualified for the people they serve? Is
that a fair recommendation to the -- to the Commission this
morning?

MS. LEANNE GARDINER: Absolutely, especially
in our territory where the people we are serving, people
providing services need to reflect the clients they're
serving, and absolutely, I agree.

MR. DARRIN BLAINE: And would you --
it -- thank you. Would it be your recommendation to the
Commission this morning that they do what they can to move heaven and earth to ensure that the services that are being provided to victims be provided in all of their traditional languages, and that funding be provided for that initiative as well?

MS. LEANNE GARDINER: I would agree that efforts need to be significant to make sure that that's the case. I hear your comments from earlier about not being concerned about how to make that happen, but that a recommendation -- because we -- I have the similar challenges, or we do, when we -- when we try to make those things happen, but --

MR. DARRIN BLAINE: M'hm.

MS. LEANNE GARDINER: -- if something is to be person centered, which I will always suggest is the best approach, someone's first language is the best way to support them --

MR. DARRIN BLAINE: Great.

MS. LEANNE GARDINER: -- in my experience.

MR. DARRIN BLAINE: Great. Bear with me for a moment.

This is a general question to everybody except Ms. Porruff. It's one of those if anybody can answer this, go ahead and please -- please chime in, if you can. I'm not trying to be smart or sassy by asking the
question, I'm trying to find out if anybody has the answer
to this.

We talk about all of the reports that have
come out with regard to victim services and some people try
and paint it really a nice picture about how victim
services are well-handled and that kind of thing. Can
anybody point me, or more importantly, the Commissioners,
to a report where the families of the deceased and the
victims were questioned about the effectiveness of the
programs, the victim services programs?

In essence, has there been a systematic
analysis of what the users are saying about the program?
Because it's one thing for people who sit at a desk all day
to look at statistics to say we're getting convictions,
we're doing well, people are coming to court, the witnesses
are coming to court. I'm thinking of a case in
Saskatchewan called Colton Boushie, which everyone in this
room should know about. That family is not very happy
about how they've been supported, for example. I'm
wondering if anybody on the panel can refer me or the
commissioners to any reports, either in existence on the
record or not, regarding this?

**MS. LEANNE GARDINER:** I'm not aware of one.

**MR. DARRIN BLAINE:** Thank you.

**UNIDENTIFIED SPEAKER:** No.
MR. DARRIN BLAINE: Thank you. Good morning to the Commissioners. Those are my questions.

CHIEF COMMISSIONER MARION BULLER: Thank you. The next party that I would like to invite up to question the witnesses is from the Regina Treaty Status Indian Services. And that party will have 23 minutes for questioning.

MS. ERICA BEAUDIN: Good morning. This microphone is affecting my bifocals this morning. So my apologies. Or I guess they're called progressives.

Good morning. Thank you to the Elders, drummers, and singers for their prayers and songs yesterday. As well, as a citizen of Treaty 4, I acknowledge the Treaty 7 -- I acknowledge the welcome to Treaty 7 and bring well-wishes from our Treaty area. My name is Erica Beaudin, and I am the executive director of the Regina Treaty Status Indian Services. My first question is to Mr. Phelps.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. BEAUDIN:

MS. ERICA BEAUDIN: Mr. Phelps, thank you for your presentation yesterday. Regarding the Crown Witness Coordinator Program, it was developed in 1991 to bridge the cultural gap between the prosecutors and the victims and witnesses, correct?
MR. JOHN PHELPS: Yes, that was one of the primary purposes.

MS. ERICA BEAUDIN: So could we conclude this program was to fill a gap with witness -- with victims or witnesses to crime within the legal system in the three Territories?

MR. JOHN PHELPS: Yes.

MS. ERICA BEAUDIN: Have there been statistics captured to document the success of convictions for the Crown since the creation of the Crown Witness Coordinator Program?

MR. JOHN PHELPS: You may want -- what was the question again?

MS. ERICA BEAUDIN: So basically what I'm asking is pre-CWC and post-CWC, have there been statistics gathered to see if there has been more success for the Crown in terms of convictions with the CWC program?

MR. JOHN PHELPS: I'm not aware of actual statistics. There was a study done of the program in 2010 by the Policy Centre for Victim Issues with the Department of Justice, and there were certainly a number of interviews done with various parties to the justice system, including the judiciary. And there was certainly anecdotal commentary that more offenders were being held to account as a result of the program, primarily due to the fact of an
increase in cooperation by victims in the system,
particularly at the trial stage. But not statistics that
I'm aware of.

**MS. ERICA BEAUDIN:** Okay. Do you feel the CRC -- and may I use that abbreviation -- has -- or the Crown Witness Coordinator Program -- do you feel that it's essential or integral to the success of increasing conviction rates due to the support given to the victims and witnesses?

**MR. JOHN PHELPS:** I do think it's -- it's extremely important. It -- it certainly does increase the success of the prosecution to have victims supported throughout the process, understanding the process and what's going on. And our experience is that there is an increased -- or there's certainly -- with knowledge, there's a willingness to participate. So I would agree with your comment on that basis, yes.

**MS. ERICA BEAUDIN:** So while the program was created to create greater advantage or understanding for the Indigenous peoples in the Territories, there has, in fact, been the other benefit of this education and knowledge creating better conviction rates for the Crown?

**MR. JOHN PHELPS:** That has been one of the results, yes.

**MS. ERICA BEAUDIN:** Okay. Thank you. The
Crown Witness Coordinator Program works with Victims Services and other community-based agencies to meet the non-legal needs of the victims or witnesses to crime, correct?

**MR. JOHN PHELPS:** We -- we collaborate with the other programs so that we have an understanding of what's available in each community, what those programs do, so that we can make the referrals, yes, so that they can provide that support.

**MS. ERICA BEAUDIN:** Okay. When working with the overall needs of the victims or witnesses to crime, we're talking spiritual, emotional, mental, physical, who is the primary case holder of the victim or witnesses to crimes file to ensure the needs of the client -- and I'm using "client" just to abbreviate continuously saying "victim or witnesses to crime" -- so the needs of the client, so to speak, are met?

**MR. JOHN PHELPS:** Sorry. I'm having a difficult time with your question. Our Crown Witness Coordinators are -- are primary contact and responsible for the sharing of information responsible for support through the prosecution service. Their particular needs are generally met through referrals. We don't provide counselling, and we don't provide the level of support that a lot of the victims would need, I believe, in the context
that you're asking the question. So that would be referred out to another organization such as the Territorial Victims Services Unit.

**MS. ERICA BEAUDIN:** Okay. So the CWC becomes one aspect of that client's case file in terms of meeting the needs of the victim or the survivors?

**MR. JOHN PHELPS:** That's correct. Regardless of which agency is involved with a particular victim -- and, for example, again I'll refer to the Territorial program -- they also provide court support for victims that -- that request it from them. But we would be part of that team, so we would work with them. We would defer to them. We would carry through with our responsibility, but we would support the -- the individuals that are providing care or support for the victim through the process, as well.

**MS. ERICA BEAUDIN:** So how is the overall well-being of the victim's identified needs met in terms of the CWC?

**MR. JOHN PHELPS:** It would depend on the needs. So as I mentioned yesterday, there is information gathering for the purpose of the prosecution -- the prosecutor, sorry, who could deal with some of the safety needs. And when I say that, I say it in the context of what's available to us as prosecutors, which is what we
could request a court to place on an individual for safety reasons. And they also provide assistance for travel at times to make sure that an individual can make it to court. We're responsible for travel for civilian witnesses. And they would make those arrangements for a victim. If the victim requires support, often they would make those travel arrangements for the support, as well, and the requests, etc. And they would meet with them and make sure that they're comfortable in the -- you know, in the courthouse, we'll often do a walk-through beforehand so that they understand where they're going, what the environment's going to be like.

And that's sort of a -- you know, that -- that's the context of -- of our program. It's not designed and I wouldn't put it forward to suggest that it meets all of the needs of victims. We are open to working with any agency that's willing to provide support to a victim in a collaborative fashion so that we can meet our needs and our objectives, and they get the care that's required, as well.

**MS. ERICA BEAUDIN:** Okay. Once the court process is complete, does the CWC program disengage from the victim?

**MR. JOHN PHELPS:** Yes. It -- it does, yes.

**MS. ERICA BEAUDIN:** Okay. What is done to
ensure from the CWC's perspective -- so once it's complete, what is done to ensure the victim's needs continue to be met once the legal process has been completed in -- and I guess what I'm talking about is if there's safety concerns after the legal process has been complete, do they stay within the program or do they go to the community-based organizations or the victims services and a new file is opened, if it becomes legal again?

**MR. JOHN PHELPS:** I believe the answer to your question is that they -- they go with the community-based organization. So if there -- there were safety needs at a sentencing, for example, those would be addressed in court. But once the sentencing is complete, and assuming there isn’t an appeal of the case, then our responsibility -- or not responsibility, sorry, but our interaction with the victim does come to an end. There would be some follow-up meetings to ensure that they understand what took place, and that we answer any questions they may have with respect to the process and how it ultimately ended. But then, again, it would be a referral to other organizations that provide services to victims and support to victims, regardless of whether or not there’s a court process under way.

**MS. ERICA BEAUDIN:** Okay. When working with victims or witness to violence, has there been a lens
created to meet the unique needs of Indigenous people in the territories?

**MR. JOHN PHELPS:** Sorry, a -- a lens?

**MS. ERICA BEAUDIN:** A lens or a -- a process, a method, in order to ensure that you’re better meeting the needs, as opposed to coming in from a -- a westernized legal perspective?

**MR. JOHN PHELPS:** We recognize the importance of training, so that there’s a better level of understanding of the variations -- cultural variations throughout the territory -- the Yukon and the territories in general. That’s, you know, and -- and, I suppose, a -- there and -- an understanding is developed throughout CWC’s career on how to deal with particular victims from particular backgrounds, and that information is shared. As far as in -- an -- a lens or an identifiable policy, we don’t have one, no.

**MS. ERICA BEAUDIN:** Okay. So could this be done to ensure cultural -- greater cultural appropriateness of the CWC? The -- what you had just spoken about. Could more be done?

**MR. JOHN PHELPS:** I -- I think that more can always be done, so I -- I -- you know, if there was a -- a look, specifically, at that, I don’t see it as being a bad thing at all.

**MS. ERICA BEAUDIN:** Thank you. In terms of
the evaluation of the CWC program, has there been a tool created so the clients you work with have an authentic voice in whether their needs are met through this program?

**MR. JOHN PHELPS:** We -- we don’t currently have a -- an exit tool to -- to assess that, no.

**MS. ERICA BEAUDIN:** Okay.

**MR. JOHN PHELPS:** We -- we find that it’s -- I think it would be a good idea. So I’m not too sure how we would go about it, and whether or not we would have successful compliance, but the -- the concept is a good one to measure whether or not they feel that the -- the service is positive.

**MS. ERICA BEAUDIN:** Okay. So what you do have for an evaluation of your program, is there any sort of cultural appropriate considerations that would be identified through your statistics, or how, like I said, you measure success of the program?

**MR. JOHN PHELPS:** Do we currently have?

**MS. ERICA BEAUDIN:** Yes.

**MR. JOHN PHELPS:** No, we don’t. We don’t ask or -- or require victims to self-identify for any purpose. And we don’t provide any sort of measure with respect to what would be considered a success rate because our program might be successful, for example, of course, in a case of an acquittal if the necessary information and supports were in
place for a victim. So we don’t -- we don’t have a measure. I mean, we would have a measure of convictions versus acquittals, but we wouldn’t, in that context, have a sense of whether or not it was a successful service regardless of the outcome.

MS. ERICA BEAUDIN: Okay. Moving on to the recruitment for CWC program. You discuss the difficult time recruiting and retaining Indigenous people, correct?

MR. JOHN PHELPS: All people, including Indigenous, yes.

MS. ERICA BEAUDIN: Okay. In order to be more client-based and friendly, is there opportunity for a different recruiting or hiring process to mentor or hire people who may not have the initial required education or skill level, but who may have the creditability within the communities and, therefore, bring a different skillset to the program?

MR. JOHN PHELPS: I believe there may be, yes. There may be a -- there may be a different approach that we haven’t looked at, yes.

MS. ERICA BEAUDIN: Okay. You had mentioned that the determinants of success don’t necessarily have clients’ voices in there, but how can victims of violence, witnesses, families who have utilized this program have an impact in who is hired or who stays in that program? How is
their voices heard? How are their voices heard?

MR. JOHN PHELPS: In -- in -- with respect to the who is hired, they -- they don’t have a voice at this point in time. There’s -- I’m not too sure I understand the question.

MS. ERICA BEAUDIN: I’m looking at appropriateness of staffing within there, in order to provide quality and relevant services to the Indigenous people who utilize the CWC program.

MR. JOHN PHELPS: There’s not a formal avenue for -- for feedback in that regard. If that’s -- if that’s the question. I -- you know, I -- we’re -- we’re quite proud of the program that we have, and -- and the service we offer because we find it extremely important that, in the context of the work we do, we make sure we do whatever we can for -- for the victims throughout the process, within the confines of us being a prosecution service. And we think we do that very well. With respect to Indigenous or non-Indigenous workers, we really haven’t had any method of assessing whether or not it would improve or decline as a result of the turnover.

At times, we’ve had the majority of Indigenous court workers. Right now, we have a minority. The service overall, though, we think is positive and important. We talked about the recruitment methods. I -- I
don’t disagree that we could think further outside of the box for the -- for the recruitment, but we also have to keep in mind that when we lose a Crown Witness Coordinator, or times two, which would be 40 percent of our -- our population of Crown Witness Coordinators, there’s an urgency to fill those positions. And we’re reacting -- we’re reacting as quickly as we can to make sure that we don’t have a large gap in service.

So we would have to think about that long-term, and certainly give consideration to what we hear today, and what recommendations may be to figure out how we do that in a timely fashion.

MS. ERICA BEAUDIN: Thank you, Mr. Phelps. My next questions are for Ms. Gardiner.

LEANNE GARDINER, Previously Affirmed:

CROSS-EXAMINATION BY MS. BEAUDIN:

MS. BEAUDIN: In the Northwest Territories, a community-based model is utilized for Victims Services, correct?

MS. LEANNE GARDINER: Yes, Ma’am.

MS. ERICA BEAUDIN: Was there ever a police-based model in the territories?

MS. LEANNE GARDINER: Not that I’m aware of. My awareness goes back as far as about 2004. But not -- and not in my -- the operation, like, my job every day. It’s
not something that I’m aware of was in place.

**MS. ERICA BEAUDIN:** Okay. Yesterday, you stated that victims can self-refer, and they don’t necessarily have to be part of an active legal system, correct?

**MS. LEANNE GARDINER:** Yes.

**MS. ERICA BEAUDIN:** Is the agency who holds the Victims Services program the primary case worker? And are they also responsible for assisting the CWC with navigating any legal process that occurs?

**MS. LEANNE GARDINER:** Sorry. When you refer to primary case worker for a victim, as far as the services that they’ve come to look for assistance with, then I would say, yes. They’re -- they could also be involved with other programs of course, with case management or other services. But as far as that aspect, their -- their -- would be the main contact person for the services they’re looking for.

If they’re involved with a court process as well, then, yes, they’ll often work together with the local Crown Witness Coordinators to address victims needs. So it’s -- it wouldn’t be strange. I would -- I’d submit that a witness, or victim could be in court and have both of those supports in the courtroom at the same time.

**MS. ERICA BEAUDIN:** Okay. So once the legal issues are complete, if there are, does the victim services
worker still keep an open file and assist the client until
they don’t require services?

**MS. LEANNE GARDINER:** Yes. There are, at
times, victim services providers will be in regular contact
with someone, you know, for -- for years, so it's not
contingent on what's happening in the court system or not.

**MS. ERICA BEAUDIN:** Okay, thank you. What
is the evaluation tool used to determine statistics or
victim satisfaction with the victim services agencies?

**MS. LEANNE GARDINER:** At this time, we
don't -- we don't have an evaluation tool that would
determine victim satisfaction. We have annual reporting
that victim services providers complete to indicate which
services they've been providing, what types of offences the
victims have been victims of, so that we can kind of see
what -- we can monitor and see what kinds of services are
being demanded because that, to me, and to my organization,
provides some valuable information about people's needs.
It also provides some information about what other services
they're being referred to, because it also paints a picture
of the people who programs are serving.

But as far as an evaluation tool and a
formal feedback from the victims being provided the service
about efficacy, currently that does not exist. There is
a -- there is a complaints process where they can come to
the department and let us know, and it happens on occasion that if things have not gone well and we -- we find ways to address that, but far as formal evaluation, there is not at this time.

**MS.ERICA BEAUDIN:** Okay, thank you. I'm cognizant that I have three minutes left, so Ms. Giff-MacKinnon, I'm going to bypass the questions I had for you, if you don't mind, but thank you for your presentation yesterday, it was greatly appreciated.

**BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

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

**MS.ERICA BEAUDIN:** Ms. Pottruff, thank you for your presentation yesterday. You discussed the provincial partnership committee on missing persons, you mentioned the Amnesty International report, would you also say the missing and murdered Indigenous women in Saskatchewan that went missing and/or murdered in 2004, '05 was also an impetus?

**MS. BETTY ANN POTTRUFF:** Yes.

**MS.ERICA BEAUDIN:** Today I name Tamra Keepness is still missing, Daleen Muskego Bosse, Amber Redman and Melanie Geddes, who went missing and later found murdered. I say their name for remembrance today.

Would you also say from your recollection, was it additional lobbying or advocacy by the Indigenous
Women's Leadership that created pressure for the Province
of Saskatchewan to respond to missing persons?

**MS. BETTY ANN POTTRUFF:** Yes, I think that's fair.

**MS. ERICA BEAUDIN:** You believe the province had many lessons to learn from the Indigenous people of Saskatchewan on how to work with families of missing and murdered people?

**MS. BETTY ANN POTTRUFF:** Yes, clearly, and we -- we did have significant support from the Indigenous community and organizations to learn those lessons.

**MS. ERICA BEAUDIN:** Okay, thank you. Did the province ever have a victim services model that wasn't police based, to your knowledge?

*[Registrar’s note: The following response by Ms. Betty Ann Pottruff was subsequently corrected. See the “Corrigendum” on page II of this transcript.]*

**MS. BETTY ANN POTTRUFF:** There is a community-based model for the north, North Sask Victim Services is a community-based model, but the other -- the other services are police-based.

**MS. ERICA BEAUDIN:** What would be required for the Province of Saskatchewan, especially the municipal police services, to change their model from police or systems-based to community-based?
MS. BETTY ANN POTTRUFF: I think one of the things that could be looked at is the model of North Sask Victim Services, which is community board members as well as some police members on the board that oversees the service.

The services initially were, in my recollection, created as police-based models because there -- this was a new service, and we needed not only to find a way to bridge to victims and to support them, but also to have the police become comfortable with this sort of service because it was new, and -- and so it may be that over time the service is accepted and so that the model being placed in the police service may not be as important as it was at the beginning to make sure of -- at that time we wanted to make sure it had credibility with the police service, so it's certainly something that could be looked at.

MS. ERICA BEAUDIN: Okay. How did the families of the missing and murdered people contribute to the provincial partnership? And I'm going to be really fast here, Ms. Pottruff. How can the PPCM -- because we have 20 seconds -- prioritize families' voices in the work of the PPCM -- PPCMP, and more specifically, act as voices for change with even the agencies within the provincial partnership?
MS. BETTY ANN POTTRUFF:  I think we've
certainly talked about ways to -- to have better links with
agencies and with families, and whether that could be
rotating regional meetings, each year taking a different
region and trying to have a more intensive conversation
there, or whether it's some other process.  I think we're
open to talking about how do we -- how do we maintain the
links and the connections and make them stronger?

MS. ERICA BEAUDIN: Thank you. My time is
up right now, so as you mentioned, you will be retiring
from provincial public service next month, I just want to
personally, and on behalf of my organization, thank you for
your years of quality compassionate and empathetic service
to the vulnerable people of Saskatchewan. Thank you all.

(APPLAUSE)

MS. MEREDITH PORTER: Thank you. The next
party that I would like to invite up to question the
witnesses is from the Aboriginal Women's Action Network,
and the Aboriginal Women's Action Network will have 23
minutes for questions.

JOHN PHELPS, LEANNE GARDINER, NAOMI GIFF-MACKINNON, BETTY
ANN POTTRUFF, Previously Affirmed:

CROSS-EXAMINATION BY MS. BLANEY:

MS. FAY BLANEY: Good morning. My first
question will, I'm sure, reveal where I'm coming from. I'm
wondering if you've thought of utilizing more positive
terminology rather than referring to the people that you
serve as "victims"? And that's for each of you that have
victim services programs.

MS. LEANNE GARDINER: It's not something
that I'm aware of in general that -- as something that
we've considered.

MS. FAY BLANEY: And, John?

MR. JOHN PHELPS: To be honest with you, I
can't speak for the organization as a whole, but I haven't
given consideration to that. Thank you for your -- your
question.

MS. NAOMI GIFF-MACKINNON: If it's okay if I
provide an answer to that important question? There is a
real movement to recognizing the limitations of the term
"victim of crime," and there is an increased sensitivity to
understanding the journey that people go through when
they've been harmed and -- and how they survive those
experiences, so there's a real emphasis on survival and
survivors of crime.

MS. BETTY ANN POTTRUFF: Thank you. If I
can just respond too for a moment?

UNIDENTIFIED SPEAKER: I'm trying to see
where the voice is coming from.

MS. BETTY ANN POTTRUFF: Sorry, I'm over
here. I appreciate what Naomi has said because I think that's important. I also want to recognize that Saskatchewan recently implemented a legal advice for survivors of violence program, so we're trying to move in -- somewhat in that direction.

MS. FAY BLANEY: Okay. And my next question has to do with what I spoke about the last time around. I'm just wondering if there was any consideration of drawing on the work of the consciousness raising feminist antiviolence women’s’ groups for this type of work? And what I'm getting at there is this concept of service delivery, particularly in light of the fact that Indigenous peoples have been colonized, women's groups still struggle with patriarchy, and we still struggle with poverty, we're a very oppressed group, and so I'm just wondering if there was any consideration of drawing on groups that would do consciousness raising that would recognize this as a catalytic moment for change to recognize those oppressive forces that are impacting these groups that you call victims? And that's for everybody.

MS. LEANNE GARDINER: I will -- thank you for your question. I would say that the model we have includes some of those groups as service providers already, so I would say that the -- if there's a formal effort on my part, for example, to inject that particular movement into, I
would say no. But it's not necessarily my -- my role either, we -- because it's a community-driven program, but some of our organizations are women's groups that are delivering the service, so I think that they're -- the programs are being shaped by those -- those elements already and just in the nature of having it be delivered by community organizations.

**MS. FAY BLANEY:** Community-driven? Are they Indigenous organizations behind your program?

**MS. LEANNE GARDINER:** Yes. Some of -- the majority of the organizations delivering victim services are Indigenous governments or hamlet councils.

**MS. FAY BLANEY:** And did you speak with the Native Women’s Association of Canada at all?

**MS. LEANNE GARDINER:** I have not spoken with the Native Women’s Association of Canada, but our provider in our capital city in Yellowknife is the Native Women’s Association of the Northwest Territories. One of our longest-running victim services providers has been doing that work in Yellowknife for 20 years, so we -- I speak with them on a regular basis. They’re a valuable partner of ours.

**MS. FAY BLANEY:** I struggle with the concept of victim services and women’s groups. They just seem somehow to clash.
MS. LEANNE GARDINER: I share that -- I share that sentiment with you. My experience with the people being served by these programs is one of resilience and -- and when we talk about vulnerable peoples, I -- I have the same -- if there was a way we could refer to -- to people we’re -- we’re helping in a way that recognizes the moments of vulnerability but some overall resilience, I -- I would be absolutely supportive of changing the -- the approach.

MS. FAY BLANEY: And would you make that recommendation to change the approach?

MS. LEANNE GARDINER: I -- I would lend my support to that.

MS. FAY BLANEY: Okay. Good to know.

MS. LEANNE GARDINER: Thank you.

MS. FAY BLANEY: And I’m -- I’m not familiar with everyone’s names over there, but if I can hear from you, I would really appreciate that.

MS. NAOMI GIFF-MACKINNON: Just to build on what Ms. Gardiner mentioned in terms of the partnerships and the question that you asked in terms of the nature of those partnerships, and -- and the transition from -- moving from a service that’s delivered to a service that’s codesigned, and I agree with the -- the discomfort that you raised in terms of some of the -- the ways we are thinking about
victim services. And -- and victim services networks across the country are looking at that.

In fact, this week, we -- that -- we’re meeting this week. It is National Victims and Survivors of Crime Week, so we’re having those discussions across the country. In terms of the -- the Family Information Liaison Units that have been set up, as I mentioned yesterday, many of them have been designed with input from many Indigenous women’s organizations across the country, and they have co-designed the program and they’re co-delivering it for families as well. So I agree that that’s an important way to move forward.

MS. FAY BLANEY: So with BC, which is where I’m from, I’m just wondering if the model suits -- I -- and I had a question here relating to the rationale of why you would use the language of “family” within Family Information Liaison Unit. Because in BC, where, I think, this Inquiry began, in spite of the rhetoric going on now about it being a families-first. It did start in BC and it started not with families but in the Pickton Massacre. It was women that were being prostituted, and so I’m just wondering if this one-size-fits-all suits the needs of women in urban centres like the Downtown Eastside of Vancouver.

MS. NAOMI GIFF-MACKINNON: So each -- in terms of the -- the -- the Family Information Liaison Units,
they do look different in every province and territory, so it -- it was important to not have a one-size-fits-all. I would note as well the -- the -- in addition to the -- the funding for Family Information Liaison Units, at the same time, funding was made available to support community organizations to provide dedicated supports for families at the community level and for victims and survivors as well, so that was a companion investment to the -- the more formalized unit to work with families to get information. Though there was an -- an attempt to -- to be a -- a bit more comprehensive in terms of the partnerships and the types of needs that families and Indigenous victims and survivors of crime have.

**MS. FAY BLANEY:** I guess the concern I have with the term or the concept of “family” is that it is a patriarchal construct, and within the Indian Act, it’s a patriarchal construct and it has caused huge damage in our community. So I’m wondering why you would use the language of “family”.

**MS. NAOMI GIFF-MACKINNON:** When we -- when we developed the name “Family Information Liaison Unit” our thinking was to be inclusive to the needs of family members who have outstanding information about their missing or murdered loved ones, so it was about identifying the -- the group of people who had outstanding needs and -- and were
seeking some assistance in terms of getting the information
about their loved one.

MS. FAY BLANEY: M’hm. And I -- I don’t mean
any disrespect to families. I know that the families have
suffered a great deal across this country and they have
mobilized. But the fact remains that people in the Downtown
Eastside of Vancouver and other urban centres like that do
not neatly fit into that one-size-fits-all of “family.”
That’s -- that’s the case I’m making.

MS. NAOMI GIFF-MACKINNON: Is it okay -- I
understand what you’re saying and I -- I see what you’re
saying now. So I -- I would mention that the Family
Information Liaison Units across the country would be open
to all those different types of families that are developed,
very broad definition of “family” -- loved ones and friends
would also be included.

MS. FAY BLANEY: M’hm.

MS. NAOMI GIFF-MACKINNON: For a network.

MS. FAY BLANEY: Well, I have consistently
maintained that this Inquiry needs to be a feminist-first
agenda rather than a families-first, so I’ll leave that one
alone for now. And I didn’t hear from the others on my
question about the importance of coming at it from a
consciousness-raising perspective, but I will -- I’m okay
with leaving that. I am wondering, since we’re talking
about women and girls in this Inquiry, I’m wondering if your programs have benefited women and girls and if you do disaggregate those statistics.

**MS. LEANNE GARDINER:** Our -- one of the exhibits we looked at yesterday and -- will show that the majority of people served by our local programs are absolutely women and more often Indigenous women. So as far as who we’re serving, those -- those programs are absolutely serving --

**MS. FAY BLANEY:** And do you have hard numbers for that?

**MS. LEANNE GARDINER:** There are numbers for the ’16, ’17 fiscal year in the report that was -- do you want me to give you the name of --

**MS. FAY BLANEY:** Oh, no, it’s okay. I’m just --

**MS. LEANNE GARDINER:** Okay. It should be in the materials you received. It’s a 2016-17 program report that we provide to our -- our partners at the Federal government, and in the back, you’ll see some statistics around who the program’s serving, like gender and ethnic background.

**MS. FAY BLANEY:** Okay. And John?

**MR. JOHN PHELPS:** As far as statistics go, we don’t keep statistics with respect to the victims that we
support. I can say that we deal with, as I mentioned yesterday, a significant amount of violence. Within that violence, there’s a significant amount of intimate partner violence, and the vast majority of individuals that we’re supporting are women in that context. We have a lot of children that are victimized within the territories. In the Yukon Territory, we are part of a multi-partner collaboration for the support of children. Our Crown Witness Coordinators participate in that program and we provide -- we do provide support at a significant volume, I suppose, to -- to young women, girls, as well, but we don’t have statistics on that. It’s -- it’s not something that we keep.

**MS. BETTY ANN POTTRUFF:** In Saskatchewan, in the paper that was provided to the Commission yesterday, page 14 through about 17, talks about the various victim programs that are provided by the Province of Saskatchewan, and -- and for most of them, there are some numbers provided in terms of number of clients served. The one that -- I'm not sure if this answers your question, but the one that would be relevant to the question is the numbers of transition house and sexual assault service persons served and -- and it's about -- we had -- about 80 percent of those served are women and children, and -- and, you know, many of them, most of them Indigenous, 80 percent Indigenous served
by those.

**MS. NAOMI GIFF-MACKINNON:** That's a really good question in terms of -- and some of the discussion that we've had in terms of data collection and reflecting on the impact of programming on the users of that service, how is it affecting survivors and family members. So in terms of learning from that and learning about the importance of that as we move forward, the FILU initiative, we worked with all the partners across the country to develop some consistent reporting tools, which would include seeking feedback in an appropriate sensitive way, which would vary across the country, from family members who used the FILU services, to get a sense of how the programs are meeting their objectives, and we will have some data in terms of the -- the numbers, the quantitative aspect of an evaluation and a performance measurement as well as some qualitative feedback about the services that have been provided.

**MS. FAY BLANEY:** I'm at my final question now. Since we're here trying to investigate the question of missing and murdered Indigenous women and girls, primarily what I'm interested in, are their lives any safer as a result of what it is that you've done? Are they, for instance, moving beyond community pressures to not report? That's a dominant aspect of my community, that women are
pressed not to report, so do you -- is there any
indication that women are moving beyond that? Has there
been any noticeable increase in reporting of male violence
against women and children, whether that be sexual or
physical assault? What difference is your program making
to ensure the safety of women and girls that are alive
right now?

MS. BETTY ANN POTTRUFF: I'm not sure that I
can give you a definitive answer on any of that. What
I've -- what we've heard from agencies dealing with sexual
assault, for example, is that they have seen an increase in
people calling for their service and their support, and
there's -- there's an impression that, in fact, the number
of reports are increasing to the police as well as -- as to
other resources. And I think -- I think it's -- it's
really hard then to put a number on that.

We know that the -- you know, less -- less
than one in -- one in ten or three in ten of either
domestic or sexual assaults are reported, and, as I say,
there's -- there's an impression that that's increasing,
but it's always difficult to -- to know whether, in fact,
those statistics are -- are relevant to the nature of the
violence, because the more serious the violence, the more
likely it is to be reported. And so there's a lot of
things to pick apart to try to figure out whether, in fact,
we have a good answer to that.

I do know that with programs like the legal advice for victims, survivors of sexual violence, we're hoping the information we make available to people free allows them to make a decision about reporting or not and -- and gives some control back to the victim, so the victim will perhaps have a little more sense that they can take advantage of the options that the justice system offers to them.

MS. LEANNE GARDINER: Thank you for your question. I -- I agree with Betty Ann when she says that even if you see changes in -- in, you know, reported statistics, it's hard to take those apart to determine what's impacting where. I would -- I would see victim services provision, like our program, as -- as an attempt to reduce harm, to mitigate risk. Whether that's actually resulting in a -- you know, a longer-term impact on victimization or harm, violence, I don't -- I don't, and I'm not likely to have statistics related to our program that show that that's happening.

Do I think that the support that people are getting, and women in particular are getting, is in an anecdotal way that I can't show -- like, I don't have a way to show that in data. Do -- you know, emergency phones that are being provided are being used, safety planning is
helping with -- with women who have asked for the support, they're using that, they're using those plans, they're putting them in place, so I think that if we weren't there, that wouldn't be happening. So whether it's reducing the violence, I'm not -- I'm not convinced that a harm reduction approach is necessarily going -- you know, serving people who are victims of crime is going to impact that long term, but I do think that women are getting some supports that they need from people that really care about their safety in general. But do I have a rigorous evaluation method that shows that? I don't.

**MR. JOHN PHELPS:** Sorry, I don't -- we don't have statistics that would assist in answering that question on whether or not a positive experience through direction with our program is positive as an experience can be in the context of those cases would increase further reporting. Sorry about that.

**MS. FAY BLANEY:** And you?

**MS. NAOMI GIFF-MACKINNON:** I would agree with what was said in terms of thinking about the role of victim services has been after someone who has been harmed and trying to work within that -- that experience. So victim services comes in at a certain point in someone's experience of harm and -- and they work -- and that's where they start working from, so there are some challenges
there, as Ms. Pottruff and Ms. Gardiner noted.

**MS. FAY BLANEY:** Can you rephrase that? I didn't quite get what you were saying.

**MS. NAOMI GIFF-MACKINNON:** I was thinking about victim services as coming in at a certain point in someone's experience of harm, which is after they have been harmed, so there are -- there are challenges within that victim services framework in terms of their role in terms of preventing crime. As Ms. Gardiner mentioned, there are opportunities to work with -- with them in terms of safety planning and identifying other methods to keep safe and the supports that they need to move -- to move in that way, but they come to victim services because they have been harmed, so there's -- so that's where they're starting from.

**MS. FAY BLANEY:** M'hm. Okay, so it's pointless for me to ask any prevention questions?

**MS. NAOMI GIFF-MACKINNON:** No, I don't -- I don't think so.

**MS. FAY BLANEY:** Okay.

**MS. NAOMI GIFF-MACKINNON:** I think that it's -- just that it's -- there are some limitations within victim services.

**MS. FAY BLANEY:** Right. Okay. Thank you very much.

**MS. MEREDITH PORTER:** Excuse me, just --
MS. FAY BLaney: Yes.

MS. MEREDITH PORTER: Just for the record, although a representative from the Aboriginal Women's Action Network may not need an introduction, for the record, could we have your name, please?

MS. FAY BLaney: Fay Blaney.

MS. MEREDITH PORTER: Thank you very much.

(APPLAUSE)

MS. MEREDITH PORTER: Thank you. The next party that I would like to invite up to question the witnesses is from the Assembly of First Nations, and they will have 23 minutes for their questions.

MS. JULIE MCGREGOR: Good morning, Commissioners and -- is this on? Good morning, Commissioners and panel members. My name is Julie McGregor, I'm an Algonquin from Kitigan Zibi Anishinabeg, and I represent the Assembly of First Nations.

I would like to begin by acknowledging the drum and the Elder's -- excuse me, and the Elder's prayer, and I would like to thank the Treaty 7 people for welcoming me on to their territory. In terms of questioning for the panel today, I'd like to begin with directing my questions to Mr. Phelps, and then to Ms. Giff-MacKinnon. Good morning, Mr. Phelps.

MR. JOHN PHELPS: Good morning.
JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. MCGREGOR:

MS. JULIE MCGREGOR: I’m going to start by asking my -- I’m going to start asking my questions to you about the Crown Witness Coordinator Program. And then I’m going to ask a few questions about the PPSC Deskbook on “Victims of Crime”, which I believe, is Exhibit number 4.

MR. JOHN PHELPS: Okay.

MS. JULIE MCGREGOR: To begin with, on the Crown Witness Program, which -- which we’re referring to as the CWC Program, you’ve given in -- a lot of evidence in terms of the program this morning and yesterday, and I don’t want to go over what’s already been said, but I do want to ask a few questions about it. And, specifically, on the role of the CWC person and their ability to provide appropriate and timely referrals to support programs. So are there any support programs that the CWC’s make referrals to, which are culturally appropriate and specific to the First Nations that you serve in your area?

MR. JOHN PHELPS: The -- the Crown Witness Coordinator is responsible to have the requisite knowledge for the communities that they service. And in the Yukon, pretty much every community, with the exception of one that we go to, does represent a separate First Nation within the territory and they’re responsible to have an understanding
of what resources are in place with respect to each First Nation, what counselling is available within each First Nation, and what services the First Nation, if they’re not providing themselves, are -- are supporting in the community. And they make referrals on a regular basis to those programs to make sure that victims understand that they’re available and can take advantage of them. It’s not always the case that there is anything that’s culturally relevant in the community, but if there is, then they would make the referral to the program.

**MS. JULIE MCGREGOR:** And these services, you mentioned First Nations operated services, is there a number of First Nations operated support services in your area that you cover?

**MR. JOHN PHELPS:** It -- it truly does vary from First Nation to First Nation as to what it is they’re offering, and at what stage they are at drawing down the powers under their self-governing agreements. Most of the First Nations have some form of an active justice department, and an active social department. At least one of the First Nations has a victim service -- I call it a department, but a -- a victim service within their First Nation. So it really depends from First Nation to First Nation if they have in-house counselling to assist their members. Then we would make the referral that -- I don’t
have the statistics, it -- it’s not universal, that’s for
sure. And it’s not the same from First Nation to First
Nation necessarily.

**MS. JULIE MCGREGOR:** When you have a First
Nation person who’s a victim of crime, how does the CWC
treat the victim differently as opposed to a non-Indigenous
victim of crime?

**MR. JOHN PHELPS:** I don’t know that I can
answer that question. I -- I would suggest that they
approach each individual the same way, and assess the needs
of the individual, and they modify their approach on a -- on
a case-by-case basis by the individual, but there’s not a --
a set distinction between the approach.

**MS. JULIE MCGREGOR:** You stated in your
evidence yesterday that the CWC employees -- employs about
21 individuals across the territories.

**MR. JOHN PHELPS:** Yes.

**MS. JULIE MCGREGOR:** But there are only maybe
one in Northwest Territories and one in the Yukon who are
Indigenous staff; is that correct?

**MR. JOHN PHELPS:** Currently, yes. That --
that does fluctuate, but currently that is correct.

**MS. JULIE MCGREGOR:** Given the Indigenous
population in the north and the types of communities that
you serve, do you think that that’s an acceptable ratio?
MR. JOHN PHELPS: I -- I’m not too sure what an acceptable ratio is. It certainly doesn’t reflect the victimology within the territories. We -- we certainly do, regardless of the population. The population, for example, is 25 percent in the Yukon Territory, Indigenous -- the -- the representation within the justice system on the accused side is in the range of 80 percent and I would suggest the victimology is -- is up in that range as well. So do we -- do we have representation that reflects the victimology? No, we don’t.

MS. JULIE MCGREGOR: Thank you. Now, the parties previous to me have brought up the issue of recruiting more people into -- into the CWC. And you’ve mentioned in your evidence that it is a challenge. And that a lot of the times it’s very reactionary when you lose staff because you don’t have the time to put in a process that would see more representation of First Nations CWC individuals, workers. Has the PPSC ever considered partnering with First Nations to develop a training program for CWC, which would ensure culturally appropriate services for First Nations -- the First Nations population? That would be, sort of, a proactive rather than a reactive way of recruiting.

MR. JOHN PHELPS: Not that I’m aware of that we have done it. I -- I would suggest that it’s a good
idea. In the Yukon, for example, the possibility of --
for -- for example, partnering with the Council of Yukon
First Nations would be something that could assist, and
would be worthwhile. Again, so there are -- there are
options available, I believe, in all three territories. Not
that it’s necessary in Nunavut at this time, but in
Northwest Territories and Yukon, to change the way we do
things, so that we’re not reacting in the fashion that I --
I spoke of yesterday and referred to today, or earlier
today, whichever it was.

MS. JULIE MCGREGOR: As a Chief Federal
Prosecutor, what do you see as barriers to adopting a more
inclusive approach and proactive approach?

MR. JOHN PHELPS: I don’t see any barriers to
receiving recommendations, or even going back after having
this dialogue today, and reconsidering the way we do things.
I have an ongoing and continuous collaborative working
relationship with the Council of Yukon First Nations on
other projects. There’s no reason why I could not have a
dialogue about this and consider a -- an approach that would
be beneficial to the goal of increasing the number of Crown
Witness Coordinators. We could reconsider our approach to
the Yukon College, for example, and consider presentations
that might serve to attract applicants to our program. And
those are issues that we could certainly consider, and we
could look at doing differently.

MS. JULIE MCGREGOR: Thank you. You

mentioned in your evidence yesterday that CWCs receive
cultural awareness training; is that correct?

MR. JOHN PHELPS: That’s correct. Yes.

MS. JULIE MCGREGOR: Have you, yourself, as a
Chief Prosecutor -- Federal Prosecutor, sorry, been required
to take cultural awareness training?

MR. JOHN PHELPS: I have taken the -- the
training, and I have implemented it as mandatory for all
employees within my region. It was not required to take it
myself, no.

MS. JULIE MCGREGOR: Do you think that all
Federal Prosecutors should take cultural awareness training,
especially if they’re dealing with an Indigenous population?

MR. JOHN PHELPS: I -- I do. Absolutely.

Yes, I support that.

MS. JULIE MCGREGOR: The cultural awareness
training that CWCs take, is it provided through any of the
First Nations in the area, or partnered with them, or in
conjunction with them?

MR. JOHN PHELPS: The program that we’ve made
mandatory was developed between the Northern Institute of
Social Justice, which is with the Yukon College facility,
and in partnership with the Council of Yukon First Nations,
so it does have involvement of the First Nations. I did speak yesterday of the program that was available on the Tr’ondëk Hwëch’in First Nation. That’s their specific program, specific to their First Nation, but the one that’s mandatory was developed in partnership.

MS. JULIE MCGREGOR: Thank you. I’d like to move on to asking you some questions about your Deskbook. The Victims of Crime Deskbook, it is exhibit 4. Do you have it in front of you?

MR. JOHN PHELPS: I do.

MS. JULIE MCGREGOR: Thank you. Now, the date on the cover says January 15, 2017. Is that correct?

MR. JOHN PHELPS: Yes.

MS. JULIE MCGREGOR: Now, is that date the day that the document has been revised, or was that the original date of the Deskbook coming into being?

MR. JOHN PHELPS: The revision date.

MS. JULIE MCGREGOR: So this is the latest version of the Deskbook; is that correct?

MR. JOHN PHELPS: To my knowledge, yes.

MS. JULIE MCGREGOR: Is there a section in the Deskbook which deals specifically with Indigenous victims of crime?

MR. JOHN PHELPS: No, just -- just what’s covered within this chapter.
MS. JULIE MCGREGOR: So it’s a fairly up-to-date document and you’ve discussed about the victimology. Why is there no section relating to Indigenous victims of crime?

MR. JOHN PHELPS: I apologize, but I don’t have an answer for that. It’s not a document that I personally have control over. It’s developed through headquarters and it’s a directive from the Attorney General of Canada, so I don’t know the answer to whether or not it was considered and not put in or whether it was an oversight or otherwise. I don’t know.

MS. JULIE MCGREGOR: So you’re saying that you do not and your office does not have any direct input on a handbook that is developed for dealing with victims of crime in an area, in your specific area, which you have a lot of Indigenous victims of crime?

MR. JOHN PHELPS: We are consulted on change, so if you’re asking perhaps the question might be why I didn’t advocate for it, and I don’t have an answer for that. I -- I did not advocate for it at the time. I thought that the -- the chapter was sufficient as written, and that’s a very good recommendation. Thank you.

MS. JULIE MCGREGOR: Also, I’d like to turn to section 4.2, “The Special Needs of Some Victims.” It’s on page 5.
MR. JOHN PHELPS: Yes, I have that before me.

MS. JULIE MCGREGOR: I’d like to direct you to the last paragraph of that section, and I’ll read the paragraph out for you. (as read)

Some victims may view court proceedings with suspicion. They may have concerns about biases or prejudice based on their race, ethnic origin, gender identity, or sexual orientation. Crown counsel should be aware of such concerns and seek to address them in appropriate manner -- in an appropriate manner.

Can you tell me how Crown -- how Crown counsels seek to address these concerns and what is an appropriate manner?

MR. JOHN PHELPS: The -- the requirement is to be aware of the concern. We provide training to try and enlighten the Crown prosecutors with respect to, particularly, cultural concerns that may exist and provide training for them to understand that they may need to modify their approach or their appreciation for their interactions with individuals as a result, but there’s not a -- a one-size-fits-all answer to that question.

MS. JULIE MCGREGOR: And is the training that they receive the same as the cultural awareness training you spoke of earlier?
MR. JOHN PHELPS: They do have to take that training, yes, and we encourage them to take advantage of any training that would assist in this regard. It might be made available through the Law Society, through the Yukon College, or through any of the other various organizations in the Yukon that may provide training from time to time.

MS. JULIE MCGREGOR: Thank you, Mr. Phelps. I’m going to move my questions over to Ms. Giff-Mackinnon.

NAOMI GIFF-MACKINNON, Previously Affirmed:

CROSS-EXAMINATION BY MS. MCGREGOR:

MS. JULIE MCGREGOR: According to your evidence and your biography, which is at exhibit -- which is exhibit number 13, you lead the National Family Information Liaison Unit and community-based activities with Indigenous organizations; is that correct?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: Am I correct that -- I -- I may need to be corrected on this one, but the -- the FILU program began in August of 2016? Is that correct?

MS. NAOMI GIFF-MACKINNON: That’s when the funding was announced.

MS. JULIE MCGREGOR: Yes. And that the FILUs became operational not all at the same time, not, obviously, all in -- on August the 26th, but afterwards in staggering -- staggered ways?
MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: Yesterday, you described the work of FILUs as -- as sort of a conduit, if I could say that, and can correct me if that’s a wrong characterization, but a conduit for sharing information with family members. Is that correct?

MS. NAOMI GIFF-MACKINNON: That’s -- that is one way to describe it. It could also be described as a navigator position, as well.

MS. JULIE MCGREGOR: And you also stated that FILUs work closely with -- with regional or local Indigenous organizations to -- to provide services to family members; is that correct?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: That -- this includes, as you stated in your testimony yesterday, the Manitoba region, correct?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: Were you aware, Ms. MacKinnon, that in late -- as of late last spring and summer of 2017, regional organizations in Manitoba were on their own and without -- on their own volition and without funding from the inquiry or the FILU program, were organizing and providing information and outreach sessions to First Nation communities in Manitoba? Were you aware of that?
MS. NAOMI GIFF-MACKINNON: Not specifically that -- not specifically, no.

MS. JULIE MCGREGOR: Were you aware at the time that there was a concern about a lack of information being provided to First Nations family members in Manitoba and that organizations -- these regional organizations were taking it upon themselves to do this?

MS. NAOMI GIFF-MACKINNON: I don’t have -- I didn’t -- don’t have any knowledge of the specific work that was being done in Manitoba, but we were aware that -- that information -- that families were seeking information through other ways as well before the FILU initiative began, that there were some mechanisms for families.

MS. JULIE MCGREGOR: But this would have been during the time the FILU initiative would have been somewhat operational. We’re talking spring and summer of 2017.

MS. NAOMI GIFF-MACKINNON: I’m not certain about how the Manitoba organizations were working with families. I do -- I do know that in the Manitoba FILU model, Manitoba victim services works closely with Manitoba Keewatinowi Okimakanak as well as Ka Ni Kanichihk in terms of their work with families, and maybe they built on that work that they were doing already to -- to extend the region’s scope.

MS. JULIE MCGREGOR: Thank you. Were you
aware that the National Inquiry has been holding community
hearings across Canada to gather the truth from family
members and survivors?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: Are you aware that one
such community hearing was held in Smithers, British
Columbia, which was in close proximity to the Highway of
Tears, where many family members had lost loved ones?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. JULIE MCGREGOR: Were you aware that some
of the family members who provided testimony during the
hearing were approached by the RCMP, in some cases hours
before they were about to provide their testimony, and
provided information about their loved ones’ cases,
including autopsy reports, and that this was highly
upsetting to a lot of the family members who were providing
evidence?

MS. NAOMI GIFF-MACKINNON: I’m aware that
meetings were held in Smithers with family members, that the
FILUs -- FILU team had organized with the -- with the RCMP
and with the families. Yes, I’m aware of that meeting. I
-- I’m not -- I’m not certain -- I’m not aware of the -- the
-- what you mentioned about the concerns families had about
receiving information at that time.

MS. JULIE MCGREGOR: It was provided as
testimony during the community hearing, but it was also
reported in the news that families were upset with receiving
this type of information just as they were about to provide
their testimony. So would that have been the job of the --
the FILU, to be a conduit or a navigator for that
information rather than the RCMP providing that sort of
information, highly upsetting information, before the
community hearing?

MS. NAOMI GIFF-MACKINNON: In terms of how
that meeting was organized, I'm -- I don't have all the
information because I was not present at that time. I do
know that there were some concerns shared. I knew -- I
know that there was some discussion. I -- I do -- as I
understood it, the FILU team in British Columbia working in
Smithers at that time were working closely with the
families who were seeking the information, and that they
were taking direction from families, as I understand it.
But they would be best placed to speak to that.

But I -- as I understand it, as well, I do
believe that they've had discussions about how that
situation -- how that situation played out and how they
could do -- do better in some ways in terms of working more
closely together to make sure that there are no -- no
concerns or -- or challenges in the -- in the work that
FILUs are doing with families.
MS. JULIE MCGREGOR: Would you agree with me that that -- that way of proceeding in terms of meeting with the RCMP and providing documents such as autopsy reports was not a trauma-informed way of providing information to family members?

MS. NAOMI GIFF-MACKINNON: When family members bring their questions to FILU teams -- we've talked a lot about this amongst the FILU network about the -- the importance of taking direction from families in terms of what information they'd like to see. So families identify what information they'd like to know, what their gaps are, and FILU teams work to find that information for them.

Along the way, FILU has worked very closely with families to identify the -- the nature of some of the information that they're about to receive and talk about how it could cause trauma and could be very upsetting, and talk about ways to diminish or to minimize the trauma to the extent that they can. So if families are seeking that information, FILU teams take the direction from families on that front but work very closely to ensure that families -- that they're having those sensitive conversations about how best to support families through receiving that difficult information.

MS. JULIE MCGREGOR: I do have a follow-up question, but I -- I realize my time is -- is up, so thank
JOHN PHELPS
CROSS-EXAM BY MS. PASTORA SALA

you very much.

**MS. MEREDITH PORTER:** Thank you. Chief Commissioner, we are about 10 minutes after. We have a break scheduled for 10:30. I'd like to seek your instructions to call -- invite one more party before we head into our first break of the morning?

**CHIEF COMMISSIONER MARION BULLER:** Let’s have one more party.

**MS. MEREDITH PORTER:** Thank you. In that case, I will invite the next party to come and pose their questions to the witnesses. And the next party is the Assembly of Manitoba Chiefs, and they will have 23 minutes for their questions.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

**MS. JOËLLE PASTORA SALA:** Good. Okay. Good morning, Commissioners, Elders, family members. My name is Joëlle Pastora Sala. I am counsel to the Assembly of Manitoba Chiefs. I'd like to just begin by acknowledging and thanking the Blackfoot Nation who are welcoming us into their territory. I thank them also for the prayer yesterday and acknowledge the sacred items that are in the room.

Good morning, panel members. Thank you for your presentations yesterday. My questions this morning will focus primarily on questions for Mr. Phelps, Ms. Gardiner,
and Ms. Giff-MacKinnon. And I'd like to begin with Mr. Phelps. I hope you're not -- not feeling picked on yet.

MR. JOHN PHELPS: Not at all. Thank you.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. PASTORA SALA:

MS. JOËLLE PASTORA SALA: During your presentation yesterday, you indicated that the -- the CWC was originally developed in 1991, and we've already heard this quote, but to bridge the cultural gap including between the common law and Aboriginal and Inuit cultures, correct?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: And based on your knowledge, was the CWC program created with any involvement of Indigenous nations or representative organizations?

MR. JOHN PHELPS: I wasn't part of the development at the time, and I'm not familiar with that. I wouldn't know.

MS. JOËLLE PASTORA SALA: As a follow-up to Ms. McGregor of AFN's question, do you know if PPSC ever considered delivering the CWC services or programs in your region through an Indigenous organization or Indigenous nation?

MR. JOHN PHELPS: Through one? Not that I'm
aware of, no. I think the intention of the program -- our
program is to, as much as possible, complement any other
program that might be available. So we would be quite
supportive of more victims services being available through
a variety of agencies across the North, and we would be
happy to work collaboratively with them. So it's not a
suggestion that our service, you know, is -- is the one
that -- that should be in place for the primary care and
services for a victim. We're there to collaborate and
assist.

**MS. JOËLLE PASTORA SALA:** And picking up on
that theme of collaboration, in terms of bridging that
cultural gap, would you agree that relationship building
with the community is key?

**MR. JOHN PHELPS:** I do, yes. That's the
primary purpose for us to, where possible, try and maintain
continuity between our Crown Witness Coordinator and
specific communities.

**MS. JOËLLE PASTORA SALA:** And one of the
reasons why relationship building may be key is that there
has been a historic lack of trust in the western system,
including the PP --

**MR. JOHN PHELPS:** PPSC.

**MS. JOËLLE PASTORA SALA:** -- PSC.

**MR. JOHN PHELPS:** Yeah, that's a fair
MS. JOËLLE PASTORA SALA: Can you point me towards an initiative of the CWC which has the objective of building relationships with the community on a long-term basis?

MR. JOHN PHELPS: Beyond the integration that we attempt with -- with the assignment, there's encouragement. There's requirements within their objectives to develop those relationships. That's something that's relatively new in the Yukon region over the last few years. I can't remember when we implemented it, but to require them to actually develop some paperwork documentation to show their knowledge of what's going on in the community. We encourage all of our Crown to do the same, and we encourage them to have meetings and -- and show the outcome of their attempts to have meetings with either leadership within the First Nation or the designated leadership representation, such as the justice departments within each First Nation, so that at least there's a development of some form of a relationship, even at -- at that level and an attempt to learn more about what might be available to better understand the community. And that's -- that's done on a community -- a community basis. And the teams, being the prosecutor who's assigned and the Crown Witness Coordinator who's assigned are expected to
follow through. And we provide them with the -- sorry. We afford them with the time in the community to do that.

**MS. JOËLLE PASTORA SALA:** Would there be any of the -- in addition to what you've just said, are there any initiatives that re-invest in the community as part of that building of a relationship?

**MR. JOHN PHELPS:** Re-invest, did you say?

**MS. JOËLLE PASTORA SALA:** In terms of relationship buildings -- building.

**MR. JOHN PHELPS:** I -- beyond what I've just answered, I can't -- I can't think of anything.

**MS. JOËLLE PASTORA SALA:** In answer to Ms. Beaudin's question earlier about cultural appropriate considerations, you indicated that there were no evaluations, correct?

**MR. JOHN PHELPS:** That's correct, yes.

**MS. JOËLLE PASTORA SALA:** And since the creation of the program almost 30 years ago, has there been any evaluation or audit of the CWC to determine whether it has been able to, "bridge the cultural gap?"

**MR. JOHN PHELPS:** Specifically, no, not that I'm aware of.

**MS. JOËLLE PASTORA SALA:** And recognizing your comments earlier that you feel that your program is doing a good job, would you agree that an independent
evaluation might be helpful?

MR. JOHN PHELPS: Yes, I think it would.

MS. JOËLLE PASTORA SALA: Would you agree that it may be beneficial to include Indigenous Nations or Indigenous representative organizations in such an evaluation?

MR. JOHN PHELPS: I think any information that I can receive as the chief federal prosecutor for the Yukon would be beneficial, and if that information -- if an evaluation was done that included Yukon First Nations, I think that would be quite valuable, yes.

MS. JOËLLE PASTORA SALA: I'd like to take you to the -- I think it's still Exhibit 2, which is the overview of public prosecutions of Canada CWC program. Do you have that before you, sir?

MR. JOHN PHELPS: I do, yes.

MS. JOËLLE PASTORA SALA: And at pages 2 to 4 of this document there's a description of the services provided by CWC; do you see that?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: And these include, but are not limited to, initiating contact with victims and witnesses, ensuring victims understand their rights under the Canadian Bill of Rights, taking appropriate steps to enhance the safety and comfort of victims and witnesses,
and providing individualized personal and emotional
supports; do you see that?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: Are any of these
services provided from an Indigenous perspective based on
the nations within your region?

MR. JOHN PHELPS: Sorry, I'm pausing because
I -- my personal experience with prosecution and with --
actually on the groundwork with the team is with the Yukon
territory. I think it's -- it's a different service in
Nunavut, for example, based on the population there and the
makeup of our Crown Witness Coordinator team, and I think
it's -- it's done differently as a result of that.

Is there anything specific within our
mandate or our approach from community to community within
the Yukon? Other than having the awareness through the
training and hopefully the understanding of the regional
differences throughout the territory, no, I can't say that
there is.

MS. JOËLLE PASTORA SALA: Switching gears a
little bit, would it be correct to assume that when you use
the term "victim" that you're relying on the definition in
the Canadian Bill of Rights?

MR. JOHN PHELPS: Our program would go
beyond that, but for the purpose of the discussions here,
yes. We do provide a service to non-sort of businesses that may have suffered a loss as a result of crime, but our primary focus would be the definition under the CVBR, yes.

**MS. JOËLLE PASTORA SALA:** When you say you go beyond that, is there something additional than the definition in Section 2 of the Canadian Victim Bill of Rights that I should be aware of?

**MR. JOHN PHELPS:** Just that the CVBR deals with the real person, and we do provide at times to a corporate body some services, but it's a small percentage, yes.

**MS. JOËLLE PASTORA SALA:** Okay. Can I take you to Section 2 of the Canadian Victim Bill of Rights?

**MR. JOHN PHELPS:** Sure.

**MS. JOËLLE PASTORA SALA:** So Section 2 specifically defines victim?

**MR. JOHN PHELPS:** Yes.

**MS. JOËLLE PASTORA SALA:** Do you see that, sir? And it says that it's an individual who has suffered physical or emotional harm, property damage or economic loss as a result of the commission or alleged commission of an offence; do you see that?

**MR. JOHN PHELPS:** Yes, I do.

**MS. JOËLLE PASTORA SALA:** In terms of the services we just referred to provided by CWC, is it correct
that these services are not offered to family members of
missing loved ones?

**MR. JOHN PHELPS:** Is -- it is correct in the
sense that we are a prosecution-based service and we only
engage if there have been charges.

**MS. JOËLLE PASTORA SALA:** Right. So the --

**MR. JOHN PHELPS:** In most cases we wouldn't
be the service that provides the support, there would
be -- there are other entities within the Yukon territory
that would provide that support.

**MS. JOËLLE PASTORA SALA:** So you
wouldn't -- just to clarify, you wouldn't be providing the
supports because victims must be engaged with the criminal
justice system, and for those family members who have loved
ones who are missing, they're not understood to be,
“engaged with the criminal justice system;” would that be
correct?

**MR. JOHN PHELPS:** I think that's a fair
assessment. We have a collaborative relationship with the
territorial government and a memorandum of understanding
for service -- the provision of services with them and with
the RCMP. And when it comes to the reporting of crime or
concerns, as you've referenced, of missing individuals, the
service that would be provided would be throughout the
territorial government and the RCMP, or both.
MS. JOËLLE PASTORA SALA: And, Mr. Phelps, you spoke a little bit yesterday of what happens when a victim doesn't want to access the CWC services, and I believe your answer was that they're -- it was their right to do so, correct?

MR. JOHN PHELPS: That's correct, yes.

MS. JOËLLE PASTORA SALA: To the extent that someone has been a victim of a crime, but chooses not to proceed with their complaint, you would agree that there is a possibility for re-victimization?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: Is it also possible that someone who is the victim of a domestic assault, but chooses to withdraw their statement or complaint, could be subject to a criminal charge of mischief on the basis that the complaint was not -- was made, but not proceeded?

MR. JOHN PHELPS: That is a possibility, yes. In practice it's not the case for the very reason that you've alluded to, the re-victimization of an individual who has already suffered the harm.

MS. JOËLLE PASTORA SALA: In trying to piece the different elements of the presentations we heard yesterday, it occurs to me that in some cases victims may be interacting with a minimum of two or three different
groups, so including victim services, CWV, the police, and then possibly the FILUs; is that correct?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: I'd like to explore some questions relating to the relationship between these services. First, is there a formal relationship, whether through policy or otherwise, between these service providers to determine, like, who does what when?

MR. JOHN PHELPS: Yes.

MS. JOËLLE PASTORA SALA: Could you point me to --

MR. JOHN PHELPS: We have memorandums of understanding, so there's the relationship between the RCMP and the Crown as it relates to informing victims of what's going on after a crime has been reported, and the responsibility rests with the RCMP until such time as there's a first appearance in court, and then it transfers to the Crown's office, for example. The relationship with the victim services branch in the Yukon territory is a little more complex than that because they provide service before a report of a crime, or regardless of report of a crime, through a criminal justice process and beyond as well, so we have an understanding of primary responsibility for updating a victim throughout the prosecution stage of that service so that they're not receiving multiple phone
calls with respect to what's going on, and there's a
coordinated effort to make sure that it's not confusing to
a victim.

MS. JOËLLE PASTORA SALA: What about with
the FILUs?

MR. JOHN PHELPS: At this point in time
there's no formal MOU or otherwise with the FILUs, but we
do have assigned prosecutors within our office to address
the concerns, so we're collaborating with the program for
information requests from -- from the program.

MS. JOËLLE PASTORA SALA: Is it conceivable
that victims would have to retell their stories and
therefore be re-traumatized multiple times?

MR. JOHN PHELPS: It's certainly
conceivable, yes. It's -- it's something that we -- we
recognize as a concern, and within the limitations of our
program we do our best for that not to occur, but it -- it
does even within the programs themselves due to the natural
turnover over the lifetime of their requirement for the
service, yes.

MS. JOËLLE PASTORA SALA: Thank you, sir,
those are my questions for you. Good morning, Ms.
Gardiner.

MS. LEANNE GARDINER: Good morning.

LEANNE GARDINER, Previously Affirmed:
CROSS-EXAMINATION BY MS. PASTORA SALA:

MS. JOËLLE PASTORA SALA: Similar to my question of Mr. Phelps, I read in your materials that you also rely on a similar definition of victim, as per the Victim Bill of Rights; is that correct?

MS. LEANNE GARDINER: I would say we rely on that definition specifically for, especially the position. One of the positions I’m responsible for that is responsible for the implementation of the CVBR. When it comes to front-line service provision for victims, I would say the definition is -- is broader than that. You’ll see in some of our materials we refer to victims of crime and tragedy. There are many other instances where our providers are supporting families and victims where no -- where it’s not immediately apparent that there’s necessarily a criminal offence that’s taken place. Suicide, for example, has such wide -- has such a wide impact in a community. And victim services providers, absolutely, serve those families as well.

MS. JOËLLE PASTORA SALA: If families come to victim services and they have a missing loved one, and they’re -- is it fair to say that they would not receive services offered by victim services in the NWT?

MS. LEANNE GARDINER: Although I’m not -- you know, I haven’t personally delivered the service, my
understanding of what’s -- it’s not my understanding that families would be turned away. Just knowing the -- you know, the way in which the programs are being delivered, those services are being delivered by community organizations. It’s crime and tragedy, and that’s the, kind of, the language we use when we’re -- when we’re -- if we’re asked for support from those providers, that’s the language we’re using. So it’s not my understanding. At the same time, there -- there have been times where it’s possible that providers might see the role in a different way, yeah. But if it came to our attention, we would work with that community to address it. It’s not my experience that that’s the go-to position for the providers though.

**MS. JOËLLE PASTORA SALA:** Okay. Thank you. In answer to a -- a question yesterday about the challenges and gaps in delivery of service, you stated, and I’m paraphrasing, “That services are based -- one of the challenges is that services are based and delivered when all stakeholders are working well.” Sorry, let me retry -- try that again. “Services are delivered well when all stakeholders are working well together.”

**MS. LEANNE GARDINER:** Yes.

**MS. JOËLLE PASTORA SALA:** Is that -- do you recall saying that?

**MS. LEANNE GARDINER:** Yes. And it -- so
my -- I would just qualify and say I think the best service is when all stakeholders are working well together.

MS. JOËLLE PASTORA SALA: Thank you. To assist us in understanding how to move forward --

MS. LEANNE GARDINER: M’hm.

MS. JOËLLE PASTORA SALA: -- I’m wondering if you could provide concrete examples of the types of situations when different service providers are not working well together?

MS. LEANNE GARDINER: That’s a good question. If I think of our two programs, the -- the Crown Witness Coordinator Program and our program, for example, because -- and I’m -- this isn’t a specific example because there’s a general issue or concern there. But where there have been challenges in that relationship or in a relationship with the RCMP, for example, then the impact, if there isn’t a good relationship between, for example, a Crown Witness Coordinator and a victim services provider at the community level, if they’re not working well together, then, I think, some of the concerns that you mentioned when you were questioning Mr. Phelps about -- about having victims have to retell their -- their stories, for example, I think that that’s what happens. I think if we’re not -- if it’s not a timely service that we’re providing together, and if we’re not communicating well, then I think that
that -- that is the risk, and I -- I think it happens.

MS. JOËLLE PASTORA SALA: Thank you.

MS. LEANNE GARDINER: So that would be an example. And I would include any of the relationships with police in that example as well.

MS. JOËLLE PASTORA SALA: Thank you.

MS. LEANNE GARDINER: I will say our FILU, like, our local FILU works quite closely with victim services as well, so I think it’s less likely, mostly because it’s all coming out of the same office. And we have a -- a more formal relationship there too. So the risk is -- is less in that case. But -- but we do things to mitigate those as well, including joint training initiatives, and -- and deliberate efforts to build those partnerships.

MS. JOËLLE PASTORA SALA: Thank you. I only have a couple minutes left, so I’m going to switch quickly to Ms. Giff-Mackinnon. Good morning.

MS. NAOMI GIFF-MACKINNON: Morning. You indicated yesterday that Justice Canada has funded the FILUs for $11.7 million for the period of September 2016 to March 2019, correct?

MS. NAOMI GIFF-MACKINNON: To March 31st, 2019, yes.

MS. JOËLLE PASTORA SALA: Yeah. And if we do
an approximate calculation, and I’m not -- math is not my
forte, but that would mean it would cost approximately $4
million per year for the operation of this program?

MS. NAOMI GIFF-MACKINNON: It’s a -- yes, it’s about $4.6 million a year, but because they started
mid-way through the year, that’s the difference. Yeah.

MS. JOËLLE PASTORA SALA: And you indicated
yesterday that you have been in operation for approximately
a year and a half, and that you’ve serviced approximately
400 individuals?

MS. NAOMI GIFF-MACKINNON: That the FILUs, yes, across the country. Yeah, I’ve done that.

MS. JOËLLE PASTORA SALA: And does this
number include more than one contact per individual?

MS. NAOMI GIFF-MACKINNON: No. They’re --
they’re each individual. Is -- is that what you mean by the
-- the number of -- sorry. Maybe you could --

MS. JOËLLE PASTORA SALA: I guess, I’m trying
to understand in -- when you say 400 persons, how -- how
many times can family members access the FILUs, or how long
approximately do the services last? And how many times are
you interacting with the family members?

MS. NAOMI GIFF-MACKINNON: So that would vary
between each FILU for -- for sure. That there would be
different experiences and different questions that families
would have that they would bring to the FILU that would
determine the nature of the work that the FILU would be
doing to assist the family. It might be based on the -- the
family would like to receive information. They might like
to have meetings with each of the agencies. They might like
to have one meeting with all of the agencies. So there can
be lots of different opportunities for FILUs to work
directly with family members. I’m not sure -- is it -- I --

MS. JOËLLE PASTORA SALA: Thank --

MS. NAOMI GIFF-MACKINNON: -- I could expand
on that if you’d like?

MS. JOËLLE PASTORA SALA: I think my -- well, you know, I’m going to try and squeeze in my last question.

MS. NAOMI GIFF-MACKINNON: Sure.

MS. JOËLLE PASTORA SALA: Do you have any specific objectives or expectations that you hope to achieve, essentially, from September 2016 to March 31st, 2019 for FILUs?

MS. NAOMI GIFF-MACKINNON: That family members who have outstanding information gaps and are seeking information about their loved one, receives that information.

MS. JOËLLE PASTORA SALA: Thank you. Thank you all.

MS. NAOMI GIFF-MACKINNON: Thank you.
MS. MEREDITH PORTER: Okay. So we’ve -- on -- again, we’re scheduled for a break now. And I did want to bring to the attention of the Commissioners that, I believe, there’s a typo on the schedule. We have a break for 10:30 with reconvening at 11. So, I believe, unless -- I’ll seek your instruction on that. Do we need a half hour break? Or -- or can we request to change that, and come back in say 15 or 20 minutes?

CHIEF COMMISSIONER MARION BULLER: It says a 30-minute break --

MS. MEREDITH PORTER: Yeah.

CHIEF COMMISSIONER MARION BULLER: --

(Indiscernible) break.

UNIDENTIFIED SPEAKER: Thank you.

CHIEF COMMISSIONER MARION BULLER: Fifteen? Twenty? I’m being -- I’ve been told 20 minutes.

MS. MEREDITH PORTER: Twenty minutes, okay.

UNIDENTIFIED SPEAKER: I said 15, this is different. It’s okay.

UNIDENTIFIED SPEAKER: (Indiscernible) 30.

(LAUGHTER)

MS. MEREDITH PORTER: So I’ll just note -- note that to the parties, that we are going to reconvene then in about 20 minutes. The other issue that I did mention to -- to the parties already was that we -- one of
our witnesses is leaving early. So for any of the parties that are scheduled for their cross-examination later on in the day, perhaps, falling after -- falling into time after that witness has left, please identify yourselves to the member of the legal team, Francine Merasty, and indicate to her that you have some questions to put to Ms. Pottruff, and this is going to be your last opportunity to do so. So I would just note that to the parties who, again, are scheduled a little bit later in the day and may not have an opportunity to put their questions to her. And with that, we’ll reconvene?

CHIEF COMMISSIONER MARION BULLER: Twenty minutes.

MS. MEREDITH PORTER: Thank you.

--- Upon recessing at 10:37 a.m.
--- Upon reconvening at 11:02 a.m.

MS. MEREDITH PORTER: I think we're due to get started again. I just -- before we get started, we're going to move now into the cross-examination of the witness who has to leave early this afternoon because we want to make sure the parties with-standing who have questions -- okay, we're starting back. We want to make sure that the parties who are due to leave this afternoon have an opportunity to put their questions to the witness.

I'm just going to set out very quickly how
the procedure for this is going to -- is going to go. We
have five -- we have five parties -- or four parties,
actually, including Commission counsel, who have questions
that they want to put to the witness, and so we are going
to start the clock, as we do with all other -- with all
parties, and the time for the questions that are put to
Ms. Pottruff will be deducted from the total time that the
party has for their cross-examination.

I'll give you an example. If six minutes of
questions are posed -- are put to the witness, later on
this afternoon in your cross-examination of the other
witnesses, that six minutes will be deducted from your
total time. They're 23 minutes, for example, you have 17
minutes remaining this afternoon for your cross-examination
of the other witnesses.

That will also leave, of course, adequate
time for any questions that the Commissioners may have as
well for the witness. And then before the witness leaves
this afternoon, there will be the allocation of time for
her counsel to do her re-examine of the witness once all
the questions have been put to the witness.

So the first party who has requested to put
questions to Ms. Pottruff is from the Independent First
Nations. I want to make sure I get the party's name. Yes,
representative up at this time to question Ms. Pottruff,
and ask that -- I would -- and ask that 23 minutes be put
on the clock, and we will take note at the end of the
questions of how much time remains.

Thanks very much, Registrar.

MS. SARAH BEAMISH: All right, thank you.

My name is Sarah Beamish, and I represent the Independent
First Nations in Ontario. This is a group of 12
unaffiliated Haudenosaunee, Oji-Cree and Anishinaabe First
Nations. Each one of these First Nations has lost women to
violence, most recently 23-year-old April Carpenter who was
just found in the Red River last week.

These First Nations bring their greetings to
the Commission and thank the Blackfoot Nation for hosting
this Inquiry on their territory.

BETTY ANN POTTRUFF, Q.C., Previously Affirmed:

CROSS-EXAMINATION BY MS. BEAMISH:

MS. SARAH BEAMISH: So, Ms. Pottruff, I just
want to ask you questions about two things. The first I
would refer to Exhibit 20, page 18 of Exhibit 20. This was
the -- this was a -- this -- page 18 of this report talks
about some legislative enactments which included The
Victims of Interpersonal Violence Act.

MS. BETTY ANN POTTRUFF: M'hm.

MS. SARAH BEAMISH: And I want to read you
The use of the emergency provisions related to exclusive occupation of a home is considered by the Federal government to be in conflict with Federal authority relating to Indian Reserves.

So I'm wondering if you can tell me, does this mean that the emergency provisions related to exclusive occupation of a home are not enforced on reserves in Saskatchewan?

**MS. BETTY ANN POTTRUFF:** That's correct.

**MS. SARAH BEAMISH:** Okay. So just after that in the report it goes on to state: (As Read)

Although some Bands have attempted to adopt the emergency intervention order regime by band bylaw, the bylaws have not been approved by the Federal government.

Can you explain why these bylaws have not been approved by the Federal government?

**MS. BETTY ANN POTTRUFF:** I'm not sure I can give you the Federal explanation. This goes back to the early development of the emergency protection order regime, and -- and while there is an argument as to whether or not
those occupation clauses are ultra vires or not in terms of a residence on Indian Reserves, for caution sake we have suggested that -- that people not rely on those.

Bands have attempted to take the Saskatchewan provisions and replicate them in bylaws and sent them to Ottawa, and they have not been approved. Now, since that process, we also have the family property on reserve regime, which tries to replicate, again, the emergency intervention order provisions that are in the Saskatchewan legislation.

We have an option, obviously, of enacting those in the province. It requires that we designate a justice of the peace, and the province has been prepared to do that. But we consulted with First Nations leadership in terms of whether or not there was support for our doing so, and -- and they advised no. So we have not designated justice of the peace for that purpose.

We do have -- we do say the other provisions of the emergency protection order regime do apply on reserve, it's just with respect to the specific residence that there's an issue.

**MS. SARAH BEAMISH:** Okay, thank you. So my second set of questions is about -- I'm not sure if we've called it Exhibit 21 or 22, it's the Saskatchewan Final Report on Domestic Violence Stats.
MS. BETTY ANN POTTRUFF: Okay.

MS. SARAH BEAMISH: I think it's Exhibit 22.

So this report makes a number of recommendations that include access to programs and services, such as domestic violence treatment programs and parenting education courses, that kind of thing. Would you agree that the delivery of these kinds of programs and services is typically designed for those who are either in or have easy access to urban centres?

MS. BETTY ANN POTTRUFF: Not necessarily.

The programs can be delivered by smaller organizations in a community, and so I -- I think that we very much, when we're developing these types of programs, we're looking to community in terms of what are -- what are the local organizations prepared to -- prepared to provide and -- and is there some way to support that. So I don't think you have to have an urban situation to be able to provide programming.

We have experience with communities like Sandy Bay offering family centres and being able to provide a lot of programming there, so I think that that shows it's possible in a smaller community.

MS. SARAH BEAMISH: Okay. So although it's possible, would you say that people in more remote Indigenous communities often have difficulty accessing
these programs, particularly if they're living with poverty or disabilities or they are caregivers?

**MS. BETTY ANN POTTRUFF:** Absolutely. Unless we can make the programs available locally, obviously travel costs are prohibitive to some people and particularly if the location is remote.

**MS. SARAH BEAMISH:** Okay. So would you agree that people living in remote Indigenous communities are often falling between the cracks of some of these kinds of programs and victim services?

**MS. BETTY ANN POTTRUFF:** I’m not sure that they’re falling between the cracks, per se. I think the issue is, are we prepared to sort of penetrate all the communities with -- with sufficient programming? Is -- is there the financial and -- and human resource potential available to be able to -- to be in all communities?

**MS. SARAH BEAMISH:** Okay. So given Saskatchewan’s experience with maybe trying to deliver some of these programs in more remote communities, are there recommendations you would make to the -- to the Commission about how these kinds of services can be made more accessible and more useful for Indigenous women and girls in those communities?

**MS. BETTY ANN POTTRUFF:** Well, I -- I think a lot of it has to do, as -- as I’ve indicated, with having
the financial resources to be able to support local programming and to be able to train local facilitators to provide the programming. Often, that requires that -- that we develop, sort of, the program outline and -- and matrix for the program so that the local providers don’t have to start from square one, right? But they’ve got -- they’ve got a product that they can then implement and -- and adopt to the community culture or needs.

**MS. SARAH BEAMISH:** Okay. All right. I think that’s all my questions for you. Thank you, Ms. Pottruff.

**MS. BETTY ANN POTTRUFF:** Okay, thanks.

**MS. MEREDITH PORTER:** Can we stop the clock? And I believe we had 16 minutes and 43 seconds left for that part of this afternoon, and at this time, I’m going to invite the representative for the Nishnawbe Aski Nation, Grand Council Treaty 3, and the Treaty Alliance of Northern Ontario to come up and put questions to Ms. Pottruff. I request that 23 minutes be once again put on the clock.

**MS. KRYSTYN ORDYNIEC:** Good morning, (Speaking in Native language), bonjour. On behalf of my clients and Treaty Alliance Northern Ontario, which is made up of the Nishnawbe Aski Nation and Grand Council Treaty 3, I would like to thank the Blackfoot Nation for welcoming us so kindly here. I acknowledge the sacred items in the room
and thank you for the prayers and the drum song. Also, I’d like to acknowledge the traditional territory of Treaty 7 and the Métis Nation Region 3 again.

BETTY ANN POTTRUFF, Q.C., Previously Affirmed:

CROSS-EXAMINATION BY MS. ORDYNIEC:

MS. KRYSTYN ORDYNIEC: Ms. Pottruff, I -- yesterday, in your testimony, you talked about barriers to going north. Could you just expand on that a little bit for context and -- and let us know what you meant by that?

MS. BETTY ANN POTTRUFF: Are you referring to barriers to continuing the -- to meet with the northern families?

MS. KRYSTYN ORDYNIEC: That’s right.

MS. BETTY ANN POTTRUFF: Okay. What happened, for example, is fires. Fire season led to cancellation, because obviously, it was not the first priority for the community to be dealing with -- with -- with our -- our issues at -- at that time. Other issues that intervened were simply weather, other thing -- elections, all of those things intervene with -- with being able to organize.

MS. KRYSTYN ORDYNIEC: And would you agree with me that also the -- the distance in going up north would be a barrier?

MS. BETTY ANN POTTRUFF: That -- that’s part
of it, because of the travel costs involved, and it’s also part of -- for the northern communities as well. How do you -- how do you organize to have people accessible in -- in several communities and -- and try to cover the north?

**MS. KRYSTYN ORDYNIEC:** Sure. So the remainder of my questions will focus on exhibit 20 and specifically page 15. You talk about a Northern Transportation and Support Initiative created in 2015, and obviously, you’re familiar with this, correct?

**MS. BETTY ANN POTTRUFF:** Yeah.

**MS. KRYSTYN ORDYNIEC:** Could you provide some context and backgrounds on how this initiative came to be?

**MS. BETTY ANN POTTRUFF:** Well, we’ve certainly had lengthy discussions with northern communities and representatives through organizations such as STOPS to Violence or Saskatchewan Aboriginal Women’s Circle Corp and other partners about some of the challenges of northern Saskatchewan and how to address the issues.

Because we do not have transition houses or safe houses in most of those communities and -- and there are challenges to creating such facilities in those communities, and one of the things that we heard back from our partners was -- was the concern about -- that -- that people were, as good neighbours and friends, driving individuals out of the community or trying to find a way to
support them to flee, and they were, you know, this is a personal cost to them. And so we -- we developed the Northern Transportation Initiative to try to -- try to make sure that we offset that cost and made sure that there was a program that people could apply to for funding emergency relief to, in fact, help with the transportation costs and -- and resettling of people in a place where they would be safe.

**MS. KRYSTYN ORDYNIEC:** And is it only to do with emergency situations?

**MS. BETTY ANN POTTRUFF:** I -- pretty much, yes.

**MS. KRYSTYN ORDYNIEC:** Okay. And in the guidelines for delivery that are footnoted, you suggest, quote, “leaving in a hurry,” which would support that. How quickly is an individual able to access the assistance from -- from when they determine they’re in an emergency situation to when help is provided?

**MS. BETTY ANN POTTRUFF:** Immediately, because they can access the -- the northern victim services organization 24/7.

**MS. KRYSTYN ORDYNIEC:** And how did -- how do remote communities become aware of this initiative, aware that this is available to them?

**MS. BETTY ANN POTTRUFF:** There would have
been discussions with northern community service providers. Certainly, the police would be aware of it, and victim services would become aware through the police, I think, or through direct contact. Often, when you’re dealing with northern communities, you’re also making sure that organizations such as the local nurse and -- and others know about the services that are available. I don’t know the specifics of how this program was -- was publicized, but those would be some of the processes we use. We often, as well, use Missinipi Radio to make sure that people are aware of the services.

**MS. KRYSTYN ORDYNIEC:** And after an individual is supported to leave a community, what kind of supports are available to them when they are in a safe place?

**MS. BETTY ANN POTTRUFF:** Often, they would be being supported into a transition home, either in -- in one of the northern locations or they would be linked to services that -- that are available to other individuals, whether they’re Social Services, whether there’s welfare, income services, whatever, they would be linked to those.

**MS. KRYSTYN ORDYNIEC:** And Ms. Pottruff, would you agree with me that this is only one option and perhaps a better option would be to have those resources in the northern communities so that individuals fleeing violent
situations, specifically women, would not have to travel these far distances?

**MS. BETTY ANN POTTRUFF:** You mean in terms of resources for them to be able to have a safe place to stay?

**MS. KRYSTYN ORDYNIEC:** Right. That’s right.

**MS. BETTY ANN POTTRUFF:** Yes. If -- if -- if we can think of how to do that in a way that will maintain their safety, which is the biggest concern.

**MS. KRYSTYN ORDYNIEC:** Thank you very much.

**MS. MEREDITH PORTER:** Thank you, and I’ll ask --

**UNIDENTIFIED SPEAKER:** Excuse me. For the record, could we have counsel’s name, please?

**MS. KRYSTYN ORDYNIEC:** I apologize. It’s Krystyn Ordyniec.

**MS. MEREDITH PORTER:** Okay, and for the record, I’m just going to note that the clock stopped at 17:30 for the party. The next party I’m going to invite up to question Ms. Pottruff is from the Native Women’s Association of Canada. And again, if 23 minutes could be put on the clock?

**MS. VIRGINIA LOMAX:** Thank you. First -- first, I’d like to begin by thanking Treaty 7 and the Métis Region 3 for welcoming us to their territory today. I’d also like to acknowledge the sacred items that are in the
room with us and thank the Elders for their prayers this morning.

BETTY ANN POTTRUFF, Q.C., Previously Affirmed:

CROSS-EXAMINATION BY MS. LOMAX:

MS. VIRGINIA LOMAX: And, Ms. Pottruff, you testified yesterday that you -- you have witnessed your staff and -- oh, no. You testified yesterday that, in the PPCMP, there was not a reporting relationship with the government because a reporting relationship with the government will put the government above other parties, thereby creating a non-partnership relationship. Is that correct?

MS. BETTY ANN POTTRUFF: That’s correct.

MS. VIRGINIA LOMAX: And would you agree with the statement that a relationship with the government where one party is reporting to the government is not a partnership but is rather creating somewhat of a hierarchy?

MS. BETTY ANN POTTRUFF: It’s -- it can be collaborative, but it is still a hierarchy, yes.

MS. VIRGINIA LOMAX: And yesterday you testified that you hoped that this inquiry would come out with practical -- practical, workable recommendations for you to begin implementing. Is that correct?

MS. BETTY ANN POTTRUFF: Correct.

MS. VIRGINIA LOMAX: So throughout the course
of this inquiry, we have heard many families give
recommendations to the inquiry, and yesterday, you testified
that, through the course of the PPCMP, families brought
forward extremely important information and recommendations
that were instrumental to the PPCMP. Is that correct?

**MS. BETTY ANN POTTRUFF:** This is correct.

**MS. VIRGINIA LOMAX:** And would you agree with
the statement that recommendations from families who have
tested before this inquiry are also important and
instrumental to the inquiry’s work?

**MS. BETTY ANN POTTRUFF:** I would assume so.

**MS. VIRGINIA LOMAX:** So would you agree that
educating the public from coast to coast to coast about what
really happened in residential schools is a practical,
workable recommendation for you or other governments and
their departments to begin to implement?

**MS. BETTY ANN POTTRUFF:** I believe so. I --
I believe that’s also a recommendation in the -- in the
Truth and Reconciliation Report.

**MS. VIRGINIA LOMAX:** And would you agree
with the statement that developing strategies and programs
in partnership with Indigenous people to restore and
promote Indigenous culture, spirituality, and languages is
a practical, workable recommendation that you or other
government departments could work to implement?
MS. BETTY ANN POTTRUFF: Certainly, I think so.

MS. VIRGINIA LOMAX: And would you agree with the statement that working in relationship with Indigenous people to develop and implement strategies to lift up and strengthen Indigenous families instead of separating families through apprehension is a practical, workable recommendation that you and other government departments could work to implement?

MS. BETTY ANN POTTRUFF: I agree.

MS. VIRGINIA LOMAX: And would you agree with the statement that creating more transparency and enforceable rights for victims and families within the criminal justice system is a practical and workable recommendation that you and other government departments could work to implement?

MS. BETTY ANN POTTRUFF: I -- I think that's true in balance with always maintaining the balance with the rights of the accused and the rights of the community.

MS. VIRGINIA LOMAX: And would you agree with the statement that funding and promoting honouring and memorial projects or funds for families of missing and murdered Indigenous women is a practical, workable recommendation that you and other government departments
could work to implement?

**MS. BETTY ANN POTTRUFF:** I think you heard me speak about the challenges of using the word "memorial".

**MS. VIRGINIA LOMAX:** Yes, in certain circumstances.

**MS. BETTY ANN POTTRUFF:** Okay. And -- and so I would have to differ on that. I certainly support any community, any organization, any family who wants to develop some form of remembrance, but it doesn't have to be one form. Each community, each family, is different, and we need to honour that, as well. And -- and for -- for us, it was important to have a -- a symbol of remembrance, but there are many ways to do this, and I -- I would not presume to say for families or communities how it should be done.

**MS. VIRGINIA LOMAX:** And would you agree with the statement that closing the gap in health care delivery between non-Indigenous and Indigenous people, particularly children, is a practical, workable recommendation that you or other government departments could work to implement?

**MS. BETTY ANN POTTRUFF:** I think it's a very important recommendation, and -- and I think it's one that should be developed.

**MS. VIRGINIA LOMAX:** Would you agree with
the statement that releasing document about missing or
murdered loves ones to families is a practical, workable
recommendation that you or other government departments
could work to implement?

**MS. BETTY ANN POTTRUFF:** I believe that's
true, subject to the usual privacy and -- and other
legislative restrictions.

**MS. VIRGINIA LOMAX:** And would you agree
with the statement that addressing race and sex-based
bullying in schools is a practical, workable recommendation
that you or other government documents could work to
implement?

**MS. BETTY ANN POTTRUFF:** I agree.

**MS. VIRGINIA LOMAX:** And would you agree
with the statement that developing a 24-hour a day
counselling service for families and survivors is a
practical, workable recommendation that you or other
governments could work to implement?

**MS. BETTY ANN POTTRUFF:** I think we need to
develop counselling support. Whether it's practical to
have 24 hour and how to do that, that would be the
question.

**MS. VIRGINIA LOMAX:** And finally, would you
agree with the statement that you and/or other government
departments could begin to implement these practical and
workable recommendations in partnership in First Nations, Métis, and Inuit communities, families, and organizations before the release of the National Inquiry's final report?

**MS. BETTY ANN POTTRUFF:** I certainly think that governments and other organizations don't need to wait for a final report to continue good work. But once again, we're hoping that the final report would -- would help direct us down some pathways.

**MS. VIRGINIA LOMAX:** Thank you very much.

**MS. MEREDITH PORTER:** Thank you. And if we could stop the clock? And for the record, the clock was stopped at 1715, so that is the remaining time for that party this afternoon. And at this time, that concludes the parties that have requested to put questions to the witness. And at this time, I'd like to invite the commissioners to question Ms. Pottruff.

**CHIEF COMMISSIONER MARION BULLER:** Does the commission counsel have questions for her?

**UNIDENTIFIED SPEAKER:** No.

**UNIDENTIFIED SPEAKER:** I don't believe so.

**MS. CHRISTA BIG CANOE:** The questions were asked by another party, so -- so they've been asked and answered, so I do not need to use the time. Thank you.

**CHIEF COMMISSIONER MARION BULLER:** Thank you.
COMMISSIONER QAJAQ ROBINSON: I -- I have one question, and it will sort of build what Ms. Lomax was working on. The -- or her style.

QUESTIONS BY THE COMMISSIONERS:

COMMISSIONER QAJAQ ROBINSON: In terms of how -- I'm so bad with acronyms -- the PPCMP?

CHIEF COMMISSIONER MARION BULLER: Yeah, that'll do. Partnership committee. That's easy.

COMMISSIONER QAJAQ ROBINSON: The partnership committee? Okay. In terms of how that was structured and brought together, is this a model of inter-departmental and inter-stakeholder relationship that you would recommend for other decision-making bodies, power-holding bodies? I state that because I think we have to talk about more than just governments here. Everyone who is in a position to impact the lives of Indigenous women and girls plays a role in this issue, so I -- I tend to speak about power-holders, those with obligations, as opposed to just using the generic "government."

MS. BETTY ANN POTTRUFF: I -- I think it worked well for us. I think it can work well in other situations. It is very dependent on relationships and on building trust. And -- and so those are two of the foundations for using the partnership approach. It's not unlike what's now called collective impact approaches, and
those have been very effective, too. So I think if you look at the literature on collective impact, you will find many similarities to what we unconsciously did. And I think that yes, it is -- it is a good practice. It may not work in every scenario.

COMMISSIONER QAJAQ ROBINSON: One of the things we've heard from families and grassroots organizations, particularly Indigenous feminist organizations, is a lack of having the seat at many of these tables. How in your partnership was -- was that addressed or considered?

MS. BETTY ANN POTTRUFF: Well, our partners included Indigenous organizations. We had the Federation of Saskatchewan Indian Nations, now the Federation of Sovereign Indigenous Nations, the Women's Commission membership, as well as Saskatchewan Aboriginal Women's Circle Corp. and -- and other organizations. So -- so we were certainly conscious of -- of having those voices at the table.

You also don't need to have the voice at the table to have the voice heard because you can have meetings with agencies, which we had, to -- to also hear perspectives and take those into account.

COMMISSIONER QAJAQ ROBINSON: And is that something that -- that's similar to my first question. Do
you think that other agencies and decision-makers should be engaging with that objective in mind?

**MS. BETTY ANN POTTUFF:** I think it's important to hear the voices from the different constituents. And -- and if -- depending on the mandate and -- and the purpose of -- of the group putting together, yes, it may be appropriate to have those individuals as part of the group, or it may be important to simply have another opportunity to hear those voices and -- and discuss what they have -- what they have suggested.

**COMMISSIONER QAQAQ ROBINSON:** Those are all my questions.

Do you have any? He doesn't have any questions.

**CHIEF COMMISSIONER MARION BULLER:** Thank you.

**COMMISSIONER QAQAQ ROBINSON:** Okay.

**CHIEF COMMISSIONER MARION BULLER:** Okay. I have some questions.

In looking at the document 113127 the document, "Part II: Institutional Hearings", which is Exhibit 20, Page 15, which was referred to by other counsel, by the Northern Transportation and Safety Initiative, isn't this premised on the assumption that the parties leaving the communities are women and children?
MS. BETTY ANN POTTRUFF: Primarily, yes.

CHIEF COMMISSIONER MARION BULLER: Okay.

What support, financial support, is there -- or any other type of support is there for alleged abusers to leave a community other than through the criminal justice system?

MS. BETTY ANN POTTRUFF: And -- and that can be a challenge, I agree. I'm not aware whether we've had situations where they've been supported to leave the community. It -- it may be that there have been, but I'm not aware of those.

CHIEF COMMISSIONER MARION BULLER: Okay.

So if we are looking at an emergency intervention order, and the alleged abuser or alleged offender is removed from the home, what resources, if any, are available to that alleged abuser to leave the community so that the order can be enforced, in other words?

MS. BETTY ANN POTTRUFF: Well, often there is that challenge in the community in terms of whether there is another location in the community that they can reside in, with family or friends, but we know the housing issues in many of those communities, and so they -- they may be looking for opportunities to leave the community. I really can't speak to it more than that.

CHIEF COMMISSIONER MARION BULLER: Assuming for the moment this scenario, a family of four, a mother,
two children and father/husband, or spouse, and the spouse -- father/spouse is an alleged abuser, because I'm going to say I know it works the other way, where women can be abusers as well, but for the time being we will say this scenario. Isn't it -- and I appreciate I'm asking an opinion here. Isn't it less disruptive to the family to remove the abuser from the community than to remove the rest of the family?

**MS. BETTY ANN POTTRUFF:** That's certainly an issue that has been raised by community and by partners in terms of the lack of adequate support for abusers in terms of housing, whether it's in a remote community or whether it's in a rural community, there are issues in terms of you don't want the abuser unnecessarily detained in jail, but there needs to be a place for them to go to. Some of the southern locations, of course, have -- have shelters which are provided available to men as well, but yes, it is one of the challenges.

**CHIEF COMMISSIONER MARION BULLER:** In considering programs that are offered to protect women and children and work that you've done, especially with -- I better get this right -- the partnership committee, have you taken the perspective of a women and children, human right to be safe and removing the abuser from the situation as opposed to removing the woman and her children from the
unsafe situation? Have you applied that lens to your programs?

**MS. BETTY ANN POTTRUFF:** Well, and I think that was the initial reasoning behind the emergency prevention orders, was, in fact, to have an intervention which would maintain the women and children in the home, and -- and so that's the whole focus behind that, is to be able to have an emergency response that would support the women and children staying in the home. But for a fulsome response you need to also look at how are you going to then support the abuser, where are they going to -- where are they going to go? And I would agree that we don't have a fulsome response on that process yet.

**CHIEF COMMISSIONER MARION BULLER:** So really in Saskatchewan the only way that a woman and her children, her family, can realistically remove an alleged abuser from not only the residence, but also the community, is through the criminal justice system?

**MS. BETTY ANN POTTRUFF:** The emergency protection order is a civil order, it's not a criminal order, so there are those. There's also peace bonds, you know, there's other processes that are used. And where at all possible, obviously, we hope that the woman and the children can stay in the community, can be safe with the emergency protection order or the peace bond or whatever.
But where it's important that -- because their safety cannot be maintained in the community, then -- then our resort is generally to remove them from the community.

I will note that, you know, we are continuing to have extensive consultations with our partners on how to address violence against Indigenous women and girls in Saskatchewan, and as well how to address interpersonal and domestic violence within the province, and we've had a number of raw discussions with our partners over the last two years trying to come up with how we move forward collaboratively with an action plan.

Chief Commissioner Marion Buller: Okay. In Saskatchewan you have the domestic violence courts?

Ms. Betty Ann Pottruff: Yes.

Chief Commissioner Marion Buller: Are there --

Ms. Betty Ann Pottruff: We have three of them.

Chief Commissioner Marion Buller: There are three of them in total. How -- how are the referrals made to get families into those courts? Is that through Crown counsel only?

Ms. Betty Ann Pottruff: The courts -- the three courts operate slightly differently, but, yes, it's through Crown counsel, but also through legal aid, in terms
of their clients have to be willing and interested in
taking that approach. If they are not interested in a
therapeutic approach, then -- then they will soon be
screened out of domestic violence court.

CHIEF COMMISSIONER MARION BULLER: Okay.

Again, I appreciate I'm getting a little beyond your
expertise. For women and their families who go through
domestic courts, what, if any, supports are there for them
through -- throughout that whole process?

MS. BETTY ANN POTTRUFF: They're fairly
extensive supports. The domestic violence courts, the
victim services are involved throughout with -- with
supporting the victim, and as well the courts involve a
collaborative approach between legal aid, it can be child
protection, it can be mental health, it can be victim
services and the Crown, to sort of case manage and support
both the victim and the -- and the offender or the accused
going through the process, and -- and we found it to be,
I'd say, very effective.

That, by and large, that you -- you achieve
earlier guilty pleas, so the matter is resolved earlier,
and then the offender may be involved in treatment, but the
victim is also provided treatment and support during that
period of time often, and -- and as a result, the sentence
for the offender is -- is affected, recognizing if they've
completed the treatment. And more frequently people in the therapeutic stream complete the treatment than those who are not, and that, in fact, our evidence, which may not be strong, but is persuasive, is that the level of violence is vastly reduced after going through this process, that we don't see as much re-offending.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

Thank you, those are my questions.

**COMMISSIONER MICHÈLE AUDETTE:** Merci chefs, commissaires, merci beaucoup, alors je vais procéder en français. Je veux juste me permettre Mme Pottruff, vous avez fait une belle introduction sur vos expériences, votre bagage et vos implications et étant une femme très, très impliquée pour le droit des enfants et je me souviens il y a plusieurs années sur toutes les questions pour faire en sorte qu’éventuellement le Canada a mis en place cette commission d’enquête là. Alors je vous remercie d’avoir contribué avec beaucoup de gens. Dans votre introduction, vous avez parlé de chaos qui règne, un chaos qui règne au saint des communautés et qui a de grands défis et parmi les obstacles, une des raisons pourquoi on se retrouve de même dans les communautés et un changement de leadership constant, ce qui arrive à travers le Canada, on est d’accord avec ça, et que les communautés doivent travailler avec plusieurs paliers de gouvernement et avec cette
réalité-là, il est difficile d'apporter un grand changement. Lorsque vous avez mentionner ça, oui je suis d'accord pour avoir entendu d'autres témoins, le vivre dans leurs propres communautés mais la question que je pose dans le cadre de ce mandat avec toutes vos années d'expérience et implication et académique aussi, professionnel, avez-vous réfléchi à des solutions? La solution magique mais à des solutions qui pourrais devenir des recommandations?

**MS. BETTY ANN POTTRUFF:** Now, there's a big question. I think one -- one of the -- I'm getting some feedback here, so I'm trying to -- one of the things that impressed me, and it's not maybe everybody's solution, but certainly the consensus form of government that you see in the Northwest Territories and Nunavut is -- is a really interesting, different style of -- of governing. But I think it’s more along the process of collaboration. And -- and the expectation that to provide services to individuals, all levels of government have to be collaborative. And that we have to avoid, as much as possible, the partisan influence on really what are the big, complex, wicked questions as we call them. That if you want to see change, sustainable change, there has to be a commitment that crosses party lines, and crosses governments. To -- to be able create change in a generation, is what we all want. And there has to be a --
a sustained emphasis and momentum to do that. And, I
think, people of goodwill can -- can create that.

**COMMISSIONER MICHÈLE AUDETTE:** Merci. Alors qu’est-ce qui explique dans les années 90, 2000 et aujourd’hui à la fin des années 2000, au lieu avec toutes les recommandations, notamment ceux de vos rapports que vous nous avez présenté. Au lieu de voir une diminution au niveau de la violence faites aux femmes et au filles autochtones. Au lieu de voir une diminution au niveau des statistiques au niveau des disparitions et des meurtres ou des meurtres, des décès et des meurtres non résolus, et la liste est longue. Pourquoi on se recouvre avec une explosion de chiffres là, alarmante à travers le Canada et dans votre territoire aussi, province? D’après vous, qu’est-ce qui se fait qu’on se retrouve avec ça?

**MS. BETTY ANN POTTRUFF:** I’m -- I’m getting feedback again, sorry. So I got to turn this down.

**COMMISSIONER MICHÈLE AUDETTE:** You understand me, yes?

**MS. BETTY ANN POTTRUFF:** Yeah. I -- I think, that in fact we have to be very careful with the numbers. The general social survey numbers from the Canadian Centre of Justice Statistics would tend to indicate that, in fact, we’re not seeing an increase in crime. And that some crimes are -- are, perhaps, being decreased, and that includes
domestic violence, but that’s not true in every community, right? So taking very general statistics and trying to draw from them what’s happening, it’s a very broad brush, and doesn’t give you a very accurate picture. You really need to be talking to the community about what they see in their community or looking at more localized statistics.

The same with -- with criminal justice statistics. They’re very broad strokes and they -- they don’t tell you a lot, quite frankly. Because it’s either about what’s reported, or what’s under reported, or you know, how comfortable people are with reporting. And so one of the challenges that -- that we faced since the Indian and Métis Justice Review Committee Reports in 1991, ’92, was the request that there be more statistics, more accurate statistics. And we still aren’t there. And -- and partly that is -- requires a discussion as to what it is we want to collect. What are we going to measure? And how are we going to measure it?

And -- and so the statistics in and of themselves it -- you know, just aren’t much of an accurate measure given that so much is unreported, and -- and the -- and the level of -- of violence that -- that individuals themselves, either are afraid to come forward, or feel they would manage themselves, or whatever.

I -- I think that the situation is much more
hopeful than you’ve indicated. It -- it is my belief that there is greater awareness now of -- of the issues of violence against Indigenous women and girls. And -- and that’s thanks, in part, to the Commission and thanks much to the work of the Indigenous womens’ organizations, and the families, in bringing these issues forward. I think there’s a -- a large community awareness of violence, generally, in the “Me Too” movement. And others have -- have increased that.

What is needed is, I think, focus and tools and support for individuals, communities, and governments to work collaboratively on prevention and awareness. To work on community-based solutions because each community is different and has a different group of agencies or supports. And to work on systemic change.

And those are the three recommendations, actually, that came out of our consultations with Indigenous organizations and non-Indigenous organizations, on how to address violence against Indigenous women and girls in Saskatchewan. Those are the three areas that -- that were identified that need action.

COMMISSIONER MICHELÉ AUDETTE: Merci beaucoup. Justement, c’est la prochaine question. À la lecture de vos documents, on semble comprendre que c’est une approche globale, pas globale mais qui va inclure les
premières nations, métis, et femmes de la Saskatchewan, et
dans d’autres régions on va voir qu’il y a des politiques
précisent qui sont des plans d’action pour les premières
nations. Est-ce que chez vous, les groupes de femmes et les
femmes qui ont participé à vos travaux veulent être incluses
avec les canadiennes ou aimerais avoir une politique pour
les femmes autochtones, un plan d’action pour les femmes
autochtones et une approche spécifique pour les autochtones?

MS. BETTY ANN POTTRUFF: What I think we’ve
been successful in and -- it’s getting -- turn this down,
we’d had discussions on the issues of how do we address
violence against Indigenous women and girls in Saskatchewan.
We want -- or what we heard back from those discussions is
that people want a Saskatchewan solution, okay. We’ve also
heard that that solution needs to recognize the violence
happens in families in communities. So it is not just
Indigenous women and girls, although that is the primary
focus. What we can’t -- we forget there’s violence against
Indigenous boys too. There’s violence against Indigenous
men. You can’t heal a community just by looking at one part
of the equation, right? But we also don’t want to lose the
focus that now is there on -- on the violence against
Indigenous women and girls.

Having said that, and having had those
conversations, including what type of principles we would
use, and that includes human rights principles, and leadership, and community-based development, and -- and recognizing culture. And all -- all those issues we -- we’ve taken into account in terms of looking at what would be some possible principles for moving forward. There -- there was agreement that while the issues that face Indigenous women and girls are -- are critical to moving forward, this should not be separated from the issues that impact all women and girls. And -- and from the province as a whole, we’re all living together in one place. We have to find a way to live together. And some of the violence, as -- as we know, against Indigenous women and girls is from non-Indigenous men and boys, right? So -- so we need to find a way to heal together and to live together.

And so we then had a consultation that -- which involved our Indigenous partners as well as -- as community partners talking about what is Saskatchewan -- what can be a Saskatchewan approach then to address the inter-personal violence and abuse. That doesn’t mean that there wouldn’t be a focus on specific issues important to Indigenous women and girls. What -- but it would be part of the overall approach to address violence, recognizing it affects everyone in the community.

What we want is a situation, hopefully, where everyone sees stopping violence as their responsibility.
And it’s in -- and every business, every organization, every individual has that as a responsibility to prevent and respond to violence because it takes a community.

**COMMISSIONER MICHÈLE AUDETTE:** Ma dernière question, merci beaucoup, ma dernière question. On voit que dans votre document le plus, avec les recommandations, l’évolution et l’état ou est rendu la recommandation. Ça c’est un outil je pense que tout le monde devrait se doter de ce suivi là au niveau des recommandations donc ma question est, et peut être que je l’ai manqué, qui s’assure ou est rendu tel recommandation? Est-ce que vous collaborer avec un groupe de travail dans lequel on retrouve des autochtones, des métis, des premières nations pour être partie prenante dans l’évolution des recommandations?

**MS. BETTY ANN POTTRUFF:** In terms of the -- sorry, the partnership committee recommendations, or the death review recommendations?

**COMMISSIONER MICHÈLE AUDETTE:** Two then.

**MS. BETTY ANN POTTRUFF:** Both? Okay, all right. With the partnership committee recommendations then the responsibility is amongst the partners to make sure that we're reporting on the activity undertaken, but also then to look at where have we not followed up as much as we should and what should we be doing next, and so I'm assuming that will continue.
In terms of the death review, what we have indicated yesterday, when -- yesterday, last week when the Minister released the report, was that this will be part of the discussion with our partners about how does Saskatchewan move forward to create a strategic broad plan to address interpersonal and domestic violence.

COMMISSIONER MICHÈLE AUDETTE: Merci. I'm biting my tongue to stop. There's so much more.

MS. BETTY ANN POTTRUFF: Okay, thank you.

COMMISSIONER MICHÈLE AUDETTE: Merci beaucoup.

MS. BETTY ANN POTTRUFF: Okay, thank you.

MS. MEREDITH PORTER: Commissioner Eylofson, you have no questions? Okay, thank you.

I have a note here that there are two parties who are scheduled to cross-examine the witnesses. In particular, I have the Manitoba Keewatinowi Okimakanak, or MKO, and I also have the Missing and Murdered Indigenous Women and Girls Manitoba Coalition. And I have a note here that these two parties, who are the next two parties scheduled to cross-examine the witnesses have, on consent, agreed to swap order of their cross-examination.

And so at this time I am going to ask if I may, please, call the Missing and Murdered Indigenous Women and Girls Manitoba Coalition to cross-examine the witnesses
before our lunch break.

UNIDENTIFIED SPEAKER: Before the lunch break?

MS. MEREDITH PORTER: Before the lunch break. We are just before noon, it's --

UNIDENTIFIED SPEAKER: Thank you very much --

CHIEF COMMISSIONER MARION BULLER: Excuse me.

MS. MEREDITH PORTER: Just a minute.

CHIEF COMMISSIONER MARION BULLER: Excuse me, we have decided we will stop for lunch now and reconvene at one o'clock.

UNKNOWN SPEAKER: Thank you.

MS. MEREDITH PORTER: We have -- we will adjourn then for the lunch break and ask that the parties attend back to the room at one o'clock sharp to reconvene the cross-examination of the witnesses. Thank you.

--- Upon recessing 11:56 a.m.

--- Upon reconvening at 1:09 p.m.

COMMISSIONER QAJAJQ ROBINSON: ...tragedies from across the country. Indigenous women lost to violence. We -- no day passes where we aren't reminded that this is ongoing. “Tragedy” seems like an -- a word that doesn’t
quite cut it.

But we, the four of us NFAC members, grandmothers, and our team wanted to take a moment today, as we have learned that, in Thunder Bay, a -- a young woman was lost. There was also a tragedy -- two people’s lives were lost in Iqaluit and a woman in BC recently. And I know that that’s the tip of the iceberg, sadly. So we would like you all to join us and the nation to join us in a moment of silence, and Alvine, I’ll pass the mic to you, and if you could lead us in this moment.

**MS. ALVINE EAGLE SPEAKER:** I just wanted to explain that, with the loved ones that we -- we don’t know where we are, we don’t know what happened to them, what -- I was -- we were asked, my husband and I were asked if we should do a memorial or how would we do it. Well, when we lose family members back home, it takes us a whole year to mourn, so the following year, the following year, we have a memorial for them. We have a big feast and everything to make -- to know that they’re gone, that they’re not going to come back. They’ll be with us in spirit, but they won’t be in a human form for us to see them. And that’s how I see the loved ones that we’ve lost, the loved ones we don’t know where they are.

And the best thing I can suggested [sic], and I suggested that, is just to have a moment of silence that
we’re going to -- there’s -- you know, we don’t know where they are. And I’m -- I’m just as hurting as much as everybody is. I mean, I have family member, too, that I’m still wondering. I have the neighbours’ daughter that we’re still -- we still look for her, and she was one of my students when I was teaching. So the best thing we can do is just have a moment of silence.

In your own ways, you pray for the family members, especially the moms and dads, if any family that are still here. We’re hurting. We’re hurt every day. There’s not a moment that we don’t think about these precious people to us, and so that’s why I suggested that we should have a -- a moment of silence from our hearts to give what we can. To strengthen each other and to strengthen the family members that are -- that are somewhere.

(SHORT PAUSE)

MS. ALVINE EAGLE SPEAKER: Thank you. Merci.

Go ahead.

MS. MEREDITH PORTER: Thank you.

Commissioners, I had announced prior to the lunch break that two parties had, on consent, swapped their order of cross-examination. I have since learned that those parties have requested that they swap back to their original order, so the next party that I would like to invite to pose questions to the witnesses is from the Manitoba Keewatinowi
Okimakanak, MKO, and the party will have 23 minutes for their questions.

**MS. JESSICA BARLOW:** Thank you. Hi, good afternoon. I’ll begin with an acknowledgement of the Elders, the drummers, the singers, sacred items in the room, families, and the survivors that are either here today with us or back home in our communities. I’d also like to thank the Commissioners, the panel witnesses for your testimony. I’d also like to thank the nations of this territory for welcoming us here today to participate in this work in a good way. I’d like to recognize the lands that we’re on as well, that being Treaty 7 and the MNA Region 3.

By way of introduction, for the record, my name is Jessica Barlow. I am legal counsel for the Manitoba Keewatinowi Okimakanak, or MKO, as it’s commonly known. MKO is a non-profit political advocacy organization that focuses on providing a collective voice to issues such as inherent treaty, Aboriginal, and human rights for the citizens of the over 25 sovereign First Nations in northern Manitoba, of which these nations are signatories to Treaties 4, 5, 6, and 10.

Many of my questions have been aptly asked and answered by my friends, and so I will make this very short for the panel members today.

**BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**
CROSS-EXAMINATION BY MS. BARLOW:

MS. JESSICA BARLOW: I’ll begin my questioning with you, Ms. Pottruff, if that’s okay. You’ve spoken about -- about the -- the Northern Transportation Safety Initiative. You’ve been asked numerous questions on that, but I just wanted to touch on a few other points if I can. And so you’ve talked about how this initiative is intended to increase access to places of safety and provide transitional support for residents of the Northern Administration District who are fleeing circumstances of interpersonal violence and abuse, and so they’re provided with a -- a place of safety and -- and resources to return to the community when the danger is reduced; is that correct?

MS. BETTY ANN POTTRUFF: That’s my understanding, yes.

MS. JESSICA BARLOW: Thank you. And you’ve also provided evidence that speaks to the fact that there are no transition houses in northern and remote communities in your region; is that also correct?

MS. BETTY ANN POTTRUFF: That’s correct. There is a -- a transition house in La Ronge, but that’s -- that’s as north as we have.

MS. JESSICA BARLOW: Thank you. And so you’ve identified that there’s no transition houses
available for these northern or remote communities, and --
and so essentially, these individuals that are fleeing those
circumstances would have to leave their communities in order
to access these services. Is -- is that it?

**MS. BETTY ANN POTTRUFF:** That’s correct.

**MS. JESSICA BARLOW:** And so they would

**MS. BETTY ANN POTTRUFF:** Correct.

**MS. JESSICA BARLOW:** Correct. And so, given
this situation, would you agree that the -- the victims
having to leave these communities in order to access safe
spaces and -- and services, that they -- this might actually
have the effect of perpetuating or essentially exacerbating
or even causing further feelings of victimization, hardship,
or distress on an individual?

**MS. BETTY ANN POTTRUFF:** I think it
certainly causes additional trauma to have to leave your
home and -- and whatever supports you have in the community
to travel someplace else, yes.

**MS. JESSICA BARLOW:** Okay. Thank you.

And -- and so would you agree that a recommendation for
increased services in -- in these -- and funding in these
northern and remote communities to encompass both issues of safety and -- and also coupled with preventing trauma that you spoke to in these northern remote communities should be a priority?

**MS. BETTY ANN POTTRUFF:** I certainly think we need to look at solutions. We -- it really, I think, depends on further discussions with the communities is in terms of what those solutions are.

**MS. JESSICA BARLOW:** Perfect. Thank you.

Those are my questions for you.

**NAOMI GIFF-MACKINNON, Previously Affirmed:**

**CROSS-EXAMINATION BY MS. BARLOW:**

**MS. JESSICA BARLOW:** My next questions are for you, Ms. Giff-MacKinnon, if I may. In your testimony yesterday, you spoke about family information liaison units, or I've heard it both ways, FILUs and FILUs. Sorry. I'm not sure which is correct. But you did speak about that --

**MS. NAOMI GIFF-MACKINNON:** Either.

**MS. JESSICA BARLOW:** -- today, right? Or yesterday, sorry.

**MS. NAOMI GIFF-MACKINNON:** Yes. Yes, I did.

**MS. JESSICA BARLOW:** Okay. Thank you. And you stated that the program was federally funded, and that it actually began in September 2016; is that correct?
MS. NAOMI GIFF-MACKINNON: That the funding was available in September 2016, yes. Yeah.

MS. JESSICA BARLOW: Thank you. And in your testimony yesterday, you spoke briefly about geographic barriers to accessing information, particularly as it related to -- to northern and remote communities; is that correct?

MS. NAOMI GIFF-MACKINNON: I did, yes, in terms of FILU's outreach with families, yes.

MS. JESSICA BARLOW: Thank you. And are you aware that -- that these FILUs, particularly in northern and remote communities, specifically to northern Manitoba, have not been previously available before this program began? FILU, specifically.

MS. NAOMI GIFF-MACKINNON: As far as I know, there was no Family Information Liaison Unit in place prior to the creation following the funding.

MS. JESSICA BARLOW: Okay. Thank you. And you mentioned yesterday as well that -- that there's actually an increased demand for these -- the -- for these FILUs, and that it's actually growing and increasing; is that correct?

MS. NAOMI GIFF-MACKINNON: That -- yes, that's what I'm hearing from my FILU colleagues across the country, yes.
And -- and so in the instance that families and -- from northern and remote communities that have been experiencing barriers to accessing information about loved ones and have now began forming these relationships of trust or bonds with their -- the FILUs associated with their communities who are assisting them and that demand for services are going up, and that also given that the -- the funding is expected to end in March of -- March 31st, 2019, I'm wondering if you can speak to the potential anticipated fate for these FILUs and the families in which they serve beyond that date.

MS. NAOMI GIFF-MACKINNON: Yes, that's a really good question, and that's something that is being raised by a lot of the FILU teams themselves. The funding was announced in -- as a complement to the National Inquiry and the work of the National Inquiry, and that's why the timelines are the way they are for the funding. And it is set to sunset March 31st, 2019. At this point in time, that -- that's the -- that's the funding authority that we have to work with. We're always looking at what is successful. We're always looking for opportunities to -- to further successful initiatives, but at this point in time, the funding is set to -- to sunset March 31st, 2019.
MS. JESSICA BARLOW: Thank you. And has Justice Canada considered any options in delivering these services through Indigenous organizations?

MS. NAOMI GIFF-MACKINNON: Directly to -- through Indigenous organizations?

MS. JESSICA BARLOW: Yes.

MS. NAOMI GIFF-MACKINNON: We haven't considered that at this point in time. The funding is being flowed -- flowed through provincial/territorial victims services division at this time, so that -- that would be something to look at.

MS. JESSICA BARLOW: Okay. And to your knowledge, has Justice Canada ever received any proposals for the delivery of FILUs or FILUs from a regional First Nations perspective?

MS. NAOMI GIFF-MACKINNON: We -- so have we received proposals from a -- an -- an Indigenous organization to deliver the FILU services? Is that what you mean?

MS. JESSICA BARLOW: Yes.

MS. NAOMI GIFF-MACKINNON: Yes, we have. Yeah.

MS. JESSICA BARLOW: Okay. And earlier on in answer to one of Ms. McGregor's questions about the work done in Manitoba, you had indicated that there was
engagement held in Manitoba that may have been conducted through Ka Ni Kanichihk and MKO; is that correct?

**MS. NAOMI GIFF-MACKINNON:** Sorry. I missed the first part of your question.

**MS. JESSICA BARLOW:** So earlier in Ms. McGregor's questioning, you had mentioned that there had been work conducted in Manitoba with those two organizations; is that correct?

**MS. NAOMI GIFF-MACKINNON:** As -- as I remember, I think that I had mentioned that it was raised to my attention that there was some work going on pre- the FILU operations.

**MS. JESSICA BARLOW:** And just one final question for you. As a senior policy analyst for the Centre for Victims Services, are you aware of the Families First approach and report in Manitoba?

**MS. NAOMI GIFF-MACKINNON:** Yes, I am.

**MS. JESSICA BARLOW:** Thank you. Those are all of my questions. Thank you. Good afternoon.

**MS. MEREDITH PORTER:** Thank you. So as I had mentioned those two parties had swapped back, but we do actually have another request on consent from two parties to exchange the order of their cross-examination. According to the schedule, the next party that was scheduled to pose questions to the witnesses was the
Missing and Murdered Indigenous Women and Girls Manitoba Coalition, but it's my understanding that there has been, on consent and agreement between them and the Native Women's Association of Canada, to swap the order of their cross-exams of the witnesses. So I will ask, then, to call the Native Women's Association of Canada. And the Missing and Murdered Indigenous Women's Manitoba Coalition then will revert down to the 14 -- to number 14 on the order of cross-examination.

So at this time I will invite the representative from the Native Women's Association of Canada, and as had been noted on the record this morning, the Native Women's Association of Canada has 17 minutes and 15 seconds remaining of their cross-examination of the witnesses. I'll just wait for that to be put on the clock.

UNIDENTIFIED SPEAKER:  (Indiscernible).

MS. MEREDITH PORTER:  Oh.

UNIDENTIFIED SPEAKER:  Okay. They can't do seconds. They'll round up.

MS. MEREDITH PORTER:  Okay. I think they do.

UNIDENTIFIED SPEAKER:  (Indiscernible).


MS. VIRGINIA LOMAX:  So thank you very much
for welcoming me back. I would first like to begin with Mr. John Phelps.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. LOMAX:

MS. VIRGINIA LOMAX: So your department works closely with victims to help them navigate the criminal justice system; is that correct?

MR. JOHN PHELPS: Yes.

MS. VIRGINIA LOMAX: And during your testimony, you referred to the Canadian Victims Bill of Rights, and it was entered into evidence as Exhibit 3; is that correct?

MR. JOHN PHELPS: I'm not certain that it was entered. We did refer to it earlier, though.

MS. VIRGINIA LOMAX: I believe it was entered. Could I get a check? Teller teller it was in the materials given to the parties with standing, but it was not entered yesterday as an exhibit on the record. So the -- the parties all were given a copy of it, but yesterday it was not sought to be put on the record. And I don't have a problem of anyone referring to it, obviously.

CHIEF COMMISSIONER MARION BULLER: It wasn't marked as an exhibit, but certainly we can take judicial notice of legislation.

MS. VIRGINIA LOMAX: Okay. All right.
That's fine with me, if that's okay with everyone else.

Thank you.

So your department engages with victims through the Canadian Victims Bill of Rights; is that correct?

MR. JOHN PHELPS: The -- we engage with victims as a result of our function as the prosecution service, and we comply with the Canadian Victim Bill of Rights, yes.

MS. VIRGINIA LOMAX: And so your department and your staff, you would say that you have a great deal of experience helping victims assert their rights under this bill?

MR. JOHN PHELPS: A great deal of experience supporting --

MS. VIRGINIA LOMAX: Yes.

MR. JOHN PHELPS: -- victims, yes.

MS. VIRGINIA LOMAX: And so you're familiar with the practical application of victims asserting -- or helping victims use these rights, and that's correct?

MR. JOHN PHELPS: Yes.

MS. VIRGINIA LOMAX: So does the Victims Bill of Rights grant victims the right to information about the criminal justice system and the role of victims in that system?
MR. JOHN PHELPS: Yes, we -- we provide that information to victims in every case where we have contact with victims.

MS. VIRGINIA LOMAX: And does the Victims Bill of Rights grant victims the right to services and programs like restorative justice?

MR. JOHN PHELPS: I'm not certain if there's a right to services, but if it's in there, then I would acknowledge that we -- as I indicated earlier, and it's not as a result of the CVBR, but a recognition of the individual needs of victims, that we do our best to ensure that they get that assistance. It's not through our organization, but by referral.

MS. VIRGINIA LOMAX: So would you agree with a statement that the rights generally -- and I'll spare you going through all of the details of these rights. Would you agree with a statement that these are important rights for victims to have within the criminal justice system?

MR. JOHN PHELPS: Yes, I do.

MS. VIRGINIA LOMAX: Would you agree with a statement that whatever is defined as a right under this Act is something that a victim should be entitled to receive?

MR. JOHN PHELPS: Yes, I would.

MS. VIRGINIA LOMAX: And would you agree
that victims should be able to secure and enforce these rights?

MR. JOHN PHELPS: Yes, I do.

MS. VIRGINIA LOMAX: And with permission, I'd like to read Section 25 of The Canadian Victims Bill of Rights. This section is known as the remedies section, and it reads: (As Read)

Every victim who is of the opinion that any of their rights under this Act have been infringed or denied by a federal department, agency or body, has the right to file a complaint in accordance with the complaints mechanism.

And Section 25 sub 2 reads: (As Read)

Every victim who as exhausted their recourse under the complaints mechanism, and who is not satisfied with the response of the federal department, agency or body, may file a complaint with any authority that has jurisdiction to review complaints in relation to that department, agency or body.

Now, Mr. Phelps, could you give me an idea of who that authority might be that victims could review a decision under a complaint? At the very least in your
jurisdiction?

MR. JOHN PHELPS: Off the top of my head, sorry, I don't know where the next plausible route would be. As I indicated in my testimony, we've never had a complaint, period, so we've never gotten to that point in the process.

MS. VIRGINIA LOMAX: Yes, and I do remember that part of your testimony, so I was wondering if hypothetically you could answer a question for me of whether the CWC would guide the complaining victim through this process, if they were to appeal a complaint or complain?

MR. JOHN PHELPS: The expectation is that they would make certain that they're aware of that opportunity and where to find the information with respect to the complaint. It hasn't come to my attention that there's been a request for assistance, for example, in filling out a form or otherwise. I would have no concern should they -- should they do that though.

MS. VIRGINIA LOMAX: Thank you. So with permission I'll read Section 25(3), which reads that: (As Read)

Every federal department, agency or body that is involved in the criminal justice system must have a complaints mechanism
that provides for a review of complaints involving alleged infringements or a denial of rights under this Act, the power to make recommendations to remedy such infringements and denials and the obligation to notify victims of the results of those reviews of the recommendations if any were made.

Yet Section 28 reads that: (As Read)

No cause of action or right to damages arises from an infringement of or a denial under this Act.

And Section 29 reads that: (As Read)

No appeal lies from any decision or order solely on the ground that a right under this Act has been infringed or denied.

So earlier I asked you if you would agree that victims should be able to secure or enforce rights under this Bill; is that still correct?

MR. JOHN PHELPS: I have no concern with that statement, no.

MS. VIRGINIA LOMAX: So is it reasonable to conclude that although victims have a right to file a complaint, they have no right to bring an action for
damages or otherwise if a right under this Act is actually violated; yes or no?

MR. JOHN PHELPS: That would be my read of it as well, yes.

MS. VIRGINIA LOMAX: And it's also reasonable to conclude that victims would have no means of appeal to the decisions related to their complaints; yes or no?

MR. JOHN PHELPS: That would appear to be the case, yes.

MS. VIRGINIA LOMAX: And so it's reasonable to conclude that although the Canadian Victims Bill of Rights contains rights for victims, that there is no enforcement mechanism available for these rights; yes or no?

MR. JOHN PHELPS: Not beyond what you've highlighted already.

MS. VIRGINIA LOMAX: So does the Victims Bill of Rights presently contain a process for victims to obtain standing in criminal trials or any status beyond observer status in the criminal justice system?

MR. JOHN PHELPS: Not that I'm aware of, no.

MS. VIRGINIA LOMAX: So would you agree with a statement that providing victims standing in criminal trials would amount to criminal justice reform in favour of
victims' rights?

MR. JOHN PHELPS: I'm not certain that I -- I can provide an opinion on that.

MS. VIRGINIA LOMAX: So would you agree with a statement that providing victims a mechanism to enforce rights contained in this Bill, rather than to simply complain about violations, would amount to criminal justice reform in favour of victims' rights?

MR. JOHN PHELPS: It would seem to advance their rights, yes.

MS. VIRGINIA LOMAX: Thank you very much.

MR. JOHN PHELPS: Sorry, I'm not trying to be argumentative, I just haven't thought that through.

MS. VIRGINIA LOMAX: Neither am I.

So I have questions for Ms. Leanne Gardiner.

LEANNE GARDINER, Previously Affirmed:

CROSS-EXAMINATION BY MS. LOMAX:

MS. VIRGINIA LOMAX: Yesterday you testified that your staff and volunteers received trauma-informed training; is that correct?

MS. LEANNE GARDINER: Yes, to varying degrees. There isn't a formal training program to that, but, yes, I can give you details, if you'd like, about --

MS. VIRGINIA LOMAX: Yes, and specifically could you comment how much training staff or volunteers
would receive?

**MS. LEANNE GARDINER:** Are you asking specifically, sorry, for trauma-informed practice training?

**MS. VIRGINIA LOMAX:** Yes.

**MS. LEANNE GARDINER:** Okay.

**MS. VIRGINIA LOMAX:** Specifically for trauma-informed practice.

**MS. LEANNE GARDINER:** Right now there is not -- trauma-informed practice training is not a formal part of regular training for victim services providers. We haven't -- we haven't found that that request necessarily comes from that particular group. I think probably because many of them come from a background that includes that type of approach. But what I will share is through other initiatives that are part of my responsibilities outside of that particular program, I've been able -- or our division has been able in the last 18 months or so to take a particular focus on trauma-informed practice training, so we've trained about 70 people, frontline workers in the justice system, including corrections, police, victim -- some victim services providers, other providers in other departments, GNWT departments and federal, including some Crown Witness Coordinators, in a two-day trauma-informed practice course, which we received good feedback on for sure, for its relevance to the work that
they do.

**MS. VIRGINIA LOMAX:** Thank you. And so do your staff or volunteers ever receive training specific to issues relevant to two spirit, LGBTQ plus and gender diverse people?

**MS. LEANNE GARDINER:** It's my understanding that it has been a topic that has been addressed on occasion as part of ongoing conversations in that network of providers, but I'm not aware of specifics as far as my staff advancing it as a topic.

**MS. VIRGINIA LOMAX:** And do staff or volunteers ever receive training specific to issues relevant to youth's needs?

**MS. LEANNE GARDINER:** To youth? Sorry, what was --

**MS. VIRGINIA LOMAX:** The needs of youth?

**MS. LEANNE GARDINER:** The needs of youth. Again, it would be a category that's discussed often and one of the training opportunities that happened this last March with our territorial Crown Witness Coordinators and our victim services providers, was child witness court accompaniment training. It's a three-day course by professional trainers with experience in that -- in that area, so that particular -- to help with the skill set around supporting children who -- who may be going through
that criminal justice -- through the court process as a
witness. And that was at the request -- that really came
from our community level providers saying that that was a
skill set they wanted to build.

**MS. VIRGINIA LOMAX:** And so you testified
that one of the main activities you engage in with the
victims you assist is safety planning; is that correct?

**MS. LEANNE GARDINER:** Local community victim
service providers do that. I don’t personally. But, yes,
the -- absolutely, it’s a main activity of the service
providers.

**MS. VIRGINIA LOMAX:** So do you know if any of
the service providers have safety planning strategies
specific to the needs of 2SLGBTQ+ youth and gender diverse
people?

**MS. LEANNE GARDINER:** I’m not aware of a -- a
process or an approach that’s different than what the
materials they use for non -- for people who are not two-
spirited. But I -- I would submit that it tends to be and
it -- a person-centered service, so they really do address
the needs of people who present themselves for assistance.
And I know them in general to be providing that kind of
service.

**MS. VIRGINIA LOMAX:** And so what are some
strategies that you have seen for creating culturally
appropriate safety planning?

**MS. LEANNE GARDINER:** I have to say, I have not personally seen those strategies as I’m not in a position to be reviewing someone’s safety plan, helping them create it. Those plans are -- are done, as we mentioned, through funding we provide to local organizations, and Indigenous governments, and hamlet councils. So as far as how they would ensure that those plans took into consideration one’s Indigenous status, I -- I couldn’t give you specific examples, except that our model is built on the -- that understanding that the community is providing that service and has that lens.

**MS. VIRGINIA LOMAX:** And so you testified yesterday that the RCMP entered into an MOU to formalize the process between RCMP and victim services in 2008; is that correct?

**MS. LEANNE GARDINER:** We have an MOU between the department and the RCMP that was entered into in 2008, yes.

**MS. VIRGINIA LOMAX:** And has the process described in that MOU been revisited since 2008?

**MS. LEANNE GARDINER:** Not to my knowledge. There is a clause at -- near the end of the MOU, which you might have noticed, it says, “We should revisit it as needed by June” -- I believe, I don’t the -- it right in front of
me right now, but “... by June of each year where necessary.” And there’s -- I certainly have that in process right now.

**MS. VIRGINA LOMAX:** Thank you. So you testified that one of the greatest challenges that you have is to create impactful relationships; is that correct?

**MS. LEANNE GARDINER:** I -- I would say that that’s correct. I would only qualify and say sustained trusting relationships at that community level with all the stakeholders, that should be included, yes.

**MS. VIRGINA LOMAX:** So do you have any specific strategies to encourage trusting, safe, and meaningful relationships with 2SLGBTQ+ and gender diverse people in your communities?

**MS. LEANNE GARDINER:** No. I -- I wouldn’t -- I wouldn’t say that. No, not specific to that group.

**MS. VIRGINA LOMAX:** Would you have specific strategies for encouraging trusting, safe, and meaningful relationships with youth in the communities?

**MS. LEANNE GARDINER:** Not specific, other than, and I -- I should qualify my answer to the last question as well. Other than partnerships that we establish and that we have from our office. So, again, we’re not the service providers, but we do have those relationships with
RCMP and with, of course, with our sponsoring organizations as far as victim service delivery. But we have those relationships too with youth organizations, LGBTQ organizations, locally and across the territory where they exist. So that could -- that looks different depending on the organization. Sometimes it looks like funding initiatives, or youth programs separate from victim services, but still within my responsibility. And sometimes that looks less formal as an -- a relationship.

**MS. VIRGINA LOMAX:** And so you testified yesterday that you have witnessed your staff and volunteers come up with effective and creative strategies for outreach in the communities; is that correct?

**MS. LEANNE GARDINER:** It is.

**MS. VIRGINA LOMAX:** Can you comment if you have witnessed any of these strategies focused on outreach to 2SLGQ [sic] -- LGBTQ+ communities?

**MS. LEANNE GARDINER:** None of those examples come to mind. It’s -- again, because I’m involved at the front-line level with the development, I -- I don’t know that that would mean that they don’t exist.

**MS. VIRGINA LOMAX:** And so I suppose, if I were to ask you that if you could comment on witnessing any of these strategies with outreach for youth in the communities, would you be able to comment on that?
MS. LEANNE GARDINER: What was the first part of your question, sorry?

MS. VIRGINA LOMAX: Witnessing any strategies focused on outreach for youth.

MS. LEANNE GARDINER: What I would say is youth are often identified in the sponsoring organization’s work plan. So part of the process when -- when an organization would like to deliver victim services, or in an annual, bi-annual process that we go through is my staff work with communities to develop their annual work plans for the funding. And included in that are outreach activities. Often, those outreach activities include youth. I don’t recall seeing activities specific to LGBTQ youth. But I certainly recall reference to youth, as it’s often a focus of the engagement.

MS. VIRGINA LOMAX: Well, thank you very much. I’ve reached the end of my time.

MS. LEANNE GARDINER: Thank you.

MS. MEREDITH PORTER: Thank you. The next party that I would like to invite to pose questions to the witnesses is from the Eastern Door Indigenous Women’s Association. And the Indigenous -- the Eastern Door Indigenous Women’s Association will have 23 minutes for questioning.

MS. NATALIE D. CLIFFORD: Thank you. My name
is Natalie Clifford, and I am external counsel for the Eastern Door Indigenous Women’s Association. We represent where the regional interests of Native women’s -- specifically Mi’Kmaq and Maliseet Indigenous women in our region come together. And that is why we are taking part in the Inquiry today. Well, I appreciate the scope of your institutional representation here today does not necessarily apply to the east coast, or I’m going to try to ask some questions that might help us in our submissions.

So I’d like to start with Mr. Phelps.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. CLIFFORD:

MS. NATALIE D. CLIFFORD: I note that the CWC Program is run, sort of, under the umbrella of the PPSC in the territories. Is this a unique scenario based on your understanding of counterparts?

MR. JOHN PHELPS: I -- I’m not certain how it happens from region to region. I think there are various models, whether they’re housed with the RCMP, housed with the province, or housed with the prosecution service. So there may be others. I’m not familiar with the models all across Canada.

MS. NATALIE D. CLIFFORD: Okay. But the direction from the Attorney General, like, in the exhibit that you shared, is that something that would be given
across the country?

**MR. JOHN PHELPS:** That’s only within the Federal Prosecution Service of Canada. So it’s national with our organization, but dealing with victims is unique to the north.

**MS. NATALIE D. CLIFFORD:** Okay. So not -- it’s not necessarily so that public prosecution services across Canada would have internal CWCs working with them in their offices?

**MR. JOHN PHELPS:** Not necessarily the case, no. And they would have their own individual directives provincially.

**MS. NATALIE D. CLIFFORD:** Okay. Thank you. So in your model, then, I’ll just focus on this model, and I presume that as a prosecution service, and again, focusing even more narrowly on the Yukon, you would have a robust conflict determination process for determining -- maybe you could enlighten me on the conflict process for determining who can prosecute certain cases in your region?

**MR. JOHN PHELPS:** The only time that -- or the times that conflict would arise in our office are in relation to relationships themselves. So if a file were to involve a family member of one of our staff, then we would consider ourselves in -- in conflict. Individuals may have friendships within the witness list of a particular file,
and they would be in conflict to dealing with that file. It such a -- so it’s a -- it’s a determination on a case-by-case basis as to what the nature of the individual relationship might be. For example, were it to involve myself, then we would get somebody from outside our region to deal with the matter.

**MS. NATALIE D. CLIFFORD:** Okay. So I’d like to hone in on the conflict issue because one of our victim services representatives has told our organization that -- and I’ll just offer you this statistic, and maybe you can respond. Based on her own data collection in the past year, of the 33 -- 33 percent of her clients in the last year were both accused and victim, and of those 33 percent, 17 percent of those previously reported physical violence involving the same victim and accused in reversing roles. So given the CWCs are working under the umbrella, and whether this is an experience that you have seen in -- in the Yukon, in your region, how, under your model, are CWCs to deal with this? Because I’m imagining a scenario when, at one point, prosecutor was adversarial to an accused, and then at another point within the near future, the same would be hopefully taking advantage of the services of the CWC, and how this plays out.

**MR. JOHN PHELPS:** And sometimes at the same time, and that does exist, and I’m sure it’s a national
issue, not -- not unique to our organization.

What we do is we do our -- our best to inform the victim that we’re dealing with, even though they’re an accused or have been an accused in another capacity, again, of their rights and how we would be able to support them through the process, acknowledging that, if they have a -- an existing file for which they’re an accused, we’re -- we’re going to have to notify their counsel and make sure that their counsel is okay with the services that we’re providing in our -- our capacity as a prosecution team.

So it becomes complex. It’s very common to have accused-victim-accused-victim through time, for sure, and we just do our best to work through that and support individuals on a case-by-case basis. I wish I had a magic answer for that. It’s -- it’s an extremely complex scenario and what we want to do is make sure we’re able to provide the support ourselves or make sure we’re -- that there’s a referral to an organization like the victim services branch in the Yukon Territory so that they have that support through the process. And -- and we do partner with those organizations as well, so there’s an information-sharing relationship with victim services to make sure the same level of support is provided.

MS. NATALIE D. CLIFFORD: And what about -- I think you touched on it yesterday, but I just wanted to
clarify. A victim’s correspondence with a CWC is not confidential?

MR. JOHN PHELPS: That’s correct, so if -- if the content gives rise to information that would be relevant to the prosecution, then we’re obliged to share that with the others.

MS. NATALIE D. CLIFFORD: For any case, not just the case?

MR. JOHN PHELPS: Pardon me?

MS. NATALIE D. CLIFFORD: For any other case as well, not just the case that --

MR. JOHN PHELPS: It would be for the case that’s -- that it -- it corresponds, is relevant to.

MS. NATALIE D. CLIFFORD: Thank you. Would it be fair to say that this is a barrier to the trust, the relationships and building trust that the CWC program hopes to foster?

MR. JOHN PHELPS: I -- I would suggest it is, yes. I think it’s important -- it’s -- it’s an important to note, and we’re happy, again, to partner with other organizations that can provide support in a different way than we do. Often, it’s the case that we’re dealing with victims that, for their own reasons, don’t take advantage of those other supports, so we’re the support of last resort, and that’s the majority of cases, yeah.
MS. NATALIE D. CLIFFORD: Thank you. So I’m going to switch topics now, but stay with you, Mr. Phelps. On the topic of restitution, CWCs have an obligation for the Attorney General’s directive to notify victims of their right to request restitution, correct?

MR. JOHN PHELPS: Correct, and that’s in the legislation as well.

MS. NATALIE D. CLIFFORD: Section 16 in the CVBR codifies this, correct? It’s a -- actually, maybe you could read the section if you have it in front of you, because I would submit that it elevates the -- the right to actually having the application considered, which isn’t --

MR. JOHN PHELPS: That’s correct, yes.

MS. NATALIE D. CLIFFORD: Okay. So this is for all victims?

MR. JOHN PHELPS: Yes.

MS. NATALIE D. CLIFFORD: Not just Indigenous victims?

MR. JOHN PHELPS: That’s correct, yes.

MS. NATALIE D. CLIFFORD: And to be clear, as a prosecutor, you don’t represent victims?

MR. JOHN PHELPS: That’s correct.

MS. NATALIE D. CLIFFORD: The CWCs have certain obligations, but do they represent victims?

MR. JOHN PHELPS: No. In the -- in the
context of restitution, the CWCs would work with the
prosecutor in order to facilitate a request in court, so the
CWC informs the victim of the right if there has been a
monetary loss. They advise them of the information that
would be required to present in court in order to make a
claim for restitution and our prosecutors would make that
application on their behalf.

**MS. NATALIE D. CLIFFORD:** And in your view,
is that restitution limited to monetary loss, or are we
looking at broader compensation for the loss of lives?

**MR. JOHN PHELPS:** Generally speaking, it’s
-- it’s monetary or -- or physical items that are lost.

**MS. NATALIE D. CLIFFORD:** Sticking with you,
Mr. Phelps, my next question is simply to confirm that there
is not a national mandate to ensure Indigenous
representation in CWC roles?

**MR. JOHN PHELPS:** No.

**MS. NATALIE D. CLIFFORD:** Do you face funding
security as an issue in provision of CWC service?

**MR. JOHN PHELPS:** I -- I would imagine that,
at any point in time where the department is facing a
budgetary crunch, all of our services would be in jeopardy.
At this point in time, it’s not a concern. We’ve -- we’ve
expanded to the numbers that I referenced over the last
couple of years, so it’s quite supported by the PPSC across
the North. It’s something that’s given a lot of importance.

**MS. NATALIE D. CLIFFORD:** And so just to confirm once again that you cannot speak to CWC programs in other jurisdictions, correct?

**MR. JOHN PHELPS:** That’s correct, yes.

**MS. NATALIE D. CLIFFORD:** Would you agree that, in order for the commission to make meaningful recommendations about victim services across the country, it would be important for them to hear about not necessarily the great models, as we have in the territories, but perhaps the broader scope of models as are experienced across the country?

**MR. JOHN PHELPS:** I’d -- I think it’s important to look at all of the models and for them to take that into account when they’re determining their recommendations for this type of a service. I -- I’m not advocating that ours is necessarily the one that would be recommended, it’s just an example of one that exists and -- and how it works.

**MS. NATALIE D. CLIFFORD:** Thank you. I have a couple of questions for you, Ms. Giff-MacKinnon.

**NAOMI GIFF-MACKINNON, Previously Affirmed:**

**CROSS-EXAMINATION BY MS. CLIFFORD:**

**MS. NATALIE D. CLIFFORD:** It was your evidence that you took part in the planning stages of FILU,
we call on the east coast typically, FILU. Pre-funding, pre-the announcement of funding, or --

**MS. NAOMI GIFF-MACKINNON:** Once the funding was announced.

**MS. NATALIE D. CLIFFORD:** -- identifying the need --

**MS. NAOMI GIFF-MACKINNON:** Yeah. I -- sorry, excuse me, yes. In terms of the development of the funding model and the -- and the initiative Federally, yes, I -- I helped develop that.

**MS. NATALIE D. CLIFFORD:** So is it fair to say that indeed there were gaps for -- for families of missing and murdered women, specifically, to access and navigate the system prior to FILU?

**MS. NAOMI GIFF-MACKINNON:** To -- to navigate information systems? Yes.

**MS. NATALIE D. CLIFFORD:** And so, at this point, can you confirm you don’t have data collected about the national experience on FILU?

**MS. NAOMI GIFF-MACKINNON:** So we’ve got -- we don’t have firm numbers right now. We have agreements in place that have reporting requirements, so we expect that all the FILU teams across the country will be submitting more robust data about their activities and about the work that they’ve done to gather that information that families
are seeking. We would expect to have that this summer.

MS. NATALIE D. CLIFFORD: So can we expect a public reporting?

MS. NAOMI GIFF-MACKINNON: I don’t know that there’s a -- a plan to publicly report that, but that information is public information.

MS. NATALIE D. CLIFFORD: So I’m curious about, prior to any political announcement for future funding, at this point, with the -- the end of FILU coming within one year, what is the exit plan for those current families accessing FILU services, to ensure that they aren’t traumatized on the day it's over?

MS. NAOMI GIFF-MACKINNON: Right. So that is something that all the FILU teams across the country are thinking about and talking about and exploring. Right now the funding that we have is set until March 31st, 2019.

MS. NATALIE D. CLIFFORD: And whose responsibility will it be if funding is not renewed? Who does it -- who bears the responsibility to help coordinate what FILU had coordinated in the past couple of years?

MS. NAOMI GIFF-MACKINNON: I think that's something that will have to be looked at on a jurisdiction by jurisdiction basis, if there's no funding after March 31st, 2019.

MS. NATALIE D. CLIFFORD: Can you comment
on -- you mentioned different structures for FILU implementation across the country, can you comment on what -- where some are housed with Indigenous organizations versus the province?

**MS. NAOMI GIFF-MACKINNON:** Sure. So I can highlight a couple of the -- the examples where the FILU teams are co-located with Indigenous community organizations and victim services.

In Nova Scotia the Native Women's Association of Nova Scotia is a partner in the delivery of the FILU model, and there are three FILU team members located across the province and one within victim services. There is also in Ontario the -- the -- one of the FILU team members is located in the Indigenous justice division --

**MS. NATALIE D. CLIFFORD:** M'hm.

**MS. NAOMI GIFF-MACKINNON:** -- within the Ministry of the Attorney General, and then there are three FILU team members located in community organizations across the province.

I'm just doing a visual across -- as I go across the province. In Saskatchewan as well there's a partnership with the Federation of Sovereign Indigenous Nations, and a FILU team member within victim services.

In Manitoba there are partnerships in place within victim services and Ka Ni Kanichihk and MKO as well.
In Alberta they have outreach offices across the province.
In British Columbia there's a satellite office in Prince George, in the Friendship Centre there.

In NWT there's a partnership with the Native Women's Association of the Northwest Territories. In the Yukon there is a partnership with the Yukon Aboriginal Women's Council.

**MS. NATALIE D. CLIFFORD:** So looking forward to future plans to fill these gaps and facilitate communication, I'm wondering if the reporting mechanisms that you are -- that you have out and the information that you're expecting to receive and ultimately by the time it reaches the public, will that reflect the different models and challenges associated, and successes associated with the different models?

**MS. NAOMI GIFF-MACKINNON:** I think those would -- I would expect that those would be elements that would be included in how the FILU team reports on their results and what they've achieved. There would be an expectation that they would reflect on the challenges in moving forward, they would reflect on ways that they have overcome or attempted to overcome those challenges, they would reflect on the strengths and how they've achieved their objectives, as well as quantitative data that would illustrate the reach of the services that they're
providing.

**MS. NATALIE D. CLIFFORD:** Okay. And finally I just wanted to confirm, how do FILUs access victims and families?

**MS. NAOMI GIFF-MACKINNON:** How do they access? So they have a variety of outreach initiatives underway, which certainly does vary across the country. There are, of course, websites. They have -- in collaboration with community organizations, they are attending community events and they have a presence at community events to reach out to community members and families. They have been also on site wherever there's been a community hearing of the National Inquiry to also be available and do that outreach with families.

**MS. NATALIE D. CLIFFORD:** But they're not allowed to directly contact families?

**MS. NAOMI GIFF-MACKINNON:** They -- I don't -- as I understand it, I think there might be a reluctance to directly contact a family member. I -- as I understand it, the approach that the FILUs would take would be that they would make their service known to as wide an audience as they can in all the different ways they can, but it would be important for families to choose to contact them.

**MS. NATALIE D. CLIFFORD:** So given that
arrangement, it would be quite important, would you agree, for FILUs to be well networked with, accepted by and trusted by, for lack of a better word, grassroots or women's organizations in the jurisdiction?

**MS. NAOMI GIFF-MACKINNON:** Yes.

**MS. NATALIE D. CLIFFORD:** Thank you. That's all my questions.

**MS. MEREDITH PORTER:** Thank you. The next party that I would like to invite to pose questions to the witnesses is from the Nishnawbe Aski Nation, Grand Council Treaty 3 Treaty Alliance of Northern Ontario. And that party has a remaining 17 minutes and 30 seconds. We will round up to 18 as we did last time, I suppose.

**MS. KRYSTYN ORDYNIEC:** Thank you. For the record again it's Christen Ordyniec for Northern Treaty Alliance Nishnawbe Aski Nation and Grand Council Treaty 3. And I would just like to start by apologizing, I was out of the room for some of the questions, so if I repeat them, I do apologize. If Commission counsel or counsel for the witnesses can tell me that they've already asked and answered, I would really appreciate that.

**NAOMI GIFF-MACKINNON, Previously Affirmed:**

**CROSS-EXAMINATION BY MS. ORDYNIEC:**

**MS. KRYSTYN ORDYNIEC:** My questions are going to be mostly directed at Ms. Giff-MacKinnon in
respect of your work mostly with the FILUs, but also I'd like to ask about something that's found in your biography. In the third paragraph down it says that you organized and collaborated with territorial partners to develop northern specific training on essential skills in northern environments and working with child victims, and I wonder if you could just talk a little bit about that?

**MS. NAOMI GIFF-MACKINNON:** Sure. So in the context to the reference to the north, in this description of work, it's mostly within the territories. So the work that I described here was something actually that Ms. Gardiner mentioned earlier in terms of the essential skills curriculum for northern service providers. So working with the Northern Institute of Social Justice and all three territories, there was a training curriculum developed that focused on the commonalities between the three territories to create a pan-territorial training curriculum. So that has been one way to provide a pan-territorial opportunity to develop tools that can be used across each territory. Of course there were lots of adaptations, but the core essential skills of working in a northern environment and northern communities was the focus of that -- that work.

In terms of the child victims, that was about working as a team to support child victims in
northern communities, and that was building on some of the -- the work that was done in the -- in the provinces and in the south and adapted to the north.

**MS. KRYSTYN ORDYNIEC:** Thank you. So you mentioned that it's in the territories, are there any initiatives that you know of that has that -- have that same approach across other provinces that have communities and northern remoteness issues?

**MS. NAOMI GIFF-MACKINNON:** In terms of my biography or in terms of --

**MS. KRYSTYN ORDYNIEC:** No, any other --

**MS. NAOMI GIFF-MACKINNON:** -- just generally?

**MS. KRYSTYN ORDYNIEC:** -- work that you've done, specifically?

**MS. NAOMI GIFF-MACKINNON:** Well, the -- the work to create -- to organize a national conference was focussed not just on the territories, but to bring together service providers from the northern parts of the provinces as well to come together in a northern community to discuss and explore different ways to build on strengths of northern victims and survivors and moving forward together.

**MS. KRYSTYN ORDYNIEC:** And do you think that work should continue?

**MS. NAOMI GIFF-MACKINNON:** Yes, I think it
will. I think that the focus of my -- from my perspective and what I do, the focus of my work has been focused on the last few years in terms of advancing specialized supports for families of missing and murdered Indigenous women and girls.

**MS. KRYSTYN ORDYNIEC:** Thank you. Next I'll move to the FILU program specifically. Would you agree that most of the information provided through this initiative is reactive to a tragic situation, so namely the death of a loved one. So coroner's reports. You mentioned burial sites. Would you agree that it's reactive?

**MS. NAOMI GIFF-MACKINNON:** That the service provided is reacting to a situation that brings the -- the family members to that -- that unit? Yes, I do.

**MS. KRYSTYN ORDYNIEC:** And the information provided is reactive information is what I'm asking.

**MS. NAOMI GIFF-MACKINNON:** I'm not sure that I understand. Is there another way that you can --

**MS. KRYSTYN ORDYNIEC:** Sure. So had -- had the situation not happened, that family would not have needed that information?

**MS. NAOMI GIFF-MACKINNON:** Yes.

**MS. KRYSTYN ORDYNIEC:** Thank you. And within dealing with families in this -- in this context, are they asking -- are you aware if they're asking for any
other information that may be outside the scope of that mandate?

**MS. NAOMI GIFF-MACKINNON:** Yes, they are. They're working -- families are bringing to FILUs questions about how to bring remains back to their home community when they're in another jurisdiction. They're asking about -- they're asking about deaths of children in residential schools, as well, and records there. They're asking for assistance in organizing family gatherings and opportunities for families to come together. The -- and a lot -- there are lots of different questions that they're bringing to the FILUs that are outside of what we might consider the agencies holding -- the agencies that we might think that would hold the information families would be seeking.

**MS. KRYSTYN ORDYNIEC:** Right. And -- and the FILU are able to assist them or -- or how do they deal with the situation when they cannot provide the information that the family is asking?

**MS. NAOMI GIFF-MACKINNON:** That's a really good question. And when the information is not available, that is something that FILUs talk very openly and honestly with family members. That is something that FILUs talk early on in their work with family members, to identify that not all the information that they are -- they are
asking to have, it might not be available. So they have that conversation early on. And then the agencies who hold the information would be responsible for making that assessment. And if it's possible, the FILU teams seek to bring those decision-makers or people or those who are interpreting the -- the directives in the legislation in terms of what information they can or can't release, to bring them together to talk to families to try and have an opportunity for families to understand the underpinnings of why that information might not be available.

**MS. KRYSTYN ORDYNIEC:** Thank you. And I -- I used the word "reactive" before to preface my next question. Do you think it would be valuable for an initiative to provide proactive information to Indigenous women and girls so they could understand entitlements and rights under other government documents and legislation that they might not be aware of?

**MS. NAOMI GIFF-MACKINNON:** So if -- do you mean to make it very clear about what information is available and make sure that -- that people know what information they can begin asking for?

**MS. KRYSTYN ORDYNIEC:** That's right. Or even to help understand certain things, like an amendment to an Act, whereas some people might not be able to access that information or understand what it means.
MS. NAOMI GIFF-MACKINNON: Yeah, I think that's very important. Yeah.

MS. KRYSTYN ORDYNIEC: Thank you. And in remote communities, and I understand -- and I'll speak from what you just said about Ontario specifically. There are three workers for the -- for the province. In remote communities, how does the information get to the individuals? Is it personally delivered? Is it done by email? Is it done by phone?

MS. NAOMI GIFF-MACKINNON: It's done in person to the extent possible. Many of the FILUs have built into their work travel in terms of costing it out and creating a work plan that includes travel to families to make sure that wherever they -- wherever they possibly can, they're meeting with -- with families in person to have the information shared in person.

MS. KRYSTYN ORDYNIEC: And if it can't be shared in person, then -- then how is it delivered?

MS. NAOMI GIFF-MACKINNON: That would be how families would like to proceed. I can't imagine that it would be through email as one of the examples that you provided. If there are logistical issues that prevent the FILU team from being able to be with the family member or that prevent other partners to be with the family member, then they would work out the best way with families.
MS. KRYSTYN ORDYNIEC: I think that you confirmed in a previous question that the funding for the FILUs runs out at the end of March 2019. As far as experience goes, in terms of accessing the kind of information that you're asking for, sometimes that's a lengthy process. And I'm wondering what kind of mechanism is in place for the ongoing work that would have to be done if the program was not funded again.

MS. NAOMI GIFF-MACKINNON: M-hm. So this -- this was something that we -- we spoke about, as well. And it is -- it's a very good question. So the funding is -- the funding authority that we have right now is until March 31st, 2019. What that might look like afterward would have to be -- if there is no funding, that would have to be looked at by each jurisdiction.

MS. KRYSTYN ORDYNIEC: Okay. I'm -- I'm just more concerned from -- from a family that has already started in the process, and they're expecting or waiting for information, what would happen to them in terms of the trusting relationship that they're building.

MS. NAOMI GIFF-MACKINNON: Yeah. That's a good question. I see what you mean about the clarification. I would -- I can't speak on of each of the FILU teams, but I would expect that if they have a working relationship right now with families and they're working
with families to gather that information, that they would see that through.

**MS. KRYSTYN ORDYNIEC:** And would it be recommendation that you would -- would you recommend that the work that is being done by the FILUs continue at the organization level that -- that the partnership level that you're working with various organizations at?

**MS. NAOMI GIFF-MACKINNON:** Would I recommend that the funding continue?

**MS. KRYSTYN ORDYNIEC:** Would you recommend that the work continue in the event that this program is not funded?

**MS. NAOMI GIFF-MACKINNON:** I -- I think it's a good model. I think it's doing great work. Those aren't decisions that -- that I make.

**MS. KRYSTYN ORDYNIEC:** If there is information that is upsetting to families through this process, I wonder if you could speak about specific mechanisms and supports in place in the event that there is no organization in a community that can provide that directly to -- to an individual.

**MS. NAOMI GIFF-MACKINNON:** I think that the FILUs would -- if there was information that families were requesting and that had been available to be shared, and that it was upsetting, and if the FILU team felt that the
right supports were not in place, as I understand it in terms of they're operating, the principles that they -- that they ground their work in, that in such a situation, they would not create an environment where families didn't have the right supports.

**MS. KRYSTYN ORDYNIEC:** And perhaps you've already answered this question again, and I do apologize. Given that you are -- you said you are in the process of collecting data for the purposes of analyzing how this program is working. Will there be a report at the end of -- at the end of 2019?

**MS. NAOMI GIFF-MACKINNON:** So, yes, we are collecting on an annual basis. That data is due this summer. And we are expecting qualitative and quantitative data through the -- the regular reporting requirements that we would have for all of our funded partners. I had mentioned earlier that we don't -- at this point in time, there's not an idea to publicly share the data, but that data is publicly available. But we can definitely look at communicating the overall results of the initiative.

**MS. KRYSTYN ORDYNIEC:** So --

**MS. NAOMI GIFF-MACKINNON:** And we will actually -- sorry. If I'll just add. We do -- all this work is operating within a federal victims strategy, which is the -- the larger initiative that I'm a part of. And we
do -- do a summative report every five years, and
the -- the -- the results of the program and policy levers
that we have and how we've used them to support specialized
services for families will be part of that evaluation, as
well.

**MS. KRYSTYN ORDYNIEC:** And you're
obviously -- and correct me if I'm wrong -- using the
information that you're receiving through the community
organizations, as well, which will be included in that
report?

**MS. NAOMI GIFF-MACKINNON:** Yes, absolutely.
And there is also -- we did work with all the FILU teams to
create consistent reporting tools. So each jurisdiction,
each FILU team, can report as they wish with -- with a few,
you know, form instructions as we have them with
our -- with our funded project agreements. But we did work
to create some tools that would permit us, hopefully, to
report on a national level in terms of the impact of the
FILU initiative, because it really is national in scope.
And it's operating in each jurisdiction, they -- the FILU
teams are really working together because there is so much
interjurisdictional collaboration and
information-gathering. So we -- and part of that -- part
of that suite of tools that we worked on, reporting tools,
was also to seek input from families in terms of how they
felt with -- with the FILU service.

MS. KRYSTYN ORDYNIEC: And are you seeking input from the families on an ongoing basis during the implementation and -- through this program?

MS. NAOMI GIFF-MACKINNON: That's part of the -- the tools -- the tools that were developed. So we've asked each FILU team to reflect and identify how they can best get that information from families about the success of their initiative or -- or where they -- they stumbled or where they fell, and get that input from families directly. And that would be through the -- the community organizations, as well as within the victims services divisions.

MS. KRYSTYN ORDYNIEC: So then that information would be directly found in the report as well?

MS. NAOMI GIFF-MACKINNON: Sorry? I --

MS. KRYSTYN ORDYNIEC: That information will be in the report, as well? The --

MS. NAOMI GIFF-MACKINNON: I hope so.

MS. KRYSTYN ORDYNIEC: -- the family input?

MS. NAOMI GIFF-MACKINNON: I hope so.

MS. KRYSTYN ORDYNIEC: Okay. Thank you. Thank you very much. Thank you to the commissioners.

Those are my questions.

MS. MEREDITH PORTER: Thank you.
Okay. Commissioners, we do have a few more parties that are on the schedule to cross-examine the witnesses. However, commission counsel is mindful that our witness is scheduled to leave early. So at this point in time, I'm going to ask to call counsel for that witness to proceed with her re-examination of the witness. We have a 23-minute period of time allocated for re-examination, which will be shared amongst the counsel for all of the witnesses. So dividing that into four, of course, that would allocate roughly -- roughly five-point something minutes. And I am certainly -- I am sure that we can round that up to six. Thank you.

**CHIEF COMMISSIONER MARION BULLER:**

Certainly.

**MS. MEREDITH PORTER:** Thank you.

**MS. BARBARA MYSKO:** Not entirely sure that we'll be using all of that time.

**BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

**CROSS-EXAMINATION BY MS. MYSKO:**

**MS. BARBARA MYSKO:** I only have a couple of questions for Betty Ann on re-exam. The first is there was a question posed earlier today --

**MS. MEREDITH PORTER:** Just a second. We just want to get the time on the clock. They don't have the time on the clock yet properly.
CHIEF COMMISSIONER MARION BULLER: Six.

MS. MEREDITH PORTER: Thank you. Proceed.

Thank you.

MS. BARBARA MYSKO: There was a question earlier today about client satisfaction surveys or victim services evaluations, and I just wanted to ask you about that, Betty Ann. Has anything similar been done with respect to the victim services programming in Saskatchewan?

MS. BETTY ANN POTTRUFF: Yes, to my knowledge, we do annual surveys of victim satisfaction with the program and have done this for -- again, I'm not sure of the exact time period, but I'd say ten years. There's one available for 2015-2016 and one in the process of being completed for 2016-17. We use a standard survey stool.

MS. BARBARA MYSKO: Thank you. And do you have any information readily available as to the results of those surveys?

MS. BETTY ANN POTTRUFF: Just from my recollection of past surveys. And -- and generally, we've seen 90 percent satisfaction from victims for these services provided.

MS. BARBARA MYSKO: Thank you. And just one more question for you on re-exam. You had briefly responded to a question in relation to terminology about a recent program that has been developed around survivors of
sexual violence, and I wanted to give you an opportunity to speak in more detail about that program.

**MS. BETTY ANN POTTRUFF:** Okay. This is a program to provide legal advice, free legal advice, to survivors of sexual violence throughout the province of Saskatchewan with the cooperation of the private bar. We've got a roster of approximately 26 lawyers who've agreed to provide this free legal advice to the client. The lawyers get paid $88 an hour, which to them seems free. So -- but I'm very grateful for their support.

We're providing the program through Public Legal Education Saskatchewan, who's actually hosting it, so it's arm's-length from government. And when we say survivors of -- of sexual violence, this is broader than the programs currently in place in Nova Scotia and Ontario which are focussed on -- on just sexual assault.

And -- and we determined that we needed to have a broad program so that, in fact, it -- it could allow all sorts of victims or survivors of violence to come forward, whether it was residential school violence, whether it's violence within the workplace, whether it's sexual violence in -- in an organization or experienced otherwise or whether these were simply victims who -- who needed to have some advice about what their justice options were in terms of civil action or criminal action.
We also have no age limits on who can apply, and they can contact the program through email, by text, by phone, and then once initial intake information is provided, then they are provided with -- there's a conflict check with the lawyers, and then they're provided with the name of a lawyer to contact.

And so we've -- we've put the responsibility and the control back in the hands of the survivors to decide how they want to move forward. And -- and we think that it will be helpful to some who are ready to take that step, to get that advice. Obviously not all survivors are. In the first month of the program, we've had 25 referrals so far, and they get up to two hours initially of free legal advice, and if more is needed, then they can apply for more.

MS. BARBARA MYSKO: Thank you. And just as a follow-up question to that, are there any gender limitations on that program?

MS. BETTY ANN POTTRUFF: No, none.

MS. BARBARA MYSKO: Thank you. That concludes my questions on re-exam.

MS. MEREDITH PORTER: Thank you. At this point, we have a break scheduled to begin in about five minutes.

CHIEF COMMISSIONER MARION BULLER: Yes.
We'll take the break now.

MS. MEREDITH PORTER: We'll take the break.

CHIEF COMMISSIONER MARION BULLER: Okay.

MS. MEREDITH PORTER: So it is scheduled for -- well, again, there seems to be an error. A half an hour. When -- when would you like to -- to re-convene after the break?

CHIEF COMMISSIONER MARION BULLER: We will reconvene at 2:45.

MS. MEREDITH PORTER: At 2:45. Thank you.

So I will ask the parties to reconvene in the hearing room at 2:45. At this point we'll adjourn for the break.

--- Upon recessing at 2:26 p.m.

--- Upon resuming at 2:49 p.m.

MS. MEREDITH PORTER: Okay. We'll continue on with the cross-examination of the witnesses. I'll just give them an opportunity to take their seats.

The next party that I'd like to invite us to pose questions to the witnesses are from the Inuit Tapiriit Kanatami, ITK. So I'd like to invite the representative from that organization to come to the podium. And the ITK will have 23 minutes to pose questions to the witnesses.

NAOMI GIFF-MACKINNON, Previously Affirmed:

CROSS-EXAMINATION BY MS. ZARPA:

MS. ELIZABETH ZARPA: Hi. My name is
Elizabeth Zarpa. I'm counsel with Inuit Tapiriit Kanatami, which is a national organization that represents all Inuit in Canada. I want to say thank you to everybody for your expert -- for your -- for your testimony, and I also thank the Blackfoot people for allowing me to be on their territory.

So to start off, I have some questions with regards to Ms. Giff-Mackinnon. Under Exhibit 15, victims services in Canada. So on page 4, it says, "Victims Services of Canada and the Provinces and the Territories." And in this list here, is there any recognition of Nunatsiavut?

MS. NAOMI GIFF-MACKINNON: In the --


MS. NAOMI GIFF-MACKINNON: No, it’s not included.

MS. ELIZABETH ZARPA: Is there any mention of Nunavik?

MS. NAOMI GIFF-MACKINNON: It’s not included.

MS. ELIZABETH ZARPA: Is there any mention of Inuvialuit?

MS. NAOMI GIFF-MACKINNON: It’s not included.

MS. ELIZABETH ZARPA: And FILU is a national organization that represents all Indigenous groups within
Canada, correct?

MS. NAOMI GIFF-MACKINNON: I’m sorry, I didn’t hear you?

MS. ELIZABETH ZARPA: So FILU is a national organization that seeks the -- to represent the interests of families of all Indigenous people within Canada, correct?

MS. NAOMI GIFF-MACKINNON: So, yes. The -- they’re -- the FILU service is intended to serve all families, yes, across Canada.

MS. ELIZABETH ZARPA: All right. Are you familiar with Inuit Nunangat?

MS. NAOMI GIFF-MACKINNON: I -- I’m not familiar to talk about, no. Sorry.

MS. ELIZABETH ZARPA: So Inuit Nunangat is predominantly the area -- the Inuit homelands of -- in the northern region, above the 60th parallel. And I would recommend that the exclusion of those regions within this list, also excludes the families of those regions who could also be represented within FILU programming.

MS. NAOMI GIFF-MACKINNON: If -- if I may say, the -- the -- this exhibit is an overview of the victim services models. And it’s -- it’s not just the FILUs. So the -- the FILU service structure is organized by provincial and territorial government.

MS. ELIZABETH ZARPA: All right. And
throughout Inuit Nunangat, the Nunatsiavut, Nunavik, and
Inuvialuit have their own regional governments. And I -- I
put to you that these aren’t on page 4 listed, but they are
governments that represent Inuit.

MS. NAOMI GIFF-MACKINNON: Yes.

MS. ELIZABETH ZARPA: And the exclusion is a
very -- it’s -- it will -- it’s reflective that there’s a
huge portion of the Indigenous population that’s not
represented in this.

JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. ZARPA:

MS. ELIZABETH ZARPA: So my -- my second set
of questions will go to Mr. Phelps. Hi. So throughout
Nunavut, Yukon, and the Northwest Territories, this is sort
of the -- CWC’s, sort of, area that you’ve focused on
throughout your testimony, correct?

MR. JOHN PHELPS: Yes. That’s -- that’s
our -- the territories proper -- at the areas where we have
responsibility for other criminal code prosecutions.

MS. ELIZABETH ZARPA: And is it implicit that
Inuvialuit is within those areas?

MR. JOHN PHELPS: Sorry, I’m -- regionally,
if -- if they’re within the territory. I’m not as familiar
with the east coast as I am with the west coast. But
the -- the regional boundaries would be the -- the regional
boundaries set by -- set in Canada for that territory.
Well, if there are overlapping groups, such as in -- in the
Yukon territory, the Kaska First Nation would overlap with
British Columbia. We would only provide service to the
Kaska members that reside within the territory of the Yukon.

MS. ELIZABETH ZARPA: So is it fair to say
that Inuvialuit is not represented in your testimony?

MR. JOHN PHELPS: Again, to the extent, and
I’m not familiar, I’m having a hard time with the geography,
but if they’re not within Nunavut, if there aren’t
settlements within the boundaries of Nunavut, then they
would not be covered. If there are then they would.

MS. ELIZABETH ZARPA: Are there Inuit that
reside in the Yukon?

MR. JOHN PHELPS: No, there aren’t.

MS. ELIZABETH ZARPA: Are there Inuit that
reside in the Northwest Territories?

MR. JOHN PHELPS: As far as I’m aware, yes.

MS. ELIZABETH ZARPA: Okay. So you mentioned
that within the training of CWC, many of the individuals
that are -- it’s mandatory that they take First Nations 101
when they become a staff member, correct?

MR. JOHN PHELPS: Yes. That’s for the Yukon
region, yes.

MS. ELIZABETH ZARPA: Okay. And is there a
Inuit specific 101?

MR. JOHN PHELPS: There is in Nunavut, yes. There’s a program, it’s a modular based program that was developed for training purposes for -- for cultural sensitivity. It’s mandatory, I believe, for all employees including the CWCs.

MS. ELIZABETH ZARPA: And is this training also Inuit specific 101, also offered within the Northwest Territories?

MR. JOHN PHELPS: It’s -- it would be available to all employees within our department. So it would be available within the Northwest Territories as well because it’s -- it’s relevant in the Northwest Territories. It -- it hasn’t been used in my territory.

MS. ELIZABETH ZARPA: Okay, thank you. I -- so would you -- would you -- so the CWC is essential to the work of Crown throughout all these territories, right?

MR. JOHN PHELPS: That’s correct. Yes.

MS. ELIZABETH ZARPA: And you mentioned that communication with the survivor is essential for the CWC to fulfill its responsibilities?

MR. JOHN PHELPS: Yes.

MS. ELIZABETH ZARPA: Okay. So is there -- is there access to cell phone service all throughout the Yukon?
MR. JOHN PHELPS: Yes, there is. In all of the communities there is cell phone coverage, yes.

MS. ELIZABETH ZARPA: Is there access to cell phone coverage throughout all the communities in the Northwest Territories?

MR. JOHN PHELPS: I’m not certain that there is in the -- in the east. I would -- I would be guessing if I -- if I was to give that answer. I -- I don’t believe it’s available, but I don’t know the -- the answer to that.

MS. ELIZABETH ZARPA: Is there access to full-coverage cell phone service throughout Nunavut?

MR. JOHN PHELPS: Pardon me?

MS. ELIZABETH ZARPA: Is there access to full cell phone coverage throughout Nunavut?

MR. JOHN PHELPS: I’m -- I’m not certain that there is, no.

MS. ELIZABETH ZARPA: Would you agree that not having access to full coverage cell phone service affects CWC -- CWC’s work?

MR. JOHN PHELPS: Yes, certainly. Access to cell phones and -- and access to programs that provide cell phones to -- to victims such as we have in the Yukon, and -- and we heard about in the NWT greatly impact our ability to communicate with victims. It’s very important, yes.

MS. ELIZABETH ZARPA: So it’s an essential
government service?

    MR. JOHN PHELPS: Pardon me?

    MS. ELIZABETH ZARPA: It’s an essential government service that’s lacking?

    MR. JOHN PHELPS: It’s certainly a very important aspect of the work we do, yes.

    MS. ELIZABETH ZARPA: So is there -- is there full, efficient, effective internet all throughout Northwest Territories?

    MR. JOHN PHELPS: I -- I’m not too certain with respect to the most remote locations as to how effective it is, and I know in Nunavut, it’s an ongoing problem. Even it where it is provided, the connectivity is a problem.

    MS. ELIZABETH ZARPA: And would you -- would you agree with me that this affects the ongoing work of the essential service of CWC?

    MR. JOHN PHELPS: I would, yes.

    MS. ELIZABETH ZARPA: And would you agree with me that it’s a government service that should be made fully available to all the three territories?

    MR. JOHN PHELPS: It would certainly benefit the work that we do with victims across all three territories, yes.

    MS. ELIZABETH ZARPA: Great, thank you. So
I’m going to read to you a -- a hypothetical situation. I want to just quickly go over it. So -- so I’m going say that I’m a -- a 60 year-old Elder Inuit woman who predominantly only speaks Inuvialuktun, which is like a dialect from Inuvialuit in the Inuktitut language. Recently, in Whitehorse, who has left Inuvialuit, my home, because I’ve experienced extensive struggles due to the -- due to the issue of substance misuse in my 500-population community. My community of 500 is now receiving lots of money from a diamond mine in our territory, which has increased the level of drugs and alcohol in my community. I am fleeing my partner who is struggling with substance misuse until he gets help. He was charged last week for break and enter into our son’s home, and damage to personal property. I was staying there when he smashed out the window, and he was angry I didn’t open the door. He was under the influence, and this is his first charge. He has never been aggressive before.

He is Inuit too, from Inuvialuit, and has been receiving payments from the residential school survivor payout, and the Impact Benefit Agreement from the mine. He’s struggling too with this -- with his own traumas from residential school and the slaughter of his dog team in the ’50s. I’m a survivor of several changes and challenges over the last century, who is seeking to -- a better life in the
capital of Whitehorse. I’m homeless because I just arrived today. Will my case be handled by an Inuit RCMP officer?

MR. JOHN PHELPS: I’m -- I’m unable to answer that question, I -- I don’t know.

MS. ELIZABETH ZARPA: Are there Inuit RCMP officers in the Yukon?

MR. JOHN PHELPS: I -- I don’t know one way or another. I’m not familiar, no.

MS. ELIZABETH ZARPA: Are many of the RCMP officers that come into the Yukon predominately non-Yukoners?

MS. ANNE TURLEY: I’m sorry, Chief Commissioner, I’m going to object at this.

MS. ELIZABETH ZARPA: Can we pause the time, please?

MS. ANNE TURLEY: I’m going to object at this point because Mr. Phelps is not here on behalf of the RCMP and he would not be aware of the RCMP’s recruitment policies and the complement of their officers, so I think this goes well beyond the bounds of his testimony.

CHIEF COMMISSIONER MARION BULLER: Ms. Zarpa, any submissions?

MS. ELIZABETH ZARPA: No submissions.

MS. ANNE TURLEY: Yeah, I --

MS. MEREDITH PORTER: As Commission counsel,
I -- it would be my position that the witness oversees a program developing -- delivering services to victims, and he is acutely aware, I’m imagining, from his expertise and his knowledge and his experience, as to whether or not he can answer the question as to whether or not he himself has ever dealt with RCMP officers, for example, of Inuit descent. So I think it would be appropriate for the witness to answer the question to the best of his knowledge with respect to the program that he oversees in the three territories.

CHIEF COMMISSIONER MARION BULLER: The witness can answer the question, but of course, he can always say he doesn’t know. Go ahead.

MR. JOHN PHELPS: Thank you. It -- it -- could you repeat the questions?

MS. ELIZABETH ZARPA: So the -- will my case be handled by an Inuit RCMP officer?

MR. JOHN PHELPS: I -- I’m not -- I’m not certain whether it would or not. My expectation would be that they would make their best efforts and arrangements to be able to understand the complaint, so I -- I don’t know how they would go about it, though, if -- if they have anybody on staff. I don’t know the answer to that.

MS. ELIZABETH ZARPA: Are there any Inuit lawyers throughout the Northwest Territories are -- that are Crown prosecutors or defence?
MR. JOHN PHELPS: I don’t believe currently, within the complement of the Public Prosecution Service of Canada, that there are. There have been in the past, and certainly the previous iteration of the law school in Nunavut was supported by the PPSC and we were fortunate to have some on staff as a result of that process. I’m not certain that there are any within the PPSC currently.

MS. ELIZABETH ZARPA: Are there any Inuit judges throughout any of the territories, or Justice of the Peace?

MR. JOHN PHELPS: I couldn’t answer the question with respect to Justices of the Peace because those tend to be resident within particular communities and hamlets. I’m not aware of any judges.

MS. ELIZABETH ZARPA: Would you make the recommendation that there could be Inuit judges within the territories that would hear the cases from Inuit victims of violence?

MR. JOHN PHELPS: I -- I could see that as being appropriate, yes.

MS. ELIZABETH ZARPA: Okay, thank you. So Exhibit 3 was entered, which is the CVBR common checklist.

MR. JOHN PHELPS: Yes.

MS. ELIZABETH ZARPA: So I -- I -- I note on the second page of the -- the opposite side of the CBR --
CVBR common checklist. It -- it outlines that there’s restorative justice options.

**MR. JOHN PHELPS:** Sorry, I’m just looking for the --

**MS. ELIZABETH ZARPA:** So it’s under “Initial Contact,” so it’s -- it’s not the front page, but it’s the second page.

**MR. JOHN PHELPS:** Under “Information and Rights?” Is that what you’re referring to?

**MS. ELIZABETH ZARPA:** Yes.

**MR. JOHN PHELPS:** Okay. Yes.

**MS. ELIZABETH ZARPA:** So in the hypothetical situation with my -- my husband, what restorative justice options would he have in the Yukon, Northwest Territories, and Nunavut?

**MR. JOHN PHELPS:** With respect to domestic violence, in Nunavut, there is a domestic violence court in Rankin Inlet, if that was available to the individual. It’s only the one court, though, in the entire territory. Given that the accused is residing, I think, in your scenario, in Nunavut, then the services available in Nunavut would be offered. In the Yukon territory, there’s domestic violence treatment option court as well as community wellness court, and depending on the needs of the offender in your scenario, either one of those courts would be an option for them
within the Yukon Territory. Sorry, there -- there’s a domestic violence and wellness court also available in the Northwest Territories.

Within the Yukon Territory specifically, there are several First Nations that offer restorative justice options within their community, and the opportunity to participate in those programs on domestic violence cases is dealt with on a case-by-case basis. In -- in your scenario, it may very well be an appropriate case for an individual to go through one of the restorative justice programs as long as they’re addressing the risk factors of -- of your -- I believe you said 50-something-year-old accused.

**MS. ELIZABETH ZARPA:** And would he have to plead guilty before pursuing restorative justice or wellness court?

**MR. JOHN PHELPS:** In those specialty courts, there is a requirement for there to be a guilty plea.

**MS. ELIZABETH ZARPA:** Which means he’ll get a criminal record?

**MR. JOHN PHELPS:** It means that a criminal record is -- is possible. Again, first-time offender with, you know, without a criminal record in the age range that you’re referring to, it may very well be the case that they would end up without a criminal record. It’s just on a
case-by-case basis and it depends.

**MS. ELIZABETH ZARPA:** So the option of restorative justice and wellness court is available with the possibility of pleading guilty and perhaps getting a criminal record, but it’s case-by-case-dependent. Are these options -- are these options pursued throughout the territories, these -- these different wellness courts and restorative justice? Are they used frequently?

**MR. JOHN PHELPS:** I don’t know the statistics in the other two territories, but the ones in the Yukon territory are, yes. They’re busy courts for us.

**MS. ELIZABETH ZARPA:** And are they driven by sort of specific -- for example in -- in Nunavut, is -- is that driven by Inuit legal orders or Inuit-specific protocols and processes of dealing with restorative justice?

**MR. JOHN PHELPS:** I -- I’m sorry, I don’t know the particulars of the specialty courts in -- in Nunavut. I only know really intimately the ones in the Yukon territory. I can say, in the Yukon territory, that the Council of Yukon First Nations is involved in the steering committees of both courts.

**MS. ELIZABETH ZARPA:** Okay. Thank you. So I’m going to read a very fast hypothetical situation. Thank you for your question -- or your answers.

**LEANNE GARDINER, Previously Affirmed:**
CROSS-EXAMINATION BY MS. ZARPA:

MS. ELIZABETH ZARPA: To Ms. Gardiner, from the Northwest Territories, would you agree that the services which are provided through the victim services in the Northwest Territories are essential to ensuring Indigenous women and girls receive the care they need in some of their most vulnerable moments?

MS. LEANNE GARDINER: Yes.

MS. ELIZABETH ZARPA: Okay. I’m going to read you a quick hypothetical scenario.

MS. LEANNE GARDINER: Sure.

MS. ELIZABETH ZARPA: So I’m -- I’m an Inuit woman who speaks -- only speaks Inuktitut, who lives in Tuktoyaktuk. Just last week, my daughter committed suicide, and after that, her father became violent towards me. He has been charged with assault and I’m emotionally, physically, and psychologically impacted by both the sudden and unexpected death of my daughter and the experience of being assaulted by her father just days after and being blamed for her passing. This is his first charge ever. I live in Tuktoyaktuk and I have no means to leave the community, nor do I wish to leave my community, but I want counselling and I want it in my own language. So I contact your office and seek help. What options are available to me in my community of Tuktoyaktuk?
MS. LEANNE GARDINER: What I can tell you is that the victim services providers in Inuvik serve Tuktoyaktuk and they’re well-connected to all the local stakeholders, including mental health supports, Indigenous governments, the Gwich’in and the Inuvialuit, and often make those connections with and for clients. They will respond to clients in person whenever possible. There's a position specifically dedicated to outreach that would include Tuktoyaktuk.

As far as exactly where community counsellors are, for example, and what language that counselling is provided in, I apologize, I can't provide that, I don't know it to provide it. It's in another department of the -- of the government that I'm not aware of all of the details of where those resources are and what languages they're provided in. I can tell you that as far as victim services provided, those individuals hired at the community level make use of resources available in the community as far as interpreters or translators are concerned and --

MS. ELIZABETH ZARPA: Is it fair to say that there's no counselling in Inuktitut?

MS. LEANNE GARDINER: I don't know if that's fair to say or not.

MS. ELIZABETH ZARPA: Would you agree that
its important to have counselling services in Inuktitut
throughout the different Inuvialuit communities?

MS. LEANNE GARDINER: I agree that
counselling in someone's first language is -- is very
important, and in those cases, yes.

MS. ELIZABETH ZARPA: Okay. Just bear with
me for one moment. Okay, so on page 26 of Exhibit 11,
"Staying Safe".

MS. LEANNE GARDINER: Yes, I have it here in
front of me.

MS. ELIZABETH ZARPA: So the third
paragraph, it outlines that: (As Read)

The Northwest Territories has
specialized counselling programs to help
people stop using violence. These
programs are available inside jails and
in the community. Specialized domestic
violence treatment option court helps
people who are charged with family
violence offences to take responsibility
for their actions and stop hurting
family members. Wellness court helps
people who are willing to set and follow
a wellness plan to work on the things
that help them to stay out of jail.
Would this be accessible to the father of my
daughter?

**MS. LEANNE GARDINER:** Sorry, can you clarify
what page you were reading from?

**MS. ELIZABETH ZARPA:** 26.

**MS. LEANNE GARDINER:** 26?

**MS. ELIZABETH ZARPA:** Yes. Sorry, I'm just
trying to go fast because the time is staring at me in the
face.

**MS. LEANNE GARDINER:** I'm cognitive of the
time as well. So your question is if the domestic violence
treatment option court is available to --

**MS. ELIZABETH ZARPA:** The father of my
daughter in the hypothetical situation.

**MS. LEANNE GARDINER:** Although I'm not
regularly involved in exactly the eligibility requirements
of that court, it's my understanding that domestic violence
cases are considered for that court pending certain
agreements, similar to what we heard from Mr. Phelps
before.

**MS. ELIZABETH ZARPA:** And is this court
available throughout all the different communities
throughout the Northwest Territories?

**MS. LEANNE GARDINER:** No, it is not.

**MS. ELIZABETH ZARPA:** And is that because
there's no access to cell phone service and Internet
service?

MS. LEANNE GARDINER: I'm not sure that that -- I'm not sure what the barrier is or the plan for where that court will or should or is operating. And you're right, and I should clarify that given the location I'm not sure if that court is an option or not.

MS. ELIZABETH ZARPA: Okay, thank you.

That's all my questions.

MS. LEANNE GARDINER: Thank you.

MS. MEREDITH PORTER: The next party I'd like to invite to put questions to the witnesses in cross-examination is the Interdependent First Nations, so if the representative from Independent First Nations would like to come to the podium. There are 16 minutes and 43 seconds, 17 minutes I suppose, remaining in their time for cross-examination.

NAOMI GIFF-MACKINNON, Previously Affirmed:

CROSS-EXAMINATION BY MS. BEAMISH:


So my first set of questions is for Ms. Giff-MacKinnon. Your Exhibit 14 states that the FILU project was intended to complement this inquiry. Do you know if the funding for the FILU project was set to end in
March 2019 because of the timeline of this inquiry?

MS. NAOMI GIFF-MACKINNON: That was the thinking, yes.

MS. SARAH BEAMISH: Okay. So if the mandate for the inquiry is extended, do you believe the funding for the FILU should also be extended?

MS. NAOMI GIFF-MACKINNON: That -- that would be a good alignment, yes.

MS. SARAH BEAMISH: Okay. You indicated earlier today that if the FILUs had ongoing working relationships with any of the families at the point when the funding ends, that they would "See it through", so I'm wondering how this would be achieved if there's no funding available?

MS. NAOMI GIFF-MACKINNON: So I hope what I said was that it was my understanding that because of the principles of how FILUs operate that they would, and the work of the victim service divisions, hopefully they would be able to carry on the work that they had started with families and see it through. If the funding is not -- that would be something that would have to be looked at within each jurisdiction because at this point in time the Federal funding authority does sunset March 31st, 2019.

MS. SARAH BEAMISH: Okay. So would you agree that the decision to potentially end the FILU support
in the middle of a family's time of need is not consistent
with the program's purported trauma-informed approach?

**MS. NAOMI GIFF-MACKINNON:** I do, yeah.

**MS. SARAH BEAMISH:** Okay. And although this
decision is not in your control, I know that, would you
recommend that the FILU program be funded for as long as it
is needed?

**MS. NAOMI GIFF-MACKINNON:** I think that so
far it's proven to be a new way of doing some important
work, and I think that to date there have been some really
important achievements, and through that lens I think that
I would always support work that's successful in meeting
its objectives.

**MS. SARAH BEAMISH:** Okay. Do FILUs have
access to any funding for interpretation and translation in
accordance with the language needs of the families?

**MS. NAOMI GIFF-MACKINNON:** Yes, yeah.

**MS. SARAH BEAMISH:** Okay. And is there a
formal agreed definition or understanding of what family
means among FILUs across the country, particularly one that
would include people without blood or spousal or adoptive
ties to the person?

**MS. NAOMI GIFF-MACKINNON:** That is a shared
definition.

**MS. SARAH BEAMISH:** Okay, thank you. And I
guess the last question about FILUs, in Exhibit 14 it states that FILUs strive to provide culturally responsive and grounded services. I just want to understand a little bit more about what that means, so can you explain what this would mean in practice and whether the working understandings of culture in a given situation are informed by discussions with families on a case by case basis?

**MS. NAOMI GIFF-MACKINNON:** So how the culturally grounded aspect of FILUs is realized through the operations? So I think it comes -- it is advanced in many different ways. I think one of the ways that the FILUs are culturally grounded is in their relationships with Indigenous community organizations to provide advice to how FILUs operate, to provide advice on protocol and ceremony, to provide links to culturally grounded grief and trauma counselling for families as well.

Many FILU teams have embedded in their operations input -- direct input from an Elder's advisory committee or Elders from the community that provide guidance and also provide assistance to families.

**MS. SARAH BEAMISH:** Okay.

**MS. NAOMI GIFF-MACKINNON:** Those are some of the ways. I think FILUs also, with families’ direction and community organizations together, provide opportunities for families to have ceremonies, different types of ceremonies
depending on whether they are receiving the information or releasing ceremonies, various ceremonies as well for families.

**MS. SARAH BEAMISH:** Okay, thank you. That's all my questions for you, thank you.

**JOHN PHELPS, Previously Affirmed:**

**CROSS-EXAMINATION BY MS. BEAMISH:**

So next I have a few questions for Mr. Phelps. So looking at Exhibit 3 which is the Canadian Victims Bill of Rights common checklist, is this checklist a common document that's used nationwide, or was it designed specifically for use in your region?

**MR. JOHN PHELPS:** It was designed specifically for use in the north.

**MS. SARAH BEAMISH:** In the north, okay. So when I reviewed the common checklist I did not see any obvious place where the Indigenous identity of a victim would be ascertained, or where the needs of Indigenous people in particular would be drawn out or given special attention, beyond perhaps there was a part about interpretation needs. Am I missing anything, or would you say that that's an accurate impression of this document?

**MR. JOHN PHELPS:** I would agree with your comment, yes.

**MS. SARAH BEAMISH:** So given that, would you
recommend the revision of this document or perhaps the
creation of a new tool specifically for use with Indigenous
victims?

MR. JOHN PHELPS: I would certainly give
that some consideration, as to how we might go about it and
whether or not that go into a form. We don't currently ask
individuals to self-identify, however their -- their
Indigenous heritage may come about obviously in other ways,
and it might be appropriate to put it in place in some
fashion. Most of these conversations take place over the
telephone, so I don't think that we would take the position
that we should request that information, but I would
certainly -- I'll leave here giving that some thought for
sure.

MS. SARAH BEAMISH: So earlier you had said
that normally at the initial point of contact or intake
everyone is treated basically the same, and then if -- if
the workers become aware of particular needs of an
Indigenous victim then they might try to accommodate that
somehow going forward. So I guess I'm wondering how -- is
there some sort of standardized way or point in the process
at which they would become aware of those needs, or is the
expectation that the person they're speaking with
will -- will proactively sort of start that, will bring
that up?
MR. JOHN PHELPS: It's generally through, you know, multiple conversations, dialogue. It's something that would evolve throughout the development of the relationship as opposed to, you know, pointed and abrupt questions. It's something that they're always aware of that they -- that they need to make note of if -- if it -- you know, if it gives rise in that relationship.

MS. SARAH BEAMISH: Okay.

MR. JOHN PHELPS: I think it's something that comes about during that period of time, rather than -- rather than directed.

MS. SARAH BEAMISH: Okay. Do you think that the current approach creates the risk of missed opportunities to make the services as effective as possible for Indigenous victims?

MR. JOHN PHELPS: I think it's -- it's certainly important to ensure that we're meeting those needs, whether it's in this document in that initial contact or whether or not we, as was suggested earlier, we consider a chapter on dealing with victims or a combination of the two, I'm not certain. It's a very good point though, and it's something that, again, I will leave here and give some consideration to how we can move forward and learn from the opportunity being here today.

MS. SARAH BEAMISH: Okay. Now, I guess on
the note of the directive that we discussed earlier, I know
that the directive and the common checklist are both, you
know, sort of flowing from the legislation itself, and so
looking to that legislation it doesn't have any content
that's specific to Indigenous victims. Do you think that
the legislation itself should be reviewed and possibly
amended to better reflect the needs of Indigenous victims?

**MS. ANNE TURLEY:** I just want to make sure
that we're all clear that --

**MS. SARAH BEAMISH:** Can we stop the clock if
there's an objection?

**UNIDENTIFIED SPEAKER:** Please stop the
clock.

**MS. SARAH BEAMISH:** Thank you.

**MS. ANNE TURLEY:** -- that Mr. Phelps is not
here as an expert to opine on the Canadian Victim Bill of
Rights, so if you're asking him a fact-based question,
let's just be clear that he's not here to give opinion
evidence on the interpretation or application of the Bill
of Rights.

**MS. SARAH BEAMISH:** I understand that, but
he is here to talk about programs that implement things
flowing from that legislation, so I think it's useful to
hear his view on whether -- you know, the best way or one
useful way of responding to potential gaps in the services
is to look at the legislation itself.

CHIEF COMMISSIONER MARION BULLER: Crown's position? Sorry, Commission counsel's position?

MS. MEREDITH PORTER: It -- I take the party's question and also the objection -- I'm assuming this is a formal objection by counsel for the witness, I don't know, she hadn't mentioned this on the record that this was actually an objection, but maybe some redirection on the question. Are you asking to rephrase the question or to --

MS. ANNE TURLEY: Well, I'm suggesting that it be --

MS. MEREDITH PORTER: -- move to a different line?

MS. ANNE TURLEY: -- clear whether -- you know, it's clear he is not being called as a witness, so I think it has to be clear in your question because I don't think your question is clear. To me it can be interpreted as he's -- you're asking for an expert opinion.

MS. SARAH BEAMISH: I'm asking for his opinion as someone who deals with the implementation of this bill as a part of his professional role.

CHIEF COMMISSIONER MARION BULLER: You can ask the question based on his experience what is his practice, but he's not qualified to give expert opinion
evidence.

**MS. SARAH BEAMISH:** Okay, I'll move on.

**CHIEF COMMISSIONER MARION BULLER:** So his answer is limited only to his experience.

**MS. SARAH BEAMISH:** Okay. Then I think that's all my questions for you, Mr. Phelps, thank you. So I'll move on to Ms. Gardiner.

**LEANNE GARDINER, Previously Affirmed:**

**CROSS-EXAMINATION BY MS. BEAMISH:**

**MS. SARAH BEAMISH:** So first I want to ask you something about victim fine surcharges. You told us in your earlier testimony that some of the programs in your region are funded through the victim fine surcharges, and I believe you said it was about $100,000 last year?

**MS. LEANNE GARDINER:** The programs -- thank you for your question. The core programs, the service delivery, are not funded by that fund, so those frontline victim service providers, but yes, about $100,000 a year, as recommended by the victim assistance committee.

**MS. SARAH BEAMISH:** Okay. Now, there are some serious concerns about the impacts of these surcharges on impoverished offenders, and particularly Indigenous offenders, and the constitutionality of these charges is currently being challenged before the Supreme Court. So looking at that context, I guess, I'm wondering if victim
fine surcharges were decreased or perhaps eliminated, what
would -- what do you think might happen to the services
that they currently fund in your region? Would they be
eliminated, or might they be replaced by the funds that
fund the other services?

**MS. LEANNE GARDINER:** I could -- what I'll
say is that the -- as director responsible for the program,
though I see those projects as fundamental to really
support the work that's happening frontline and the other
outreach activities, so I would -- I would do my best to
find a way to continue that.

I'll say also that currently I don't have an
appropriation within the budget I'm responsible for to
replace it if all -- if all of those hypotheticals were to
occur. But I can say that I would -- I would work with my
partners in whatever way I could to -- to address it, but I
don't -- I wouldn't have it as it stands right now.

**MS. SARAH BEAMISH:** Okay. And what -- can
you give a couple examples of what kinds of services are
being funded by the victim fine surcharge money?

**MS. LEANNE GARDINER:** Yes, if you will just
give me a quick sec, I'm cognizant of your time, but I have
got a list or I'll -- I can tell you right offhand that
there's a program that has been funded for at least three
years in a row now through the Native Women's Association
of the Northwest Territories, who is also our victim
services provider in Yellowknife, that provides financial
assistance for families of homicide victims to attend
court.

Other programs have been in the -- they have
previously funded training opportunities or training
sessions for volunteers. Just this last year I believe it
was -- there was an elder and youth program in the Beaufort
Delta Region that was funded by that -- that fund. It's
based on proposals received from community organizations.

**MS. SARAH BEAMISH:** Okay. So would you -- I
guess based on your proximity to these programs, you're
seeing the importance of them in the communities, would you
recommend that governments ensure that if victim fine
surcharges, you know, were reduced or eliminated that
equitable and adequate funding for these things is ensured
by the government?

**MS. LEANNE GARDINER:** I would recommend that
governments address how -- what that impact would be. I
think there's always a balancing act that happens when
those changes -- in my experience, when those changes
happen. Whether they're, you know, jurisdictional changes
that we actually have control over because those fines are
made up of territorial and federal fines as determined
by -- by the Court. So in the best of our ability, yes, we
should be offsetting or trying to find ways.

And within my own mandate, in my job, that
would be part of my job, is to respond to those changing
conditions, whatever those are.

MS. SARAH BEAMISH: Okay. I want to ask you
a couple questions about Exhibit 5, which is the MOU
between the RCMP and the -- and the GNWT about the victim
services program. So you've already been asked a question
about this, but I want to dig a little bit deeper. So I'm
looking at Section 8.1 of the MOU, and that's the section
that states that there will be an annual review by the
agencies to determine if changes are needed.

MS. LEANNE GARDINER: M'hm.

MS. SARAH BEAMISH: I know you told us today
that one such review is underway now, but I note that the
MOU provided to the inquiry was signed in 2008 and does not
appear to have been amended since then. Am I right about
that or have the agencies done any of these annual reviews?

MS. LEANNE GARDINER: I'm not aware of an
annual -- I haven't undertaken, since I came to this
position in September 2016, a formal review. My
understanding of what would have happened in the past is
that as issues would arise we would look at the MOU to see
if it's -- if it's sufficient to cover the challenges that
might be coming up, and if it wasn't -- I hate to
assume -- but I -- I would assume that they would have
looked at the MOU, but I'm not sure. I'm not sure. Prior
to me coming on, I'm not aware of how it was handled.

**MS. SARAH BEAMISH:** Okay. So the review
that's currently under way, what kind of consultation with
Indigenous victims, Indigenous communities, is happening as
part of that review?

**MS. LEANNE GARDINER:** What will happen is a
consultation through our victim services providers because
right now, our -- as far as stakeholders go and -- and the
challenges, the best place that we're aware of to go to see
and to kind of have another stock, a formal taking stock of
what challenges exist, would be that network.

**MS. SARAH BEAMISH:** Okay.

**MS. LEANNE GARDINER:** And, of course, the
R -- the conversation with the RCMP, as well, because
they're party to it, and it will work that way. But as far
as what I would bring to the table as part of my
discussion, it's reaching out to my partners in those
communities.

**MS. SARAH BEAMISH:** Okay. So will that
include contact with people who've dealt with these service
providers, as well? Will you be talking with anyone in the
community who's supposed to be benefitting from these
services?
MS. LEANNE GARDINER: I don't have a formal plan. I wouldn't exclude that as a -- absolutely. They -- they do often serve as our experts in that regard, but I wouldn't exclude talking to other partners that we aren't in formal victim service-delivery relationships with.

MS. SARAH BEAMISH: Okay. So just a couple more questions. Looking at Section 4.4 of the MLU, there's a part in there that states that those in communities without victim services -- without a victim services program may use the resources of the program located in the town nearest to them where resources allow. So those three words there, "where resources allow", I'm just curious sort of how that works in practice. Do resource constraints sometimes result in -- in people being turned away?

MS. LEANNE GARDINER: It's not my understanding. I'm not aware of a situation where we have or aware of service providers we are connected with, who we are providing funding for, have turned away a victim looking for services. What it might be is that they may be unable to give in-person services. That happens on occasion for all manner of reasons in the North. But I'm not aware of any situation where the support itself would not denied for those in -- yeah.

MS. SARAH BEAMISH: Okay. Well, that's all
my questions. Thank you.

**MS. MEREDITH PORTER:** Thank you. The next party that I'd like to invite up for posing questions to the witnesses is from the Missing and Murdered Indigenous Women and Girls Manitoba Coalition. And the representative will have 23 minutes for questioning.

**MS. CATHERINE DUNN:** Yes, thank you. My name is Catherine Dunn, and on behalf of my client, the Manitoba Coalition, I would thank the Blackfoot for allowing us to proceed today on Treaty 7 territory, and as well, Region 3 for the Métis.

**MS. CATHERINE DUNN:** The Manitoba Coalition has asked for standing for the National Inquiry as of May 2017. However, they did not receive funding to appear before the National Inquiry until May the 18th of this year, 2018. And I would like to begin today by entering a formal protest on behalf of my clients for the late contribution for their ability to participate.

My question for the panel is whether any of the panel members are experts for the purposes of the National Inquiry with respect to their individual programs that they are testifying about today.

**MS. MEREDITH PORTER:** I think that that question has already been clarified a couple of times on the record, that the witnesses that are appearing here on
this panel are not qualified as experts, nor is this
intended to be an expert panel or expert hearing.

MS. CATHERINE DUNN: Thank you. Are any of
the panel members able to say that they have the ability to
fund their individual programs after the contract of
funding expires? (Unreportable sound).

UNIDENTIFIED SPEAKER: Oh, my goodness.

UNIDENTIFIED SPEAKER: Sorry.

MS. MEREDITH PORTER: Okay. If we could
get --

CHIEF COMMISSIONER MARION BULLER: We'll
stop the clock. And -- and we'll take a short break.

MS. MEREDITH PORTER: Take a short break.

--- Upon recessing at 3:37 p.m.

--- Upon reconvening at 3:48 p.m.

MS. MEREDITH PORTER: Start back with --

MS. CATHERINE DUNN: Yeah, I am.

MS. MEREDITH PORTER: -- the questioning, and
-- and so I will -- you to proceed with the next question
that you had for -- for the witnesses. Will -- are we --
are we back? Sorry. I’m sorry. Just a second. We --
we’re back, are we? Yeah, okay, thank you. Proceed with
your next question, then.

MS. CATHERINE DUNN: Thank you. I guess my
next question is, how do you like me so far?
JOHN PHELPS, Previously Affirmed:

CROSS-EXAMINATION BY MS. DUNN:

MS. CATHERINE DUNN: This is a question for Mr. Phelps, and it involves his program. Mr. Phelps, prior to my recess, I was asking you whether you were responsible for the funding of your particular program.

MR. JOHN PHELPS: Sorry, responsible for or what -- I -- is the question whether or not it’s permanently funded?

MS. CATHERINE DUNN: Yes.

MR. JOHN PHELPS: Yes, it is.

MS. CATHERINE DUNN: Okay, and so whether or not -- and this program has been running since 1991, I believe.

MR. JOHN PHELPS: It has, yes, and it’s grown since 1991.

MS. CATHERINE DUNN: Right. And that program is -- steps into a position of starting as a result of a charge being laid; is that correct?

MR. JOHN PHELPS: Yes, we -- we get engaged with the matter once a charge is laid, yes.

MS. CATHERINE DUNN: Okay, and if no charge is laid, your program, which has been running since 1991, does not come into play.
MR. JOHN PHELPS: Our program does not, that’s correct.

MS. CATHERINE DUNN: Okay, so if you have a victim who is reluctant to lay a charge; your program doesn’t help that individual?

MR. JOHN PHELPS: In fact, we would not know about that, that’s correct.

MS. CATHERINE DUNN: If that individual comes to your program as a witness and is too afraid to testify, your program is not able to assist that witness?

MR. JOHN PHELPS: If a charge has been laid and the individual is a necessary witness or a victim, as the case may be, then we would support them through the process. Then we would assess their needs and we would make application in court in order to utilize testimonial aids. However, if, for one reason or another, the matter ends at that point with -- with the reluctance to proceed, then our services would end at that point in time as well and we would refer them outside of our organization. I hope that answers your questions.

MS. CATHERINE DUNN: Yes, so the witness who refuses to testify in -- in the circumstances which we’ve discussed not only does not have access to your program, but that witness is theoretically, at least, subject to prosecution by your department, not your program, but by
MR. JOHN PHELPS: Theoretically, yes. In practice, no.

MS. CATHERINE DUNN: Well, theoretically or not, the Criminal Code is designed in such a way as to forcefully encourage witnesses to give their testimony, and if they don't give that testimony, then there may be sanctions, and in particular, there may be criminal sanctions; is that fair?

MR. JOHN PHELPS: Yeah, I don't disagree with that statement.

MS. CATHERINE DUNN: Okay. And if you take it one step further and talk about remote communities, if you are a victim or a witness and you have pressures from your own family about whether or not to charge your abuser or from your extended family or from your spouse's extended family, that makes it all the more difficult to access your program, because you need a charge to start it.

MR. JOHN PHELPS: That's -- that's correct, yes. We don't engage unless there's a charge. It's a prosecution service. There is a territorial victim service in the Yukon that would provide that service, but it's not through our office.

LEANNE GARDINER, Previously Affirmed:

CROSS-EXAMINATION BY MS. DUNN:
MS. CATHERINE DUNN: Okay. My next question is for Ms. Gardiner. And, Ms. Gardiner, with respect to the MOU -- I believe it was Exhibit 5 -- that's the memorandum of understanding that your department has with various community-based organizations; is that right? The RCMP is responsible for connecting with community organizations; is that right?

MS. LEANNE GARDINER: To clarify, the MOU that we entered as an exhibit is between my department and the RCMP.

MS. CATHERINE DUNN: Okay.

MS. LEANNE GARDINER: It is -- it is not the agreement that we have with other organizations.

MS. CATHERINE DUNN: Okay. Who actually reaches out to the community at the community level? Is it the RCMP?

MS. LEANNE GARDINER: For -- relating to what?

MS. CATHERINE DUNN: To providing services.

MS. LEANNE GARDINER: When a victim needs services?

MS. CATHERINE DUNN: That's right.

MS. LEANNE GARDINER: Our program is -- there are several ways that victims can access the community-based program. They can self-refer. They can
also be referred by the RCMP, as per in this MOU in practice.

**MS. CATHERINE DUNN:** Okay. So I am correct, then, at least in part, that the RCMP is responsible for engaging your program with the community; is that fair?

**MS. LEANNE GARDINER:** Yes. Yes.

**MS. CATHERINE DUNN:** Okay. So in essence, the RCMP is responsible for who gets the services and who doesn't, rather than the victim?

**MS. LEANNE GARDINER:** I would -- I would not characterize our -- our program and the accessibility to victims the way that you've stated it, that -- that they're in -- in control of who gets access to that program. I mentioned previously in testimony all the ways that these community-based organizations reach out to their community members to make sure that everyone is aware of who they are, where their office is, what services they provide, a whole range of -- of services. One of the ways -- and they're -- absolutely, RCMP are a key partner, there's no doubt, in -- in that critical point where the RCMP are involved to refer to victim services.

**MS. CATHERINE DUNN:** I'm not talking about so much about key partners, but key funders.

**MS. LEANNE GARDINER:** Funders?

**MS. CATHERINE DUNN:** Yeah.
MS. LEANNE GARDINER: The RCMP does not fund this program.

MS. CATHERINE DUNN: It's the -- does the RCMP funnel money through MOEs? Who gets the money for your particular program? Like, how does that money get disbursed into the community and who makes those decisions?

MS. LEANNE GARDINER: The Government of the Northwest Territories. My organization, I work for the Department of Justice.

MS. CATHERINE DUNN: Right.

MS. LEANNE GARDINER: I have a budget that includes almost a million dollars in this case that's to be transferred through -- or contribution agreements to community-based organizations: Indigenous governments, hamlet councils, for the delivery of victim services.

MS. CATHERINE DUNN: And is it -- is it your government that decides who gets the funding or how much you get or how it's disbursed?

MS. LEANNE GARDINER: It's partly my government. We -- some of our funding comes from the Department of Justice Canada to contribute certain aspects of the program, including some that goes directly to communities, but it is an appropriation within my department and my division's budget.

MS. CATHERINE DUNN: So the community itself
does not have any ability to decide how much money they're
going to get for victim services or how they're going to
deliver those victim services because they don't have
control of how much money goes into their community or for
what purpose.

**MS. LEANNE GARDINER:** I would agree that
they don't have control over the -- the process that the
government uses to appropriate the money -- the funding,
sorry. However, the way our program works is it's based on
a proposal received from the community. So I agree, they
don't have control over the amount that's allocated for
that community. They do have control over how that service
is delivered in our program. Absolutely, there are some
fundamental things we ask to see in the proposals,
including direct victim services, but as far as how that is
delivered, that's entirely up to the sponsoring
organization.

**MS. CATHERINE DUNN:** And do you think it is
important that the community participate not only through
partnership, but by having the authority to have funding
made directly through their community?

**MS. LEANNE GARDINER:** I think that agency
and autonomy is key for communities to be able to address
their own -- whether it be justice issues or others.

**MS. CATHERINE DUNN:** And that can be
improved on in the future?

   MS. LEANNE GARDINER: Absolutely.

   MS. CATHERINE DUNN: Because right now, there are no communities who have that ability, to get funding on their own, to create their own programming, to sit as a partner, a true partner, at the funding table?

   MS. LEANNE GARDINER: My only hesitation is that we have various First Nations and Indigenous governments in the Northwest Territories who have -- I'm not an expert in, but varying self-control agreements and at different stages of implementation. So -- but just with that caveat, then -- then I would agree.

NAOMI GIFF-MACKINNON, Previously Affirmed:

CROSS-EXAMINATION BY MS. DUNN:

   MS. CATHERINE DUNN: Thank you. These questions are for Ms. MacKinnon, Giff-Mackinnon. And I'm going to refer you to what's been entered as Exhibit 15. I'm going to direct you -- as -- if I understand your evidence correctly, you are familiar with the program FILUs nationally; is that fair to say?

   MS. NAOMI GIFF-MACKINNON: Correct, yes.

   MS. CATHERINE DUNN: Okay. And at Exhibit 15, at page -- I believe it's 29 or 30, there is a reference to Manitoba Indigenous organizations that receive funding; is that fair to say?
MS. NAOMI GIFF-MACKINNON: Page 30, yes.

MS. CATHERINE DUNN: Yes.

MS. NAOMI GIFF-MACKINNON: I see that, yeah.

MS. CATHERINE DUNN: And on behalf of my client, they are grateful to have so many Indigenous organizations who get funding through your program. However, similarly, they don't sit as equal funding partners at the funding table, do they? They don't get to decide how much they get. For example, Ka Ni Kanichihk does not decide how much money they will get in any particular period, how they will use that money, whether it will be forever and ever or whether it will be a term; is that fair?

MS. NAOMI GIFF-MACKINNON: Just to make sure that we're -- we're looking -- we're thinking about the content in the same way, the materials on the -- the references on page 30 are in relation to Manitoba victim services.

MS. CATHERINE DUNN: That's right.

MS. NAOMI GIFF-MACKINNON: Yes.

MS. CATHERINE DUNN: That -- that's the questions I'm directing is what's happening in Manitoba. And in Manitoba, what I am -- I am asking you to comment on is these individual Indigenous organizations do not get to say at any particular funding moment how much they will get
or how long it will go on.

**MS. NAOMI GIFF-MACKINNON:** So I -- I can’t speak to Manitoba victim services contribution agreements or their -- their policies or practices with funding. I think it’s probably closer to how you described it, but I can’t -- I can’t confirm that. I -- I would mention that there are some programs that we in the Department of Justice are funding through the community-based trauma and grief counselling funding that we have for families of missing or murdered Indigenous women and girls that, as you say, the -- the ongoing nature of the funding is not secured.

But we work with community organizations to identify which activities they’d like to advance and what those costs would be. So we don’t prescribe -- there are -- just -- just to point out that there are some examples where the community organization does, in fact, identify what the budget would be. There are parameters, yes.

**MS. CATHERINE DUNN:** Do you think it is important as a recommendation going forward from this inquiry that community-based service organizations have more autonomy and control over their funding?

**MS. NAOMI GIFF-MACKINNON:** I think that that is a -- an important way to move forward to build community strength and capacity in response to the justice issues that they’re facing, yes.
MS. CATHERINE DUNN: Would you say it’s critical?

MS. NAOMI GIFF-MACKINNON: I -- I think it is a critical component to moving forward, yes.

MS. CATHERINE DUNN: Thank you. With respect to the -- the FILUs, are -- is that program funded for survivors?

MS. NAOMI GIFF-MACKINNON: The FILU program is intended primarily for families of missing or murdered Indigenous women and girls, so the -- it’s not part of the regular suite of victim services programs that might be in place for the -- the broader experiences of -- of crime and harm that survivors might experience. That doesn’t mean that survivors of crime, where they are family members who have questions, couldn’t work with the FILU as well.

MS. CATHERINE DUNN: But they can’t -- they can’t access services for themselves directly through your program?

MS. NAOMI GIFF-MACKINNON: For the FILU?

MS. CATHERINE DUNN: Yeah.

MS. NAOMI GIFF-MACKINNON: The -- the FILU is intended to primarily work directly with families of missing or murdered Indigenous women and girls.

MS. CATHERINE DUNN: So I am correct?

MS. NAOMI GIFF-MACKINNON: You’re correct,
MS. CATHERINE DUNN: Now, we’ve heard a number of times, and I won’t overemphasize this, but your funding for FILU is -- is up in March of 2019, correct?

MS. NAOMI GIFF-MACKINNON: Correct, yes.

MS. CATHERINE DUNN: You have no control over whether that funding will go forward from -- from that point on?

MS. NAOMI GIFF-MACKINNON: Correct.

MS. CATHERINE DUNN: You don’t have any instructions from your Minister to give direction to the National Inquiry as to the way they would like the funding to go after March of 2019?

MS. NAOMI GIFF-MACKINNON: I don’t have any instructions of that nature, no.

MS. CATHERINE DUNN: Do you feel it would have been important to have a member, a high-level Minister or Assistant Deputy Minister, available to the National Inquiry to give that sort of undertaking or direction for their consideration?

MS. NAOMI GIFF-MACKINNON: Do you mean, do I think that it would be important to have someone of that position --

MS. CATHERINE DUNN: Yes.

MS. NAOMI GIFF-MACKINNON: -- provide that
recommendation to the Inquiry?

MS. CATHERINE DUNN: Somebody of that level who could come physically to the Inquiry and say to them, I guarantee as a Minister of the Crown that this program will continue, or, I say as a Minister of the Crown that this program will not continue for A, B, and C. I think that evidence is critical for the National Inquiry to hear, and you can’t give that information because you’re -- you’re not at that level.

MS. NAOMI GIFF-MACKINNON: I think what I’ve been able to contribute was -- were some of the -- the ways that FILUs, to date, are being -- are -- are achieving some key results for families, and through sharing that with the -- with the Commissioners and with all the other witnesses, that is one expression, perhaps, of -- of ways to consider when the Commission makes their recommendations.

MS. CATHERINE DUNN: So it would be nice to have a high-level Minister here to give a position.

MS. ANNE MCCONVILLE: I’m going to interject at this point.

MS. CATHERINE DUNN: In -- in any event, I will move on. I -- so those are my questions. Before I stop, I would like to thank each panel member individually for their careful evidence that they gave over the last couple of days, and I know it’s been very onerous at times.
to be the subject of cross-examination, and I thank you very much.

MS. MEREDITH PORTER: Thank you. So at this point, that concludes the cross-examination by the parties withstanding. We still do, however, have one last questioning by Commission counsel, and so at this point, I will invite up my colleague, Christa Big Canoe, as Commission counsel to cross-examine the witnesses, and Commission counsel will have 23 minutes.

MS. CHRISTA BIG CANOE: (Speaking in Native language) Blackfoot Nation, Métis Region 3, (Speaking in Native language). Hello, I’m Christa Big Canoe, Commission counsel. Like my colleagues before me, I just want to thank the Blackfoot Nation and Métis Region 3, as well as the Elders for their prayers, the drum, and for welcoming us into their territory. I would also like to acknowledge their Creator, grandparents, and the spirits of our sisters. Thank you, Mr. Phelps, Ms. Gardiner, Ms. Giff-MacKinnon, and Ms. Pottruff, who’s now left, for the evidence you have given in your testimony yesterday and as well as with the testimony today in cross-examination.

I will first be setting up a few premises to base my questions to each of you on. The Royal Commission on Aboriginal Peoples is one of the reports listed in the terms of reference, the terms that gives authority to this
National Inquiry. During the address for the launch of the report of RCAP in 1996, Georges Erasmus stated, (as read)

Aboriginal reality in Canada has become a vicious circle of cause and effect. If that vicious circle is to become a healing circle, the roots of injustice must be addressed. Instead of problem feeding problem, solution must feed solution.

The RCAP was released in 1996, 22 years ago. In some ways, we can see, and based on evidence you’ve provided over the last two days, that there has been some cultural shifts in thinking, some relationship-building gains, and acknowledge some progress that has occurred. But I want to start on the premise on what the Commissioners have heard in our Part 1 Community Hearings.

First of -- first, one of those premises would be, not all, but many of the witnesses that testified in the community hearings felt that the government-delivered -- sorry, that government-delivered or government-supported victim services were not serving their interests in a number of ways that we’ve heard. A cultural perspective, not serving their interests in a manner that truly recognizes intergenerational harms that colonial legacy has had on Indigenous people and communities, and that although there
has been some inclusion of Indigenous participation in various programs, that programs generally, we heard at the National Inquiry, were created or designed for Indigenous people, not by Indigenous people or in full partnership.

While listening to family members and survivors of violence, including sexual violence, that the -- that -- that we heard the vicious circle has not yet become a full healing circle. We’ve heard each of you today and yesterday acknowledge barriers and needs for improvement. And on that basis, I would like to ask each of you three, again, I don’t care which preference you have, whether or not you would agree that all of the services or funding for services, because I do acknowledge, Ms. Gardiner, you're talking more about funding services as opposed to delivering it, you have referenced from the position how you deliver or fund these programs. If -- and we just heard my last colleague talk about partnerships. If there are at all real or true partnerships, that the communities are able to come to the table with the same level and capacity of decision making? And I'm not sure who wants to go first.

And I understand that there are reasons why that's not possible, but I would appreciate your answer on it.

LEANNE GARDINER, NAOMI GIFF-MACKINNON, JOHN PHELPS,
Previously Affirmed:

CROSS-EXAMINATION BY MS. BIG CANOE:

MS. LEANNE GARDINER: Can you ask the question again, please?

MS. CHRISTA BIG CANOE: Certainly. In terms of partnerships, so, Ms. Gardiner, for example, you have referred to it, and we just heard this, so I'm not going to belabour the point, but what are mechanisms where you could actually see full partnership of Indigenous families actually help create programs as opposed to have them created for them?

MS. LEANNE GARDINER: The mechanisms that I can envision how -- you're asking me, I'll just restate so that I'm clear.

MS. CHRISTA BIG CANOE: M'hm.

MS. LEANNE GARDINER: If I'm aware of mechanisms that would include Indigenous families in the development of programs?

MS. CHRISTA BIG CANOE: Yeah, and in decision making capacities.

MS. LEANNE GARDINER: And the decision specifically around victim services or --

MS. CHRISTA BIG CANOE: Yes, and funding of the programs.

MS. LEANNE GARDINER: I find it a
challenging question because I do greatly rely on communities to decide how that -- how the current program is delivered. But I acknowledge that the -- even just the basic framework for the program is something that someone else has come up with.

MS. CHRISTA BIG CANOE: Right. So it is fair, would you particularly agree with me, that in the current structure or system there isn't that opportunity for there to be full partnership, and that's because it is a process driven by government services?

MS. LEANNE GARDINER: Yes.

MS. CHRISTA BIG CANOE: Okay, thank you.

And to the other two the same question, in terms of how you envision the partnership would enable Indigenous communities, families and individuals, to actually have a seat at the table that would allow them decision making capacity?

MS. NAOMI GIFF-MACKINNON: I think that's a very -- it is a difficult question, it's a good question. It's difficult because there are structures in place that we work within and as we move forward. So we identify -- I know I do, and I imagine that some others on the panel do as well, is to look for opportunities to build those partnerships, to look at all opportunities to build partnerships to be -- to listen and to have opportunities
to have conversations, to find out what in this situation -- in the situation we're talking about right now, what families are asking for, what the gaps are, what the needs are, and to look for those opportunities to identify funding sources, and then continue that dialogue. So as -- as Ms. Gardiner mentioned, I do recognize that there are times in those -- that process, there are steps in those opportunities that are defined by outside community or family input. But finding opportunities to listen and be ready to grab on to those opportunities when they arise, to move them forward and to continue hearing from families or whomever is using the victim services as it moves forward and to -- and to be flexible, to make sure that it can he evolve and stay current and meaningful.

MS. CHRISTA BIG CANOE: Thank you.

Mr. Phelps?

MR. JOHN PHELPS: Thank you for the question. You know, because our service is within the prosecution service and that specialized role, I can't envision, at least on the spot, an avenue for full partnership with us in decision making and funding with respect to the program.

I can say that as self governing First Nations draw down on their justice authorities and are negotiating their way forward, we have been at the table,
and most recently with the Kwanlin Dun First Nation who
looking to hold court on their traditional territory, even
though they're within White Horse, a meaningful approach
to -- a Gladue approach to court, and we have had dialogue
and are in agreement with an ongoing relationship whereby
they have meaningful input into how we would staff that
court so that, you know, we develop a strong and important
relationship with them as they move forward with their
initiative, and we have a meaningful participation in their
program.

MS. CHRISTA BIG CANOE: So it's fair, just
based on the answers that you've provided me, that in the
current structure there's no opportunity for devolution or
to have the full partnership at the table in a manner that
would give Indigenous communities or individuals the power
to make those decisions; am I correct?

MR. JOHN PHELPS: I would just say within
our program, no. But as they draw down on their various
powers, that's contemplated that they would drawn down the
ability to have their own programs completely separate and
apart from ours, which I would encourage. I think it would
be a vast improvement.

MS. CHRISTA BIG CANOE: But despite
progress, we're just not there yet. So, Mr. Phelps, I do
have some additional questions for you. Thanks to a number
of my colleagues representing parties with standing, a
number of the questions I did have, have been answered
already. So I have one for you in particular. If I could
draw your attention to, I believe it is Exhibit 4, which is
the desk -- the office of the director's public
prosecution?

MR. JOHN PHELPS: Yes.

MS. CHRISTA BIG CANOE: Specifically at page
6, at point 4.3, the alternative measures, in the third
paragraph there's reference to Rule 6 and 7 of the Canadian
Victim Bill of Rights. Specifically, just in that
paragraph, and I'm not going to read the whole paragraph
in, they're talking about alternative measures. So, for
instance: (As Read)

Not all offences require criminal
proceeding, in some cases the interests
of the victims, offenders and society
may not be properly addressed through
the use of alternate measures.

As a caveat, I'm not trying to get under
prosecutorial discretion here. My question, though, is
when we look at the Victim Bill of Rights, specifically
Rules 6 and 7, and I believe that is Exhibit 3 -- Exhibit
3, we see on Rule 7, that one of the rights of every victim
is the right on request to information about the status and
outcome of the investigation into an offence, is one of them, and also the location of proceedings in relation to the offence.

For the sake of my question, assume that it's true that the commissioners have heard repeatedly from families that testified in Part 1 that when alternative measures occur they're often not consulted by what would be like your CWCs or similar services or the prosecutors, about the decision-making process to stream something into an alternative process. And we -- the commission has actually heard on a number of occasions from families that they've actually showed up at proceeding to only learn then that the process has been streamed somewhere else, either through an alternative method or by withdrawn or being stayed.

In some instances that means the family hasn't been advised even when they've requested the information, and so theoretically, I'm not asking whether or not it has happened in your jurisdiction that you oversee, but based on the desk guide that guides your work and the law, would you agree that victims have rights under Rule 7, and the example I just shared with you would be a breach of provision 7?

**MR. JOHN PHELPS:** I don't -- I don't disagree with that. Our practice is to inform, and
certainly if it comes to -- sorry, when it comes to alternative measures, to seriously consider the views of the victim, if we're going down that road.

**MS. CHRISTA BIG CANOE:** Right. So the phrase you just used is "seriously consider the concerns of the victim" opposed to the language in Rule 7, which, you know -- I'm sorry, provision 7, which was that they have a right, if requested, to the status, not the outcome. I know that you've explained to us earlier what happens when an outcome occurs, that the CWC will then advised the victim, but the status. Would the status not include whether or not an alternative measure or something like a withdrawal or stay of the proceeding, would that not invoke the right under 7 to be advised of that before it happened or --

**MR. JOHN PHELPS:** Yes. And, again, that's our practice.

**MS. CHRISTA BIG CANOE:** You described recruitment and sustainability issues with retaining CWCs, and employees in general, on your service. Other -- I just had a couple quick clarification questions. So you explained how you post for those positions in terms of recruitment, I was wondering about a couple of the other types of criteria that might be in place. For example, if someone was applying for the CEWC position, would one of
the requirements be that they -- they have to have a
criminal records check demonstrating they don’t have a
criminal record?

MR. JOHN PHELPS: It’s not part of the
application process, but if they’re the chosen candidate in
the process, then there would be the requirement for
security screening in order to work in our office, yes.

MS. CHRISTA BIG CANOE: Yes. And what would
the -- the interview process entail if they were a
successful candidate? Would it -- is it a rigorous or, you
know, a robust process?

MR. JOHN PHELPS: It varies from process to
process. It can be rigorous and robust. That would be fair
to say. It can, at times, not be quite so rigorous, but --

MS. CHRISTA BIG CANOE: M’hm.

MR. JOHN PHELPS: -- I -- I would suggest
that the standard is perhaps a written test or something
like that, or an interview that’s thorough. Yes.

MS. CHRISTA BIG CANOE: Do you think that
potentially part of that process may end up discouraging
some Indigenous individuals from actually entering into the
process?

MR. JOHN PHELPS: I do. Yes.

MS. CHRISTA BIG CANOE: I’ve only got one
more question for you. In terms of you did discuss cultural
competency training, a two-day online modular form, I understand?

MR. JOHN PHELPS: Cultural competency either two days in person training; a program that’s put on for various government entities through the Yukon College. And either at various organizations, or the modular, which is a self-study.

MS. CHRISTA BIG CANOE: Right. And although those are a benefit, and you know, the First Nations 101 or Inuit 101 may be helpful in expanding some knowledge. Would you agree with me that you can’t make any person on any subject competent in two days?

MR. JOHN PHELPS: Yes.

MS. CHRISTA BIG CANOE: Okay. Those are my questions for you. Thank you. Ms. Giff-Mackinnon, in Exhibit 14, particularly on page 6, there’s a discussion, so I’ll give you a moment to grab the Exhibit 14. There’s an explanation in your overview, and I understood that you write the overview?

MS. NAOMI GIFF-MACKINNON: Right. Yes.

MS. CHRISTA BIG CANOE: So there’s an explanation on page 6, that not all required information is available. And you did have the opportunity to explain, and I’m sorry, I say Filucas (sic) that’s what I -- FILU, FILU. FILU, the FILU aren’t able to get it because there’s privacy
law and legislation in place that will sometimes prevent
people from getting information. Is that fair?

MS. NAOMI GIFF-MACKINNON: That’s correct,
yes.

MS. CHRISTA BIG CANOE: One of the things,
and I just want to make sure it’s clear, that in many of
these jurisdictions, and please answer based on your
knowledge, in many of these jurisdictions whether or not
there were FILU’s, people would have an entitlement to
request this information through a Freedom of Information
request.

MS. NAOMI GIFF-MACKINNON: Absolutely, yes.

MS. CHRISTA BIG CANOE: Would you agree that
process is a bit onerous?

MS. NAOMI GIFF-MACKINNON: Yes.

MS. CHRISTA BIG CANOE: It’s hard to fill out
forms with a lot of legalistic language. Is that fair?

MS. NAOMI GIFF-MACKINNON: I think -- I think
that the forms are -- they -- they can be onerous, yeah, I
do. I agree.

MS. CHRISTA BIG CANOE: So what we’re seeing
with the -- the FILU’s or what your position is that this
program has enabled people a better access into making
Freedom of Information requests?

MS. NAOMI GIFF-MACKINNON: Yes, it’s been a
supportive team to help families to -- to get through those requests, and to -- to make many requests at once from multiple agencies.

**MS. CHRISTA BIG CANOE:** That’s right.

**MS. NAOMI GIFF-MACKINNON:** And particularly between jurisdictions as well.

**MS. CHRISTA BIG CANOE:** And there has been a lot of discussions, and I’m not going to ask you the same recommendation that you’ve been asked a couple times, ‘cause you’ve clearly made the position that you’re not in a position to make the recommendation, but are there other ways and means that -- that the access process could be easier to access information? That it should be more broadly and publicly available, so that families understand that they’re entitled and have rights to that information?

**MS. NAOMI GIFF-MACKINNON:** Yeah, and I -- I agree. And I think that goes back to a question that another counsel had about being more proactive, and opportunities to ensure families know what information they can seek.

**MS. CHRISTA BIG CANOE:** Thank you. On page 4, you talk about the FILU’s mandate limits. Before I ask you questions of this, I’m going to ask, do you have any familiarity with the terms of reference for FILU? So what terms were put into place to even make FILU initiate?
MS. NAOMI GIFF-MACKINNON: I’m not sure I know what you mean. Sorry.

MS. CHRISTA BIG CANOE: So in order for the program to commence, were there terms of reference issued by the Federal Government to set up the program? The FILU program?

MS. NAOMI GIFF-MACKINNON: So in terms of funding criteria and eligibility criteria that we would have shared with provincial/territorial victim services? Is that what you mean?

MS. CHRISTA BIG CANOE: Yes, but was -- when the program was actually announced and launched --

MS. NAOMI GIFF-MACKINNON: Yes.

MS. CHRISTA BIG CANOE: -- at the same time this National Inquiry --

MS. NAOMI GIFF-MACKINNON: M’hm.

MS. CHRISTA BIG CANOE: -- there were terms of reference. Are you familiar with those terms?

MS. NAOMI GIFF-MACKINNON: Oh, of the -- the Inquiry’s terms of reference?

MS. CHRISTA BIG CANOE: Not the -- not the Inquiry’s.

MS. NAOMI GIFF-MACKINNON: Okay. Sorry.

MS. CHRISTA BIG CANOE: Of setting up the FILU. The Family Information Liaison Unit?
MS. NAOMI GIFF-MACKINNON: I’m not sure which
terms of reference you’re thinking about.

MS. CHRISTA BIG CANOE: Okay. So when you
describe the FILU mandate limits --

MS. NAOMI GIFF-MACKINNON: M’hm.

MS. CHRISTA BIG CANOE: -- what -- what --

what is informed what those limits are?

MS. NAOMI GIFF-MACKINNON: Why are the -- why
are the -- the limits in place?

MS. CHRISTA BIG CANOE: M’hm.

MS. NAOMI GIFF-MACKINNON: The limits are in
place so that the -- the -- the FILU team members, their
focus is about advocating and working with families. Their
-- the skill set of the FILU teams, the objectives they were
trying to seek were very much focused on working with
families to gather the information. These were decisions
made to ensure that the FILU teams were not becoming legal
advocates, because that would not be the skill set that they
would bring to their work with families.

MS. CHRISTA BIG CANOE: M’hm.

MS. NAOMI GIFF-MACKINNON: Yeah.

MS. CHRISTA BIG CANOE: But in terms of what
they cannot do, so on page 5, undertake to participate in
investigations, provide legal advice, it says with legal
action. What does that derive from? That’s not the FILUs
themselves just saying, hey, we can’t do this. Is there a mandate or a term of reference that was provided by the Federal Government for you?

**MS. NAOMI GIFF-MACKINNON:** Yes, those were decisions made early on in the federal development of the initiative. Yes.

**MS. CHRISTA BIG CANOE:** I may have one more question for you, but I’m actually going to turn my attention to Ms. Gardiner, please. So --

**MS. NAOMI GIFF-MACKINNON:** May I -- may I say that, just to add to that, if the about the -- the FILU mandate limits, that where the FILU team member is not able to help the family member directly with those situations and those legal proceedings --

**MS. CHRISTA BIG CANOE:** Yes, ma’am.

**MS. NAOMI GIFF-MACKINNON:** -- they are very committed to --

**MS. CHRISTA BIG CANOE:** Referring them.

Yeah.

**MS. NAOMI GIFF-MACKINNON:** -- making sure that they know where they can do that.

**MS. CHRISTA BIG CANOE:** Thank you. Yeah, you did touch on that previously. Thanks. Ms. Gardiner, at Exhibit 5, and one of my colleagues just asked a question about this too. In relation to the memorandum of
understanding between the Royal Canadian Mounted Police --
and she did talk quite a bit, so I’m going to limit my
question ‘cause it’s already been asked in terms of the
monitoring. The monitoring body and/or the signatories, and
she asked you about the current process. And you had
indicated that the communities, particularly Indigenous
communities or service providers, don’t have a seat at that
table. Was -- did I understand that correctly?

**MS. LEANNE GARDINER:** They’re not technically
a signatory to the agreement. That’s correct.

**MS. CHRISTA BIG CANOE:** And even though
they’re not a signatory to the agreement, do you think that
it would be beneficial to add, as part of the review
process, particular chairs at a table to at least advise?

**MS. LEANNE GARDINER:** It -- absolutely. And
it’s been a conversation of late of how we do that, given
-- given the relationship, and how many different
organizations we are involved with across the territory. So
it would mean adding eight more seats at the table, and a
conversation about how -- what that looks like. And yes,
valuable to answer your question.

**MS. CHRISTA BIG CANOE:** Thank you. I don’t
need you turn up Exhibit 10, but Exhibit 10 is the Victim
Assistance -- Community Victim’s Assistance Fund. There’s a
high, and we’ve heard without getting into specific details
of statistics, but you have agreed over the course of the last couple of days that there is a high without getting into a specific rate; high rate of victimization amongst Indigenous women and girls. Do you agree with that?

MS. LEANNE GARDINER: Yes.

MS. CHRISTA BIG CANOE: Would you agree that there should be a proportional amount of funding dedicated to the representative group of victims? So for example, out of the Victim Assistance Fund, do you think that there should be a mechanism in place that recognizes the level of victimization, that at least pays the same amount, dedicates part of that fund specifically to the victims that are accessing the fund?

MS. LEANNE GARDINER: I would agree. I -- my only hesitation is that in our territory, those projects that are -- that are approved from the fund, are serving Indigenous people. So that would be my only --

MS. CHRISTA BIG CANOE: M’hm.

MS. LEANNE GARDINER: -- kind of additional piece of information is that they’re being delivered by local organizations serving Indigenous people, primarily Indigenous people.

MS. CHRISTA BIG CANOE: Thank you. So my last question; I was a little surprised that in -- in your examination in-Chief there wasn’t an offer of more
recommendations. I understand and respect that you’re not experts, but based on the knowledge you share and the process that we’ve had that has entitled witnesses, even in the “Part I” to make recommendations that you didn’t. So my last question would offer each and any one of you if you choose to make a recommendation to the Commissioners, or make recommendations to the Commissioners based on your experience on anything you haven’t already addressed in the past two days.

**MS. LEANNE GARDINER:** I'll start with -- as I mentioned, when it comes to really -- and I mentioned some of the stakeholders that we're dealing with, they're different levels of government, they're different agencies, Indigenous government. Although there's not always a need to rely on a formal establishment of relationships because some communities in some situations work better than others, I would suggest that those approaches -- we've heard a bunch of that, especially from Betty Ann, over the last two days, but I suggest in my experience that a formalization of that is helpful because of the nature of the impact when those things don't happen.

The impact is so significant when those connections don't happen, when -- when our own government kind of mandates might hamper efforts, there's all sorts of things, and having those formal documents to lean on I
think is helpful.

**MS. CHRISTA BIG CANOE:** I don't know if the other two want to expand on that one? I know I'm over my time, but the question came in before the end of my time, so --

**MR. JOHN PHELPS:** If you're -- sorry, I didn't come prepared to make recommendations, I didn't see that -- and I apologize if it was expected, I didn't see that as my purpose. I would suggest one thing though, that I certainly do notice, particularly in the Yukon territory, is that there is funding for Indigenous court workers in every community, so every First Nation is receiving funding for assistance, culturally appropriate assistance for accused people in the justice system, and we do not see an equivalent in place for victims within the communities. And some of our challenges that I've talked about, in particular our ability to communicate with and provide our version of the support, is certainly hindered with the ability to access people within the community. I think that that would go a long ways to improve the overall services to Indigenous victims within the Yukon territory, for sure.

**MS. NAOMI GIFF-MACKINNON:** As I think about recommendations I think about the call to action number 40
which really covers a lot of really key elements to moving forward. Recommendation 40 speaks to the importance of ensuring accessible, properly evaluated, Indigenous led victim -- adequately funding victim services programs for Indigenous victims and survivors of crime, regardless of the crime that they've experienced and the harm that they've experienced, so I would -- I would draw attention to that. I'm sure the Commission is very much aware of that call to action, but I think there's a lot of really key elements in that CTA that I think we can move forward and build on.

**MS. CHRISTA BIG CANOE:** Thank you. Thank you, Commissioners. Thank you, witnesses and counsel.

**MS. MEREDITH PORTER:** Thank you. So at this time that concludes the cross-examination by the parties with standing. I would like to invite the Commissioners with questions for the witnesses. And just --

**LEANNE GARDINER, Previously Affirmed:**

**QUESTIONS BY THE COMMISSIONERS**

**CHIEF COMMISSIONER MARION BULLER:** In case I forget at the end of my questions, I want to thank all of the panelists who have been here and helped us. I appreciate all that you've done, and also to your counsel for helping us through the process too.

Ms. Gardiner, I'll start with you. Looking
at the broad picture of victim services in the NWT, there
are opportunities for emergency protection orders and
protection orders, depending on the circumstances; that's
correct?

**MS. LEANNE GARDINER:** Yes.

**CHIEF COMMISSIONER MARION BULLER:** And in
terms of those protection orders, emergency or not, can
include granting the applicant, assuming that's the victim,
exclusive occupation of a residence and a provision
directing a peace officer immediately, or within a
specified period of time, to remove the respondent,
assuming the abuser, from the residence. So there is the
option of removing the alleged offender or abuser, because
there's no charge yet, from the residence?

**MS. LEANNE GARDINER:** I believe if that's
from the *Protection Against Family Violence Act* that you
just read the section from --

**CHIEF COMMISSIONER MARION BULLER:** Correct.

**MS. LEANNE GARDINER:** Yes.

**CHIEF COMMISSIONER MARION BULLER:** So if
under law there is the opportunity to remove the alleged
offender, then why are the services aimed at removing the
alleged victim and/or her children from the community?

**MS. LEANNE GARDINER:** I -- I'm not sure how
to -- how to answer that. Honestly, the services that I'm
aware of are available, should -- should victims want to go to a shelter. Again, not directly within my responsibility, but I'm aware of those services. As to -- as to why they developed that way historically and why there isn't a mechanism right now to -- or not just a mechanism because there is a mechanism obviously through the Act, but why that isn't happening, or if that isn't happening and the other is, I don't know how to answer -- I don't have the answer.

CHIEF COMMISSIONER MARION BULLER: Okay.

Without belabouring the point, in Exhibit 11, your document called "Staying Safe", it does set out a variety of services available to victims and their children to keep them safe. There isn't anything in that document, other than at the very end, that speaks to any services available or any plan available for getting the alleged offender out of the community; is that correct?

MS. LEANNE GARDINER: I have it in front of me. I haven't read every word. I am assuming it does reference EPOs as a tool. I believe it does reference it as a tool. In my staff's preparation of the document and my review, my -- my understanding of our approach was to balance the safety planning piece, which would include sometimes as part of the plan to leave a community, with the tools available.
LEANNE GARDINER
QUESTIONS BY THE COMMISSIONERS

I know what we tend to -- if we're speaking about the use of emergency protection orders as part -- as a tool that's part of someone's plan, I know what I've -- what I've heard from our community based organizations, either the ones responsible for victim services or other organizations, is that it is important that we consider it as a tool because it is still a piece of paper, and we know dynamics of family violence and we have to -- have to consider that. If we're talking about the practical needs of a victim, that we have to make sure we -- we consider that as one tool available.

Do I think that the way our system has developed with this reliance on removing -- and we've heard testimony and questions earlier in the day about is it fair that the way to keep someone safe is to uproot someone and their -- a woman and their children from their own community and take them somewhere else? I would agree that that's not fair. I can't speak to why it's developed that way.

CHIEF COMMISSIONER MARION BULLER: Okay, thank you. Going to Exhibit number 8, which is the community impact statement, just to clarify a few points on that document. Who is allowed, if that's the correct terminology, who is allowed to prepare this type of document?
MS. LEANNE GARDINER: Who is allowed?

CHIEF COMMISSIONER MARION BULLER: Yeah.

MS. LEANNE GARDINER: It's my understanding that community members can -- can do that. That's the extent of my knowledge when it comes to -- it's not my understanding that it's a tool or a document that's used very often, definitely not as often as a victim impact statement.

CHIEF COMMISSIONER MARION BULLER: M'hm.

MS. LEANNE GARDINER: We certainly see situations where we can imagine that it would be a tool, but how it’s being used and who’s applying for it, I’m not -- I’m not sure.

CHIEF COMMISSIONER MARION BULLER: Earlier today, you referred to a -- a program, and I didn’t get the name down correctly. It was a child court accompaniment program or ...

MS. LEANNE GARDINER: I’m just going to grab from my bag the accurate name of it.

CHIEF COMMISSIONER MARION BULLER: Sure.

MS. LEANNE GARDINER: Maybe I don’t -- it was -- it was a three-day course provided by the Canadian Child Abuse Association out of Calgary, actually, that we brought instructors up to Yellowknife and provided that -- that three-day course to victim services providers as well as
Crown Witness Coordinators in the Northwest Territories together. And it really was about steps to take and considerations to understand in the preparation or work that these service providers might do with children who are being required or -- required or asked to provide testimony in court, either as a witness or a victim themselves.

CHIEF COMMISSIONER MARION BULLER: Is this going to develop into a separate program regarding children, or is this going to be blended into the existing program?

MS. LEANNE GARDINER: I would -- I wouldn’t call it a program. What it was was a training opportunity for the existing service deliverers. So to answer your question, it’s -- it’s not part of what we’re doing right now to commence a whole separate program. They’re -- victim services providers are supporting those families now. What this was about was adding an additional skill set as part of our responsibility to do so and at the request of providers to give them that training.

CHIEF COMMISSIONER MARION BULLER: If we can go to Exhibit number 6, which, I’ve sort of got my notes all over here -- the victim services -- NWT victim services program.

MS. LEANNE GARDINER: Sorry, ma’am, is that the pamphlet?

CHIEF COMMISSIONER MARION BULLER: Yes, it
is. I was under the impression that victims or people who
have experienced violence can self-refer to victim services;
is that correct?

MS. LEANNE GARDINER: Yes.

CHIEF COMMISSIONER MARION BULLER: However, the document says, “You can use victim services at any time after a crime happens, throughout the court process, and after the court process ends.” Can you tell me how I rationalize your testimony with that?

MS. LEANNE GARDINER: Sorry, can you refer to which part of the pamphlet?

CHIEF COMMISSIONER MARION BULLER: This -- I suppose it’s the -- the back page, but on -- very far right-hand side. It says, “When can I use these services?”

MS. LEANNE GARDINER: So the -- the intention is, as I see, well, I know what our intention was in -- in putting it out was that “after a crime happens” doesn’t necessarily mean after the RCMP has determined it’s a crime or after charges have been laid. I guess, if I were to have another look at that, I would have added the words “or tragedy” because that is a service that they’re providing and it’s right in our -- our agreements with communities with -- with sponsoring organizations on the service that they’re providing includes “victims of crime and tragedy”. So I would agree it’s -- it’s misleading, it could be
misleading, and I can only assure that our outreach, as -- as far as I’m aware of it, includes victims of crime and tragedy.

**CHIEF COMMISSIONER MARION BULLER:** Looking at the same document, the same brochure, and documents similar to that that we have in evidence; what languages are these published in?

**MS. LEANNE GARDINER:** Right now, they’re published in English. And we have a project underway with our Indigenous language secretariat and the GNWT to determine which of the other nine official Indigenous languages to -- to do or to have translated or interpreted which documents.

**CHIEF COMMISSIONER MARION BULLER:** Thank you. Let’s go to -- I believe it’s Exhibit 6, the “NWT Victim Services Program”. And I’d like you to turn to page 9, please. There’s a -- the beginning of a table of statistics.

**MS. LEANNE GARDINER:** Yes, I have it here.

**CHIEF COMMISSIONER MARION BULLER:** Can you tell me how you define “continuing cases?”

**MS. LEANNE GARDINER:** Continuing cases would be what -- so this is the aggregate of all of the program’s data together, and that would be a -- a client that victim service -- victim services providers were assisting from at
least the prior fiscal year. So at the beginning of the year, they were still assisting and -- this many across the Northwest Territories. That wouldn’t necessarily mean that matter started the year before. It could have been even before that, like, it really just depends on -- on each situation.

CHIEF COMMISSIONER MARION BULLER: Okay, and going over the page, I would appreciate an example of what you’re referring to on the fourth line down of referrals for ongoing services. Could you give an example of that, please?

MS. LEANNE GARDINER: I -- sorry. I would, as an ongoing service, that would be other services that are offered out of that -- well, I would say outside of that organization, but some of our sponsoring organizations actually offer other services that a victim might need. So it’s not necessarily outside of their organization, but a non-victim-services service. That could be mental health supports, that could be -- I think, quite often, it’s mental health supports because the service providers are not technically or across-the-board trained as ongoing mental health service providers. But it could -- it could be other services as well, and -- such as housing, if they’ve -- if they’ve connected them to whatever those needs are that present and that a victim indicates they need assistance
CHIEF COMMISSIONER MARION BULLER: Okay. And going further down that column, just above the first bold total, is O-D-A-R-A; what does that mean, please?

MS. LEANNE GARDINER: That is the Ontario Domestic Abuse Risk Assessment. It’s a standardized tool. It was developed in Ontario and it’s, to my understanding, I’m not an expert, but I -- it’s been relatively rigorously evaluated as being a risk assessment tool for the likelihood that you might use domestic violence in the future.

CHIEF COMMISSIONER MARION BULLER: Thank you.

MS. LEANNE GARDINER: It’s a point in time.

CHIEF COMMISSIONER MARION BULLER: Okay.

Then going three lines below that, there’s the -- a note or a -- a line referring to “other office in person.” What does that mean?

MS. LEANNE GARDINER: What that means is that the victim services provider has provided a service in person to a victim who was referred or -- or referred themselves, but not in their office, not at the victim’s home. So that could be a variety of places. That could be the RCMP detachment, that could be if they were referred from another service provider -- I’m trying to think of an example --

CHIEF COMMISSIONER MARION BULLER: Okay.
MS. LEANNE GARDINER: -- other than what I’ve given you, but ...

CHIEF COMMISSIONER MARION BULLER: Further down the page, there’s “referrals to other agency,” and I just want to be clear on how this is calculated. If a person is referred to more than one agency, for example, RCMP and a shelter, are they counted?

MS. LEANNE GARDINER: Yeah. Yes. That line is correct.

CHIEF COMMISSIONER MARION BULLER: Okay, then going to Exhibit number 5, that’s the “Memorandum of Understanding with the RCMP”.

MS. LEANNE GARDINER: Yes, ma’am.

CHIEF COMMISSIONER MARION BULLER: Looking at Section 3.0 under definitions, I understand that there’s a special -- or -- or there is an incorporation of the definition of victim from the Victims of Crime Act, and D says “substantial impairment of their fundamental rights.”

MS. LEANNE GARDINER: M’hm.

CHIEF COMMISSIONER MARION BULLER: In your work, how do you interpret that?

MS. LEANNE GARDINER: I would interpret that as someone who, through some set of circumstances is not able to exercise their own -- I don't know how to interpret it without using the same language. I'm not sure how to
answer your question, to be honest.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

Thank you. I'm going over the page, or at least in the hard copy, to 6.3. In terms of RCMP roles and responsibilities, it says that, "In situations where the victim requires immediate assistance, the RCMP will contact the on-call victims services worker to attend if it is safe to do so."

So I'm taking from that that there's 24/7 victims services available?

**MS. LEANNE GARDINER:** There are, in most communities. That -- the way that plays out depends on the -- on the community and how the program is delivered. If I picture Yellowknife, for example, it's the largest centre. They use volunteer victim services to do that, so that's, like, the volunteer workers to do the on-call part.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

When you develop a document or a relationship like that's set out in the memorandum of understanding --

**MS. LEANNE GARDINER:** M-hm.

**CHIEF COMMISSIONER MARION BULLER:** -- as well as your service delivery and how you fund -- and I'll stay away from the Victim Assistance Fund for now.

**MS. LEANNE GARDINER:** Okay.

**CHIEF COMMISSIONER MARION BULLER:** So your
correspond funding, do you ask yourself or do you ask your staff or does anyone ask anyone how by delivering this service or entering into this relationship, we are ensuring that we are meeting the established human rights of Indigenous women and girls and are we meeting the Charter rights guaranteed by Indigenous women and girls? Do you look through those lenses?

**MS. LEANNE GARDINER:** I would say that -- that it is not a common deliberate practice to apply that particular lens. Like, if you're asking me if I asked myself, I do -- I ask myself other questions, but I -- that's not really what you're asking me about. So I often ask myself, is this allowing that community to address these issues in the way that they see as most appropriate and all manner of other things, but that specific question, no, I would say.

**CHIEF COMMISSIONER MARION BULLER:** To your knowledge, does anyone else in your ministry that these documents, relationships, funding agreements, from that perspective?

**MS. LEANNE GARDINER:** To my knowledge, no, put I don't know that it would extend to --

**CHIEF COMMISSIONER MARION BULLER:** Okay.

**MS. LEANNE GARDINER:** -- everybody's role.

**CHIEF COMMISSIONER MARION BULLER:** Okay.
Thank you very much.

NAOMI GIFF-MACKINNON, Previously Affirmed:

QUESTIONS BY THE COMMISSIONERS:

CHIEF COMMISSIONER MARION BULLER:

Ms. Giff-Mackinnon. I have some questions about FILUs or FILUs. I note that documents that can be requested can include records of incarceration, parole records, and things of that nature. But what about documents arising or flowing from mental health review board matters or health matters? Are they seen included?

MS. NAOMI GIFF-MACKINNON: For example, in a non-criminally responsible situation at those review boards in those situations, yes, they would be included.

CHIEF COMMISSIONER MARION BULLER: Okay.

Again, similar question. In examining your service delivery, examining your goals and objectives for FILUs across Canada, do you examine your work and the relationships you build, documents that you work from, is there an analysis from the perspective of how are we, if at all, guaranteeing the basic human rights of Indigenous women and girls? And are we not breaching and actually upholding the Charter rights of Indigenous women and girls? Is that analysis done by you or anyone else?

MS. NAOMI GIFF-MACKINNON: Just as Ms. Gardiner had mentioned, I wouldn't -- I wouldn't want
to indicate that we take that specific lens to the
development -- that we did take that specific lens to the
development of the FILU initiative. Our minister makes it
very clear how important Indigenous rights are, and we
bring that to our work, for certain, as we move forward.
That is how we ground our policies and our programs, so
that's one lens we take. And I think that we do look at
Section 35 rights, for sure.

CHIEF COMMISSIONER MARION BULLER: M-hm.

MS. NAOMI GIFF-MACKINNON: But could I
identify a particular human rights lens? Like, perhaps
you've heard about through the expert hearings? I don't
think I can identify a definitive lens. However, we do
see -- we do move forward our work in -- in -- with a view
to providing space for claiming and reclaiming power.

CHIEF COMMISSIONER MARION BULLER: Okay.

I'll move on. I want to talk or ask you some questions
about training for FILU staff. I've heard your description
of different types of training programs and options for
training for FILU staff. I haven't heard anything that may
include some type of holistic approach to their training or
an Indigenous approach to their training. Can you give me
any insight on that?

MS. NAOMI GIFF-MACKINNON: Through the
collaboration and the partnership building with Indigenous
community organizations who have knowledge about the experiences of Indigenous victims and survivors of crime and the experiences of families of missing or murdered Indigenous women and girls, through that network there is some substantial training that's provided and some -- where the FILU team requires cultural competencies, the Indigenous organizations that the FILU team works with provides that. That's one of the main ways that that training is -- is provided.

CHIEF COMMISSIONER MARION BULLER: Okay. In your evidence, you've referred to test -- to ceremonies and working with Elders. Is that for staff training or is it for other people who may be referred to services outside of FILUs? Where do those two elements fit?

MS. NAOMI GIFF-MACKINNON: So the FILUs, it fits primarily with FILUs making -- hearing from families about whether they would like to have ceremonies included in their work with FILUs, and working with Elders, working with community partners to provide those ceremonies as they go through with the different points, at the very beginning, and throughout and when the information is shared. So the FILU -- some of the FILU team members are able to help families directly with the ceremony. They work very closely with families. They are from the -- the community. They have lived experience, and so they can
help make those connections. A lot of the FILU teams are
helping families with releasing ceremonies. They're
helping identify some of the -- the places where their
loved one was last -- was last known to be. And those are
some of the ceremonies that they're having.

CHIEF COMMISSIONER MARION BULLER: Who bears
the costs of those ceremonies and attendance of Elders?

MS. NAOMI GIFF-MACKINNON: That's part of
the FILU funding model.

CHIEF COMMISSIONER MARION BULLER: It is?
Okay. Thank you. Thank you very much.

JOHN PHELPS, Previously Affirmed:

QUESTIONS BY THE COMMISSIONERS:

CHIEF COMMISSIONER MARION BULLER:
Mr. Phelps, I have some questions. Let's go to Exhibit 3,
which is the checklist, please. Did I hear you correctly
that this was a checklist prepared specifically for the
North?

MR. JOHN PHELPS: That's correct, yes.

CHIEF COMMISSIONER MARION BULLER: Is the
same form used for both adults and children who are victims
or witnesses?

MR. JOHN PHELPS: We only have one version
of the form, yes.

CHIEF COMMISSIONER MARION BULLER: Okay.
MR. JOHN PHELPS: I'm not -- to be honest with you, that's an excellent question because I'm not certain this form would necessarily be filled out when we're dealing with children, particularly in the Yukon because we have a collaborative approach to dealing with children, child victims of crime, in the Yukon territory, and it's a -- it's a different approach to providing all of these services, but this is the only form we have, yes.

CHIEF COMMISSIONER MARION BULLER: Okay. Let's just move away from the form for a moment. Can you tell us more about this collaborative approach that you say you have with respect to child victim witnesses?

MR. JOHN PHELPS: It's -- it's entitled the Lynx program in the Yukon territory. It's coordinated through the territorial government and the victim services office with personnel from victim services, dedicated personnel, dedicated representatives from our office, from the RCMP, from health and social services. I'm sorry, I'm not too sure if there are other representatives at the table or not. Off the top of my head, there may be education as well. And it's designed to ensure that there is ongoing training and a collaborative approach in how to deal with children who suffer harm through -- through crime.

And, sorry, I should add to that that the
intention being then that there -- I hesitate to use the word specialized, but there are dedicated individuals within each organization to deal with those files. So in our office we have a primary and a secondary prosecutor, for example, to deal with files that involve child victims, rather than broadly fanning them out throughout the office.

CHIEF COMMISSIONER MARION BULLER: Thank you. Going back to the form now. Under the initial contact, and it has needs assessment and travel, there's a check box about the victim is unavailable due to holidays, medical appointments, exams. I note that there's no "other" category, which might include things like seasonal hunting or fishing activities, or seasonal ceremonial activities. Do you think it might be wise to amend the form sometime?

MR. JOHN PHELPS: I would see -- it's not meant to be an inclusive list, but I would certainly see no harm in making sure that that is on there so that that information is in the mind of the individual having the dialogue. That would make sense.

CHIEF COMMISSIONER MARION BULLER: Turning now to information rights, which is on the back page.

MR. JOHN PHELPS: Thank you.

CHIEF COMMISSIONER MARION BULLER: Just by way of background, can you tell us whether the policy
and/or practice in your office is to subpoena victim witnesses?

MR. JOHN PHELPS: That is the practice, yes.

CHIEF COMMISSIONER MARION BULLER: Okay. So under information rights I don't see any place to check off that the victim was offered information about the impact or effects of being subpoenaed, and Section 704 and Section 705 of the Criminal Code, which would allow a warrant to be issued for the arrest of the victim witness should they not appear?

MR. JOHN PHELPS: You're correct, yes.

CHIEF COMMISSIONER MARION BULLER: Do you think that's something you may want to change on the form?

MR. JOHN PHELPS: Again, it -- not being an exhaustive list, but absolutely it makes sense to add that to the list and make sure that victims are aware that -- not only that they will be subpoenaed, the -- the relationship does evolve, and this is the initial contact that we have and covering off that initial stage where we're hopefully having contact pre-plea and the -- the concept of the trial and what's going to happen at trial is covered at a later stage, and it's not necessarily a living document throughout the process. By the time we get to that stage there's an ongoing relationship and more information being covered than is in the checklist. That
being said, absolutely.

CHIEF COMMISSIONER MARION BULLER: Yeah. It certainly would go to, if nothing else, the individual's Section 7 Charter rights, don't you think?

MR. JOHN PHELPS: I do agree. That's a good idea.

CHIEF COMMISSIONER MARION BULLER: Okay. In filling out this form and arranging for travel costs, witness fees, that sort of thing, how far does the funding go in terms of the victim witness and perhaps a support person to come with them or other family members? Is there funding available for that type of person?

MR. JOHN PHELPS: It -- it depends on the needs of the victim. It's -- so the funding does not come with specific limitations on -- on amounts, for example, the funding is primarily for the victim to travel. But being the funding authorization within my jurisdiction, it's quite frequent, particularly in certain types of offences, that we do provide the opportunity for a support person. Certainly if a child is involved, we provide that support, and it's frequent, if not always the case, that in the case of a sexual offence that we would provide that service as well.

CHIEF COMMISSIONER MARION BULLER: M'hm.

MR. JOHN PHELPS: And it's not limited to
that, there's an ability to request in other offences as well.

CHIEF COMMISSIONER MARION BULLER: When we were in White Horse and other locations we heard from family members who were not necessarily called as witnesses, but wanted to attend court to watch the proceedings because it had direct effect on them because of their lost loved one. They said very clearly that of course some of these trials can go for very long periods of time, weeks and months, and that there was very little funding available for them to attend court, other than perhaps through their Bands. So because they're not necessarily witnesses, they wouldn't be caught in your program; is that correct?

MR. JOHN PHELPS: They wouldn't be caught in our program, no. There are a variety of funding sources through the victim services branch, if they're connected with victim services. The scenario that you refer to, I'm not certain if they would fund it or not, but it's not available through our organization, no.

CHIEF COMMISSIONER MARION BULLER: Turning now to the domestic violence courts and the wellness courts and the role of the CWCs. Can you tell me at what point the decision is made, and by whom, for a matter to go into one of these courts from the main stream court?
MR. JOHN PHELPS: Certainly. If it's all right I'll speak to the practice in the Yukon, which is the one I'm most familiar with. In the -- in the Yukon the domestic violence treatment option court is available in White Horse, it's not an option that's available in the communities. For all domestic violence offences that occur within Whitehorse the first appearance takes place within the domestic violence treatment option court and the accused has to opt out of that option and into the main stream.

With respect to the community wellness court, which deals with an array of issues such as alcohol, drug abuse, mental health and cognitive disorders, that is something that an accused opts into because it's not something that's obviously readily identifiable at the time of the offence. And that decision is made at the first instance by -- typically by the accused or accused's counsel or somebody supporting the accused. It might be recommended by our office as an option, a viable option for an accused. And if they decide to go through or if they decide they're interested in that option, then there's a period of time where there's a screening process in order to determine whether or not they're suitable for that court. It's a two-week turnaround.

CHIEF COMMISSIONER MARION BULLER: What roles
then do the CWC workers, if that’s not redundant, have in
the specialized courts? Do they stay with the victim
throughout?

MR. JOHN PHELPS: Yes, they do, yeah.

We -- with respect to the domestic violence treatment option
court, due to the nature of when the first appearance
occurs, we have an assigned Crown Witness Coordinator for
that court. With respect to the Community Wellness Court,
the file remains with the -- the Crown Witness Coordinator
that it was assigned to, but we do have an assigned
individual to make sure that we have an attendance in every
court. It’s a shared responsibility for updating.

CHIEF COMMISSIONER MARION BULLER: So when
the offender’s time is finished in the court, that is when
the CWC worker finishes with the victim; is that correct?

MR. JOHN PHELPS: Yes, once the -- once the
sentencing occurs. That’s correct, yes.

CHIEF COMMISSIONER MARION BULLER: Okay,
okay, that’s it. Thank you all very much. Commissioner
Audette?

MS. MEREDITH PORTER: Thank you. Chief
Commissioner and Commissioners, one of the witnesses has
requested a five-minute bathroom break.

CHIEF COMMISSIONER MARION BULLER: Certainly.

(LAUGHTER)
MS. MEREDITH PORTER: Five minutes? Oh, so
we will take a five-minute break, returning at 3:20, no
5:20.
--- Upon recessing at 5:13 p.m.
--- Upon reconvening at 5:24 p.m.

MS. MEREDITH PORTER: Commissioner Audette?

COMMISSAIRE MICHÈLE AUDETTE: Oui.

MS. MEREDITH PORTER: I’m inviting you; do
you have any questions for any of the witnesses?

COMMISSAIRE MICHÈLE AUDETTE: Merci beaucoup.

J’ai -- oui, je vais parler en français. J’avais demandé à
la Commissaire en chef, à ce moment-ci, j’aurais aimé ça
avoir le bâton que les juges ont en cour. C’est sûr qu’on
n’a pas la traduction pour la plupart des gens.

Écoutez, tout d’abord, encore une fois, un
gros merci à tous les gens qui se sont déplacés ici pour
venir nous expliquer quels sont vos programmes, nous
expliquer quelles sont vos réalités et surtout de répondre
aux questions qui émanent de la salle ici venant des parties
intéressées.

De mon côté, quelques questions, évidemment.

Je commencerais avec M. John Phelps. Je suis consciente que
vous représentez ou vous nous avez présenté, pardon, un très
grand territoire. Moi, je viens de Schefferville. Le nord
c’est petit, mais c’est quand même ce qu’on appelle, nous,
une communauté isolée. Seuls le train ou l’avion peuvent se rendre, sinon le portage et le Ski-doo, mais c’est très loin dans le nord.

Je peux facilement dire que le grand territoire, le Yukon, Territoires du Nord-Ouest et Nunavut, c’est immense, et pour avoir entendu des familles lors des audiences que nous avons tenues en janvier à Yellowknife, on comprenait comment le territoire est immense, la même chose à Whitehorse ou à Rankin Inlet.

On nous a parlé de plusieurs choses, mais je vais vous poser des questions de ce que vous nous avez présenté, Monsieur John, et ensuite essayer de faire des liens avec la vérité qui a été partagée par les femmes, les hommes, les survivants et les gens qui ont eu le courage de venir nous voir.

Quand vous parlez des coordonnateurs de témoins de la Couronne, les CTC en français, l’acronyme, est-ce que c’est pour tout le monde ou c’est un programme spécifique pour les Autochtones? Première question.

**MR. JOHN PHELPS:** I apologize for the delay, and -- and I’ll have to respond --

**COMMISSIONER MICHÈLE AUDETTE:** That’s my life.

**MR. JOHN PHELPS:** -- I’ll have to respond in English, if that’s all right.
COMMISSAIRE MICHELÉE AUDETTE: C’est correct.

MR. JOHN PHELPS: It’s -- it’s available to everyone.

COMMISSAIRE MICHELÉE AUDETTE: O.k.

Merci.

Alors, dans ce cas, dans la vingtaine d’employés CTC, combien de gens sont issus des Premières nations et du monde inuit?

MR. JOHN PHELPS: The breakdown is at 100 percent in Nunavut, so all eight employees. One in the Northwest Territories currently and one in the Yukon currently, and that’s -- those ratios have varied. They’re not designated positions one way or another. It’s been based on our competitions and what’s available to us to -- to -- who’s -- who’s available to us to make offers to.

COMMISSAIRE MICHELÉE AUDETTE: O.k. Justement vous nous avez parlé de la difficulté de garder les gens en poste. Et quand on regarde la description ou le mandat des CTC, c’est beaucoup. C’est beaucoup demander à ces gens-là, beaucoup d’information et de connaissances du milieu juridique, pénal, carcéral, et aussi de ce qui existe en terme de soutien à travers le grand territoire.

Qu’est-ce qu’on demande comme diplôme à ces gens-là ou bagage ou expérience?

MR. JOHN PHELPS: That -- that’s varied over
the years. Of the last, you know, poster, the job advertisement that was put out trying to attract individuals to our regional office, the requirement was a grade 12 education, so graduation from high school. Previous to that, we have had secondary -- post-secondary education requirements, but the -- the number of applicants that we would see was significantly reduced as a result, so we do work, for example, in the Yukon, we do work with the Yukon College and we do take placements within their program to facilitate educational purposes but also to expose them to what we do and hope that perhaps they take an interest, and we have -- we have been able to hire a couple of employees through that program.

So it -- it’s a balance between attracting individuals with the knowledge or -- or with the recognition that there’s a significant amount of knowledge and by, you know, erring on attracting more individuals and doing in-house training and taking the time and energy required to do that, or at least attracting more interest in the program.

COMMISSAIRE MICHÈLE AUDETTE: Donc, si je comprends bien... I’ll rewind. Je comprends que vous avez la flexibilité pour vous adapter à la réalité du territoire, la géographie des gens qui habitent là?

MR. JOHN PHELPS: Correct.

COMMISSAIRE MICHÈLE AUDETTE: O.k. Merci.
En même temps, les CTC, je comprends qu’ils doivent expliquer aux familles, aux victimes et à leurs proches quels sont leurs droits, et c’est là où je veux faire un parallèle avec le mandat des CTC, de votre présentation, et ce que nous avons entendu comme commissaires. Sur les 1 200 témoignages, je vais essayer de me restreindre au Territoires du nord-ouest et du Yukon, évidemment de Rankin Inlet aussi, les gens qu’on a rencontrés dans le nord.

Il y a quelque chose... on va prendre Yukon. Ça c’est votre territoire. C’est votre chez-vous. Il y a un fil conducteur dans chaque famille que j’ai entendu... je vais parler pour moi... ou de survivantes. Elles ont toutes et tous partagé ces enjeux-là de façon publique ou en privé, l’isolement, les défis face à l’isolement dont défis d’accéder à une ville ou quelque chose de proche où elles habitent, le manque de ressources, maisons d’hébergements, maisons pour la santé mentale, un centre, pardon, de guérison pour la santé mentale ou thérapeutique ou de désintoxe. Elles nous ont paré du manque de counselling, du manque d’information sur le processus judiciaire et pénal, notamment quels sont leurs droits, quelles sont les accusations dont le tribunal est saisi, par exemple, et aussi que les avocats de la Couronne ne représentent pas les victimes. Ça, c’a été pour plusieurs surprenant. Ensuite,
JOHN PHELPS
QUESTIONS BY THE COMMISSIONERS

que ce sont les procédures judiciaires auxquelles les victimes devraient s’attendre. Donc, elles ne sont pas au courant de ça ou elles ne comprennent pas et elles ne savent pas quel sera le processus de la comparution jusqu’à la sentence ou l’acquittement.

Donc, vous nous présentez un service, un programme, mais sur le terrain, il n’est pas articulé de la même manière ou il n’est pas reçu de la même manière.

Est-ce que vous avez entendu ce que moi j’ai entendu au fil des années?

MR. JOHN PHELPS: I -- I’m going to answer the question, yes. That -- that I have -- I have heard that. And, you know, our program is something that has evolved even over the last few years, it has evolved significantly in the way we’re trying to do our -- our work across the north. The criminal justice system is no doubt an extremely complex system. And points that you’ve made, such as the fact that the Crown doesn’t represent the victim, are -- are very difficult and surprising concepts to hear, and difficult for -- for victims to understand because we’re working with them to try and get the best evidence before the court.

So it’s -- it’s not uncommon in my interactions with leadership, or justice committees, or otherwise throughout the territory, that there’s a concern
about the information that’s received. You know, we -- we
do our best to relay it as clearly as possible with the
limitations, some which you’ve already pointed to. But
that’s certainly something that could be improved, and --
and we’re always striving to improve. The -- the
expectation is that it’s not just the responsibility of a
Crown Witness Coordinator. That’s a part of their job.

Particularly, you know, right -- right at the
first instance of there’s been a charge, this is who we are,
this is what we do. When we get to the stage of trial, the
expectation and the standard would be for a prosecutor also
to meet with the victim and provide supplemental information
with respect to the system because of the complexities. The
-- the other reasons for it as well is to develop a relation
and -- and make sure that there’s a -- a comfort level with
proceeding with the -- with the trial. So it is a concern.
I -- I recognize that. I’ve -- I’ve met with families
myself, who are -- are suffering from loss and just
desperately, desperately want something to occur within the
criminal justice system that isn’t available to them. And
it can be a very lengthy and -- and very difficult
conversation to have.

And my practice, and I hope the practice
of -- of my prosecutors and Crown Witness Coordinators, is
to take as much time as I can to try and relay that. I’m
certain though, regardless of the time and effort put in, that people will leave both dissatisfied and perhaps in -- in disbelief, and -- and perhaps still with a -- a lack of understanding as to the intricacies of -- of why those decisions are. And that -- that’s a reality we face. And I’m not too sure what the answer is to prove that, other than, to continue to move forward and try the best we can to make sure that we’re -- we’re making contact and we’re having meaningful dialogue with victims as we go.

COMMISSAIRE MICHÈLE AUDETTE: Merci pour votre généreuse réponse. I’ll rewind. Merci pour votre généreuse... votre réponse généreuse.

Dans ce cas-là, vous avez mentionné dans votre presentation que, si j’ai bien compris, aucune femme, aucune victime a porté plainte par rapport à votre programme.

Pouvez-vous m’expliquer, dans ce cas-ci, pourquoi on ne porte pas plainte sachant qu’il y a des lacunes ou des choses qui devraient être améliorées?

MR. JOHN PHELPS: I -- I don’t have an explanation for that. You know, I -- I believe I mentioned, or I intended to mention in my testimony, that I’m certainly available and I ensure that my lawyer -- my prosecutor who’s the prosecutor supervisor is available, should there be concerns with the conduct of the individuals in our office.
Our complaint process, if you’re to look it up, is not designed to receive complaints about the criminal justice system.

COMMISSIONER MICHELLE AUDETTE: Okay.

MR. JOHN PHELPS: Or the decisions of the judge, for example. It’s about our conduct and, I think, a lot of the discontent that I’ve heard is more in line with the system itself. I -- I don’t recall having left a -- a meeting where there was anger or -- or -- expressed towards myself. But people have been upset because they don’t -- they -- it’s not the answer that they want. They -- they want answers through the criminal justice system. And at times they -- they’re seeking closure through the criminal justice system that’s not available. So I -- I don’t know -- I don’t know the answer to that.

COMMISSIONER MICHELLE AUDETTE: Okay.

MR. JOHN PHELPS: I don’t.

COMMISSAIRE MICHELLE AUDETTE: Merci beaucoup.

Donc, je comprends que le processus de plaintes ou la possibilité de porter plainte c’est plus sur un comportement fait par un employé? C’est ce que je comprends.

MR. JOHN PHELPS: It would be -- no, it -- it’s in place, sorry, to -- to also raise concerns with respect to whether or not we’ve met --
COMMISSIONER MICHELLE AUDETTE: Okay.

MR. JOHN PHELPS: -- their [sic] -- our, sorry, obligations under the CVBR. That would be an appropriate purpose of it and we encourage our Crown Witness Coordinators to make sure that they’re aware of that. And again, this is the front-end conversation, not the tail-end conversation. So they’re meant to be, at -- at least, made aware. And -- and whether or not that resonates, I -- I can’t say.

COMMISSAIRE MICHELLE AUDETTE: Alors, dans ce cas-ci, croyez-vous qu’il serait possible d’avoir comme recommandation de mettre en place justement un processus pour que les victimes, si on se fie à la Charte... je veux bien dire son nom... la Charte des droits des victimes, laquelle vos employés doivent suivre et respecter et informer les victimes, de créer un espace pour ces victimes-là, pour ces femmes, pour les hommes et les femmes, mais on va parler pour les femmes ici, puissent avoir un endroit et dire « On m’a pas appelée; on m’a pas informée de mes droits; on m’a pas dit que la personne qui a commis le crime est finalement libérée » et ainsi de suite?

MR. JOHN PHELPS: I -- I do think it’s important that they’re afforded that opportunity. I would say within -- within the Yukon, as I’ve -- I’ve repeated throughout the last two days, there -- there are other
entities. And in particular, there’s the victim services program within the territorial government that’s fully aware of the opportunity to lodge a complaint as well. And, you know, we have a collaborative relationship, and I would expect them to relay that information as well because we’ve shared it with them. But I -- I don’t disagree. It -- it may be, you know, it may be too onerous. It may be considered to be too onerous a process. It’s a requirement that there be a complaint in writing, essentially, to myself, or my equivalent in the region. Perhaps, that’s too intimidating. And as you -- as you indicated, a -- a better environment to do so. I -- I would welcome that because the feedback’s important. And if we’re -- if we’re missing individuals and we’re not providing them with the information that we’re mandated to do, then I would like to know about it. And absent the complaints process, or open dialogue with the Crown Witness Coordinator, I wouldn’t get that information.

**COMMISSIONER MICHÈLE AUDETTE:** A tough question now.

**MS. MEREDITH PORTER:** So she’s switching to English.

**COMMISSIONER MICHÈLE AUDETTE:** No, no, no, no. Okay. The question could be in English because it’s a tough one. Do you follow the news and media?
MR. JOHN PHELPS: Yes.

COMMISSIONER MICHELLE AUDETTE: Parfait. I'm glad. Where were you? No, just kidding. In -- in March 5th, an article from CBC was saying that putting Yukon, N.W.T., and Nunavut very low in the rank of -- how do we say in English? The -- at the bottom of the justice system report card, very low. So I don't want to criticize that, but did you see that article or --

MR. JOHN PHELPS: I -- I did, yes.

COMMISSIONER MICHELLE AUDETTE: You did?

MR. JOHN PHELPS: Yes.

COMMISSIONER MICHELLE AUDETTE: So did you -- and I'm sure you did. I know I'm not allowed to say that, but it's me. When you saw that reportage, did you said to yourself or whatever that what can we do to improve? Because we're the last one on 13 provinces and territories. What can we do to improve? And that would become, I guess, the recommendation that we could also on our end propose to -- to this important task.

MR. JOHN PHELPS: It's always disconcerting when you're at the bottom end of any measurement. And there's a -- you know, in the study, there's a broad array of things that are looked at to rank organizations. And, you know, we share responsibility for -- for some of that, certainly, but it looks at issues like Legal Aid and access
to justice and -- and those kinds of issues, as well, which I would say are -- are outside of my purview with respect to the -- the hat I wear within the public prosecution, but certainly not with my involvement with the Law Society, so it is -- it is disconcerting. But, you know, we -- we continue to strive to change and improve our program, and in the ideal world, my view -- in the ideal world, we would serve to provide a supportive element to the support for victims in the system and not be the entire support for victims. We -- we have a system in place because when -- when it -- when this program commenced and continuing today, there are victims that go without support within the justice system, and it's important to us to provide some support to them in -- in the context of what we do. It would be ideal if there was complete support being provided from harm, whatever -- whenever that occurs, through to completion of, you know, the lack of the need for the support. And if we could come in and complement that service -- and that's the type of that relationship that we have with the victims services branch in the Territory where they're engaged. And -- and their mandate is different than ours, so we have to be engaged with all victims due to their -- ensuring their rights. And if they're not engaged with another program, then it falls on us to do so.
So -- sorry. I rambled on there. But I -- I hope I answered your question. If not, I would ask you to rephrase it.

COMMISSIONER MICHELLE AUDETTE: Well, my last question will be – je vais le switcher en français si vous me permettez.

MR. JOHN PHELPS: If the clock was running, it would be better, but --

UNIDENTIFIED SPEAKER: Pardon me?

MR. JOHN PHELPS: I said if the clock was running, I would appreciate this more.

COMMISSIONER MICHELLE AUDETTE: Okay, mais ça va être très court. Écoutez, l’objectif moi personnellement, l’objectif de cette enquête c’est pour le bien être des familles et des survivants qui va faire en sorte que tout le monde va en bénéficier. Alors l’enquête doit proposer, vous le savez, des recommandations et je vous dirais que si on est capable de collaborer ensemble jusqu’au dépôt du rapport, seriez-vous d’accord avec moi pour dire comme votre collègue Betty Ann, qui est partie, c’est pour avoir une réussite sur le terrain, s’il faut la faire avec les autochtones et non pour les autochtones. Êtes-vous d’accord avec le message de Betty Ann? La collaboration?

MR. JOHN PHELPS: Absolutely, yes. As I
thought of the recommendation that I put forward earlier, the opportunity to work with a form of service that's First Nation-based, addressing the specific needs of the individual First Nation within the community would be an ideal opportunity for -- from our perspective, yes.

NAOMI GIFF-MACKINNON, Previously Affirmed:

QUESTIONS BY THE COMMISSIONERS:

COMMISSIONER MICHÈLE AUDETTE: Merci beaucoup. Madam -- Madam Naomi, en français, quelques questions. Vous avez parlé en 2016 des ULIFs, en français, les unités de liaison ont collaboré avec les familles. Êtes-vous en mesure de nous dire si ça été systématique à travers le Canada ou c’est certains ULIFs qui ont collaboré avec les familles, pour la mise sur pied?

MS. NAOMI GIFF-MACKINNON: So in -- as I understand it, all the FILU teams took some form of input from family members in their province or territory. Some of those forms of engagement were very -- were very, very robust. And --

COMMISSIONER MICHÈLE AUDETTE: Very what?

MS. NAOMI GIFF-MACKINNON: They were very full. And they would have -- they would have included, as I mentioned earlier, an advisory committee, or it would have been formal or informal -- I'm wondering why it sounds funny, and I just realized I've got that on.
Would -- for -- as I mentioned, formal or informal direct consultations. So it did vary. That's something that definitely does vary in terms of the fullness of it, because some were very full, and some weren't as full when you reflect on some of the others. But they all took input from families as they developed.

And I think I would mention, too, that in their work, because it is a few initiative and they are really learning from families as they go, so that is one of the -- the really interesting aspects of the FILU networks is that there isn't rigidity. It's -- it's meant to be flexible. It's meant to respond to where it's not doing well and -- and shift and change how it does its work and learn from, directly from the families that they're assisting.

COMMISSIONER MICHÈLE AUDETTE: Okay. Puis, vous avez un début et une fin comme l’enquête nationale et vous recevez là beaucoup, beaucoup d’information pour informer les familles qui en ont fait la demande. Une question pour -- sachant que vous avez un début et une fin, mais c’est important pareil comment on évalue là dans ce contexte ici alors pour vous, comment vous évaluer l’atteinte de vos objectifs? Ça c’est ma première question, pis la sous question, et est-ce que les familles des survivants vont participer dans cette évaluation? -- It
went to Québec. Now it's got to Calgary.

**MS. NAOMI GIFF-MACKINNON:** So if I understand your question, you're wondering about what kind of evaluation mechanisms are in place to make sure that the FILUs are meeting their objectives, given this time frame, and then how are families involved in -- in telling that story within the FILU operations.

So there -- there -- there are some very -- very detailed tools that each of the FILUs have to help with their evaluation process. So they will be reporting annually and providing that input about the three objectives that we've identified for the FILU teams. So they'll -- they'll be expected to report on how they provided that dedicated, coordinated support and assisted families to gather all of the information that was available, the nature of their inter agency collaboration with agencies who -- that hold the information. They'll also be expected to speak to how their -- their model and their approach was culturally grounded and -- and the -- and how they -- how they delivered a trauma-informed approach. So those three principles will guide how they report.

And there is also -- we have -- in discussion, we have requested that all the FILUs build in -- and we've provided some tools to assist them -- they
build in in their reporting, and they -- they ensure that they connect with families to find out how they felt about the service and to get that feedback from family members.

**COMMISSIONER MICHELE AUDETTE:** Thank you.

The reason why -- because of the time that -- the reason why I'm asking this question, and it's going to be my last question for you, right away you mentioned trauma informed, we were blessed to travel across Canada, and I did most of the hearing with the -- with the families and survivors, so I was able to hear outside of the hearing process what went very well and what went very -- what was very difficult or hard on families and survivors.

There's some places where they do more than they're supposed to do, very -- I'll speak for a place I'm very aware, you can tell with my accent, Quebec. He's alone, but he's always there making sure that they get the aftercare also or we will work with the inquiry. So we hope that it's happening across Canada.

But other places that broke my heart when families come to us in the informal way to say I was just brought in a room with no explanation, with a pile of documents. I know how to read, I'm intelligent, but this is a world that -- it's not my cup of tea. So the person, not FILU, but this process wasn't there or the system or the structure wasn't there to explain what happened to the
loved one, to explain what went wrong or what went the way it was supposed to. So we've heard that many times. Other places we've heard also that the trauma inform wasn't -- wasn't even there, that it was very cold and we were just making harder for the families. Did you hear about those events or issues? If yes, what did you do to make sure that it doesn't happen again?

**MS. NAOMI GIFF-MACKINNON:** There were a couple of occasions where FILUs, as part of our network that we have our weekly conversations, FILU teams, I've heard of a couple of occasions where the FILU teams have shared some of -- maybe they're the same situations that you're describing, and they -- they identified how they did not create the right situation at the time.

And again, I wasn't there, but I'm -- as I understand it from what they've shared with us, and they tried to learn from that experience -- they didn't try, they did learn from that experience. And I hope that those situations would not happen again. I hope that the FILU network across the country has an opportunity to learn from each other when those experiences happen and to identify them and talk about them openly, about where they have -- where they have stumbled or where they have failed, and to -- and to look at how that he can do better.
COMMISSIONER MICHÈLE AUDETTE: I was supposed to have a last, last, last, but you opened a door. Quickly, we sadly said we have to put a -- a stop, hoping that it's not forever, for the community hearings, or this phase, Part 1, because of we're waiting to see if there's an extension or not. And is -- family can come to you, even though the Part 1 is done with this -- with this inquiry and ask until the end what happened to my loved one?

MS. NAOMI GIFF-MACKINNON: Yes, I think that's where there's -- one of the ways that the FILUs and the inquiry are separate illustrates that, because the FILUs would be available to families who did or didn't participate in the inquiry and regardless of how or when they participated in the inquiry.

COMMISSIONER MICHÈLE AUDETTE: Merci beaucoup, I have so much question, but --

MS. NAOMI GIFF-MACKINNON: We can talk any time.

COMMISSIONER MICHÈLE AUDETTE: I'll see you, I'm sure. Merci, I'll leave my other colleagues the space and the time, merci beaucoup, beaucoup.

COMMISSIONER QAJAQ ROBINSON: I'll begin just expressing my gratitude for you being here and for being patient. I know the clock is -- it's getting late
and I've tried to narrow them down, my questions, as much as possible. I thank the parties with standing as well as my colleagues with helping me with narrowing my questions.

Naomi, if I can -- can I call you Naomi?

**MS. NAOMI GIFF-MACKINNON:** Of course, yes.

**COMMISSIONER QAJAQ ROBINSON:** Please call my Qajaq, not Commissioner Robinson. I'm going to start with you just to sort of follow up. As Michele was just asking you some questions, and this speaks to more so the locations of FILU offices. Are you aware of any FILU offices or staff that are located in Inuit Nunangat? And I will define what that geographical space is.

Inuit Nunangat is the territory that is the land of the Inuit. It encompasses or includes the Nunavut territory in entirety. Nunavik, Northern Quebec, the territory of -- that covers the James Bay Northern Quebec agreement, Nunatsiavut which is Northern Labrador and is defined by that agreement and self-government agreement, and the Inuvialuit region in the Northwest Territories which geographically is defined by their land claim agreement.

They work together, the four regions, and that forms ITK, and they work within this space, their land. And it is the land of the majority of Inuit women and families and girls.
So within that geographical space that I just outlined, are there any FILU offices and staff?

**MS. NAOMI GIFF-MACKINNON:** As far as I understand it, I don't think there are. I think -- I'm just trying to reflect on the geography, and I don't think that there are FILU team members located in those territories.

**COMMISSIONER QAJAQ ROBINSON:** Including Nunavut?

**MS. NAOMI GIFF-MACKINNON:** There is -- I apologize, I apologize, yes, there are. There's a FILU team located in victim services, but not the -- not a community organization.

**COMMISSIONER QAJAQ ROBINSON:** Okay, yeah, I mean geographically --

**MS. NAOMI GIFF-MACKINNON:** That was what I was thinking.

**COMMISSIONER QAJAQ ROBINSON:** -- not within an organization.

**MS. NAOMI GIFF-MACKINNON:** Oh, I see, okay. Sorry, I thought you meant within a community organization. So, yes, there is a FILU team located Iqaluit. The organization, the FILU teams, are using provincial and territorial victim services divisions geographical spaces, so Nunavik, for example, would work with the Quebec FILU,
Nunatsiavut would work with the Newfoundland and Labrador
FILU, and then an NWT would work with the NWT office in
Yellowknife and Inuvik.

COMMISSIONER QAJAQ ROBINSON: And in terms
of the determination of where those offices and those staff
are located, that is a provincial and territorial decision;
that is correct?

MS. NAOMI GIFF-MACKINNON: Yes, in dialogue
and consultation through their engagements, yes.

COMMISSIONER QAJAQ ROBINSON: Was there any
thought in your mandate, and with the funding formula or
agreements with those jurisdictions, to ensure that those
service providers were located in Indigenous territory?
Was that contemplated?

MS. NAOMI GIFF-MACKINNON: I --

COMMISSIONER QAJAQ ROBINSON: For example,
on reserves or, like I said, within Nunatsiavut, for
example?

MS. NAOMI GIFF-MACKINNON: We didn't add
that as an eligibility criteria for the funding. We did
ask that each -- each victim services division work with
community organizations to -- to consider their FILU
operations.

COMMISSIONER QAJAQ ROBINSON: So it was a
consultative obligation --
MS. NAOMI GIFF-MACKINNON: Yes.

COMMISSIONER QAJAQ ROBINSON: -- as opposed to --

MS. NAOMI GIFF-MACKINNON: Correct.

COMMISSIONER QAJAQ ROBINSON: Okay, thank you. Now, the way the FILU program is described in your material, is really strikes me as a stopgap program to comply with what I would -- it's a stopgap program to address the issues in what -- what counsel for the inquiry described as the barriers for accessing information.

MS. NAOMI GIFF-MACKINNON: When you say stopgap, do you mean a --

COMMISSIONER QAJAQ ROBINSON: Well --

MS. NAOMI GIFF-MACKINNON: -- a quick fix or --

COMMISSIONER QAJAQ ROBINSON: Well, an interim fix for the -- let me go back. Families, the individuals who FILO’s -- FILU’s serve are entitled to that information. They have legal rights to it. There are existing mechanisms, Access to Information, et cetera, et cetera, et cetera, that currently exist with or without the FILU’s to access that information.

MS. NAOMI GIFF-MACKINNON: Right.

COMMISSIONER QAJAQ ROBINSON: But it’s a labyrinth to go through, and you’ve heard in the pre-Inquiry
that it is so onerous that families aren’t getting to the
information that they need.

**MS. NAOMI GIFF-MACKINNON:** Right.

**COMMISSIONER QAJAQ ROBINSON:** So I guess if
you have a program that is insuring that these rights are
met, yet it sets --

**MS. NAOMI GIFF-MACKINNON:** M’hm.

**COMMISSIONER QAJAQ ROBINSON:** -- within a
certain period of time, it is a stop gap. It is a temporary
fix. It is not something long term. That’s what I mean by
stopped.

**MS. NAOMI GIFF-MACKINNON:** It’s not -- it’s
not sustaining. And it’s -- right. I see what you’re
saying, that this is a right of all individuals to have
access to this information, and families are -- have right
to this information. And while this -- the -- the FILU
operations provide a navigation function and provide a
coordination function to help families access the
information that they have a right to access, given that we
only have Federal funding ‘til March 31st, 2019, it does
restrict and -- and -- and create some challenges for the
sustainability of that -- that -- that support network to
help families navigate to -- to access their rights. I
agree.

**COMMISSIONER QAJAQ ROBINSON:** Now, would you
agree with me that state and state agencies, as the holders of this information, have an obligation; like, I recognize that families have these rights, but with rights come obligations. Would you see this as being a continued issues with the protection and fulfillment of these Access to Information rights if these issues and barriers aren’t lifted in a long-term basis?

**MS. NAOMI GIFF-MACKINNON:** So that’s about the -- the processes in place that each of the agencies have, in terms of how they share -- how they -- how they respond -- or this -- the policies and the -- the process that they set up to access the information. Is that what you mean?

**COMMISSIONER QAJAQ ROBINSON:** Yes. In essence, that there is -- families have these rights, and it’s up to the state agency, whether it’s FILU or any other who holds this information to ensure that those rights are protected and fulfilled. So there’s somewhat of a proactive obligation. Would you agree with me?

**MS. NAOMI GIFF-MACKINNON:** Yes, I would. I think that goes -- that’s similar to some of the other -- it’s -- it’s -- it’s thematically related to some of the other questions about having the agencies be more proactive and clear about how families can access -- access that information to achieve their rights to that information.
COMMISSIONER QAJAQ ROBINSON: And whether it’s to FILU or not, those barriers need to be addressed.

MS. NAOMI GIFF-MACKINNON: Those are significant barriers, yes.

COMMISSIONER QAJAQ ROBINSON: M’hm. Thank you. And that would be something that this Inquiry might want to recommend? You can answer that if you want.

MS. NAOMI GIFF-MACKINNON: Do you think --

(LAUGHTER)

COMMISSIONER QAJAQ ROBINSON: I appreciate you might not want to answer that, but I’d leave it out there in the air if you want.

MS. NAOMI GIFF-MACKINNON: I think any time we do public legal education and information, any time we make sure people know what their rights are, any time we make sure people know all the services that are available and entitled to, I think that’s great.

LEANNE GARDINER, Previously Affirmed:

QUESTIONS BY THE COMMISSIONERS:

COMMISSIONER QAJAQ ROBINSON: Thank you. I agree. Ms. Gardiner, if I can turn to you. Thank you, Naomi. We spoke a little bit yesterday about the funding that goes to the service -- victim services. And I think it was 1.6 million that you quoted for me. Is that per program out of the 11, or is that your overall budget for
distribution for service providers?

MS. LEANNE GARDINER: That’s an approximate overall budget. Just the way that it’s divvied up with responsibilities, I say approximate. It’s very close to that. Between the Federal funding, the program, our division accesses and what the GWT puts towards that as well.

COMMISSIONER QAJAQ ROBINSON: And the -- you can correct me if my numbers are wrong, but there’s 11 active programs currently, or service providers, but eight?

MS. LEANNE GARDINER: Yeah. So --

COMMISSIONER QAJAQ ROBINSON: So that’s --

MS. LEANNE GARDINER: Oh, sorry.

COMMISSIONER QAJAQ ROBINSON: So eight programs with 11 staff in total?

MS. LEANNE GARDINER: Yes.

COMMISSIONER QAJAQ ROBINSON: Okay.

MS. LEANNE GARDINER: That’s correct.

COMMISSIONER QAJAQ ROBINSON: And how long have each of these eight locations, service providing hubs been operational?

MS. LEANNE GARDINER: That varies. The first two programs were in Fort Smith and Yellowknife, and they were funded at a lower level than they are today. As of 1999, so when the territories split when Nunavut was
created, there were four programs running. Two were in Nunavut and went -- programs and funding to the Nunavut government, and then Yellowknife and Fort Smith. Since that time, it’s varied. The program has grown over time and communities have indicated interest and developed their programs. I don’t have the details with me and which year exactly all of those programs came to be, but basically those were the first two, and then they developed over time.

**COMMISSIONER QAJAQ ROBINSON:** So it’s grown?

Okay.

**MS. LEANNE GARDINER:** Yes. Yes.

**COMMISSIONER QAJAQ ROBINSON:** Are there any issues with sustainability? And -- and I’ll frame my question. You provided information that the contribution agreements are annual. Moving forward it’s every two years. I can imagine that that might create difficulty for stability of service. Stability for staffing. Is this something that you’ve experienced or heard from your service providers as being challenges in the NWT?

**MS. LEANNE GARDINER:** Yes. Yes. Absolutely. One of the challenges, and it’s one of the reasons why we took this small, but for me and -- and what I’ve heard, an important step to even just go to two -- two years. I believe there was a hesitance before as we talked about public budgets and committing longer than that, et cetera.
But we found a way to at least go to two for now. With the goal to being to offset some of those challenges. To let -- let them -- let those organizations have the assurance that that commitment is there for a bit of a longer period of time.

COMMISSIONER QAJAQ ROBINSON: So I did a bit of the math. I’m not -- they say I’m a lawyer, so you can hire accountants, right? That joke. But from sort of how I break down that 1.6, it looks like the bulk of what that money would cover would be salaries. Is that fair?

MS. LEANNE GARDINER: Salaries for the front line --

COMMISSIONER QAJAQ ROBINSON: Yeah.

MS. LEANNE GARDINER: -- victim services providers? Yes. It’s -- for the most part, it’s salaries. So just less than a million dollars of the 1.6 is the direct to communities funding, and the majority of each of those agreements is about the salary of a full-time and in one case a part-time -- or a provider.

COMMISSIONER QAJAQ ROBINSON: So in terms of providing the office space and all that sort of infrastructure for the delivery of this service, that falls to the community-based organization that you’ve contracted with. Is that --

MS. LEANNE GARDINER: It falls to that
organization to address that need in their -- in their submission. What we find -- so when I look at a proposal, there’s a budget included. One of those lines is typically an administration fee, perhaps, which is standard. And with most funding agreements as well as typically a rent or that kind of a smaller line item included in the overall proposal. And often, the organizations, what they do is it’s a service added to existing services that they have wherever possible --

**COMMISSIONER QAJAQ ROBINSON:** Yeah.

**MS. LEANNE GARDINER:** -- ‘cause they are very --

**COMMISSIONER QAJAQ ROBINSON:** And that’s --

**MS. LEANNE GARDINER:** -- good at making the best of what’s available to them, of course.

**COMMISSIONER QAJAQ ROBINSON:** I -- I think they’ve been -- what we have heard in the communities in -- in Yellowknife, in particular from -- from grassroots organization is that challenge of there being a lack of infrastructure, lack of space.

**MS. LEANNE GARDINER:** M’hm.

**COMMISSIONER QAJAQ ROBINSON:** How, as a grassroots organization it -- to provide this service, you kind of have to be -- you kind of have to become a jack of all trades so that you can access a number of different pots
of money --

MS. LEANNE GARDINER: M’hm.

COMMISSIONER QAJAQ ROBINSON: -- to ensure your continued existence period. And is this something that you’ve observed, and do you see this as being a barrier for the delivery of victim services directly to the clients?

MS. LEANNE GARDINER: I have observed it. I’ve heard it from our partners. Either a victim services or other NGO’s that we deal with as one of the challenges and the barriers to delivering the service. Absolutely, I’ve heard it.

COMMISSIONER QAJAQ ROBINSON: Thank you. Now --

MS. LEANNE GARDINER: I agree.

COMMISSIONER QAJAQ ROBINSON: -- I’ve also heard from some families, particularly in smaller communities, issues with nepotism, issues with power dynamics. We’ve also heard that there’s particularly the -- the legacy of the Indian Act, there is huge power imbalances. And if you’re contracting or -- and I -- I truly believe in community-based programming, but there are these -- these issues that fundamentally need to be addressed as well. When you’re engaging in these agreements with either municipalities or -- or specific groups that have a specific interest, how does the department ensure
equitable and fulsome access to all victims is -- of all the
victims and survivors at the community level? Is there a
mechanism to ensure equity and fulsome access?

**MS. LEANNE GARDINER:** So just so I
understand, when you’re referring to equity and fulsome
access in this, it’s in particular to do with potential
conflicts or where the -- the provider, for whatever reason,
might not be a good fit for a victim and they require
service from someone else? Is that what you’re referring
to?

**COMMISSIONER QAJAQ ROBINSON:** Yeah, and --
and how do you ensure that a program has mechanisms to
protect against that?

**MS. LEANNE GARDINER:** What our practice is is
that those services are provided by other community
programs. There’s a network. The -- we ensure that our
partners are all aware of that -- that network, those
providers are a part of that and a part of the reality.
There is a potential gap there, I would suggest when it
comes to -- because what that would require, in some cases
is for victim services, the local provider to say themselves
that there is a conflict there, and if -- if they’re part of
that then that can be a challenge. Our -- what our practice
is is, our partners know, so the RCMP knows that that’s an
option.
It’s -- it actually is a regular occurrence, and that’s at the perception of a conflict. Not someone having to prove that a conflict exists, for example, if that -- that distinction, in my experience, matters. That if someone perceives a conflict that impacts the kind of support and how supported they feel, so whenever that happens another provider is connected with them by phone. Whenever we’re aware of it or the providers are made aware of it.

JOHN PHELPS, Previously Affirmed:

QUESTIONS BY THE COMMISSIONERS:

COMMISSIONER QAJAQ ROBINSON: Thank you. Those -- those are all my questions, so thank you very much. And John, Mr. Phelps? In terms of the origins or the genesis of the CWC, and I look back to 1991, I’m -- I’m born and raised in Nunavut, so I have some appreciation for the history of the establishment of the current judicial system in the territories. And in terms of the genesis being a means to close a cultural gap, I think it’s fair to say that part of the objective of the CWC program was -- I can’t say this in a -- in a -- to grease the wheels of the machine. That -- that this -- it was to facilitate the administration of the Euro-Canadian criminal justice system in -- in the North. You can agree with me or disagree with me, but I think that that has been known. So you can disagree with me
if you want to debate it, but I’ll go on to my next question
if you don’t want to.

MR. JOHN PHELPS: I -- I don’t intend to
disagree with you if you -- if you wish to go on, yes.

COMMISSIONER QAJAQ ROBINSON: Okay. But I
think it’s also fair to say that as the introduction of the
Canadian Victims Bill of Rights, as well as other human
rights legislation, and I look at this internationally and
domestically, that the role of the CWCs has evolved beyond
being an -- an asset to facilitate prosecutions and it’s now
a means of ensuring compliance and fulfillment of legal
obligations of the Crown as an agent of the state. Do you
-- is that a fair ...

MR. JOHN PHELPS: I believe that’s a fair
statement, yes.

COMMISSIONER QAJAQ ROBINSON: And now, I look
at your policies, the Deskbook and -- and the program, the
CWC program. Am I correct, did I hear you right, that at a
territorial, sort of pan-territorial level, Yukon, Nunavut,
and Northwest Territories, that you do play a bit of a
leadership role when it comes to policies and the -- the
program development?

MR. JOHN PHELPS: Yeah. We have a -- of the
21 positions there’s one position that reports to Ottawa
directly, and that position is responsible for developing
the pan-northern policies, procedures, and practices, and -- and training, so there’s -- there’s regular training for CWCs that occurs face-to-face on practice once every two years, but certainly pan-northern because of the unique nature of what we do in the north in the organization. We do meet annually, as well as the senior management for the territories, separate and apart from -- from the rest of the Public Prosecution Service of Canada to work on initiatives that are unique to our -- our circumstances, although different because of the geography.

And the Crown Witness Coordinator positions are -- are one of those, so we have dialogues regularly. Dialogues? Dialogue regularly with respect to the program; what’s working well, what’s not working well, how we need to change it, and -- and working with that Coordinator position to -- to assist in facilitating that -- that movement or -- or that -- those policy changes.

COMMISSIONER QAJAQ ROBINSON: Okay.

MR. JOHN PHELPS: So yes, I think that’s the answer, yes.

COMMISSIONER QAJAQ ROBINSON: Now, as certain evolutions occur in Canadian jurisprudence or legislation, or even as Canada signs onto international instruments, what mechanisms do you have at the PPSC to ensure that the -- the policies are fulfilling those obligations that might be
created? How do you ensure that the CWC program and the services that you provide to victims, whether it be the actual service or their development, continue to conform with the evolution of law?

MR. JOHN PHELPS: The -- the position, the Coordinator position, reports, as I mentioned, to our -- our headquarters, which is located in Ottawa. The position reports to an individual in Ottawa, a -- a former prosecutor, former Chief Federal Prosecutor, or -- or did until just a couple weeks ago and now he’s a judge, but it reports to that position, and -- and that position is responsible for effectively supporting the north from a -- from a headquarters perspective.

So they have a responsibility to coordinate -- or keep informed of initiatives that their eight headquarters’ counterparts are involved in, be it FPT groups or otherwise, and to be aware of changes in the law and to work with their counterparts in order to inform the territories with respect to changes that are coming so that we’re not caught by surprise. And -- and to assist us in -- in the necessary work that we would need to do to conform to whatever those changes are.

And the -- the Coordinator position reporting to that position, then, that’s where the -- the connect comes with respect to the Crown Witness Coordinators and --
at the point in time it was a he, he had the responsibility
to direct the work that would be done by the Coordinator as
a result of those changes and then to work with us to both
finalize and implement. So I hope I answered your question,
but the -- it comes through our headquarters.

COMMISSIONER QAJAQ ROBINSON: Is it a regular
exercise or it’s as laws change?

MR. JOHN PHELPS: It’s in -- it’s a permanent
position for the position at headquarters to provide the
support to the territories, specifically because we do the
criminal law. So it’s -- it’s to provide us with
information as it evolves and then, of course, the
Coordinator position for the CWCs reporting to him, and
that’s a permanent effective change in evolution.

COMMISSIONER QAJAQ ROBINSON: Are you aware
of any plans to look at the program, whether it’s -- it’s
delivery or policies around it, in light of Canada’s
unqualified signing on to the UN declaration on the rights
of Indigenous peoples?

MR. JOHN PHELPS: Specifically, with respect
to that, then I’m not certain as to what the steps are
being taken.

COMMISSIONER QAJAQ ROBINSON: Okay. Thank
you. You raised an interesting recommendation that with
respect to initial -- providing a court worker program-type
equivalent for -- for victims. Is it accurate to say that
if a -- a victim of crime or a witness right now had issues
and concerns about her rights, either under the Canadian
Victim Bill of Rights or even implications as Marion
described on what happens if she doesn't comply with
a -- with a subpoena, is there mechanisms in the Yukon to
ensure she has access to independent legal advice?

MR. JOHN PHELPS: It -- I think my -- my
answer might be a qualified "yes." There was a study done
to address various issues, including that issue that you've
just raised, that resulted in the creation of a women's
advocate within the Yukon territory, which is a
territory-wide responsibility. The decision made -- and
this certainly wasn't mine. It was a territorial
government initiative. The decision made was not to have
that position filled by a lawyer, but to have it filled by
somebody that could facilitate getting that assistance to
individuals that -- that required it.

COMMISSIONER QAJAQ ROBINSON: Okay. But
your recommendation for the court worker equivalent would
be something to make that service more robust and more
available in terms of the rationale for your
recommendation?

MR. JOHN PHELPS: Yes. That service is
available based out of Whitehorse, as is the case with most
services in the Yukon. We have a lot of services available to people, as long as they come to Whitehorse and access them. And, you know, just as the court worker program would assist the Legal Aid program, I envision that representation, First Nation-based programming and representation in the community, would assist the victims in whatever system. Accessing the women's advocate is a great example of it. Accessing us for information is another great example of it when -- when we either haven't provided sufficient information or we're having difficulty connecting or we're going through a -- a period of a staffing shortage or something that's -- they're not receiving the -- the information to the level that they deserve, then being able to access us is important.

COMMISSIONER QAQAQ ROBINSON: Okay. Final question, and this again is sort of building on that issue of responses when witnesses refuse to testify. And Marion, the Chief Commissioner, identified the different provisions of the Criminal Code which may be invoked, including her arrest and -- and detention and being compelled to appear in court. You indicated that, yes, this is a risk, but it's not enforced and it's not in practice. Where does that directive come to not utilize those provisions of the Criminal Code? Because we have heard in other jurisdictions that it has been invoked in certain
situations where witnesses who refuse to attend are
actually arrested and detained. And this is not in the
Yukon, but these provisions apply across the country.
Where and how in the Yukon has it been decided that
that -- those -- those provisions are not invoked?

**MR. JOHN PHELPS:** We do have a -- a chapter
on domestic violence which would extend to a lot of the
scenarios that -- that would give rise to the desire, I
would suggest, to issue a -- or request a witness warrant,
a material witness warrant, for a victim. And in that
Desk-book policy, there are strict conditions to be very
wary of re-victimizing somebody by going through that
process. And one of the safeguards in place is the
requirement for somebody in my position to provide
approval.

**COMMISSIONER QAJAQ ROBINSON:** Okay.
Those -- those are all my questions. Thank you all very
much.

**MR. JOHN PHELPS:** Thank you.

**COMMISSIONER BRIAN EYOLFSON:** Thank you very
much for your patience. I realize it's getting late. I
have a couple of questions. I have a couple of questions
about FILUs.

**NAOMI GIFF-MACKINNON, Previously Affirmed:**

**QUESTIONS BY THE COMMISSIONERS:**
COMMISSIONER BRIAN EYOLFSON: So,

Ms. Giff-MacKinnon, you -- you spoke about -- you outlined some of the partnerships that the provinces and territories had made with some Indigenous organizations in terms of FILU arrangements. Could you just clarify -- like, who's -- who's responsible for the hiring? Is that done by the provinces and territories or is it also -- are also other organizations involved in filling these positions across the country?

MS. NAOMI GIFF-MACKINNON: As I understand it, it's the community organization that undertakes the hiring of the FILU team member that's part of the -- the larger team.

COMMISSIONER BRIAN EYOLFSON: Okay. And is there, like, a standard job description across the country? Or is that, again, left up to regions for -- to address regional needs and specificity?

MS. NAOMI GIFF-MACKINNON: There's variation. There is -- as -- as I understand it -- I have not seen a standard job description for the FILU team members -- that that's worked out within each province and territory, and -- and in dialogue with the -- when there are team members from community organizations, that's -- that's worked out so that they have a shared understanding of who will be doing what.
COMMISSIONER BRIAN EYOLFSON: Okay. And are you able to comment on anything like given the -- the type of information that FILU workers are -- are helping obtain, what type of background checks might be done, what type of training is done across the country?

MS. NAOMI GIFF-MACKINNON: For the FILU team members?

COMMISSIONER BRIAN EYOLFSON: Yes.

MS. NAOMI GIFF-MACKINNON: So -- and you're wondering in terms of the privacy of information, the safety of the information that they're -- they may see?

COMMISSIONER BRIAN EYOLFSON: Yes.

MS. NAOMI GIFF-MACKINNON: So each FILU team has a very -- a very concrete process in place. They've got access to information forms that they fill out with the family member that the family member provides them. If the family member would like to be part of receiving that information from the agency so they could be that conduit in some jurisdictions where that's the place -- or where that's the situation, there -- there's a whole infrastructure in place to ensure all the privacy requirements and everything that they do respects the privacy of how the information gets from the agency to the family member. I think each FILU would be able to very clearly describe the process they have in place to ensure
the safety and confidentiality of the information, that
they're not -- none of the work that they do interferes
with that.

COMMISSIONER BRIAN EYOLFSON: But in terms
of actually hiring FILU workers, like, what sort of
training? Is there any standardized training? Are they
subjected to, you know, background checks that other
government employees would be subjected to, that sort of
thing? Are you able to comment on that?

MS. NAOMI GIFF-MACKINNON: I -- I
would -- I'm not a hundred percent certain. As I would
understand it, I would -- I would suggest that
they -- there are those -- those background checks, because
of the nature of the work that they're doing and the -- and
in some cases, the information that they are privy to.

COMMISSIONER BRIAN EYOLFSON: Okay. Thank
you. And you had commented at one point about the numbers.
I think you had said that there were 400 clients, families,
working with FILU teams across the country? Was that
correct?

MS. NAOMI GIFF-MACKINNON: Yes. So I -- I
did -- I mentioned that there were 400 family members who
were currently working with FILUs across the country.
Yeah. I would suggest that's a low number, but I feel that
that's a safe number to say.
COMMISSIONER BRIAN EYOLFSON: Okay. Do you have any other information about the numbers? Do you know if that number is increasing over time or -- or when that -- that number -- number was taken, from what date?

MS. NAOMI GIFF-MACKINNON: So I got that number from about two weeks ago. And FILU teams have reported that there are -- that -- the number of families that are contacting them and seeking their assistance to gather the information is increasing all the time.

COMMISSIONER BRIAN EYOLFSON: Okay. Thank you. And I think one last question. I believe you said that FILU teams had funding available for the ceremony?

MS. NAOMI GIFF-MACKINNON: Yes.

COMMISSIONER BRIAN EYOLFSON: What about for any counselling service needs that may arise out of families obtaining and seeing information that might be quite upsetting?

MS. NAOMI GIFF-MACKINNON: Yes. So yes, they do have funding for culturally grounded grief and trauma counselling or any other type of counselling that they would like to access as a result of their -- the trauma of the loss that they've experienced, as well as the potential further trauma that might cause by going through the journey of receiving the information. I think I mentioned also that we do, in addition to that, that
mechanism of that type of support, we do have funding as well for community based organizations outside of FILUs as well to fill some of the gaps across the country to provide culturally grounded grief and trauma counselling for families, so they're organizations that have expertise and they're organizing not only the counselling, but also family gatherings, or they're hosting weekly workshops with families, with beading and drum making, and they're creating peer support networks for family.

So that is another investment which I haven't been talking about much over the last two days because I've been speaking primarily about the FILUs, but that is another investment that's complementary as well.

COMMISSIONER BRIAN EYOLFSON: Okay, thank you.

MS. NAOMI GIFF-MACKINNON: I would say it's not enough though, definitely.

COMMISSIONER BRIAN EYOLFSON: Thanks. I think those are all my questions, so I just want to thank all the panelists very much and their counsel as well for spending a couple of days with us and sharing all your evidence. I very much appreciate it. Thanks.

MS. MEREDITH PORTER: Thank you, we are now moving into witness -- counsel for the witnesses, opportunity to redirect their witnesses, but there was a
request that prior to moving into the re-exam, five minutes
break. Okay.

So a five-minute break. It is -- that gets
us back into at the hearing room at 20 minutes to 7.
--- Upon recessing at 6:34 p.m.
--- Upon resuming at 6:44 p.m.

MS. MEREDITH PORTER: Okay, thank you, we're
going to reconvene, and I -- I -- we are going to proceed
with counsel for the witness, redirect of their witness,
and I understand that the counsel for Mr. Phelps and
counsel for Ms. Giff-Mackinnon are both from Canada, and
they have agreed between the two of them to pool -- each
get six minutes. They've agreed to pool their time as
opposed to each getting their six minutes. So if I could
request that 12 minutes be put on the clock, and I
was -- it was indicated to me that Ms. McCorville would
like to proceed first with her redirect.

NAOMI GIFF-MACKINNON, Previously Affirmed:

RE-EXAMINATION BY MS. MCCORVILLE:

MS. ANNE MCCORVILLE: Ms. Giff-MacKinnon,
one question for you. In answer to some questions you
referred to the counselling supports that are available
through the FILUs, are those supports provided by the FILUs
themselves in all instances?

MS. NAOMI GIFF-MACKINNON: Those supports
are sometimes provided within the FILU team if they have qualified -- a qualified team member to help with that, or they are provided by an outside agency that the FILU team is working with. Lots of different organizations, depending on what the family member would like.

MS. ANNE MCCORVILLE: Okay. So in some jurisdictions FILUs will rely on outside resources for the counselling services?

MS. NAOMI GIFF-MACKINNON: Correct, and the funding is available for that.

MS. ANNE MCCORVILLE: Those are my questions.

MS. MEREDITH PORTER: Okay, thank you. And, Ms. Turley?

JOHN PHELPS, Previously Affirmed:

RE-EXAMINATION BY MS. TURLEY:

MS. ANNE TURLEY: Thank you. People will be happy to know that I only have two questions because the Commissioners asked some in redirect, so I have two very brief questions.

First of all, Mr. Phelps, in answer to a question by counsel for the Regina Treaty of Status Indian Services you referred to a 2010 study undertaken about the review of the CWC program?

MR. JOHN PHELPS: Yes.
MS. ANNE TURLEY: I'm showing you a copy of a final report entitled Crown Witness Coordinator Program Sub-Study dated March 29th, 2010. I have provided a copy to the Registrar, and if it is entered as an exhibit I will provide an electronic copy to parties with standing.

MR. JOHN PHELPS: Yes, this was the document I was referring to.

MS. ANNE TURLEY: And are you familiar with this document?

MR. JOHN PHELPS: Somewhat, yes.

MS. ANNE TURLEY: And who was the document prepared by? Who undertook this study?

MR. JOHN PHELPS: The Federal Government Department of Justice. I've forgotten the acronym. At the time the funding was through the Federal Government Department of Justice Victim Services Organization. Sorry, it's been a long day and I'm stumped as to the name of the branch.

MS. ANNE TURLEY: And that's who provided the funding?

MR. JOHN PHELPS: That's correct.

MS. ANNE TURLEY: And who actually undertook the evaluation of it? Was it an independent agency?

MR. JOHN PHELPS: I apologize, there was a consultant that provided the report, did the work and
provided the report.

MS. ANNE TURLEY: I'd ask, Chief Commissioner, that this report be -- or study be entered as the next exhibit to this panel.

CHIEF COMMISSIONER MARION BULLER: Given your undertaking to provide electronic copies, the Final Report Crown Witness Coordinators Program Sub-Study 2010 will be Exhibit 23, please.

MS. ANNE TURLEY: Thank you.

--- EXHIBIT NO. 23:

Justice Canada Public Prosecution Service (73 pages)

MS. ANNE TURLEY: And my final question, Mr. Phelps, you were asked a question in cross-examination about relationship building in the communities, does this factor into FILU assignments of CWCs in the program?

MR. JOHN PHELPS: The importance of the building of the relationship within the communities refers to communities outside of Whitehorse, which we would call -- even though they're accessible by road, we would call them remote communities in the Yukon, and we assign Crown Witness Coordinators to those communities for a duration. We try to do so for a two-year period to ensure
continuity on -- on files, but also so they can become familiar with the community and develop relationships within the community.

**MS. ANNE TURLEY:** Thank you, those are my questions.

**MS. MEREDITH PORTER:** Thank you. So Commissioners, that concludes the questioning, the cross-examination and the redirect of the witnesses for the victim services panel. Unless there are any other issues that we need to address from your perspective. I did want to make one announcement before we move to the closing of today's hearing.

**CHIEF COMMISSIONER MARION BULLER:** As part of the closing, the Commissioners and I have one thing that we want to do. It won't take long, bear with us, please.

As has been our tradition with all of the witnesses because we're so grateful for the gifts you've given us, being your knowledge and your experience, and especially your time, we have a gift to give you in return. They're eagle feathers, and we were told from a long time ago now to give all of the witnesses eagle feathers. There are cultural significances of course, but I think the common theme is that eagle feathers will hold you up and lift you up when you need that, and they will take you -- help you to go to heights you thought you never
could reach. So by being here you've gone further than we
thought all of us could go. Go ahead.

COMMISSIONER MICHÈLE AUDETTE: Thank you so
much, Chief Commissioner. And my grandmother, Penelope,
spiritual grandmother for the National Inquiry, told me
that when we're giving an eagle feather it's also making
you accountable. You came here, and what she says, if you
give an eagle feather to a person who represents the
government, sometimes we fight, sometimes we disagree,
sometimes we try to work together, sometimes we work
together, so she says make sure that they highly respect
the eagle feather and they make sure that they will be part
of the change. Merci.

(SHORT PAUSE)

COMMISSIONER QAJAQ ROBINSON: I think, from
our perspective, that sort of concludes, but I'll, I
suppose, formally adjourn until tomorrow morning at -- oh,
announcements?

MS. MEREDITH PORTER: We will, yeah. Just, I
had one announcement --

COMMISSIONER QAJAQ ROBINSON: Okay.

MS. MEREDITH PORTER: -- that I -- that I did
want to make for the parties before we move to the -- the
actual closing, and I do understand that we do have some
formal closing that's scheduled for the end of the day, but
I did want to mention to the parties that some of the parties have been asking about drawing numbers for the order of cross-examination on the next panel on health services. And there are two members of the legal team that you can go see. They’re -- will be located in the part -- the room for the parties down the hall. Francine Merasty and Mary -- Mary Ojay (ph) will also be there, and they will assist you with the process of drawing numbers for the cross-examination for the next panel. Again, they’ll be there for 30 minutes following the adjournment of today’s hearing.

CHIEF COMMISSIONER MARION BULLER: We’re adjourned for today. We will reconvene tomorrow morning with our opening at 8 a.m., and so that we close today in a good way, would our Elders please close us with a prayer this afternoon? This evening, I guess. Thank you.

UNIDENTIFIED SPEAKER: That’s you, young fellow.

(LAUGHTER)

CHIEF COMMISSIONER MARION BULLER: Louise? And Louise? You have some work to do, too. You have some work to do, too.

MS. TERRELLYN FEARN: Just before we close, I just want to acknowledge all our witnesses today and thank you for -- your time, your patience, your knowledge, your wisdom, your endurance. We’re very grateful for your
sharing today. To the Commissioners, to the NFAC, to the
grandmothers, to all the supporters, and to all the parties,
and to the family members and survivors that are witnessing
and sharing, I want to acknowledge you and raise my hands to
you for participating and -- and guiding us in this process.

Just a little reminder tomorrow, get good
sleep tonight. I know this is a room full of lawyers that
stay up late, but get well-rested, get hydrated, and we’ll
see you in the morning. I’m going to hand it over to our
Elders, Alvine, Spike, and Gerald, and then we’ll close at
the very end with Louise extinguishing the Qulliq.

**MR. SPIKE EAGLE SPEAKER AND MS. ALVINE EAGLE**

**SPEAKER:** (Speaking in Native language)

**MR. SPIKE EAGLE SPEAKER:** Good night.

*(LAUGHTER)*

**MS. TERRELLYN FEARN:** And we’ll have Louise
extinguish the Qulliq for us.

**MS. LOUISE HAULLI:** I -- I noticed the Qulliq
from this morning, when we started this, and about half an
hour later, when we started, the Qulliq’s flame was going up
and down. Feeling the energy. But now, we’re calm. We
calm it as well. So I’m going to turn it off.

*(LAUGHTER)*

**UNIDENTIFIED SPEAKER:** I love you, Louise.

**MS. LOUISE HAULLI:** So thank you.
Upon adjourning at 6:59 p.m.
LEGAL DICTA-TYPIST’S CERTIFICATE

I, Krystle Palynchuk, 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.

Krystle Palynchuk
May 29, 2018