National Inquiry into Missing and Murdered Indigenous Women and Girls

Truth-Gathering Process

Parts 2 & 3 Institutional & Expert/Knowledge-Keeper

“Criminal Justice Oversight and Accountability”

Hilton Hotel, Kent Room
Quebec City, Quebec

PUBLIC

Mixed Part 2 & 3 Volume 7

Wednesday September 19, 2018

Panel 3: “Custodial Issues for Women”

Witnesses: Kassandra Churcher, Savannah Gentile,
Diane Sere & Patricia Tate

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Native Women’s Association of Northwest Territories
Caroline Wawzonek (Legal Counsel)

Naskapi Nation of Kawawachikamach
Elise Veillette (Legal Counsel)

New Brunswick Aboriginal Peoples Council
Elizabeth Blaney (Representative)

NunatuKavut Community Council
Roy Stewart (Legal Counsel)

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AnânauKatiget Tumingit Regional Inuit Women’s Association, Ottawa Inuit Children's Centre and Manitoba Inuit Association, as a collective single party
Beth Symes (Legal Counsel), Samantha Michaels (Representative - Pauktuutit)

Inuit Association, as a collective single party
Beth Symes (Legal Counsel), Samantha Michaels (Representative - Pauktuutit)

Quebec Native Women / Femmes autochtones du Québec
Rainbow Miller (Legal Counsel)

Regroupement Mamit Innuat
Elise Veillette (Legal Counsel)

Saskatchewan Association of Chiefs of Police
Non-appearance

Treaty Alliance Northern Ontario - Nishnawbe Aski Nation/Grand Council Treaty #3
Krystn Ordyniec (Legal Counsel), Julian Falconer (Legal Counsel)

Vancouver Sex Workers' Rights Collective
Carly Teillet (Legal Counsel)

Winnipeg Police Service
Sheri Bell (Representative), Kimberly D. Carswell (Legal Counsel)
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Chair: Christa Big Canoe, Commission Counsel

Second Chair: Thomas Barnett, Commission Counsel

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


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Counsel: Christa Big Canoe (Commission Counsel)
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**Panel 3: “Custodial Issues for Women”**

Witnesses: Kassandra Churcher, Savannah Gentile, Diane Sere, Patricia Tate

Counsel: Christa Big Canoe (Commission Counsel)
--- L’audience débute à 8h03/Upon commencing at 8:03

**Mme NADINE GROS-LOUIS:** On va débuter encore la journée du bon pied avec les bons mots de Kokum Pénélope Guay, également de notre ainée inuit Rebecca Vivy (phonétique).

Donc, on va encore une fois remercier l’accueil sur le territoire du Neyowenseo (phonétique). On remercie les ainées, les grands-mères, les commissaires, les témoins, vous, les parties ayant qualité pour agir, les membres du public.

Alors, j’inviterais maintenant Pénélope à nous donner quelques mots, s’il vous plaît.

**Mme PÉNÉLOPE GUAY:** Bon matin à toutes et à tous. Je vais commencer par dire merci au peuple Wendat-Huron de nous accueillir sur leur territoire non-cédé.

Excusez-moi, je vais me reprendre. Alors, on est à la troisième journée, une journée qui va avoir quand même des grands sujets comme les femmes en prison. Alors, ça va être un sujet assez marquant, alors pour cette journée j’appellerais nos ancêtres, nos mères, les femmes disparues, le monde des esprits, à venir ici pour nous supporter, nous encourager. Je vous remercie beaucoup.

J’avais une personne qui devait venir faire
un chant. Elle n’est pas là. J’aurais aimé qu’elle soit
dans le rituel pour l’enfant qui est ici et les parents
parce que je pense que c’est un rituel très important
parce qu’ils ont été témoins de la vérité hier. Ils ont
parlé de la vérité, de leur témoignage, et on se doit de
souligner que l’enfant va faire le tour de la salle
justement pour qu’on puisse prendre soin à l’avenir de
cette jeune enfant, de cette fille, de ce bébé. C’est
comme un symbole que notre engagement envers ce petit bébé
se prolonge et qu’on en prenne vraiment soin tout le monde
ensemble pour que cette vérité-là continue de se dire et
de se faire.

Alors j’inviterais les parents à faire le
tour de la salle.

**MS. NADINE GROS-LOUIS:** Thank you,
Penelope.

So this morning we have a newborn with us
because yesterday they shared their truth with the
Inquiry, and this is to welcome the newborn into the
society. So we are inviting you as well to join the walk.
The baby is going to walk around, and it’s one of the
traditional ways of welcoming the baby. So you can join
and walk with them.

**(WELCOME WALK FOR BABY/MARCHE DE BIENVENUE POUR BÉBÉ)**

**Mme PÉNÉLOPE GUAY:** Je vous remercie.
Maintenant j’aimerais faire un... puis c’est pas moi... mais avoir un chant. Je pense que c’est important de commencer avec un chant traditionnel. Ça nous fait reprendre notre pouvoir en nous et puis en même temps en l’honneur de l’enfant-fille... je vais l’appeler comme ça... de continuer à en prendre soin parce que c’est important pour les parents aussi, mais de tous les enfants.

(CHANT/SONG)

MME PÉNÉLOPE GUAY: C’est un chant pour remercier la nature, la création, l’eau, la terre, et remercier le Créateur pour tous ces bienfaits. Je vous remercie beaucoup.

MS. NADINE GROS-LOUIS: Alors, merci beaucoup. Thank you. Thank you everyone to have welcomed this lovely newborn. Maintenant, je vais inviter l’Ainée Rébecca Veevee mettre la lumière dans la pièce.

So, I will invite Elder Rebecca Veevee to light the qulliq.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: It’s windy.

Good morning.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).
COMMISSIONER QAJAQ ROBINSON: Good morning.

We’ve gathered here again together. I’m grateful for this.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: And, we wake up in the morning wanting to feel happy and joy and sometimes that may feel hard, but we get help along the way, and thank you for that. Grateful for that.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: Here in this room, we’re not all women. It’s not all women here. There are men as well, and I extend my gratitude to the men in the room who are present as well.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: I light this qulliq for the men and the women so we can live together in harmony.

ELDER REBECCA VEEVEE: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: Let’s have a good day.

MS. NADINE GROS-LOUIS: Nakurmiik. Alors
merci beaucoup encore une fois Pénélope et Rébecca pour ouvrir cette journée d’une belle façon pour nous. So, thank you so much.

Donc, nous reprendrons à 8 h 30 avec les procédures. Aujourd’hui, jour 3, le panel 3 sur les enjeux en lien avec l’incarcération des femmes. Nous aurons les témoins, Kassandra Churcher, Savannah Gentile, Diane Sere et Patricia Tate.

So, today, on day three, we will reconvene at 8:30 with Panel 3 on custodial issues for women, and witnesses Kassandra Churcher, Savannah Gentile, Diane Sere and Patricia Tate. Alors, à 8 h 30. Merci.

MS. CHRISTA BIG CANOE: I will grab a feather for those who would like it.

MR. BRYAN ZANDBERG: Okay. Good morning. Let’s begin with Kassandra Churcher. Now, I understood it was an affirmation or a promise this morning?

MS. CHRISTA BIG CANOE: It’s a promise.

MR. BRYAN ZANDBERG: A promise? Great. Kassandra Churcher, do you promise to tell your truth in a good way today?

MS. KASSANDRA CHURCHER: I do.

MR. BRYAN ZANDBERG: Thank you. And, Savannah, would you like to make a promise or an affirmation?
MS. SAVANNAH GENTILE: I’ll make a promise.

MR. BRYAN ZANDBERG: A promise this morning. Thank you. So, Savannah, do you promise to tell your truth in a good way today?

MS. SAVANNAH GENTILE: I do.

MR. BRYAN ZANDBERG: Thank you. Ms. Patricia Tate, do you promise to tell your truth in a good way today?

MS. PATRICIA TATE: I do.

MR. BRYAN ZANDBERG: Thank you. And, Diane, do you promise to tell your truth in a good way today?

MS. DIANE SERE: I do.

MR. BRYAN ZANDBERG: Thank you.

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

MS. CHRISTA BIG CANOE: Thank you. It’s my intention to actually introduce the panel as an institutional panel. However, I will be providing and walking through qualifications for two of the panel members. And, what I would like to do is start with Kassandra Churcher.

Really briefly, Kassandra, can you just give us a little bit of background?

MS. KASSANDRA CHURCHER: Yes, thank you. My name is Kassandra Churcher. I am the Executive
Director of the Canadian Association of Elizabeth Fry Societies. Prior to that, I have lived and worked in Indigenous communities, mainly in Indigenous education and community organizations.

I am privileged and proud to be here today. I would like to acknowledge that we are gathered on the traditional territories of the Abenaki, the Wabanaki and Maliseet. Merci.

**MS. CHRISTA BIG CANOE:** Thank you. I noticed in your material -- and is it okay if I call you Kassandra?

**MS. KASSANDRA CHURCHER:** Please.

**MS. CHRISTA BIG CANOE:** Kassandra, I noticed in your material you provided a curriculum vitae. It was at Schedule A. It lays out your professional experience as well as your education and training. I just wanted to ask you if there was anything in particular you wanted to highlight from your C.V.?

**MS. KASSANDRA CHURCHER:** What drew me to work with the Canadian Association of Elizabeth Fry Societies is clearly the extensive experience and work I’ve done in partnership alongside and with the First Nations and Inuit communities mainly in Quebec. I believe that many of the systemic factors that I work now within the correctional context start at the community level, and
that is an area that I am comfortable speaking to.

**MS. CHRISTA BIG CANOE:** I understand when we look at your C.V. that you’ve held a number of positions in education, specifically in early childhood education, within university education, and as a principal, and a school operations -- is it manager or coordinator?

**MS. KASSANDRA CHURCHER:** Director.  

**MS. CHRISTA BIG CANOE:** Director. Thank you. And, you had mentioned you’ve been in Indigenous community for a number of years. Were your positions as school operators in a particular Indigenous community?

**MS. KASSANDRA CHURCHER:** Yes. So, I lived and worked in the Nunavik region of Quebec with the Nunavummiut, and I worked originally as a local community educational leader, and then became director of school operations for the 14 communities and the 17 schools through the Region of Nunavik in the north of Quebec.

**MS. CHRISTA BIG CANOE:** I’m going to guess that being a director in remote regions and in Indigenous communities was not an easy feat, and that it would require a large amount of skill in order to ensure that the daily operations and functioning of education to these communities. Is that a fair assumption?

**MS. KASSANDRA CHURCHER:** It is. The school
within a community in the north plays an essential role, not just for the children but for the parents. And so, it adopts a lot of responsibilities and commitments to the entire community beyond just education.

**MS. CHRISTA BIG CANOE:** And, may I ask you just a couple of questions about your education and training?

**MS. KASSANDRA CHURCHER:** Please.

**MS. CHRISTA BIG CANOE:** So, I note that you have -- your first degree is a Bachelor’s in Philosophy and Ethics from McGill University, and you also have a Master’s in Education Studies, specifically in curriculum. Can you tell us just a little bit about that?

**MS. KASSANDRA CHURCHER:** Yes. I conducted a four-month qualitative study on a moral education program that was looking at character development within the multicultural classrooms of Montreal. It was that research that led into my doctoral research wherein we were starting to look at adopting a character-education program that was founded on an Indigenous paradigm, and that really shifted because of my work within the communities.

It was very quickly evident that to have a cohesive program based on character development within the Canadian context, we would have to start with Indigenous
knowledge as a foundation for all Canadians. And so, that was the nature of my doctoral research.

**MS. CHRISTA BIG CANOE:** And, I note that you’re currently a Ph.D. candidate in education. And so, you’ve kind of bridged for us where the work is going. But, I also wanted to ask you about any other additional experience you may have as it relates to within communities, whether it’s emergency response, mental health. What are some of the other roles that you have held prior to your time with the Canadian Association of Elizabeth Fry?

**MS. KASSANDRA CHURCHER:** That really goes back to the nature of the school within a community. I led the crisis response team for suicide intervention in Nunavik. In the spring of 2017, we had a rash of suicides amongst our student population, and I was working in collaboration with elders and social support services to help our communities grieve, and understand, and heal, and then prevent.

Again, because of the nature of the school within a community, there was a lot of partnership with the local northern village councils to develop programs for perseverance, parental implication, the compassionate school project which looked at the effects of intergenerational trauma and encountering the whole
student in that context.

So, those were all projects that I either led or participated in which connect acutely to the work that I’m doing now within the correction system.

MS. CHRISTA BIG CANOE: And, you actually just anticipated my next question which was going to be, how does your knowledge, education and work experience impact or how is it important to the work you’re doing now? Where are those connections?

MS. KASSANDRA CHURCHER: If I could speak honestly and informally, I have dealt with the disappearance of a mother, the disappearance of a grandmother and an aunt. I’ve seen the impact on the children that are left in these communities when their primary caregiver is put on a plane and flown out.

And so, it felt a natural transition to come to Elizabeth Fry, to find out what is happening when those women fall into the gaps in the services of our -- and the social support networks that we were living within our communities? And, obviously, what I’ve seen within the correction system, not only for the mothers and the parents who are impacted, but the students and the children and the girls who also fell through our own cracks in the education system, ended up in either youth protection, then youth corrections, and then adult
corrections.

Today, we’ll speak a bit about the connections between those systems, but the transition from living, working and seeing some of those systemic factors of colonialism, racism, sexism, addiction, mental health issues, and then coming into the correction system as how they are translated into risks to public safety and not needs felt, to me, a natural transition from the work that I had been doing. Whenever I encounter someone from the communities within the prison system, I see them as the mother, the grandmother, the aunt that I worked with when I lived in the community.

**MS. CHRISTA BIG CANOE:** And, for the purposes of today, because you have this background, obviously, in education, and that’s kind of where the basis of your expertise lays, is in the cultures and values and looking at the character development, acknowledging the need to start with an Indigenous perspective first, but for today’s purposes, when you were putting in documents and information, what is your main focus?

**MS. KASSANDRA CHURCHER:** I will be talking a lot about those systemic factors that exist outside of the prison system. That is an area that I think I can speak to quite confidently. In addition, there will be
some discussion today in terms of the nature of programming, education and training within the correction system. And, because of my background in education and curriculum development, I feel confident in critiquing those programs that are delivered by the correction system.

**MS. CHRISTA BIG CANOE:** Is it fair to assume that in that critiquing and based on your experience, particularly in programming, education and training, that you can give an opinion on those particular aspects within the correctional context and the material that we are talking about today?

**MS. KASSANDRA CHURCHER:** I do.

**MS. CHRISTA BIG CANOE:** Okay. And, just to be clear, is there -- it is not your intention today to answer questions as it relates more broadly. If it is in relation to systemic factors, but more broadly to utilize your expertise to say, for example, critique particular education systems in Indigenous communities. That is not the focus today, is it?

**MS. KASSANDRA CHURCHER:** No. Today, we are here to include and document voices of those who are incarcerated in this country. That is the primary focus of our testimony. I will gladly speak to the -- again, those community and systemic issues that relate to the
overrepresentation, over-incarceration of Indigenous women, but that is my focus and that is the responsibility that I have here today.

**MS. CHRISTA BIG CANOE:** Thank you. Chief Commissioner and Commissioners, I kindly request that we put Kassandra Churcher’s CV in as the first exhibit.

**CHIEF COMMISSIONER MARION BULLER:** Yes. Her CV will be Exhibit 22, please.

--- **Exhibit 22:**

CV of Kassandra Churcher  A French version is available on request

**MS. CHRISTA BIG CANOE:** Thank you. Commissioners, based on the evidence that Kassandra has given, her CV, I will -- as I had earlier said, I am presenting her as an institutional witness; however, I am asking that we qualify her in the areas of program, education and training as it relates to her current position in corrections with expertise that can provide opinion. And, before I ask you to decide that, I am just going to look out to my colleagues to see if anyone does have an objection to this qualification. Seeing no objection, I would ask that you make a determination on my request.

**CHIEF COMMISSIONER MARION BULLER:** Sure. Certainly, we are satisfied that Ms. Churcher has the
necessary experience and education to provide opinion
evidence with respect to programming, education and
training through her current position with respect to
corrections.

**MS. CHRISTA BIG CANOE:** Thank you. If I
may, Savannah, ask you some questions now. I am asking
that Savannah be an institutional witness and there will
be no qualification in relation to expertise, but I would
like to ask some questions and put on the record
Savannah’s background and CV as well. So, if you wouldn’t
mind, Savannah, can you share some background with us,
please?

**MS. SAVANNAH GENTILE:** Sure. I am
currently the Director of Advocacy and Legal Issues with
the Canadian Association of Elizabeth Fry Societies. I
came to this work, first, through my legal training at the
University of Ottawa, School of Law. And, my legal work
has focused primarily on the areas of poverty law,
violece against women and LGBT issues, primarily in the
area of refugee and immigration, and has been informed by
own experience growing up in poverty and my own
interactions with the Children’s Aid Society as well as
the women’s shelter system and subsidized or low income
housing.

**MS. CHRISTA BIG CANOE:** Thank you,
Savannah. I noticed that you also provided us your curriculum vitae. Is there anything that you wanted to highlight from your CV?

**MS. SAVANNAH GENTILE:** Sure. I have done work in the area of violence against women with the Barbra Schlifer Clinic. I did a fellowship there in my second year of law school. My research focused primarily on the court’s dealings with violence against women in the context of child custody and access disputes, and the sexism often displayed in those judgments.

I have also done work in the area of refugee sponsorships, specifically for lesbian, gay, bisexual, transgender refugees. And, I started in this work, actually, through a fellowship with the Canadian Association of Elizabeth Fry Societies and also in training in my law degree with taking courses like prison law with, now, Senator Kim Pate, as well as violence -- sorry, defending battered women on trial.

**MS. CHRISTA BIG CANOE:** Thank you. I noticed that you graduated from the University of Ottawa, Faculty of Law, in 2016?

**MS. SAVANNAH GENTILE:** Correct.

**MS. CHRISTA BIG CANOE:** I also understand that you are soon to be called to the bar?

**MS. SAVANNAH GENTILE:** Later this month,
MS. CHRISTA BIG CANOE: Later this month. So, you have a legal degree, you have absolutely demonstrated that you have done some work -- clinic work and other work, legal work, but you are not yet a lawyer?

MS. SAVANNAH GENTILE: Correct.

MS. CHRISTA BIG CANOE: Okay. If I could ask that we have Savannah’s CV marked as the next exhibit?

CHIEF COMMISSIONER MARION BULLER: Yes, certainly. The CV will be Exhibit 23 with the direction to Mr. Registrar to redact address, telephone number, email and other personal information, please. --- Exhibit 23:

CV of Savannah Gentile

MS. CHRISTA BIG CANOE: Thank you. And, on that last note, having said that you are not a lawyer, it is understood that you have done a lot of work in the area and worked with a number of other lawyers. The reason for putting that on the record was to remind my colleagues that you won’t be able to provide a legal opinion; is that fair?

MS. SAVANNAH GENTILE: Yes.

MS. CHRISTA BIG CANOE: Thank you. I would actually like to now introduce Patricia Tate. Patricia Tate is also an institutional witness. However, today, I
will be asking to qualify her as a knowledge keeper.

Patricia, if we can start, if you could provide us a little background?

**MS. PATRICIA TATE:** Good morning, my name is Patricia Tate. My Indigenous name is Thunder Grass Woman. My -- I am working currently in -- with the Elizabeth Fry Society in Saskatoon. My history has been very lengthy in the justice system in -- for more than 30 years, I have worked within the federal and provincial systems. In particular, I was a Native liaison at prison for women over 30 years ago.

I have watched the journey of corrections throughout its tenure trying to make things better. However, I have seen things that have been intended to be positive, but fall by the wayside. And, I have met many women along my journey who have been in prison for more than 30 years and are still there. The passion that I have for working within the institutions is grounded in the courage and -- that they have experienced and expressed throughout their stay in the justice system.

I have worked as not just as a Native liaison. I was the -- worked with the Canadian -- Ontario strategy on HIV and AIDS, and was considered -- I am considered to be an expert on the Indigenous issues for
prisoners dealing with HIV and Hepatitis.

MS. CHRISTA BIG CANOE: Can you also share
with us a bit -- and may I call you Patty?

MS. PATRICIA TATE: Please do.

MS. CHRISTA BIG CANOE: Patty, can you
share with us a bit about the importance of culture in
various programming? I know you have held a number of
positions or worked with a number of programs over the
years, but can you please tell us a little bit about the
importance of cultural programming and, specifically,
spiritual programming, or having it available for inmates?

MS. PATRICIA TATE: I would like to say
that it was available on a regular basis for all women in
-- who are incarcerated, but that is not the case. My
original -- my initial experience working with culture and
spirituality was as secretary to the elder’s council in
Ontario, which was Council of Elders run by Dr. Art
Solomon who has since passed.

And, along with other elders, these very
wise old people were trying to bring culture and
spirituality into the institutions and ensuring that the
women, in particular that I worked with, but also with
men, were able to access culture and spirituality,
recognizing the diversity of those individuals, but also
recognizing that there were some similarities and we
needed to be bringing culture and spirituality, sweat lodge ceremonies and so forth into institutions in an effort to enrich the lives of men and women who are incarcerated, and hopefully -- you know, we talk about rehabilitation. And, quite frankly, I do not think that we are talking about rehabilitation when we are dealing with many of the men and women in -- who are incarcerated, we are talking about habilitation, because what they had before they came to prison was not reflective of the beauty of the culture and spiritual heritage that they could learn about if they were given the opportunity while incarcerated.

**MS. CHRISTA BIG CANOE:** And, you had already touched on the diversity, recognizing the diversity. Obviously Indigenous people in custody come from multiple backgrounds, nations, Inuit, Métis. And so, recognizing that there is diversity in working with various elders and through programs, have you had the opportunity to experience and learn a number of different ceremonies?

**MS. PATRICIA TATE:** Absolutely. I am very fortunate that my father-in-law was an esteemed elder from Ontario. But, one of the things that I think was most gratifying within the system in -- 30 years ago, was the recognition of diversity was very clear. There were
opportunities for elders to be brought from across the
country, particularly to prison for women, in light of the
fact that it was the only federal institution. And so,
elders came from the east, and from the west and from the
north, in order to meet the needs of all the women who
were incarcerated there.

Interestingly enough, when the healing
lodge, Okimaw Ohci Healing Lodge, in Maple Creek on
Nekaneet First Nation was initiated and was opened, there
was a visiting elder program, and that visiting elder
program allowed for that same diversity of elders to come
back to the institutions, so that the women from the east
who were housed there and the women from the west who were
housed there could all experience their culture and their
spiritual ceremonies. Unfortunately, that program has
been suspended and no longer exists at Okimaw Ohci,
despite the fact that that is where the bulk of Indigenous
women are being housed today.

**MS. CHRISTA BIG CANOE:** And, if I might ask
one more question, what is the -- how do you characterize
or feel your responsibility in passing along or allowing
others to access traditional culture is? How would you
characterize that?

**MS. PATRICIA TATE:** I’m sorry. Could
you...?
MS. CHRISTA BIG CANOE: Sure. In terms of how you feel responsible, how do you help others ensure that they are accessing traditional knowledge and opportunities to grow, develop and learn from traditional Indigenous practices?

MS. PATRICIA TATE: To be perfectly honest, I often feel very much overwhelmed and out of -- that bringing tradition and culture to all the different women who we serve is an overwhelming task, because even though I have knowledge and some -- a tiny bit of knowledge, I am not familiar with all the different traditions across the country. And, as a result, I feel very much like our opportunity to reach women and to show them the beauty, and the joy and the richness of their heritage is sometimes limited. It is very important that we look at all the different individuals across the country.

You know, unfortunately within the correctional system, it seems to me that we -- our -- those individuals and those ceremonies that are being offered are a one size fits all. We are not cattle and we -- women within an institution represent a vast variety of culture and traditions, and unfortunately, those traditions are not always being honoured and are rarely being honoured quite honestly.

And, in particular, although they also live
within the institutions and partake in ceremonies, the
Inuit women really struggle because there are virtually no
ceremonies or elders or teachings that are reflective of
their heritage, which is quite different from First
Nations heritage or Métis heritage.

The other population that is often times
lost within the justice system, and I have to say, is the
non-registered Aboriginal women who do not count when it
comes to looking at programming and resources for
Indigenous services. They -- those services are limited,
at best, to those people who self-identify as First
Nations, Métis or Inuit.

**MS. CHRISTA BIG CANOE:** Thank you. I
appreciate you actually specifying that, because when I
ask that you be qualified today as knowledge keeper, I am
not expecting you to be able to know all ceremonies of all
Indigenous people in the country. But, I did want to
situate your knowledge and awareness, and in service
delivery through numbers of positions your ability to
learn, and I know -- it is rare for me to ever meet a
knowledge keeper who professes to know everything, and
very often, it is common to hear that they are still
learning. Is it fair to assume you also feel like you are
still learning?

**MS. PATRICIA TATE:** Oh, gosh. Yes. I have
to live to be at least 120 in order to know all that I should know when I am working within the justice system. The needs of women are so diverse and the ceremonies that are available to them are limited. So, we do the very best that we can, bringing prayer, bringing ceremony into the institutions, but I, individually, can only act as a conduit for women many times, and hopefully I can assist them to be attached to resources that are out there in the community that can meet their needs.

And, I think that is our biggest challenge, and actually our most important role in the institutions, is to ensure that we network with other services, other elders, other teachers, other cultural ceremonies, so that we can bring those and those ceremonies to the women and allow them to grow in a positive way.

**MS. CHRISTA BIG CANOE:** Thank you. Last week, we had heard from a witness, Dr. Janet Smylie, that often every day ceremonies are overlooked, but that every day ceremony could be like the sharing of a meal, the small things. In your current position in Saskatoon, how are you helping, like, every day ceremonies occur for the women you are serving?

**MS. PATRICIA TATE:** Actually, that is a very good question. And, one of the things that happens in our little office -- we only have eight women working
full-time, but we have medicines available for women to
come and smudge in the mornings if they so desire. We
have a women’s sharing circle that we facilitate, that --
we have our feather there, we have an opportunity for
women to come together who have come in conflict with the
law, and who are back in the community, and who are
working towards some of them getting their children --
reunited with their children, some of them getting into a
house of their own and reuniting with their families.
And, we are able to engage with them and offer them the
opportunity to go to ceremonies, we can take women to
sweat lodge ceremonies, we often take them to picking
medicines with the teachings that go along with the
medicine picking, the pow wows and other ceremonies.

You know, It is really shameful that over
the course of an individual’s life, that they have not had
an opportunity to see the richness of their heritage and
to enjoy the ceremonies that are part of that heritage,
and so we try to offer that as often as possible. We do
individual support for women. And, again, I have to say,
we try to network with all the other community resources,
traditional resources out there, that are varied in our
community, to try and offer them the chance to become
connected to their own culture and traditions.

MS. CHRISTA BIG CANOE: Thank you very
much, Patty. Chief Commissioner, Commissioners, as I had said earlier, I am presenting Patty as an institutional witness, but I would like to also have her qualified as a knowledge keeper as it relates to ceremony and providing services to women experiencing correctional issues.

Sorry. As almost like a navigator of sorts. And, that -- but I want to make sure that when we qualify her, we are not putting an expectation of any one particular Indigenous culture’s practices, more broadly at delivering diverse Indigenous women and people.

And, before I ask for your determination, I am just going to look to my colleagues and see if anyone is raising an objection to this qualification. Seeing no objection raised, I will ask that you please make a determination on my request.

CHIEF COMMISSIONER MARION BULLER: Could you repeat the areas ---

MS. CHRISTA BIG CANOE: Certainly.

CHIEF COMMISSIONER MARION BULLER: --- of evidence?

MS. CHRISTA BIG CANOE: Yes. The areas of evidence in terms of a knowledge keeper is that Patty can speak to, as a knowledge keeper, the ceremonies and access to spiritual services for those Indigenous women and men, I would say, as well, in your experience, who are
experiencing correctional issues and access — so, in custody or leaving custody.

CHIEF COMMISSIONER MARION BULLER:
Certainly. Ms. Tate has certainly a great deal of knowledge, and, as a result, she can give opinion evidence with respect to ceremonies, specifically access to spiritual services for Indigenous people who are experiencing correctional issues either while still in custody or while on release.

MS. CHRISTA BIG CANOE: Thank you. Next, I would like to introduce and speak with Diane. Diane, may I ask you some questions?

MS. DIANE SERE: Sure.

MS. CHRISTA BIG CANOE: I understand that today that you are going to be talking to us about some of your work experience and the current work you do, but that you’re also going to share with us some of your personal journey and experiences within the correctional system as someone who has been an inmate.

MS. DIANE SERE: Yes.

MS. CHRISTA BIG CANOE: Yes. And, I know that it’s not necessarily an easy thing for you to do today, to be so candid and to, sort of, expose yourself to us, so I’m very grateful that you’re able to do that.
And, on that basis, I’m just going to ask if you can give
us a little bit of a brief background about who you are and why you came today?

**MS. DIANE SERE:** I’m a proud Algonquin woman from the Nipissing Territory. I am here to honour my sisters, my grandmothers, my aunties and mothers who are incarcerated. I am here to tell my story. I am here to speak my truth about what it is to be an Indigenous woman and being incarcerated.

**MS. CHRISTA BIG CANOE:** Thank you. I appreciate that we’re going to have an opportunity to talk later. Before we actually get into the main testimony that each of these witnesses will be sharing, I would like to actually note for the record and for anyone who may be viewing the webcast that we encourage you today to protect your spirit. And, when I say to protect your spirit, I just want to acknowledge that we will be covering some very tough topics today that sometimes include graphic details or talk about experiences that happen in custody to Indigenous women.

And, on that basis, when I ask you to protect your spirit, it’s simply to let you know that some of the material we cover may cause some individuals to be somewhat alarmed, or you just want to check in with yourself and be balanced.

For those in the room, I want to remind you
that we do have health services and grandmothers, anyone wearing the purple lanyards. If you need a moment, feel free to see them or go to the health or the elders’ room.

And, I just want to say that upfront because I know and recognize that when we talk about Indigenous women incarcerated and some of the harms they experienced, that it can be alarming or concerning for some. And, I think it’s important, and all of these witnesses have indicated to me, that they also will not be speaking for the purpose of shocking us, but so that the truths of what Indigenous women experience are out there and on the public record.

With that, I would actually like to start with you, Kassandra. I understand that today you will actually be helping us understand the systemic issues that are experienced in corrections, and I just invite you to start, because I know you have some big statements you’d like to make.

**MS. KASSANDRA CHURCHER:** Thank you. I’d much rather speak in a narrative form. Today, I’ve brought some numbers and some data. So, I will be referring to my text quite a bit during my testimony, just to make sure that all of the right facts are on the record.

Thank you to the National Inquiry for
having the Canadian Association of Elizabeth Fry Societies submit testimony today with regards to the over-policing, over-criminalization and incarceration of Indigenous women in Canada.

The original intention, of course, was to have the Inquiry have the women themselves within the federal prisons provide the testimony themselves. And, of course, we can recognize that due to the immense time constraints and challenges that the Inquiry has faced that is not possible. However, we still need to register our deep concern over your decision not to have the incarcerated women testify and tell their own truths.

Again, incarcerated women have been put at the bottom of the list, as they often are. And, having their needs acknowledged and addressed and included needs to be a larger priority, not just for the Inquiry, of course, but for all of our national agendas.

Many scholars, including Indigenous scholars, encourage us that if we are truly seeking social change that we must consider those who are most marginalized, most oppressed at the centre of our analysis. Fortunately, of course, we were contacted last week so that we can ensure that the experiences of incarcerated Indigenous women are included as part of the Inquiry.
Now, the Canadian Association of Elizabeth Fry Societies works with and for, alongside women who are criminalized, who may be at risk of criminalization in our network. We are also a membership of 24 community-based organizations that are committed to substantive equality in the delivery of programs and services.

We advocate and work with them at the local, regional, provincial and national and international levels to continue to try to address those systemic factors of what is contributing to the criminalization of girls and women in this country, but also and most importantly, to address the toxic and archaic nature of the prison system here in Canada.

It is important to note that in our national capacity, we support five regional advocacy teams. These five regional advocacy teams from the Pacific to the Atlantic go into the federal institutions for women on a monthly basis to provide human rights-based advocacy, support, and also to monitor and document the conditions of confinement. Some of those letters have been included also with the materials that we have submitted.

We are the only organization in Canada engaged in this work within the women’s prison system, which, of course, makes us uniquely well-positioned to
discuss and address this issue here today.

We sit here today, of course, because the First Nation, Inuit and Métis grandmothers, aunts, sisters and daughters cannot sit here before you and tell their stories. And, that is because the nature of the carceral system is to isolate and silence those who they contain within it. As a result, while the issue of over-representation of Indigenous women has been well-documented nationally, the fact remains that there have been no concrete or significant actions to address this issue.

Today, we will do our best to truthfully represent and honour their experience in the justice and correction systems so that we can include their voices. It is our intention and hope that the National Inquiry will adopt and consider our recommendations, and that you will all join us to hold our government accountable to the action of addressing this ongoing reality.

Today, we will try to, of course, expose the systemic infrastructure that perpetuates the increased vulnerability that puts women at risk of not only being incarcerated, but, as you already know, disappearance and murder. Second, we will leave you with some recommendations addressing the current state of Indigenous women’s incarceration with a hope that we will eventually
In-Ch (BIG CANOE)

sooner see actions to address their decarceration.

There are many common systemic factors, of course, that contribute to the principal mandate of the Inquiry and the over-incarceration of Indigenous women. The current statistics are well known. They tell us that Indigenous women, while making up 4 percent of our general population, make up 39 percent of the total female population incarcerated at the federal level.

CAEFS, as an organization, is often asked to testify as to why so many Indigenous women end up in prison. We are rarely asked about the existent systems that perpetuate the colonial, racist, sexist structures that imprison them. The questions are always about the women, their behaviours, their choices, which place the responsibility of their crimes solely on them and never holds the systems that have contributed to their victimization and criminalization accountable.

It is this same transition from systems to individual which recalculates their needs into risks.

When our justice system criminalizes acts that are as a direct result of survival due to the conditions of poverty, racism, addiction and mental health, it repeats patterns of colonialism which assert that this is the right way to live, because of your choices, not our system.
In-Ch (BIG CANOE)

The message that we hear far too often when we go into the prisons on a monthly basis is that you will be punished, rehabilitated and assimilated until you conform.

As such, the corrections system, by its very nature, has no investment in addressing the root causes of criminalization, and so it is unable to effectively address rehabilitation and reintegration as its principal mandate.

We will look now at the common factors that contribute to victimization of Indigenous women into their criminalization, disappearance and death. Many of these issues have most likely already been well documented by the Inquiry from other sources of testimony.

The unfortunate reality is that the long-term effects of colonization and intergenerational trauma our country has perpetrated against Indigenous women continue to be the principal factors in their being missing, murdered and/or in prison.

The urgency to have the Inquiry document this issue is motivated by the fact that the current correctional system continues to be founded on a Western values system rooted in foundations of colonialism that recreates the same patterns of state-sanctioned control, assimilation and trauma that Indigenous people have
endured for centuries.

Violence is our first topic. It’s important to note that women are generally involved in the criminal justice system as victims of crime and not as individuals charged with crimes.

Women also have a tendency to under-report crimes committed against them, although when they do, they are more likely to report being a victim of physical assault, sexual assault and robbery. According to the 2014 General Social Survey, nearly twice as many Aboriginal women who reported spousal violence experienced the most severe forms of sexual and physical violence, 61 percent compared to 32 percent, of course, of non-Indigenous women. Indigenous women also have reported that they feared for their lives at a higher frequency than non-Aboriginal women, 53 percent versus 29 percent.

The violent crimes for which women are charged and convicted must be appropriately contextualized. Overwhelmingly, the actions of women in these contexts are defensive or otherwise reactive to violence directed at themselves, their children or a third party.

The rate of violence for Inuit women in the north is 14 times higher than the national average in Canada. Add this, of course, to issues we will discuss
regarding the lack of shelters and housing options, and there is literally nowhere in their communities to seek safety.

This results in their victimization being criminalized and then them being removed from their communities, their families and their cultures.

Poverty. The pathologizing of marginalization and social and economic disadvantage treats gaps in our social security net as pathways to prison. The crimes for which women are convicted tend to be non-violent and so not a threat to public safety. They are mainly property and drug offences, which are principally motivated by economic factors of survival.

We know the socioeconomic realities that Indigenous communities must endure, and still we ask why are there so many of them in prison.

Let’s discuss the leading causes of crime for women. Theft under $5,000, 23 percent; theft of over $5,000, 37; fraud, 32 percent; trafficking of stolen goods, 21 percent. Now compare those numbers with the fact that 37 percent of First Nations women living outside of their community are living in poverty. Contextualize the nature of those crimes with 30 to 70 percent of Indigenous suffering from food insecurity, or that 40 percent of Inuit are living in housing which is
overcrowded.

These statistics beg the question: are these women in prison for the public safety or are they in prison because of the public’s negligence?

Violence is a precursor and contributing factor to criminalization, is a reality for both the women we work with in the prison system and the women and girls whose deaths and disappearances the Inquiry has made as their primary focus.

Ninety (90) percent of federally sentenced women have a history of physical abuse, while 68 percent have a history of sexual violence. The Inquiry has focused, with good reason, on missing and murdered Indigenous women and girls. Prisons contain at least some of the women who have survived those circumstances and now find themselves in a system that continues to traumatize, abuse, control them through the use of segregation, degradation and strip-searching.

We would remiss not to include another alarmingly high statistic within Indigenous communities. Indigenous children account for 7 percent of all children in Canada, yet are 48 percent of all children in our foster care systems. The real consequences of incarcerating such a high number of mothers, sisters, aunts, grandmothers is that children end up in another
institutionalized system.

Sixty-four (64) percent of mothers in prison are single mothers, which means they are the primary caregivers for their children, and so incarceration of Indigenous women becomes far greater in its impact for the families and the communities that are left behind after they are removed and placed into the carceral system.

The secondary effects of over-incarceration are multiple. The impact is far beyond the statistic of 39 percent being incarcerated.

When a person is incarcerated, the intention is that they lose their liberty. In our context, the statistic does not encompass the loss of a parent, the loss of a culture, the loss of language that comes with their incarceration.

The National Inquiry must address the connection that in this country Indigenous women are at risk of not only going missing, being murdered, but also incarcerated. The inclusion of their experience with the justice system and the prison system is integral to the Inquiry’s work.

I’d like to speak about the access to justice issue. Indigenous women must rely on a justice system that is in no way reflective or adaptive to their
cultural history and reality. Canada’s long history of colonization and abuse, that you have no doubt repeatedly heard, is the core of this issue, of course. When a First Nations Métis or Inuit woman appears in court, they go before the same justice system that established the reserve system, the residential school system and continues the removal of children from their families, and they ask that court for justice.

A significant piece of the overrepresentation issue is tied to this system, a justice system that does not acknowledge its own historical abuses and the impact of the intergenerational trauma within our Indigenous communities.

An example of how the justice system has attempted to adapt for Indigenous people and fall short is, of course, the Indigenous Social History Report or Gladue report established in 1999. This report is a presentencing document which the court can request. It is an intendent document, the historical, social, cultural and medical factors that have contributed to an Indigenous person’s criminalization.

The intention of that report is to contextualize some of the actions of the accused by providing a comprehensive portrait before the courts. However, this report falls short. It acts for judicial
consideration and doesn’t have any actual substantive power in directive sentencing, which is why, of course, since its inception in 1999, there has been no reduction, yet an increase of the incarceration of Indigenous women.

Former Correctional Investigator Howard Sapers noted, at times, Gladue reports worsened the conditions of their confinement. All of that history captured within a report, within a corrections context gets translated as risk factors, which lead to higher classification ratings, which my colleagues will address later.

I would like to address, also, the process of documenting the Gladue report. We have heard from far too many women within the federal system humiliation and shame of having to relive their histories often to Gladue reporters who are non-Indigenous who might not have extensive experience or awareness of Indigenous histories at times. We have also heard from women who have voluntarily omitted parts of their own histories due to feelings of shame and humiliation, which is counter-effective to the entire reason of having a Gladue report.

Again, the numbers since 2001 to 2016 have increased from 18 percent to 39 percent. Gladue reports are another cautionary tale of trying to address systemic issues by holding an individual responsible for their
pathway in the criminal justice system.

We will hear now from my colleagues on the pressing issues concerning the current conditions of confinement, Indigenous program critique and, of course, Diane, your story. Following the testimony of my colleagues, I will present recommendations to the Inquiry on some ways we might address this issue. Thank you. Meegwetch.

**MS. CHRISTA BIG CANOE:** So, I just -- thank you. I just wanted to have the opportunity to ask a couple of clarification questions. Thank you for situating the systemic background that really touches on all of the things we will be talking about today.

There were a number of statistics that you went over and there were some, sort of, broad statements, but I understand that you derived a number -- these statistics you have cited where -- like, when you were talking and some of these positions, particularly from some of the material that you have provided us today. Specifically, did you utilize or look at Women in the Canadian Legal System, a document that is in your material, to help you address these issues?

**MS. KASSANDRA CHURCHER:** Yes, I included that document along with the Office of the Correctional Investigator’s Statistics as well.
MS. CHRISTA BIG CANOE: Certainly. And, at this point, I am going to actually ask if I can have those two specific documents exhibited. And, the first one is at Schedule E. It is entitled Women and the Canadian Legal System: Examining Situations of Hyper Responsibility. This is a discussion paper by the Canadian Association of Elizabeth Fry Societies and the Native Women’s Association of Canada. I kindly request that it is marked as the next exhibit.

CHIEF COMMISSIONER MARION BULLER: Yes. Exhibit 24 will be Women and the Canadian Legal System: Examining Situations of Hyper Responsibility. I don’t see a date on it. Authors are Canadian Association of Elizabeth Fry Societies and the Native Women’s Association of Canada. So, that is Exhibit 24, please.

--- Exhibit 24:

“Women and the Canadian Legal System: Examining Situations of Hyper- Responsibility,” in Canadian Woman Studies / Les cahiers de la femme

MS. CHRISTA BIG CANOE: Thank you. I also ask that -- found at Schedule H is the Annual Report of the Office of the Correctional Investigator for 2016 and 2017. This contains a large number of statistics in it as well.
CHIEF COMMISSIONER MARION BULLER: Yes.

--- Exhibit 25:

MS. CHRISTA BIG CANOE: Thank you. And, sorry, I was just asking Kassandra, I believe there might be one more that was quite important to ascertaining and pulling together the knowledge she just shared with us.

For Marginalized -- and it is -- pardon me. It is -- yes, it was in Schedule F, or Tab F. The report’s name is actually not where you normally see it in the title. It is a public safety document. However, you will notice the title is in the bottom right-hand corner. It is Marginalized: The Aboriginal Woman’s Experience in Federal Corrections. It has a citation of APC-33CA, and it is 2012, and the author is Mandy Wesley.

CHIEF COMMISSIONER MARION BULLER: Sorry, the author is?

MS. CHRISTA BIG CANOE: Mandy Wesley. If you flip one more page, there is a second title page. But, the first title page doesn’t actually cite the author.
CHIEF COMMISSIONER MARION BULLER: The next report -- sorry, the next exhibit is number 25 [sic], and that is Marginalized: The Aboriginal Woman’s Experience in Federal Corrections. The citation is APC-33CA, 2012, and the author is Mandy Wesley.

--- Exhibit 26:


MS. CHRISTA BIG CANOE: Thank you. We will continue to put in exhibits as they come up in the testimony. And, it is possible that multiple witnesses will be talking about the same document. Thank you again, Kassandra. Savannah, I would actually like to turn to you now. I understand that you are going to be contextualizing a number of things for us.

So, now that we have kind of talked about some of those systemic factors, some of the current realities and statistics, I am hoping that you are going to be able to help us understand more about the correctional institutes and some of the programs and issues. And, with that, I am going to invite you to share with us your major concerns and areas that you would like
to discuss today.

**MS. SAVANNAH GENTILE:** Thank you. I am going to be focusing mostly on the operational realities of the prison for women across Canada. As the Director of Advocacy and Legal Issues, I have to say that the best education I have had to date has been going into the prisons as an advocate and working with, meeting with women, hearing their stories, and I wanted to say that their truths really drive the legal reform that we push and they inform my comments today.

The prison industrial complex like residential schools is representative of our broader societal beliefs about the poor, those with mental health issues and especially Indigenous peoples and Indigenous women in particular. Our prejudicial ideas shape these institutions, prejudices put on display by what our government chooses to fund or not fund, pipelines, prisons, but not educations, water, housing or community-based solutions.

As a country, we care very little for poor women and children, even less so if they are Indigenous, less still if they are prisoners. The discrimination and abuse that Indigenous women experience in society are continued, even amplified in Canada’s prisons which are inherently colonialist, sexist and homophobic institutions
focused on punishment to the exclusion of health and healing.

As a group, federally sentenced women, particularly Indigenous women, are and have historically been subject to more disadvantaged treatment and more restrictive conditions of confinement than men. For example, due to the smaller population of women prisoners, all women were initially imprisoned in one high security prison regardless of the relative low-risk to public safety of most federally sentenced women.

In fact, relative to men, women have lower rates of recidivism and pose far less risk to community safety. At the same time, the majority of women who are imprisoned have experienced lifetimes of physical and/or sexual abuse, 91 percent of federally sentenced women have experienced such abuse.

The multiplier effect of race and sex creates a distinct discriminatory impact on federally sentenced Indigenous women that affects their experiences of incarceration from beginning to end. More than half of all women in prison are identified as having mental health needs compared to 26 percent of men. And, the nature of women’s mental health needs is impacted by the lasting effects of past abuse.

For instance, the Canadian Human Rights
Commission reports that women use self-injury as a coping mechanism to survive the emotional pain rooted in traumatic childhood adult experiences of abuse and violence, mostly at the hands of men. Corresponding to the higher levels of abuse experienced by women prisoners, the rates of self-injury and attempted suicide are significantly higher among women in prison as compared to men.

In the 1980s, a Commission of Inquiry led by the Honourable Louise Arbour was tasked with investigating events leading to a prison riot and the subsequent stripping and shackling of women prisoners by an all-male emergency response team at that one high security prison that was the prison for women in Kingston. Eventually, in 2004, the prison for women was closed due to inhumane conditions and egregious human rights violations which led to the deaths and assaults of several women, most of whom were Indigenous, some of whom remain imprisoned to this day.

**MS. CHRISTA BIG CANOE:** Savannah.

**MS. SAVANNAH GENTILE:** Yes.

**MS. CHRISTA BIG CANOE:** The report you just referred to, do you mind if I just bring that to the attention of the Commissioners and ---

**MS. SAVANNAH GENTILE:** Absolutely.
In-Ch (BIG CANOE)

MS. CHRISTA BIG CANOE: --- colleagues?

So, at Schedule C, we have the Arbour Report it is commonly referred to. The title page actually, you will see, the Solicitor General of Canada’s title page. And, it is listed as the -- sorry, my apologies. I thought -- oh, there it is. The Commission of Inquiry into certain events at the Prison for Women in Kingston.

CHIEF COMMISSIONER MARION BULLER: Yes.

The next exhibit will be 27, and it is the Commission of Inquiry into certain events at the Prison for Women in Kingston.

--- Exhibit 27:


MS. CHRISTA BIG CANOE: And, Savannah, if I may, I know that you are going to speak more to this, but this is actually very large, a number of findings on the point that you just raised. And, you had mentioned not only were most of the women Indigenous, but a number of them still remain in custody today. And, I did not want to interrupt you, but I did want to make sure you addressed...
MS. SAVANNAH GENTILE: Oh, thank you.

During this time, in an attempt at collaborative reform involving federally sentenced women who are inside experiencing this, prison staff and community organizations, such as CAEFS, the report Creating Choices was developed by the task force on federally sentenced women.

In response to this report, the prisons for women were regionalized in the late 1990s/early 2000s, leading to the development of what we have now, which is five multi-level prisons for women and one healing lodge. This was a mistake, one that CAEFS has been learning from ever since. The intentions of regionalization were good, get women closer to their communities and families, get communities involved, guided by the five principles of creating choices, empowerment, meaningful and responsible choices, respect and dignity, supportive environment and shared responsibility. It appeared to some that women’s corrections could be done in a way that was responsive to women’s differing experience and needs.

Today, you can still find those five principles painted on the gym wall at the Fraser Valley Prison for Women in British Columbia. But, as the Office of the Correctional Investigator has pointed out repeatedly for a number of years, those principles have
been completely eroded by CSC’s policies and practices.

Following this regionalization and despite declining crime rates, the number of women in prison tripled. Unlike the men’s multi-level sites, of which there are an exceptional few, the prisons for women incarcerate women of all security levels, from minimum to maximum, resulting in continued heightened levels of security overall for women and more restrictive segregated conditions in the secure units in particular.

The reform did not work because it did not go far enough. In fact, it expanded CSC’s capacity. This is why CAEFS adopted a position of abolition. Currently, the prisons for women are comprised of a general population, mostly those with medium security and some minimum security designations, who are kept in living units with up to 11 women. And, I am reminded of what Kassandra mentioned earlier about the overcrowding. You are seeing the same issues in community replicated.

The vast majority of programming, employment, health care and mental health services take place in the general population. More recently, minimum security units were developed which are positioned outside of the barbed wire fence, although somewhat ironically are based on a blueprint for maximum security units. The women adeptly refer to the minimum security units as max
light, and many resist being moved there for reasons I will discuss later on, time permitting.

Finally, there are the secure units which are isolated, cut off completely from the general population. They contain maximum security cells, as well as solitary confinement cells. We tend to focus on solitary confinement -- and I am hoping today to expand that conversation to include maximum security cells, because truly the only difference between the two is that the max cells have access to a larger yard area, one hour a day, and a small common area shared with a few other women.

Women classified as maximum security are confined to those cells and that small common area, which contains a TV, couch, table, fridge and washing machine, often for 23 hours a day. When there is a lockdown, which is often a monthly occurrence, max security women are confined entirely to their cells and are completely denied access to programs, school, mental health supports and sometimes even showers. Often, the women have no idea when the lockdown will end.

The environment in the secure unit is highly punitive, repressive and controlling. And, these are the words of the Office of the Correctional Investigator as well. I believe that is in the 2016/2017
annual report. This was documented -- I got ahead of myself. It was documented in the annual report of the correctional investigator this year -- or this past year. Everything from the time that women eat, to the programs they access, to whether they will be invasively strip searched is controlled to a large degree by the max correctional manager, a concentration of power which women commonly report is abused.

Women in maximum security, unlike men, are subject to a further classification system, which is known as the levels system and has been described by the Office of the Correctional Investigator as a sex based discriminatory restriction that punishes or rewards women on the basis of a set of expected or compliant behaviours, again perpetuating colonialist ways of being and doing. In other words, women must earn their way out of the oppressive conditions of the max to the general population through three graduated levels, each with differing restrictions and “privileges”.

As an example, women who score as a 1 or 2 on the level system may be shackled, including with leg irons and handcuffs, to visit with their families and children, to access health care appointments in the general population, and if they are lucky, programming. Due to this policy, at the Grand Valley Prison for Women
in Kitchener, Ontario, the number of women allowed to visit at one time has been restricted to just two a week, meaning many women don’t get visits. And, in addition, a number of women have reported actually cancelling their visits because they do not want their children to see them shackled in this way.

Of course, the conditions in max, the prevalence of trauma and mental health issues and the expectations themselves mean women are set up to fail, because the levels system exists outside of the law and the rules are implied arbitrarily. Women often feel helpless, unable to earn a level which will enable them to access the general population where most programming takes place.

Women commonly report the ease with which they lose their levels and accompanying privileges, and the great difficulty that they experience in trying to earn them their return to less restrictive prison conditions.

The level system provides another good example of how CSC responds to efforts of reform, with carceral clawback. Several years ago, after much work on the part of the Office of the Correctional Investigator and CAEFS, CSC rescinded a practice known as the
conditions, forcing them to earn certain privileges,
things for which they were in fact legally entitled.

This past year, following an extensive review of the secure units, the Office of the Correctional Investigator stated that the level system is tantamount to the illegal former management protocol and called for the practice to be ended.

CSC conducted its own review and determined that it would not be able to safely manage women classified as “max”. The women themselves would not be able to access services in the general population and that there would be little incentive for prisoners to transition to medium security without the level system, and on this basis decided it was needed and kept the level system.

These conclusions are deserving of interrogation. Who ends up in the secure unit and why?

Of the women isolated in these oppressive conditions in the max and the seg units, 50 percent are Indigenous.

During an advocacy visit to Fraser Valley this past May, our advocacy team observed actually that 100 percent of the women in the secure unit were Indigenous. Women with mental health issues are also seriously overrepresented in these placements, and this is again how needs are translated to risks, and these units
are not at all equipped to address these issues. So the
women with the most need actually end up with the most
restricted access to the programs and services and support
that they need.

Why does this happen? To start, the tool
used by CSC to assess women’s security levels when they
first enter the prison, the Custody Rating Scale, was
developed over 25 years ago on a sample of white male
prisoners. CSC’s own research has documented that the
Custody Rating Scale does not accurately assess the so-
called risks posed by women prisoners.

In 2003, the Canadian Human Rights
Commission confirmed in its report, protecting their
rights, that the classification scheme discriminated
against women on the basis of sex, race and disability,
and that most Indigenous women were overclassified and
therefore unable to access programming, recreational and
other services and conditional release.

In fact, when the Healing Lodge Okimaw Ohci
was opened, no Indigenous women qualified for transfer
because CSC policy restricted access to minimum and, in
rare cases, medium security women. And I want to remind
you that the purpose of the section 81 was actually to
address what is now a human rights crisis in terms of the
ever-increasing number of Indigenous women being
incarcerated. The point was to get women out into community.

MS. CHRISTA BIG CANOE: Savannah, if I could just actually ask a clarification ---

MS. SAVANNAH GENTILE: Sure.

MS. CHRISTA BIG CANOE: --- there because I know that this is your daily bailiwick and you’re very familiar with some of the terminology, but when you say section 81, if you could just briefly tell me what section 81 is?

MS. SAVANNAH GENTILE: Of course. Section 81 is a section in the *Corrections and Conditional Release Act* that enables communities to enter into agreements with CSC to provide for Indigenous prisoners to serve their sentence in community with the support of community.

Unfortunately -- actually, and this is documented in *Spirit Matters* -- CSC diverted a lot of funding meant for section 81s back into the prison into pathway houses. So it hasn’t had the intended effect of getting women prisoners out because the funding isn’t there and, in addition, they have done very little to talk about what section 81s are to enable communities to even engage in those sections.

MS. CHRISTA BIG CANOE: Thank you. I know that Patty will also be covering some information on
healing lodge. You just mentioned Spirit Matters. Spirit Matters is a report from the Correctional Investigator’s Office, October 22nd, 2012. The Correctional Investigator at the time, Mr. Howard Sapers, felt it was so important to put this particular report out, that he took it directly to Parliament. It is in the material at Tab I. It is a final report that was delivered to Parliament on October 22nd, 2012 and it is entitled “Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act”.

I’m asking that we please have this marked as the next exhibit.

CHIEF COMMISSIONER MARION BULLER:


Thank you.

--- EXHIBIT 28:

MS. CHRISTA BIG CANOE: Thank you.

And, Savannah, one of the things you were just talking about before you raised the section 81 was the security classification tool, the Custody Rating Scale?

MS. SAVANNAH GENTILE: Yes.

MS. CHRISTA BIG CANOE: We have already had marked as Exhibit 25 Mandy Wesley’s paper “Marginalized”, and specifically there is a portion at page 23, beginning at 23, on classification and this particular tool that talks about, and she indicates that overall, Aboriginal inmates are consistently overclassified, resulting in disparity between Aboriginal offenders and non-Aboriginal offenders’ placement in minimum security institutions and that Aboriginal offenders are placed in minimum security institutions at only half the rate of their non-Aboriginal counterparts. But we just heard you say that on your team’s last visit to at least one institute, it wasn’t just 50 percent in segregation, it was 100.

MS. SAVANNAH GENTILE: M’hm.

MS. CHRISTA BIG CANOE: Is it also your team’s experience that the number is still that 50 percent are in minimum? How many of the inmates that can get minimum classification are you aware -- minimum security classification are actually Indigenous, or is that kind of
MS. SAVANNAH GENTILE: It is. It definitely is. I don’t have an actual number for how many. I don’t know if anyone else would have the number?

MS. KASSANDRA CHURCHER: Could I put something on?

MS. CHRISTA BIG CANOE: Yes, you may.

MS. KASSANDRA CHURCHER: It’s also important to note that even though a woman is classified as minimum and medium, the risk of her going to maximum as a consequence -- so it’s not a permanent designation as classification, but we’ve encountered women who are medium and minimum who are in a consequence of being in maximum for a couple of weeks as a punitive and disciplinary measure. So after 30 days, then CSC can then reassess them as maximum and just keep them there, but it’s often used as a disciplinary and punitive tactic, and those numbers won’t even be representative in the whole factor.

MS. CHRISTA BIG CANOE: So you’ve actually anticipated where I was going with my questioning, was that even if it was a moving target, that the classifications themselves are easily changeable and often -- is it a fair assumption that often for Indigenous inmates, they will more often find themselves in a punitive circumstance where they are upped in
classification? Often the classification has taken them a long time? They’ve taken a long time to earn the right to be put into a lower one, but often at the snap of a finger, can be put back into a higher security classification?

**MS. SAVANNAH GENTILE:** Yes, I would agree with that characterization. It’s often very difficult to earn a lower security level but quite easy to lose it. And in fact, as we have been challenging CSC’s use of administrative segregation, we’re seeing an increased use of transfers within the prison to higher levels of security before they’re even designated as maximum security. Women are being moved into maximum security as an alternative to segregation, to administrative segregation, which as I’ve already kind of highlighted is ironic because they are both a form of segregation. So it’s not any better, but they are not any longer accountable to the legislative safeguards built into the CCRA around administrative segregation. For example, a five-day review has to be conducted if a woman is placed in administrative segregation, but there’s no such review if a woman is placed in maximum security.

And we have seen that. I believe, actually, we may have included a letter. I’m not sure if this letter is included in the materials we provided, but there was a letter recently written by the Regional
Advocacy Team going into EIFW, the Edmonton Institution for Women, prison for women, and they have documented that this is happening there, and I have seen it happening at the Grand Valley Prison for Women recently. So it’s an increasing trend.

And, yes, definitely, I would say that Indigenous women are more often caught up by this kind of approach used by CSC, and it’s often on the basis -- in fact, I’ve seen one woman’s paperwork. She was an Indigenous woman, and it’s based on allegations. And, when an Access to Information Request was put in requesting, you know, what detail about these allegations, most of the allegations were from reliability unknown sources. So, they weren’t verified. There was no investigation, and yet, she was seriously reprimanded by being placed in a highly-restrictive and controlling environment like the max-secure units.

And, if I could, I just wanted to add one more thing about the Section 81 agreements that is in Spirit Matters, and that is that there’s a complete lack of funding parity between CSC-run Section 81s and community-run Section 81s. And, what has happened is that those community-run 81s have become a bit of a training ground for CSC, because CSC is offering, of course, higher salaries and better benefits. And, of course, you have to
-- you know, individuals have to look out for themselves. And so, that is a rather unfortunate consequence of the lack of funding going to these agreements.

I’m going to return now to the custody-rating scale. So, to date, CSC has made no changes to the tool or the way that it’s used on women, and, particularly, Indigenous women continue to be overclassified. A recent report of the Auditor General found that CSC frequently overrode the results of this faulty tool, which sounds promising at first, but rather than override to a lower women’s -- to lower women’s security level, staff actually placed twice as many women prisoners in higher levels of security than recommended by the tool. Given this information, it’s not simply a matter of reforming CSC’s classification tools. It’s an example of the overall culture of CSC.

What is the impact, then, of these secure unit placements on Indigenous women prisoners, whether they’re being placed in maximum or solitary confinement? Well, the Superior Court of British Columbia recently accepted that the permanent harm of segregation prevents the prisoner from successfully readjusting to the broader social environment of the general population in the prison and often severely impairs the prisoner’s capacity to reintegrate into the broader community.
It discusses extensively the psychological harm and anxiety that can come about as a result of these placements in administrative segregation, and I would argue that that also applies to maximum security placements. And, in fact, women who are segregated in the maximum security units similar struggle in adjusting to the general population and to the broader community after being kept in those isolated punitive conditions for months or even years.

It’s not uncommon for a woman to be released to the general population from the max, only to be returned to maximum security, sometimes first through segregation due to the difficulty she has experienced in adjusting to the wide-open space now of the general population and the added anxiety that comes from that after being in such a contained, controlled environment.

Despite CSC’s positive obligations set out in Section 4(g) of the Corrections and Conditional Release Act to consider and be sensitive to the unique needs of Indigenous peoples, women, and those with mental health issues and its practices and policies, CSC has a long history of applying the same practices, such as classification and strip-searching, to both men and women, thereby exacerbating the disadvantage and harm to Indigenous women.
I talked earlier about the rates of self-injury and suicide attempts amongst women in prison and how much higher they are. CSC has a practice, actually, of segregating prisoners who attempt to self-injure or attempt suicide, except they don’t call it segregation. They call it modified watch, mental health monitoring, intensive intervention, anything but segregation. And, CSC has a line that segregation is a status and not a place, because they’ll place women in a physical segregation cell down the segregation range and call that modified watch.

I had an incident recently. One of my regional advocates attempted to email a warden to gain access to the prison to meet with a woman who had committed -- attempted to commit suicide and was placed -- brought out to hospital and then brought back and placed in a segregation cell. She was obviously distraught, and it was put to us, why is this urgent? And, they corrected us, “No, she’s not in segregation; she’s on modified watch.”

So, the way they apply segregation provisions to women and men is no different, despite the very different demographics and histories of those two groups. It’s the same in terms of strip-searching as well. So, CSC’s policy, their commissioners’ directives
on strip-searching do not once ask the decision maker to consider Indigenous women’s often severe histories of trauma, nor does it require that there be any just or reasonable suspicion that might create some semblance of cause.

At GVI, women going on work release to programs either in community or in the general population if they’re in the minimum unit outside the fence are strip-searched upon return every time. And, at Grand Valley, sometimes those women going back to the minimum unit are made to sit for 30 minutes to an hour to be strip-searched after coming back to the prison after a full day out at work, maybe doing a landscaping job or that sort of thing. Because the lack of staff or resourcing in the minimum units -- which may be a good time for me to elaborate further on why the women resist being transferred to the minimum, and that’s because it exists outside of the fence which makes it very difficult for them to gain access to any of the programming or supports that are inside the fence in the general population.

At the same time, those women are meant to gain access to community at increased rates through escorted temporary absences, unescorted temporary absences and the like, but that is not happening. And so, they are
left with very little, and the conditions are still pretty restrictive. Women at Fraser Valley Institution for Women have a lined path outside of the minimum unit, two yellow lines that they can walk on if they want to go out for walks. The path is not wide enough for two women to stand beside each other walking, and these are minimum security women. They’re not a risk. That’s CSC’s own assessment, and that’s how they’re treating those women.

They also are made to go in at 3:00 p.m.--well, I’ll say 4:30, when sun sets through the winter months, because it’s now darker outside. And, these, again, are minimum-security women who should be having open access to the community. That was the intention of creating choices, having community come in and women go out to community, but there’s all sorts of barriers that have been thrown up that prevent that from happening.

At the end, Kassandra mentioned that she’s going to be making some recommendations regarding what can be done about these things. And, I just wanted to point out that these practices like segregation, maximum security, they cannot be contained by regulations, which is why, again, we’re abolitionists. We call for an end to segregation. Because so long as it is a tool that is open for use by CSC, it will be used and it will be abused.

Women -- like I said, they call segregation
different things so that those safeguards don’t apply.
They might transfer a woman and that resets the clock. If
there is a 15-day cap, they transfer her to a new
institution; the clock starts over. So, she’s still in
segregation. And, actually, that was the case with Ashley
Smith.

Due to those conditions and these issues
which I’ve highlighted and which no doubt Diane and Patty
will contribute some valuable insights to, as well as
CSC’s resistance or inability to change, the overall theme
of the recommendations that Kassandra will provide will
involve a divestment from the prisons in order to invest
in communities.

And, I just want to finish by saying that
while I’m humbled and grateful to be here to discuss the
issues facing Indigenous women in prison, there are so
many women inside whose stories deserve to be heard, but
they are not mine to tell. I do hope I have managed to
convey the seriousness with which these issues have been
conveyed to me through those stories. Thank you.

MS. CHRISTA BIG CANOE: Thank you,
Savannah. One of the reports you referred to in
discussing and establishing and situating for us,
Correctional Services Security Classifications and a
number of issues that people who don’t ever have to work
with or provide services in corrections aren’t necessarily aware of. One of those reports was actually fairly dated; it was 2003. It was the Canadian Human Rights Commission report on Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women. This is at Schedule J.

You had actually touched directly upon it. There was a number of recommendations, 19 recommendations, that came into place. I only have a couple of questions about this, if I might? Are the recommendations made in 2003 still recommendations that need to be implemented in 2018, at least some of them in part?

**MS. SAVANNAH GENTILE:** I would have to really -- I would want to look at each recommendation on its own, because there are always recommendations in these reports. There are a number of reports with a number of recommendations. And, while CAEFS promotes and encourages CSC to adopt those recommendations because it would lead to meaningful change, some of the recommendations don’t necessarily reflect our positions fully or they don’t capture fully, you know, the abolition stance that we have in terms of segregation and the prisons more widely.

So, I would want to assess on a case-by-case to really give you a full answer there. But, what I could say is that there have been shifts. So, in the
Arbour Report, the recommendation originally was for a 30-day cap. But, actually, two years ago at our conference, our annual conference, Louise Arbour was on a panel, and she actually said, you know, given what she knows now and the way things have not changed all these years later, decades later, she would actually come out -- she said she didn’t come out hard enough and that she would now ask, actually, for a ban on the use of segregation, not a cap of 30 days, not even a cap of 15 days. And, that’s some of the -- like, those -- we need to start recognizing that CSC has had recommendation after recommendation, report after report, and opportunity after opportunity to do something, to change something meaningfully, and, at every turn, it has proved incapable or unwilling. And, we need to start pushing for more or demanding more, because otherwise nothing is going to change.

**MS. CRISTA BIG CANOE:** Thank you. And, I appreciate that you don’t want to do a case-by-case on the recommendations but more broadly, and I think you’ve already answered this in saying recommendation after recommendation. We’re seeing this by a lot of witnesses providing testimony in various areas this, like, growing number of recommendations that just don’t seem to be seriously taken or put into place. And so, it’s kind of -- and I think the way you just put it was an incapability
or ---

**MS. SAVANNAH GENTILE:** Unwillingness.

**MS. CHRISTA BIG CANOE:** Unwillingness. And so, that’s helpful. The actual document that is in the material, I’m going to kindly ask, Commissioners, if we can enter this as the next exhibit, the Canadian Human Rights Commission - Protecting Their Rights?

**CHIEF COMMISSIONER MARION BULLER:** Yes.


--- **Exhibit 29:**


**MS. CHRISTA BIG CANOE:** Commissioners, given that we’ve heard from the first two witnesses and it is now 10:10, it’s probably an opportune time to have a 15-minute break before we come back with the next two witnesses. And, just a friendly reminder to my colleagues and parties with standing that Rule 48 prohibits you having conversations with the witnesses about their
testimony. That doesn’t prevent you from talking to them
or small conversation, but it’s just a friendly reminder
that as long as the main panel is in-chief examination,
they cannot discuss the contents of their evidence.

CHIEF COMMISSIONER MARION BULLER: Yes, 15
minutes, please.

MS. CHRISTA BIG CANOE: Thank you. We will
return, then, at 10:25.

--- Upon recessing at 10:14 a.m.

--- Upon resuming at 10:38 a.m.

MS. CHRISTA BIG CANOE: Just a friendly
reminder that if you have cell phones or Blackberries, any
noise makers, that you put your phones on silent, please.

Commissioners, Chief Commissioner and
Commissioners, we would like to continue with the
examination in-chief, and next, I would like to speak with
Patty Tate.

Patty, I have a number of questions for
you. You actually shared a lot of information in your
introduction when you were helping us understand the
knowledge you have. So, I was wondering, and I’m happy to
start where you’re happy to start, given all of your
years’ experiences both in correctional institutes and
with CAEFS, which is the acronym for the Canadian
Association of Elizabeth Fry Societies, about the type of
programs and, specifically, the quality of programs that are specific to Indigenous peoples.

And so, you explained earlier that a lot of the programs you’d like to see there or when you’ve had successful programs, often the funding has -- often the funding has been revoked or removed. So, just if we can kind of take a big step back and look sort of more holistically at the services that you’ve seen throughout the years, can you tell us a little bit about the quality of those services, the spiritual services, the ceremonial services that inmates can access?

**MS. PATRICIA TATE:** Thank you. One of the things that I think is important to do is to start back historically at Prison for Women and the type of services that were made available there. There were elders and traditional people who fought long and hard in order to see our culture, traditions and spirituality included in the justice system. In fact, we ended up having -- at the time that the elders were first coming into the institutions, they had to be designated as chaplains so that they had the authority to be able to move freely within the institution, which was something that had never been thought about by Corrections previous to the fights that were put on by these strong elders.

I mentioned the name of Dr. Art Solomon,
but he was only one of many elders who were involved in ensuring that bundles weren’t desecrated when elders were coming into the institutions.

In those days, the elders were coming from across the country, and, in fact, they were coming from South Dakota, they were coming from the Atlantic, they were coming from the north and the west into Prison for Women, and they were being hosted by the liaison service. And, the liaison service in those days was a community-based organization. And, I think it’s significant that those -- the liaison service providers were contractors. And, as a direct result, we were, as liaison service personnel, we were the advocates. We were the advocates fighting for the rights of Indigenous women, and men for that matter, in the prison system.

Unfortunately, and I’m saying unfortunately or fortunately, depending on your perspective, I guess, during the course of the -- as years went by, one of our own, an actual liaison officer, took Corrections Canada to court fighting for the opportunity to become an employee of Corrections. Of course, the money was way better. The benefits were considerably more than we would have ever gotten as an NGO, and Corrections lost the fight, interestingly enough, in that the liaison officers were deemed to be employees, have an employee/employer
relationship with Corrections, and as such, were -- became federal employees.

Now, that might have been fine for some things, not the least of which would be your wages, but it certainly undermined your ability to be an advocate. And, quite frankly, what ultimately ended up happening was that liaison officers became entry-level positions for Aboriginal and Indigenous people, and underpaid parole officers who ultimately, whether they were good or bad at their job in the Indigenous sector, moved through the system into higher paying positions out of the Aboriginal Initiative Branch. So, I am -- I think I kind of got a bit off track a little bit, but I think it is important to background the programming that took place.

During the early days after the fights were taken on by community, there were sweat lodge ceremonies and there were other programming that was brought into the prisons by the elders, by the traditional people in the community. One of the programs that came to the women was called Spirit of a Warrior. It is an amazing program that was developed by the Native Counselling Service of Alberta. They introduced the program with all the new prisons, with all the -- across the board at the new prisons.

That program, however, has been removed
from the prisons. Corrections is not utilizing it. There
doesn’t seem, in my opinion, to be anything that is taking
on the same level of commitment and the same level of
spirituality and culture for the Indigenous women across
this country. So, that was one of the programs that was
problematic, and it was intended to be a program that
would really enrich a woman’s knowledge of her culture and
traditions.

One of the other programs that was
developed over the course of the year was an Indigenous
addictions program, and that Indigenous addictions program
was implemented across the country. One of the things as
a First Nations person, as an Indigenous person, that when
we are looking at individuals who are going to deliver
these kinds of programs, we are looking for people who are
role models for the program. And, sitting at a table with
corrections and asking -- excuse me. Sorry, asking that
the criteria for hiring an individual to deliver the
program would be that they were drug- and alcohol-free was
shot down.

We were advised that that wasn’t going to
be a possibility within this framework of corrections,
that they could not have an expectation that -- certainly
the drug element is one, but as far as someone not being –
– someone committing to being alcohol-free was not
something that they could be requesting of their employees. So, it -- there were so many of those kinds of problems that arose when an individual was being asked to -- or when programs were being implemented.

One of the more important programs, and I have alluded to it earlier, and I think it is probably -- to me, it is one of the saddest breakdowns in something positive happening within a correctional system is the visiting elder program that was taking place. During the course of Prison for Women being open as I mentioned before, there were elders coming from all across the country.

Those elders were housed by the liaison officers. They were driven to the different institutions. A Prison for Women certainly was one. They also had a visiting elder -- they did have the visiting elder program at P4W, and those elders would provide ceremonies. They would provide sweat lodge ceremonies. The elders -- I have been gifted with some cedar today, and it reminds me that an old lady by the name of -- an elder by the name of Mary Louis came from B.C. and she would do cedar baths for the women who were from B.C.

And, one of the important things about these visiting elder programs were -- and I am going to use her -- Mary as an example. There was a young woman
who had spent many years in Prison for Women, and Mary
Louis who was an elder from the West came, and they did
baths. And then after the baths, she did ceremonies and
she did talk about the traditions of -- the rich
traditions of the West Coast people.

Approximately two years after that visit, I
had that young woman in my office. And, she said, “I’m
getting out soon.” And, I went -- and I said, “That’s
amazing. Where are you going?” She said, “I’m going home
to my elder.” I am going home to my elder. And, I said,
“Who’s your elder?” And, she said, “Mary Louis. I met
her two years ago, and I know that I can go to her, and
that she’ll be there for me, and that she we will support
me on my journey -- my healing journey.” And, that
element of the visiting elder program is something that I
think can’t be understated.

And so, when the healing lodge was created
and programs were implemented at the healing lodge, one of
the programs that was central to the healing lodge was the
visiting elder program. They even have a house
specifically designated as an elder’s lodge for an elder
to stay in should they come and visit with the women for a
week or two weeks, or however long they are able.

That program has been suspended. There is
no longer a visiting elder program. The women may
periodically have some -- an elder from another region of corrections come and visit them, but certainly not the same kind of program that was implemented initially. The elders, like Maggie Paul from the Atlantic and, as I said, Mary Louis from the West and many other elders from across the country, who came and stayed and were committed to being there, to be part of that healing journey for women while they were incarcerated has now been taken out of the programming at Okimaw Ohci.

It is not to say that there aren’t other programs that are of some value in corrections. I know that the sweat lodge ceremonies are still taking place on a fairly regular basis there. But, here is one of the dilemmas that I come -- I see, and that is that in Okimaw Ohci, we have a population of Indigenous people almost exclusively, although there are non-Indigenous women also at the healing lodge.

But, there are other institutions across this country that also need to have the same level of spiritual engagement for their Indigenous women, and it doesn’t occur. There are not enough dollars to have elders coming in on an ongoing basis or being there on a regular basis living in the institution. At Okimaw, there are elders in the institution daily. I can’t say that that is the case across the entire country. And,
unfortunately, that means that women’s culture and traditions are not being respected.

The other issue that we have with the dissolution of the visiting elder program is that, quite honestly, the women from every -- in every situation are reflective of First Nations, Métis, Inuit people from across the country. We are not autonomous, and neither are the traditions, and the culture and the spiritual ceremonies. There are lots of basic similarities that we can draw upon and utilize as the basis for programming within an institution, but that is not to say that my individual teachings and my traditions aren’t imperative to me becoming knowledgeable and enriched by my heritage.

**MS. CHRISTA BIG CANOE:** And, actually, that leads really well into my next question, because we have heard testimony -- in the Part 1 hearings, we heard from individuals sharing stories of survival or of lost loved ones. And, when it did come up about incarceration, particularly with Inuit witnesses and in other capacities, we often hear how the Inuit people who are experiencing services in the South, and specifically in corrections, don’t have programs that actually speak to their cultures.

We have heard a number of times that often people, Inuit people are streamed through First Nation or Métis programs ---
MS. PATRICIA TATE: Absolutely.

MS. CHRISTA BIG CANOE: --- because the resources aren’t available. So, I was wondering if you could share, just based on your knowledge, what are the programs, if any, provided to Inuit women?

MS. PATRICIA TATE: There aren’t any that I am aware of, to be perfectly honest. I can say that in the men’s -- for men in -- federally sentenced men that there is an institution in the Ontario region that houses a significant number of the Inuit and northern men who have been federally sentenced, and that they have elders and -- elder services and spiritual services. They have a carving shack where the men can participate in their culture and their traditions, but for women, to the best of my knowledge, there is nothing specific for the Inuit women.

MS. CHRISTA BIG CANOE: And, when you were talking about women accessing elders and the ability for the visiting elders, are there any programs -- so we heard Savannah talking about the different levels of classification, and once you are outside of the fence, that part of that whole process was to enable inmates to be in the community and access services.

So, I am curious if you have any information or whether you know if women have access to
their communities, to cultures, ceremonies through things like temporary absences or when they are in minimum security?

**MS. PATRICIA TATE:** Well, I am going to speak to this -- I will speak first to the minimum security and to women who are on day parole, and the fact that -- you know, depending on where they are located and how they are -- where they able to access different resources.

In Saskatoon, we have a halfway house which is co-ed, which is definitely not optimal as far as we are concerned. There are nine women and considerably more men in that facility on an ongoing basis. And, the women are there and there is an expectation that they will find their own resources in the community. There is no specific resources -- I am going to speak to the opening of that particular facility when it is was opened just for men. The name of the halfway house is Meewasinota, and it was opened as a private halfway house and it was open for men, and there was an elder that was hired, and there was this lovely room that had a medicine wheel in the center of the room and it was used as a spirituality room, and the elder would provide services there on a regular basis.

More recently in more recent years, and certainly since the women have come to be part of that
facility, that room is a storage room and there are no elders being hired to come in and actually corrections -- there are no elders coming into the institution. Again, there is an expectation that people will reach out to the services that they need in the community.

You know, that is all fine and dandy to say that people should be reaching out to the community resources, and I do not disagree with that on a lot of levels, however this needs to be something that is supported, and your hand is held and the resources that are out there are at least made -- people are at least made aware of the resources that are potentially good for you to be able to take advantage of. There are ceremonies, there are sweat lodges on a regular basis in our area. That is for that particular type of community.

There are other resources, I am sure, in the community for people, but I would hazard to say that -- when people are first released from an institution, there needs to be resources out there. The institution has done nothing to provide them with the healing that they necessarily need in order to move forward with their lives, to be reunited with their families. We, at E. Fry, make that effort, however we are just one small organization, and people have so many diverse needs that we cannot be -- unfortunately, we cannot meet all of the
needs of all of the people.

**MS. CHRISTA BIG CANOE:** One of the things that we heard earlier is -- when you were talking actually, and you were introducing yourself, and you were talking about the fact that Indigenous people in corrections are diverse people, but you see a disenfranchisement of women who do not have status.

And, just so we are clear about what we are talking about, we are talking about women who are not registered as Indians under the Indian Act, and they have either non-status as First Nation, or maybe Métis or Inuit. Is there a bit of a culture of proving who you are or your Indigenousness in order to receive programming?

**MS. PATRICIA TATE:** That certainly has been a policy within corrections in the past. And, there has been a sense that, in order to facilitate you being accepted onto the pathways unit, in order to facilitate you being part of a lot of ceremonies, both the staff and in some cases the Indigenous people that are working for corrections have set a standard whereby people are not entitled to be part of those ceremonies.

There is another element that has always concerned me. I mentioned at some point earlier that I had been involved with the HIV and Hepatitis community, and people who have been involved in injection drug use.
Methadone is a medicine. Methadone is a medicine and it is a medicine that is not acknowledged in many facilities. And, individuals who are receiving methadone as a medicine are not allowed or entitled to participate or be part of the pathways unit, which is supposed to be a healing unit for Indigenous people within corrections.

That is an appalling reality for me because the -- if someone is a diabetic and they are receiving their insulin, they are allowed. But, if they are receiving methadone as a medicine prescribed by doctors, they are not entitled to be part of the healing unit and thereby denied many of the services -- of the few services that there are for culture and spirituality within federal institutions.

**MS. CHRISTA BIG CANOE:** I was wondering, you talked about the Okimaw Ohci lodge, if you could give us a little more information. Okimaw Ohci is a Section 81 healing lodge?

**MS. PATRICIA TATE:** No, it is not.

**MS. CHRISTA BIG CANOE:** No, it is not.

Thank you.

**MS. PATRICIA TATE:** Sorry.

**MS. CHRISTA BIG CANOE:** No, I actually am glad we are going to go there, because Section 81 is community operated and run, but the CSC also has healing
In-Ch (BIG CANOE)

lodges.

**MS. PATRICIA TATE:** Corrections Canada has

-- I am going to back this up. When the lodge was

ever the and the elders came together, and they looked

at the sacred ground and they decided that this was the

place that they were going to build a healing lodge for

Indigenous women. And, that was at the time when prison

for women was going to be closing. And, all of these

dreams came together and the ground was cut -- the first

ground was broken, there were eagles flying above the

elders that were there during that time and there was a

vision that prison was going to be different in the

future.

And so, part of that vision was that the

community, which was Nekaneet First Nation, would

ultimately end up taking on the responsibility of that

facility. Initially, Corrections Canada would set it up

as a prison, but the staff would be drawn from the

community in order to facilitate their becoming more

capable -- I shouldn’t say “capable”. More adept at

working within the parameters of corrections.

So, that was the vision. And, the vision

was that, although it was initially going to be set up as

a correctional facility, it would transition to becoming a

Section 81 undertaking at some time in the future. There
was a time frame placed on that, I apologize I am not sure what it was, I know that it was certainly was not 22 years, but the reality is that today I can assure you that Okimaw Ohci will never be a Section 81 facility. There are too many issues that a small community like Nekaneet faces, and there are certainly the benefits of being employed by the government and living on a reserve and not paying taxes that really would entice people to stay on as a correctional -- have it stay as a correctional facility.

And, to be perfectly honest, I am not certain that along the way that the facility itself and the community itself did not have any real understanding of what the expectations of corrections would be, first, for them to convert to becoming a Section 81. They are, as a Section 81, effectively a prison. That is simple as that. The rules and the regulations are the same as if a person were incarcerated in any other federal facility across the country. The only difference, theoretically, is that the community houses those folks and that the community makes the decisions regarding that person’s incarceration while they’re in prison.

As it stands right now across Canada, there are three section 81 facilities, two for men and one for women. The first one that was ever developed was Stan Daniels’ Healing Lodge, which is Native Counselling
Service of Alberta’s. It was a minimum security men’s
institution and they’ve now converted it to a section 81,
and they do an incredibly good job. They have recently,
in the last two years, opened Buffalo Sage for Women.
It’s a healing lodge for women, a section 81 healing lodge
for women in Edmonton as well. I should have mentioned
Stan Daniels is in Edmonton, and so too is Buffalo Sage
Healing Lodge. The other facility that’s currently open
is called Ochichakkosipi. It’s a men’s facility in
Northern Manitoba, and it was the first one to be opened
as an 81 and not ever having been a correctional facility
initially.

MS. CHRISTA BIG CANOE: Thank you.

One of the things you talked about in the
early days, when you went back to, you know, when we first
starting seeing Indigenous programming in the prisons,
that the Elders had to be classified as -- what were they
classified as?

MS. PATRICIA TATE: Chaplains.

MS. CHRISTA BIG CANOE: Chaplains.

What about Elders working in secured units?
Or what can Elders do? Do they have full free range of
the facilities?

MS. PATRICIA TATE: Oh gosh, do they --
well, an Elder has the same authority and the same
freedoms as a chaplain has in respect to visiting people in the institution, going into the different areas of the facility.

That being said, chaplain, Elder or any other faith community has to live by their rules and regulations of the institution. So if there’s a lockdown or if there’s any other kind of security issues, they must adhere to those and they’re bound by those rules as well as anyone else within the institution.

There was a time when there was an old lady by the name of -- a prison abolitionist -- her name was Claire Kohane (phonetic). I’m sure some of you may have heard of her certainly. And she would say, “I want you to open the door of the prison” and I think the wardens would have opened the doors of the prison. But she was a unique entity, and she certainly -- the facilities knew her credentials were respected beyond that of any Elder.

I’m going to talk about the Elders that were -- one of the problems -- I shouldn’t say problems -- one of the issues that has arisen over the course of the years is that because in an effort to ensure that our Elders and our traditional people were able to access the institution in the same way that a chaplain was, there was a -- there were individuals who were cultural coordinators, who were knowledge keepers, who were not
Elders within their own home communities, who were designated as Elders so that they would have access to the prison system. That has not always proved to be a positive thing. Over the years, it’s been one of those dilemmas that we have come across where you have people in -- when you have young men in their thirties who are designated as Elders, and within their community, they may not be as accepted as an Elder. They may be accepted as a knowledge keeper or sweat lodge conductor, or a ceremonial pipe carrier, but they’re not necessarily considered as Elders. So it makes it -- it’s a dilemma when you’re working within the justice system.

**MS. CHRISTA BIG CANOE:** It’s kind of like you have to fit into one peg or one category. Despite the fact that there’s that diversity of knowledge and culture and heritage, it doesn’t seem like there’s room to acknowledge the different roles that different keepers of knowledge have.

**MS. PATRICIA TATE:** That’s absolutely true.

**MS. CHRISTA BIG CANOE:** And when -- I actually only have one more question for you. When you were talking earlier too about the services that you try to provide now in your perspective in Saskatoon with EFRY and connecting people to communities, you’re mostly working with people who were on parole or have been
released, or are you also working with high risk and other partners in the community of Saskatoon?

**MS. PATRICIA TATE:** We’re most definitely working with other partners. Our healing circle is open to all women. Our services are open to all women. We actually have an opportunity, and we work as positively as we possibly can with Child and Family Services, with Social Services and with Corrections in order to ensure that the women who come to us can access as many programs as possible. And oftentimes, you know, we may have a parent of someone who is incarcerated come to us.

Just last week I interviewed a woman whose pregnant daughter is currently incarcerated, and so she’s looking for all the resources she can within the community.

We also have women who have come through the system over the years, some that have been out of correctional — out of any relationship with Corrections or with Justice for many years and who come to us because we are a process where there is no judgment. We welcome everyone and we want to see everyone maximize their opportunities to heal and to gain strength so that the next generation of young women aren’t caught up in this justice system.

**MS. CHRISTA BIG CANOE:** I’m sure that a
number of my colleagues -- sorry, Kassandra, did you want to add something?

**MS. KASSANDRA CHURCHER:** No, Christa. I just wanted to note that under Tab K we have submitted in our materials a regional advocacy letter documenting the conditions of confinement at Okimaw Ohci Healing Lodge. So I just wanted to draw that to attention because Patty spoke at length.

**MS. CHRISTA BIG CANOE:** And, sorry, that was at K?

**MS. KASSANDRA CHURCHER:** Yeah, it should be Tab K. It’s the most recent letter. It’s the conditions as of July 2018.

**MS. CHRISTA BIG CANOE:** Oh, and I see, Patty, that you’re actually copied on this -- or sorry, that you actually are one of the authors of this.

So actually, if I might just ask you one more question in relation to this particular letter? Why was this letter written? And I’ll give you a copy of it so you have it in front of you. This was the -- it’s from July 10th of this year.

**MS. PATRICIA TATE:** So I’m going to speak to this letter, but I want you to recognize -- know that this is just a sample of what we send to the institutions on a regular basis, outlining the different issues that we
see when we go to do our CAEFS advocacy visits. And in this particular case, the women reported a lot of different things.

One of the issues that we see on a most regular basis, I mean every institution, are issues around health and dentistry and mental health. We recently were advised at a meeting with staff that the Okimaw Ohci Healing Lodge has a budget of $9,000 annually for dental work. I’ve talked to women who have said to us that they are only allowed to have three of their seven teeth that have cavities in them dealt with because otherwise it’s spending too much money. That’s the healthcare.

We have women who -- in this particular letter we talk about, in particular, the lack of a psychologist. We were advised by Corrections that not one of the women had a requirement that they see a psychologist before they are eligible for any kind of release, and yet we have documentation from several woman who have a requirement that they have been seeing a psychologist on a regular basis to make them eligible for any kind of support for them to get on an early release.

The letters are sent on a regular basis. This one includes strip-search.

Oh, and while we’re there, we do meet with each one of the groups in the institution. So at this
point in time, we’re meeting with the Lifers Group, our prison advocates and with the sisterhood, which is called is-kway-lak (phonetic), and we meet with each of those groups, and they give us their story. They share their story about how life at Okimaw Ohci is proceeding.

And, some of the stories that we are hearing are devastating, because they certainly are not reflective of a healing environment. They are reflective of a punitive prison environment, punishment. And so, we -- these letters are our opportunity to ensure that we make the institution aware that we know what they are -- what is going on, and that they are accountable and they have to respond to these letters.

**MS. CHRISTA BIG CANOE:** Thank you. And so, that particular letter that is found at Schedule K was written July 10th to the lodge, and it, as you said, identified a number of issues including health care, psychologists, strip searches, temporary absences. It talks about the various groups. It talks about involuntary transfers, parole hearings being postponed. So, it listed a number of the issues that you want to bring to their attention.

Chief Commissioner and Commissioners, I would like to have this marked as the next exhibit seeing as the fact that Patty has identified it and is also one
of the authors.

CHIEF COMMISSIONER MARION BULLER:

Certainly.

MS. PATRICIA TATE: I have one more thing that I would like to add to my testimony, if I may be permitted. I ---

MS. CHRISTA BIG CANOE: We will just let them give us the number, and then...

CHIEF COMMISSIONER MARION BULLER: Thank you. Exhibit 30 will be the letter from Canadian Association of E. Fry Societies dated July 10th, 2018 to Rachel Parker at Okimaw Ohci Healing Lodge. Thank you.

--- Exhibit 30:

Letter to Okimaw Ohci Healing Lodge from Sue Delanoy, Canadian Association of Elizabeth Fry Societies Regional Advocate, dated July 10, 2018 (three pages) Okima Ohi Healing Lodge Letter

MS. CHRISTA BIG CANOE: Thank you. And, sorry, Patty, what else did you want to add?

MS. PATRICIA TATE: There was one other item that I wanted to add. I wanted to go back -- again, I keep referencing back to Prison for Women and some of the issues that were -- the women suffered with there and some of the issues that we experienced there.
During the course of my tenure as a liaison officer, there was a policy in place. And, that policy was a reciprocal agreement between Corrections Canada and Pine Grove Institution, which is a women’s provincial facility in Saskatchewan.

Now, what is important to note is that the reciprocal agreement was intended to mitigate the fact that some women were far away from home. So, in other words, if there was a woman at Pine Grove doing a provincial sentence and she was actually from Ontario or Québec, for that matter, she could be transferred to Prison for Women in order to serve her sentence so she would be closer to family. The same thing was intended for women who were federally sentenced and in Prison for Women to be able to go to Pine Grove to serve their sentence so they could be closer to family.

What is important in this scenario is that there were never women sent from Prison for Women to the West, to Pine Grove, despite the fact that a vast majority of the Indigenous women who were in Prison for Women were from Saskatchewan, and Alberta and Manitoba. What is equally frightening for me is the fact that there were women, provincially sentenced women doing less than a 2-year sentence in Pine Grove who were sent to Prison for Women to serve their sentence.
What is even more sad in this story is that there was more than one of those women ultimately ended up picking up charges inside Prison for Women that brought them up to federal sentences. But, there was at least one, and I think two who never made it out of Prison for Women. They were provincially sentenced little girls who came to Prison for Women, had their sentences increased by virtue of behaviour inside and ended up dying in Prison for Women amongst those who passed during those last years.

And, I think it is important that we recognize that we have done a very, very poor, poor job of dealing with Indigenous women who are incarcerated. It -- corrections has proven over and over again that prison does not work and that our position of abolition and alternatives in the community is the only thing that is going to turn this around. I'm sorry. Thank you.

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

Diane, may I ask you some questions?

**MS. DIANE SERE:** Sure.

**MS. CHRISTA BIG CANOE:** I understand that, and you had told us earlier, that you are going to actually share your lived experiences as an inmate and through the justice system and, again, we are very grateful for that. I understand that you, just for, sort
of, ease of your own reference, has -- have written
yourself a statement to keep you on track.

MS. DIANE SERE: That is correct, yes.

MS. CHRISTA BIG CANOE: Yes. And, that you
are going to read that into us today?

MS. DIANE SERE: Yes.

MS. CHRISTA BIG CANOE: And so, on that
basis, I would offer you the opportunity to please share
your story with us and we are very honoured that you can
share it.

MS. DIANE SERE: Thank you, I am honoured
to be here as well. So, I am going to start. Kwe all my
relations. My name is Diane Sere. I am a proud Algonquin
woman from the Nipissing Territory. I am truly honoured
to be here today, honoured to have a voice at this very
important gathering.

My story is being told to honour the
daughters, sisters, aunties, mothers and grandmothers who
are incarcerated. I am here to speak my truth from my
heart. There are parts of my story that will not surprise
you not only because I am a woman, but because I am an
Indigenous woman.

I spent nine years going through the
judicial court system, 16 months incarcerated in a federal
prison, 32 months on parole and I am honoured now to be
working in this field for the last three years. With all
the lived experience, I could write a book.
Unfortunately, I only have a short time to share and,
therefore, I chose to speak about experiences that had the
most impact.

I am the youngest of two sisters. I lost
my mother at a very young age. I am a survivor of
childhood trauma, sexual abuse and family alcoholism. My
sister and I were separated at a young age for a short
period of time and taken care of by different family
members while my father worked.

At the age of 15, I left home. For a short
time, I lived at a convent with nuns. This was a very
painful time in my life. I had quit school, and started
associating with the wrong crowd and began experiencing
with drugs and alcohol. I had completely disconnected
from reality. I had no sense of direction. I was lost
and empty.

In 1988, I decided to move to Ottawa
seeking a better life. I was leaving behind a past of
emotional pain. I had suppressed my emotions in the hopes
that they would stay buried as if that life never existed.
I started living a modern way of life. I started working
part-time with employment agencies while finishing my
school in furthering my education.
In 1992, I started a term position with the federal government. During this period, I kept my culture a secret. I was a French-Canadian. After many years of working in the field of human services, I was regularly being exposed to discrimination, racism, sexism, inequalities and oppression. I had so much anger and I was troubled. I was looking for support and was not sure where to get it. I started reconnecting with my culture.

In December of 2004, while working with the federal government and in my pursuit to rectify injustices and societal wrongs, I found myself in a breach of trust situation in facing criminal charges. The RCMP had come to my home to arrest me. While in custody, my home was searched. The RCMP had opened my medicine bundle and had tossed my medicines around my room. I felt violated and disrespected. This was the beginning of my journey through the criminal justice system.

With the support of family, which many women do not have, so I am truly blessed, I was able to secure a lawyer. There were many delays and I had exhausted all financial means. Legal Aid had refused to assist me despite my many appeals. I self-represented myself for a period of time, and then I applied for Rowbotham and was granted a Legal Aid certificate.

From 2004 to 2012, I was in and out of
court working two jobs and struggling to maintain my
sanity. I had been terminated from positions because the
RCMP had advised my employers of my outstanding charges.
I was being shamed by society and I was struggling with
emotional stress and anxiety. I was afraid to leave my
safe place which was my home.

I was on strict bail conditions and could
not leave the city, which made it very difficult because
my two biggest supports, my father and my sister, were
living five hours away. My mental health was declining
and my stress was becoming unmanageable, so I reached out
to the Elizabeth Fry Society. This was the one place I
felt safe. I was not being judged. I met regularly with
a counsellor, and this is where I was advised about Gladue
rights.

In June 2012, when my trial was over and
the judgment was guilty, the courts were advised that I
wanted to exercise my rights to a Gladue report for
sentencing. This was not received comfortably. I was
later told that I did not look Indigenous, and that before
I could get a Gladue report, I needed to have to prove my
Indigenous heritage.

A few weeks later, I received a phone call
from a probation officer. She stated that she was going
to be responsible to do my pre-sentence report. I advised
her that I asked for a Gladue report. She stated, we do not do Gladues in Ottawa. I will prepare a pre-sentence report with Gladue considerations. I met with her and it was clear that she had no knowledge of the Native culture. She was very respectful and did her best, but there were several misunderstandings that got translated into the report.

The argument in my Gladue hearing was that I did not suffer the same inequalities as a visibly Indigenous person, I had a job, I had an education and I was not an alcoholic. There were many discriminatory remarks made against Indigenous people, so many that my father and I wanted to stand up and say, enough. This is not right. I felt powerless and I was silent. For over three years, I attempted to get a record of that hearing and my requests were ignored.

In March of 2013, I was sentenced to four years to a federal prison and was escorted to a provincial remand centre pending a transfer. I spent my first night on the floor of a holding cell infested with ants. My worst nightmare had began. I had lost my dignity, my individuality. For the next four to five weeks, I spent my time in protective custody which is segregation. I was suffering anxiety, depression, I could not think clearly, I did not know what date it was, how long I had been
there, I could barely eat, the food was making me sick.

The only release I had was the opportunity to smudge. This was a practice that I enjoyed in order to cleanse my body, mind and spirit. Unfortunately, I stopped smudging after a few days because I felt disrespected. My smudge was being lit with a lighter, and while I smudged, the guard sat there and smoked a cigarette and pressured me to hurry up.

In April of 2013, I was transferred. I was told it would be a straight transfer to the Grand Valley Institution for Women in Kitchener, but I was transferred to another remand centre and again put into protective custody in segregation. I spent a week there horrified. I could hear girls screaming and crying at night. One night, I was awakened by a girl detoxing, that was the most traumatic incident I had ever experienced. Those memories still haunt me.

I arrived at the Grand Valley Institution for Women in late April of 2013. During orientation, I was advised about elder services. I was eager to connect with them. It took a few weeks before I could meet with the elder, as I was required to take mandatory programming and meet with other institutional services. Approximately three weeks after arriving, I was able to meet with an elder and create a healing plan.
I started regularly meeting with the elder. This was the only place I felt safe within the institution. I participated in the Aboriginal Women Offenders Program, I was building a respectful relationship and felt accepted. I regularly participated in ceremonies, sweats, gatherings and I absorbed all the teachings that were being offered. I even became a fire keeper. My father was able to provide us with wild meat to the institution so that we could enjoy a feast. It was impossible to get any country food added to our grocery list, despite the many requests.

During this period, I was connecting with other Indigenous women and hearing their stories. It saddened me to hear that my sisters were struggling with isolation, addiction, mental health, loss of culture, extreme violence and suicide. It also angered me to hear that my sisters in segregation and maximum security were being denied access to cultural programming and activities. I felt the need to help, and I became more involved with elder services and became an advocate for the Indigenous women that were incarcerated.

This position did bring a lot of challenges within the institution. I remember one day, a CO said to me, Sere, I did not know you were a savage. I heard so many racist remarks, including that we needed to be tamed.
All I could do was smudge. I had no control and my voice was being silenced. I was also advised to be very careful as this could affect my parole. During a room search, I remember that my bundle was opened and disrupted. I submitted a complaint that was never addressed.

I became more actively involved with elder services and became the elder’s helper, preparing medicines, preparing for ceremonies and pow wows, making cedar tea and maintaining the sacred grounds. The elder and I created an elder’s helper job description, so that we could submit it to the warden so that we could create a position for our Indigenous sisters that would be a paid position within the institution. This position was later implemented, so I am hoping that this position is still active within GVI. With great sadness, the elder passed not long after I left, so I will forever carry her teachings.

While at GVI, I also participated in the Native Sisterhood Healing Circle, a sisterhood embraced by women prisoners. We would get together every Monday evening to smudge, share stories, drum and sing. I recall in December of 2013 there was a verdict in the Ashley Smith inquest, at a sisterhood gathering, we drummed and sang the women’s honour song. We were so happy to hear about the recommendation to ban segregation. A
recommendation that has yet to be implemented.

In late June 2014, I was going for parole. I had a Section 84 release plan and what I thought was going to be a circle hearing. It was my elder, my institutional parole officer and myself in a room with cameras and two parole board members via a television. That circle -- a circle represents important principles in Indigenous culture, including quality and balance. And, unfortunately, that circle hearing never happened, so I am hoping that things have changed.

In July of 2014, I was released with a bus ticket and sent on my way. I returned to Ottawa and was required to stay at the J.F. Norwood House, a supervised community residence managed by the Elizabeth Fry Society. Re-entering society is not an easy task. I remained there for four months before I was granted full parole and returned home. I had a home. A majority of these women are homeless. And, with the housing crisis, these women are returning to the streets, the same streets that led them to incarceration.

In April of 2016, I was approached by the Elizabeth Fry Society and asked if I would be interested in applying for the Indigenous Peer Support Worker position. They had received funding and I was honoured and excited and wanted to give back. In my role, I
attempted to gain access to GVI to support the Indigenous women, some were still there — some whom were still there after I left, and I was denied. I was told I could support them over the phone.

Unfortunately, the funding has now ended, but I continue to provide support in my current role. Today, I remain on my healing journey while working with the Elizabeth Fry Society of Ottawa to try and improve the lives of criminalized women. However, the stigma of having gone to prison continues to haunt me. Chi-migwetch.

**MS. CHRISTA BIG CANOE:** Thank you very much. At this time, I understand that the panel has recommendations and that Kassandra is going to be able to provide us the recommendations to the Commissioners in an overview.

**MS. KASSANDRA CHURCHER:** I will. At first, I would like to thank Diane for being here. Your story has value, you have value, the women we will talk about have value.

As mentioned during my introduction, there have been multiple testimonies, hearings and reports that have resulted in recommendations on how to address the crisis of overrepresentation of Indigenous women within the criminal justice system. These reports and
recommendations are included below. It’s not -- it’s a limited list, but I’d like them on the record.


The recommendations in these reports were built on testimony, consultations, deliberations, much like we’re doing here today. And, yet, we sit here with ever growing numbers of Indigenous women being victimized and criminalized. The problem is that these recommendations address the systems that are responsible
for the current situation. The recommendations are not
enacted because the systems blame the individuals for
their behaviours and actions. This form of hyper-
responsibility forces Indigenous women to be accountable,
rehabilitate, reintegrate, while maintaining the safety of
a public that has not ever kept her safe.

It is clear from our work and the Inquiry’s
proceedings that any meaningful and authentic
recommendations must be from the communities that are
affected. First Nations, Métis and Inuit communities must
be engaged in the process of re-envisioning a system of
justice that reflects their practices, beliefs and
cultures. They must also be given the funding to support
community-led solutions to prevention and reintegration
associated with crime.

In partnership and as an Indigenous ally,
CAEFS respectfully submits the following five
recommendations based on our experience working with
federally-sentenced women, how to address the over-
incarceration issue here in Canada. While we rely on
Indigenous to cover all First Nations, Inuit, Métis,
status and non-status Indigenous women, it is important
that these recommendations come with the knowledge that
these groups are distinct, and, therefore, the
recommendations that come later in our testimony must be
considered and developed within the appropriate cultural context.

Recommendation 1: Decarceration. There is an urgent need for more community-release options for women. The lack of available options is not as much due to legislation as it is policy decisions which have compromised the effects of this legislation. The Conditional and Corrections Release Act, which Savannah addressed in her testimony, contains within it Section -- still too fast, eh? Sorry, I know.

**MS. CHRISTA BIG CANOE:** For the translator, yes.

**MS. KASSANDRA CHURCHER:** You know, I’m feeling like Diane’s energy; I feel like I want to get it all out there. I apologize. When you get passionate about something, it’s difficult to remember to slow down.

The CCRA is set up to facilitate community release. Sections 81 and 84 of the CCRA enable the transfer of resources to Indigenous communities on and off reserve in a rural or urban setting to host community members who would otherwise be in prison and to support the reintegration in ways that benefit the individual and the entire community.

The intent of these sections was to afford Indigenous communities greater control over the matters
that are affecting them. These provisions are broad and allow for creative, flexible and individualized community-based solutions. Unfortunately, since their inception 25 years ago, they have been severely underutilized, especially in the case of Indigenous women.

This underutilization of Section 81 specifically is the policy developed and driven by CSC. For instance, as Savannah has testified, Indigenous women are significantly overrepresented in maximum security placements due to discriminatory classification tools. At the same time, Indigenous women are being overclassified. This restricts their access, the Section 81 agreements, as they hold that only those classified as minimum will have access.

Section 81 does not, in fact, require a healing lodge or institution to be built at all, and this restrictive reading of this legislation creates major barriers for Indigenous communities that are actually interested in undertaking a Section 81 agreement.

Funding parity for community-driven Section 81 and 84 releases is also required. There continues to be substantial funding discrepancies, as well as differences in terms and conditions of work between what is a Section 81 healing lodge, which Patty addressed, operated by Indigenous communities and those operated by
the Correctional Services of Canada. In fact, in Spirit
Matters, which is another document that we’ve submitted,
the OCI indicates that CSC diverted Section 81 funding
meant for communities to prison-based programs, the very
same programs which Patty has just been critical of.

Corrections Service Canada claims that it
is too costly to place and treat women in community. Yet,
the current cost to incarcerate an Indigenous woman, on
average, is $192,000 a year; that’s at minimum. For
specialized units and segregation, that number can go up
to $400,000 a year. And, yet, it is too costly to enter
into agreements with communities to look at alternatives.

Our second recommendation will be focused
on judicial oversight. We urge the Commission to consider
the need for judicial oversight on all considerations
relating to Indigenous women, given the current rates of
incarceration and over-classification. Following the
Commission of Inquiry into certain events at the Prison
for Women in Kingston nearly 22 years ago, Louise Arbour
concluded that judicial oversights of corrections are
required.

Further, the committee should explore a
remedial option such as that recommended by the Honourable
Louise Arbour in her 1996 report for prisoners whose
conditions of confinement amount to correctional
interference with their lawful sanction and, therefore, renders their sentence in need of remediation.

Recommendation No. 3, mandatory minimum sentences. Mandatory minimum sentences and parole ineligibility periods have a disproportionate impact on women, and in particular, Indigenous women. Indigenous women are overrepresented among those sentenced to life.

Mandatory minimum sentences deny judges the ability to consider lower levels of culpability; for example, in instances where an accused is a party to a spouse’s crime, or where the accused was acting in relation to a crime against one self or one’s own child. This is particularly relevant for women whose violent crimes are overwhelmingly defensive or otherwise reactive to violence directed at themselves.

Senator Pate currently has tabled Bill S251 which gives the court discretion to vary the punishment to be imposed in respect of a crime for which the penalty or different degrees of kinds of punishment is prescribed. Mandatory minimums disproportionately impact Indigenous women as it does not allow the court to structure sentencing based on the factors that have contributed to her own criminalization.

Recommendation number 4, ending the use of strip-searching. And, in this section, I will ask you to
protect yourselves. Was that the wording, Christa?

**MS. CHRISTA BIG CANOE:** Protect your spirit.

**MS. KASSANDRA CHURCHER:** Protect your spirit. Strip-searches are defined as the removal of rearrangement of some or all of the clothing a prisoner has so as to permit visual inspection of a person’s private areas, namely, genitals, buttocks, breasts or undergarments. Police and prison guards are also trained to have a woman open her mouth, lift her tongue, take out her dentures, show behind her ears, shake out her hair, lift each limb and each breast, spread her legs, bend over to touch the floor, part her buttocks for inspection, and at times, squat over a mirror.

If the woman is menstruating, she may be required to remove her tampon in front of the officer supervising the strip-search. Those who are in charge of prison security have seen that strip-searches yield very little, if any, contrabands, and no weapons, but significantly traumatize already traumatized women on a regular basis.

Women prisoners, the vast majority of whom have these histories of physical and sexual abuse frequently experience strip-searches as a form of sexual assault. CAEFS maintains that strip-searching within the
detention systems of Canada is state-sanctioned sexual assault. With 90 percent of Indigenous women reporting being survivors of physical, sexual or domestic abuse, this federal government action effectively retraumatizes women on a regular and consistent basis. There are reports of women being strip-searched, moving from one section of the prison to another within the same prison they are being strip-searched.

Women have refused to comply with strip-searching. Women have lost their ability to visit their own children and their families as a result. Some women intentionally avoid applying for jobs or work or volunteer opportunities in the community, which is their right, just because they do not want to endure the trauma of being strip-searched by the Correctional Service of Canada.

In a letter CAEFS addressed to the Correctional Service of Canada this past October, we cited that strip-searching violated Mandela Rules 52.1, which states intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administration shall be encouraged to develop and use appropriate alternatives to intrusive strip-searches.

Our regional advocates across the country continue to document, right up into the letter that we
submitted for the Okimaw Ohci Healing Lodge that strip-
searching is happening on a regular basis at the women’s
institutions.

Our last recommendation, Recommendation
number 5, ending the use of segregation in all its forms.
Segregation refers to the practice of confining a person
alone in any way for periods of time. It is not merely a
place. Prisoners in segregation, including maximum
security, do not have access to main areas of the prison,
programs, yard, but more importantly, meaningful human
contact.

The Canadian Human Rights Commission has,
in the past, noted several research studies that document
adverse psychological symptoms that occur when you are
segregated: insomnia, confusion, hopelessness, despair,
hallucinations, even psychosis. Due to the mental and
physical distress such segregation can cause, the practice
amounts to cruel, inhumane and degrading punishment, and
should be, again, categorized as institutional violence
against women. Indigenous women who have all experienced
some form of abuse by the state are then overwhelmingly
subject to the practice of segregation and additional
trauma enacted on behalf of the Government of Canada.

In conclusion, we respectfully submit our
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MS. CHRISTA BIG CANOE: Oh sorry, before you have your concluding remarks, which I absolutely want you to have, I just have a couple of questions and a couple more documents I just need you to identify.

MS. KASSANDRA CHURCHER: Of course.

MS. CHRISTA BIG CANOE: Specifically, in the material you provided, at Schedule D is an article by Jeanne Marie Greenough on Women-Centred Corrections: Creating Choices for Federally Sentenced Women on a Continuation of Paternalistic Practices? If I understand, there are members on this panel who can ask questions if questions arose on this article, and that would likely be both you and Savannah? Would you be comfortable answering questions if they arose on this particular document?

On that basis, Chief Commissioner and Commissioners, I request that this also be made an exhibit. This is the thesis of Jeanne Marie Greenough. I always say her last name wrong.


--- Exhibit 31:

Women-Centered Corrections Report

MS. CHRISTA BIG CANOE: Also, at Schedule G
is the Indigenous Women in Solitary Confinement report. And, we have just heard your submissions and your recommendations in relation to a number of these issues. This is produced by the Native Women’s Association of Canada. I understand it is a publicly available document and that members of this panel would be willing and able to answer questions if they arose on this particular document?

MS. KASSANDRA CHURCHER: Yes.

MS. CHRISTA BIG CANOE: Yes, thank you. On that basis and having had it identified, I kindly request that it be made the next exhibit?

CHIEF COMMISSIONER MARION BULLER: Yes, 32 will be Indigenous Women in Solidarity Confinement Policy Background – Native Women’s Association of Canada, August 2017.

--- Exhibit 32:

Schedule G CAEFS Indigenous Women in Solitary Confinement

MS. CHRISTA BIG CANOE: And, at Schedule M, there is the statement by Commissioner Anne Kelly on Correctional Services of Canada mandate letter. If I understand correctly, this is the mandate letter that ministers received?

MS. KASSANDRA CHURCHER: Mm-hmm.
MS. CHRISTA BIG CANOE: This is also a publicly available document.

MS. KASSANDRA CHURCHER: It is.

MS. CHRISTA BIG CANOE: And, if a question arose, a member of this panel would be happy to answer it?

MS. KASSANDRA CHURCHER: Yes.

MS. CHRISTA BIG CANOE: Okay. On that basis, could I please have the statement by Commissioner Anne Kelly on Correctional Services of Canada mandate letter, and you’ll see in the opening, the opening quotation is on July 30th, 2018, is when that commissioner was appointed, but there is no date on the actual document.

CHIEF COMMISSIONER MARION BULLER: Okay. Certainly. Exhibit 33 will be Statement by Commissioner Anne Kelly on Correctional Service of Canada mandate letter, authored by Anne Kelly, Commissioner of Correctional Service of Canada, no date. That’s Exhibit 33.

--- Exhibit 33:

Statement by Commissioner Anne Kelly on Correctional Service of Canada mandate letter (one page)

MS. CHRISTA BIG CANOE: Thank you. And, the last document is actually one that was a submission
prepared by the Canadian Association of Elizabeth Fry
Societies. It’s dated February 2018, but can I ask what
the submissions were prepared for?

MS. KASSANDRA CHURCHER: Those were our
statements to the Status of Women committee, which they
adopted some of our recommendations in their report.

MS. CHRISTA BIG CANOE: And, when you say
the Status of Women committee, I know I’m probably -- I
just need you to be a little more specific. The Status of
Women committee, which Status of Women committee?

MS. KASSANDRA CHURCHER: Where’s the report
tile? Do you remember what the report title is?

MS. SAVALANA GENTILE: I can’t remember the
exact report title, but ---

MS. KASSANDRA CHURCHER: Oh, I’ve got it.
Report of the Standing Committee on the Status of Women,
which was published June 2018. That was our testimony in
February 2018, and they had put forth 96 recommendations
on how to address the incarceration issue in Canada.

MS. CHRISTA BIG CANOE: Thank you.

MS. KASSANDRA CHURCHER: Several of ours
were adopted.

MS. CHRISTA BIG CANOE: Thank you. And,
obviously, since it was produced by you -- or prepared by
you and you made the submissions, you are happy to respond
MS. KASSANDRA CHURCHER: Yes.

MS. CHRISTA BIG CANOE: On that basis, I ask the Chief Commissioner and Commissioners to have this made the next exhibit.

CHIEF COMMISSIONER MARION BULLER: Exhibit 34 is Submission prepared by the Canadian Association of Elizabeth Fry Societies, February 2018. Exhibit 34.

--- Exhibit 34:

Submission prepared by the Canadian Association of Elizabeth Fry Societies, February 2018 (eight pages)

MS. KASSANDRA CHURCHER: All right. And, just quickly to conclude, we respectfully submit our testimony for your consideration and urge the Inquiry to continue to acknowledge the systemic factors that contribute to the incarceration of Indigenous women are the very same factors in place -- that place them at higher risk for going missing or being murdered.

We close today’s testimony with recommendations number 30 from the Truth and Reconciliation Commission. We call upon federal, provincial, territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade and to issue detailed reports
that monitor and evaluate the progress in doing so. Thank you.

**MS. CHRISTA BIG CANOE:** Thank you. We appreciate those closing comments, Kassandra. One of the things I believe that Diane is also going to do -- we actually have two requests. One is that Diane is going to be reading in a poem that was written by Kinew James in honour of her, and we also have a special request from Patty. So, maybe we will have Diane read in Kinew James -- and I actually do have copies that I will pass, and we will make sure it gets uploaded for the parties with standing.

**MS. DIANE SERE:** This poem is being read to honour all the strong women behind -- or have gone before us and for the strong women that -- you know, ahead of us. And, also, I am honoured to be able to read this poem by Kinew James.

> It’s hard for me to past steps one, two and three. As I progress, I regress with no one to impress. This whole dilemma makes me laugh, haha. But, deep down inside, I protect my pride.

> They can’t take me or break me ‘cause I’m stronger than the rest. That’s right, I’m the best. I contain my pain, bent on being sane to that which I feign their madness towards this princess.
They can’t see what they’re doing to me hidden behind these walls, touring the justice halls. Take the crime to trial, got my lawyers number, please dial. Oh, and later call for pizza. Yeah, make it catered.

They fake I take another piece of cake. Unsettled mindset, no, I’m not their pet. These check-ins check-out and without a doubt, they’re sure to come back and they don’t got jack.

Compassion is to ration the empathy like sympathy. It requires skill to not want to kill. Take a pill and it’ll all be better. Write that letter. Oh, and don’t forget, I’m not off the protocol just yet.

“One last thing” as I always say, I refuse to give in. I was born to sin in this parade in which I reign yay a delegate and nothing but. If I failed to succeed, I’ll say the Apostles Creed.

**MS. KASSANDRA CHURCHER:** Kinew James died in the custody of the Correctional Service of Canada.

**MS. CHRISTA BIG CANOE:** Patty?

**MS. PATRICIA TATE:** Yes, I have actually asked for permission to offer to the Commission tobacco. I can’t help but look at the drum that sits on your bundle. And, I was going to ask for permission with tobacco to use that drum, because I didn’t bring mine.
Many years ago at Prison for Women, an elder by the name of Maggie Paul and a Mi’kmaw elder came, and she had received a song for the women. It has become a song that is heard across this country. The song is the Strong Woman song, and I am sure many of you know that song. And, if you have drums, rattles or just want to sing along, I would invite you to do that.

It -- one of the things that happened during the -- during all the difficult times at P4W was that the women were given the right to give a big drum, because there were no men there to make that heartbeat for Mother Earth. And, when there was a death, or when there was a tragedy or when there were difficulties in Prison for Women, the women would take the big drum to the range, and they would sing, and they would sing Strong Woman song, and it would echo through the entire institution, and everybody became familiar with it.

It has had transitions over the years, and I think I am okay with that, because it has grown with each person who has had an opportunity to sing it. But, when we sing it, I just want it to be known that this is a song that came to the women at Prison for Women. This is a song that gave them strength, courage through times of trial. And, hopefully, it can continue to do that as -- into the future.
CHIEF COMMISSIONER MARION BULLER: Yes,
please and thank you very much.

MS. PATRICIA TATE: So, I was there when
the women received the song from Maggie Paul. And, they
all sat at the big drum, because they have been given the
right to do that, even were the volunteers, and the
liaisons, and the visitors to the institution were
standing behind them and heard the strength and courage
that it gave to them. And so, I am honoured and humbled
to be able to share it with you.

(MUSICAL PRESENTATION)

MS. CHRISTA BIG CANOE: Chief Commissioner
and Commissioners, it is 12:00, this is actually a really
good opportunity to take our lunch break and we request --
it is a one hour lunch break. This will allow everyone to
have a chance to eat, as well as the parties with standing
to meet so that we can do the verification for cross-
examination. I am going to suggest that we do that at the
beginning of lunch, because then it will afford us an
opportunity to re-distribute the list.

So, if parties with standing could meet in
the Dufferin room at the beginning of lunch, and if we
could come back at 1:00 to begin cross-examination, I
would appreciate that.

CHIEF COMMISSIONER MARION BULLER: 1:00
please.

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

--- Upon recessing at 12:04

--- Upon resuming at 13:06

**MS. CHRISTA BIG CANOE:** Chief Commissioner, Commissioners, if we could get started the examination-in-chief and we would like to open the cross-examination. I will be inviting the parties up to ask questions of the panel members. I just, as a general statement, and it is directed to all counsel, want to remind everyone of the rules -- the respectful rules of practice, that we do take a trauma-informed approach when we are asking questions and that if a witness does indicate that they are not in a position to answer the question due to personal reason or if they are not feeling confident in answering it, I kindly ask that you just respect that.

And, on that note, I would like to welcome up the first party to cross-examine, Pauktuutit and other Inuit organizations represented by Ms. Symes. Ms. Symes has 14.5 minutes.

--- **CROSS-EXAMINATION BY MS. BETH SYMES:**

**MS. BETH SYMES:** I represent Pauktuutit, the Inuit Women of Labrador; Saturviit, which is the Inuit Women of Nunavik; The Ottawa Inuit Children Centre and the
Manitoba Inuit Association. And, my questions are going
to focus exclusively on Inuit issues.

I guess you could decide who wants to
answer the question, but I think these are probably
Kassandra’s questions. Kassandra, there is no federal
correctional facility in Inuit Nunangat, is there?

MS. KASSANDRA CHURCHER: No.

MS. BETH SYMES: And so, therefore, all
Inuit, men and women, who are sentenced to a federal
sentence must come south?

MS. KASSANDRA CHURCHER: Unfortunately,
yes.

MS. BETH SYMES: And, despite the fact that
all Inuit who are sentenced to two years or more, are in
the federal correctional system, all of the studies that
you have put and that have gone into exhibits here refer
to Indigenous people, Indigenous women in corrections?

MS. KASSANDRA CHURCHER: Correct.

MS. BETH SYMES: And, there is no breakdown
in any of the studies that you have cited about the number
of Inuit that are in corrections, neither men nor women?

MS. KASSANDRA CHURCHER: That is correct.

MS. BETH SYMES: One of the early
recommendations of the report that you talked about in-
chief, a Call to Action, this is the report of the
standing committee on the status of women in June 2018, was to count, to disaggregate who is Indigenous into First Nations, Métis, Inuit and I would presume it should be non-status as well?

MS. KASSANDRA CHURCHER: Yes, which is something I included in my testimony.

MS. BETH SYMES: And, that then recommendation would be a recommendation that would be helpful to make to this Inquiry, because as we heard from Dr. Janet Smylie, if you do not count, you do not exist.

MS. KASSANDRA CHURCHER: I would have to agree with that statement.

MS. BETH SYMES: Okay. Now, we also know that from other reports that Inuit are overrepresented in the correctional system; is that correct?

MS. KASSANDRA CHURCHER: Yes, particularly in the provincial corrections system.

MS. BETH SYMES: And, that Inuit women are even more overrepresented in the correctional system, both federal and provincial, than Inuit men?

MS. KASSANDRA CHURCHER: That is right.

MS. BETH SYMES: Now, you are aware of the study that Pauktuuitit, ITK and the Correctional Services of Canada did with respect to the needs of Inuit offenders in federal correctional facilities?
MS. KASSANDRA CHURCHER: I am. We do not use or endorse the language of “offenders”.

MS. BETH SYMES: I understand. I just used the title ---

MS. KASSANDRA CHURCHER: Yes, I just wanted it on record.

MS. BETH SYMES: On record, all right. So, you are aware of that. And, that there are, according to that report, somewhere around 120 Inuit offenders incarcerated in the federal correctional system?

MS. KASSANDRA CHURCHER: Yes.

MS. BETH SYMES: And, they are distributed literally coast-to-coast?

MS. KASSANDRA CHURCHER: That is correct.

MS. BETH SYMES: I did not add another coast because there are no institutions in the other coast.

MS. KASSANDRA CHURCHER:

MS. BETH SYMES: All right. And, we have had trouble of trying to get a handle on the number of Inuit women who are currently in federal correctional institutes, but the studies vary from three to five to seven, is that your understanding as well?

MS. KASSANDRA CHURCHER: That is our understanding based on our regional advocates.
MS. BETH SYMES: And, again, despite their incredibly small numbers, like less than 10, they too are distributed across Canada. They are not all in one institution?

MS. KASSANDRA CHURCHER: No, they are not.

MS. BETH SYMES: And, Patricia, in terms of the healing lodge in Saskatchewan, I understand that Inuit women have gone to the healing lodge in Saskatchewan?

MS. PATRICIA TATE: I cannot speak to whether they are there -- anyone is there presently, but I believe that there have been Inuit women there in the past.

MS. BETH SYMES: Okay. And, I think it is not a controversial topic, but the Canadian Correctional acknowledges that there are no Inuit-specific programming for these women?

MS. KASSANDRA CHURCHER: That is correct. And, Patty, you want to ---

MS. PATRICIA TATE: Yes, absolutely. That is correct.

MS. BETH SYMES: Now, for any woman who is incarcerated, it is almost always not in their hometown. But, for Inuit women, would you agree with me that, for them, the isolation and loneliness is exacerbated because of language?
MS. KASSANDRA CHURCHER: I would agree with that.

MS. BETH SYMES: And, I believe that the report from Pauktuutit, ITK is that some 93 percent of Inuit in correctional facilities speak Inuktitut as their first language?

MS. KASSANDRA CHURCHER: Yes.

MS. PATRICIA TATE: And, actually, some of them speak it as their only language or (indiscernible) in the past.

MS. BETH SYMES: Patty, in fact, I think the -- Patricia, sorry, the numbers are, I think, 70 percent that Inuktitut is their only language?

MS. PATRICIA TATE: Yes.

MS. BETH SYMES: Of course there is no country food, would you agree?

MS. PATRICIA TATE: I would agree. Actually, I am going to -- perhaps I will just tell you a short story about when I was working with men in Ontario at the Kingston Penitentiary. There was this celebration, and we had all the food -- as liaisons, we brought in all the foods. And so, one of the things that I brought in was raw meat, and it was frozen, and it was -- the Inuit offenders there were just so excited that it was coming. And, it was the one food --
we brought salmon, we brought ox -- well, we brought everything. But, the one food that the institution would not let through a gate, because it was frozen and they couldn’t check that it hid something inside of it, I guess.

**MS. BETH SYMES:** So, there is no Inuit culture, traditions or ceremonies in the federal correction system?

**MS. PATRICIA TATE:** Not that I am aware of.

**MS. BETH SYMES:** There are -- for these women, I am focusing on the women, there are no opportunity, really, for a family from Inuit Nunangat to visit? It is a long way away, an expensive plane trip; do you agree?

**MS. PATRICIA TATE:** Absolutely.

**MS. KASSANDRA CHURCHER:** Yes, absolutely.

**MS. BETH SYMES:** And, for many of the women, the Inuit women who are in this setting, their children have been taken by Child and Family Services?

**MS. KASSANDRA CHURCHER:** Yes, as primary caregivers, if they are not taken by family, which is the Inuit tradition, they are then put into the foster care system.

**MS. BETH SYMES:** And, the report by Pauktuutit and ITK also says that very few of them qualify
for parole?

**MS. KASSANDRA CHURCHER:** Unfortunately, yes.

**MS. BETH SYMES:** And so, when they are released on a mandatory release date, would you agree with me that it is very hard to return to your own community?

**MS. KASSANDRA CHURCHER:** Logistically, it is difficult, but also the social stigma is difficult.

**MS. BETH SYMES:** And, that women who have been -- Inuit women who have been inside then, would you agree with me that they are incredibly vulnerable when they are released on their mandatory time whether -- in the South, like be it Montréal, Ottawa, whatever?

**MS. KASSANDRA CHURCHER:** We would maintain that all women are extremely vulnerable, but particularly Inuit women who are so physically far from their communities.

**MS. BETH SYMES:** Patricia, you so lovingly said that the culture programs, the ceremonies, et cetera, are First Nations-based, smudging, sweat lodges, et cetera?

**MS. PATRICIA TATE:** Yes, absolutely.

**MS. BETH SYMES:** And, you are aware that for Inuit, these ceremonies, cultures are foreign? They are not them?
MS. PATRICIA TATE: I totally agree with you.

MS. BETH SYMES: And, in this report, it comments that for some First Nations people or maybe a number of First Nations people, they find while in corrections a greater or enhanced connection to their land, their culture, their traditions. And, has that been your experience for First Nations women?

MS. PATRICIA TATE: It has definitely been my experience. In fact, many, many of the women, sadly, that we see in corrections only learn about their culture and the beauty of the traditions when they get into an institution, as sad as that is.

MS. BETH SYMES: And, this report then, from Pauktuutit and ITK, goes on to say that it is an entirely different story for Inuit, that because of language, culture, et cetera, their time in a correctional facility actually alienates them from their own land, culture, language, traditions; is that accurate?

MS. PATRICIA TATE: I would agree with that.

MS. BETH SYMES: Now, of the 110 -- roughly, let’s say, 110 Inuit men in the federal correction system, my understanding is, or the report says, that approximately a third of them are at Fenbrook,
which is a facility in Ontario?

**MS. PATRICIA TATE:** That is correct.

**MS. BETH SYMES:** Okay. And, I am asking these questions because of the consequences when they get out. And so, for a number of years, there has been an Inuit-specific program for sexual offenders at Fenbrook called Tupiq, T-U-P-I-Q?

**MS. PATRICIA TATE:** That is correct.

**MS. BETH SYMES:** And, I understand that it includes 255 contact hours per offender over a 16 weeks. It is an intensive program; is that correct?

**MS. PATRICIA TATE:** I’m sorry, I can’t speak to the specifics of the program, but that doesn’t surprise me. Those numbers sound accurate.

**MS. BETH SYMES:** And, that it is seen as a successful program; yes?

**MS. PATRICIA TATE:** Yes.

**MS. BETH SYMES:** Did you know that Tupiq has been cancelled?

**MS. PATRICIA TATE:** No, I am afraid I didn’t know that and I’m sorry to hear that.

**MS. BETH SYMES:** Now, I just want to say then is that the same report designates -- or describes Inuit male persons that they are younger, they are in for violent offences that most of them plan to return to their
communities. But, would you agree with me that with no

treatment, no -- I know you are worried about treatment,

but no programs that are Inuit-specific and for sex

offenders, that these place the Inuit women and girls in

the community to which the man is returning at high risk

when he reoffends?

**MS. PATRICIA TATE:** I agree with that.

**MS. BETH SYMES:** And, the Inuit women

offenders who are in remand in Inuit Nunangat, whether

they are in the Northwest Territories, Nunavut,
Nunatsiavut or Nunavik, there is no facility in Nunavik
for women offenders; is that correct?

**MS. KASSANDRA CHURCHER:** That is correct,

and at the average cost of $200,000 a year to incarcerate

one Inuit woman, the five that we are speaking about, that

is a $1 million investment in communities to have them

live there.

**MS. BETH SYMES:** And so -- I am going to

come to that. Maybe I should just go straight to that. I

understand -- am I correct to understand that you are not

in favour of recommending a building of an Inuit

correctional facility, let alone an Inuit women

correctional facility in Inuit Nunangat?

**MS. KASSANDRA CHURCHER:** Absolutely not.

**MS. BETH SYMES:** And, can you explain why?
MS. KASSANDRA CHURCHER: As I had mentioned in my previous answer about divesting from the correction system and reinvesting in our communities, we are talking about five women in the federal system to the tune of $1 million. Putting that money back into the communities to provide much needed programs, services and lodging would put them in their community to receive culturally relevant teachings, knowledge and food that is authentically their own and not translated through a correctional framework.

MS. BETH SYMES: And, keeping women close in their own community, would you agree with me it will also maintain their language, their culture, their ceremonies and relationship with their children?

MS. KASSANDRA CHURCHER: Absolutely.

MS. BETH SYMES: Those are my questions.

MS. CHRISTA BIG CANOE: Thank you, Ms. Symes.

MS. BETH SYMES: Thank you.

MS. KASSANDRA CHURCHER: Nakurmiik.

MS. CHRISTA BIG CANOE: Next, we would like to invite up the Independent First Nation. Ms. Josephine de Whytell will have 8-and-a-half minutes.

--- CROSS-EXAMINATION BY MS. JOSEPHINE DE WHYTELL:

MS. JOSEPHINE DE WHYTELL: Good afternoon, Commissioners, elders and witnesses. Thank you very much
for your evidence this morning. My first question is for Patty Tate. May I call you Patty?

MS. PATRICIA TATE: Yes, by all means.

MS. JOSEPHINE DE WHYTELL: Thank you.

Patty, this morning, you testified that there is a need to have an individual specific approach to cultural programming and that sometimes it feels as though there is a one-size fits all approach in correctional institutions, especially since the diversion of Section 81 funding to other correctional services initiatives. As you said, we are not autonomous; is that correct?

MS. PATRICIA TATE: Yes, that is correct.

MS. JOSEPHINE DE WHYTELL: In that Marginalized, which was Exhibit 26, on page 18, there is also a reference that programming tends to focus on First Nation and Métis culture and spirituality, which may not be suitable for Inuit women. Patty, would you agree that in correctional institutions there tends to be a pan-Aboriginal approach in terms of cultural and spiritual programming?

MS. PATRICIA TATE: Certainly.

MS. JOSEPHINE DE WHYTELL: Yesterday, we heard evidence from the Honourable Kim Beaudin about his unequivocal position that Gladue report writers be Indigenous. Would you agree that Indigenous people
designing and -- in designing, delivering and controlling Indigenous content and services is necessary within the correctional system to give effective substantive equality?

**MS. PATRICIA TATE:** I absolutely agree with that.

**MS. JOSEPHINE DE WHYTELL:** Would you agree that failure to empower Indigenous communities and fund Indigenous communities to provide this input is disrespectful to Indigenous culture and undermines the value of that content?

**MS. PATRICIA TATE:** I agree.

**MS. JOSEPHINE DE WHYTELL:** My next question is for Kassandra. This is in respect of the incarceration of women. In *R. v. Pelletier*, which is an Ontario Court of Justice sentencing hearing, Justice Nakatsuru wrote, in the context of whether to permit a Cree woman to return to Saskatchewan to complete rehabilitation outside of a correctional institution or to incarcerate her for 18 months for the breach of a condition of her supervision order, Justice Nakatsuru wrote:

“It is the most natural of human instincts to want to go home, even when memories of home are at times tinged with sadness, fear or regret, because I’m not talking about someone’s actual home or a home from one’s childhood. We
all nurture in our heart the idea of home. The idea of home is about a place of safety, a refuge, a sanctuary where love resides. Home is a place of hope, a place of potential, a place where every one of us can feel like we can become better. After careful reflection, Ms. Pelletier, I’m sending you home.”

Can you talk about and provide your reflections on the value of sending Indigenous women home instead of continually incarcerating them and deeming them long-term offenders?

MS. KASSANDRA CHURCHER: Yes, and I’d like to connect it a bit to Patty’s recent response on the previous question in terms of programs and training being Indigenous-led, Indigenous-developed, but you had mentioned within Corrections.

I think that when we talk about the justice system rehabilitation, healing, reintegration, the whole project needs to be Indigenous-led. It needs to be developed outside the existing framework of Corrections in Canada, and that will circle back around to this idea of going home.

There’s nothing natural about the correction system. There’s nothing natural about prison.

Given the opportunity to be safe in their healing and rehabilitation and reintegration, the only
real option to fulfil that mandate is to allow women to do that in their community, with their family and their children in their language. There can’t be any other alternative to do this authentically.

**MS. JOSEPHINE DE WHYTELL:** Thank you.

My next question is also for you, Kassandra. Diane read a poem by Canoe James earlier which contains the line:

“They can’t see what they’re doing to me, hidden behind these walls, touring the justice halls.”

Would you agree that Indigenous female prisoners are essentially invisible in their pain and that nobody is listening to them as far they feel?

**MS. KASSANDRA CHURCHER:** Absolutely.

Even when our advocates go into the prison on a monthly basis, for two or three days is what we’re granted access for, a lot of the stories that were told is feeling forgotten. “Is anyone aware of what’s happening here? Does anyone know what they’re doing or saying to us?” There’s a very real sentiment that they are invisible, which is why it’s so important that we’re here to include their testimony in the Inquiry, and we hope that more organizations will continue to focus on the issue of over-incarceration of Indigenous women so that their voices are heard and documented.
MS. JOSEPHINE DE WHYTELL: Thank you. And you sort of led into my next question there as well, which is how do you think this Inquiry should lift up their voices and ensure that they impact CSC policy, Correctional Services policy?

MS. KASSANDRA CHURCHER: I think one of the strongest recommendations is around that decarceration piece. We have all heard and documented the overrepresentation issue for years. It’s time to have concrete actions to address the over-incarceration and the legislation exists. We’re not tabling any recommendation that would require development of new legislation. It’s about supporting and investing in our communities and allowing them to take a lead in the healing and reintegration of their own members.

So I think that’s a very real and concrete way the Inquiry could support this.

MS. JOSEPHINE DE WHYTELL: Thank you. My next question is for Patty. You talked a little bit about institutional charges. I believe it was you. If not, please feel free to answer, whoever it was.

Institutional charges came up in respect of the procedures for determining the prisoner’s responsibility for the charge, the opportunity for the
prisoner to be heard and treated fairly.

And I understand from your evidence today that there’s a lack of procedural fairness in this process. Is that fair?

**MS. PATRICIA TATE:** I would say that there’s a lack of procedural fairness, yes.

**MS. JOSEPHINE DE WHYTELL:** Thank you.

And as a result of institutional charges, prisoners face significant punitive measures that greatly restrict their liberty. Is that fair to say?

**MS. PATRICIA TATE:** That’s absolutely fair to say.

**MS. JOSEPHINE DE WHYTELL:** In your experience from review of how these institutional charges are dealt with by the Correctional Services of Canada, do legal Charter rights of full answer and defence, right to a fair trial, pre-trial silence, ever enter the forum of consideration in these things or are these rights denied to them because of the nature of the charges is institutional?

**MS. PATRICIA TATE:** I’d like to defer to Savannah who is our legal expert today.

**MS. JOSEPHINE DE WHYTELL:** Thank you.

**MS. SAVANNAH GENTILE:** There are definitely a great many issues regarding the way that internal court
is run. There is an absolute lack of procedural fairness. We’ve had our internal advocates start to insert themselves into the hearings and start to document. And absolutely, there isn’t procedural fairness. Things happen like a whole substantive discussion about the charge takes place and then the mic is turned on, the recording is turned on. And by that point, women have sort of been intimidated into accepting or pleading to a charge.

**MS. JOSEPHINE DE WHYTELL:** So is it your understanding that nobody from the Correctional Services of Canada is treating the women as though they have legal Charter rights in respect of these institutional charges?

**MS. CHRISTA BIG CANOE:** Sorry, can we stop the time for a moment please? Thanks.

It’s my position she can answer the question, but it’s only with the caveat that she cannot provide a legal opinion to her answer. She is not yet called to the Bar, but given her experience, let’s let her. Just so that for the purpose of the record it’s clear.

**MS. JOSEPHINE DE WHYTELL:** Yes. I’m not asking for a legal opinion. I might clarify that. I’m asking for her experience in reviewing these documents, if she’s ever seen a situation where the Correctional
Services of Canada recognizes that there is a Charter right to a fair trial and tries to implement those in the context of institutional charges?

**MS. SAVANNAH GENTILE:** I wouldn’t say it’s a priority. It might happen here and there, but definitely the women generally lack an understanding. They’re not made aware of their rights.

**MS. JOSEPHINE DE WHYTELL:** Okay. This was my time. Thank you very much.

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

Next we would like to invite up the Missing and Murdered Indigenous Women and Girls Coalition of Manitoba. Ms. Catherine Dunn will have six and a half minutes.

--- CROSS-EXAMINATION BY MS. CATHERINE DUNN:

**MS. CATHERINE DUNN:** Good afternoon.

Ms. Churcher, do you agree that the Canadian Correctional System is run through intimidation, restraint and forced compliance?

**MS. KASSANDRA CHURCHER:** I have witnessed examples of that, absolutely.

**MS. CATHERINE DUNN:** And are you able to say that intimidation, restraint and forced compliance are the very factors that create situations for women who have been abused in childhood or otherwise through sexual
assault, physical assault, emotional assault?

MS. KASSANDRA CHURCHER: There’s much

within the culture of Correctional Services of Canada that
repeats those exact same patterns for women who have those
histories, yes.

MS. CATHERINE DUNN: And it is fair to say

that women who have those histories among the Indigenous
women in the population who get into prison come from
those very backgrounds?

MS. KASSANDRA CHURCHER: That is correct.

MS. CATHERINE DUNN: And so as you’ve

indicated in your direct, women victimized through no
fault of their own in childhood, in young adulthood, are
re-victimized again and again in prison, and again and
again have no force or ability to make that stop?

MS. KASSANDRA CHURCHER: Yes.

MS. CATHERINE DUNN: And this was a missed

opportunity for the women across Canada, particularly the
Indigenous women in prison across Canada, to come here and
protest their situation?

MS. KASSANDRA CHURCHER: That is exactly
correct. Today, as we testify here before you, there are
women all across the country who are in segregation or
maximum security or in prison who have stories to tell
that cannot be told.
MS. CATHERINE DUNN: And is it not true that in Canada, humane treatment is a standard which is not to be accepted, I mean, not to be thrown away?

MS. KASSANDRA CHURCHER: I believe we would all endorse that.

MS. CATHERINE DUNN: All right. And, is it also not true that with respect to female Indigenous offenders, very few are what you would call recidivists, who come back into the system over and over again?

MS. KASSANDRA CHURCHER: I think that’s a yes or no answer. I might defer to Savannah on that.

MS. SAVANNAH GENTILE: I would say that is accurate, and I would say that women are most often returned for administrative reasons, for breaches of parole.

MS. CATHERINE DUNN: Okay. So, it’s because you don’t obey the little rules that your time gets harder and harder and harder?

MS. SAVANNAH GENTILE: Yes.

MS. CATHERINE DUNN: And, when you say “levelling someone”, whether you’re a Level 1 or 2 or 3 or however it works, at the end of the day, it doesn’t affect recidivism, because recidivism doesn’t really happen that much with Indigenous women offenders?

MS. SAVANNAH GENTILE: Yes.
MS. CATHERINE DUNN: So, levelling is a form of punishment. It’s not a form of rehabilitation; is that correct?

MS. SAVANNAH GENTILE: Absolutely.

MS. CATHERINE DUNN: And, strip-searching, I’m not sure who wishes to address this issue, strip-searching is a form of confinement, a form of punishment, and is not relevant today in our corrections system?

MS. KASSANDRA CHURCHER: Absolutely not.

MS. CATHERINE DUNN: Are you aware of any women who have committed suicide or harmed themselves terribly as a result of having been victims of strip-searches?

MS. KASSANDRA CHURCHER: That would be difficult to articulate. We know that they’re all subject to strip-searching. We know of women who are self-injurious, women who have attempted or succeeded in taking their lives. Whether the experience while incarcerated and having been strip-searched contributed to that, we could make that assumption.

MS. CATHERINE DUNN: Patricia, do you have any comment on that?

MS. PATRICIA TATE: I have to agree totally with Kassandra’s comments with respect to the fact that the issues of why an individual chooses to take their own
lives are complex and multi-faceted. But, I would most certainly surmise that strip-searches would contribute to those decisions that they make.

**MS. SAVANNAH GENTILE:** If I could, and this would be anecdotal, but I have dealt with a case of a woman, an Indigenous woman with a severe history of trauma going into a private family visit for a weekend and being told that when she came out of that private family visit she was going to be strip-searched. It definitely caused her to spiral, and we had serious concerns for her mental health.

**MS. CATHERINE DUNN:** Thank you.

**MS. PATRICIA TATE:** I’m going to just speak to that very situation with another woman, and I’m going back to Prison for Women, who was in a like situation and who did commit suicide during a private family visit. So, when we’re looking at what contributed to that loss, I certainly think that the fact that she knew that she would be strip-searched on release.

**MS. CATHERINE DUNN:** And, from a commonsense level, an Indigenous woman who has been a victim of childhood sexual assault, childhood physical abuse, it’s not outside the realm of possibility that when she is subjected as an inmate to strip-searches over and over again that the harm caused to her as an individual is
MS. VANNAH GENTILE: I would agree.

MS. CATHERINE DUNN: And, Ms. Tate, in terms of the cost of community-based programs for inmates, does -- generally speaking, is it not true that the cost of spirituality is almost free?

MS. PATRICIA TATE: Well, I’d like to think so. Actually, the difficulty oftentimes is one of transportation to different ceremonies if an individual is wanting to go. But, as far as attending ceremonies, with the exception of normal protocols of tobacco and cloth, there’s very little cost attached to be able to participate in ceremony ---

MS. CATHERINE DUNN: Thank you.

MS. PATRICIA TATE: --- presuming you can find transportation. And, within cities now, there are always opportunities. In Saskatoon right now, there are sweat lodge ceremonies happening every week, and there’s transportation for both men and women to go to those ceremonies. So, we can always help.

MS. CATHERINE DUNN: Patricia, I just have one quick question.

MS. CHRISTA BIG CANOE: I’m sorry ---

MS. CATHERINE DUNN: Could you describe ---

MS. CHRISTA BIG CANOE: I’m sorry.
Actually, Ms. Dunn, you are out of time. I’m sorry.

MS. CATHERINE DUNN: Darn it. Thank you.

Oh, could you describe physically what a cell looks like and feels like in terms of the size, et cetera, as between a maximum-security cell and a solitary confinement cell? My reading seems to suggest there’s a difference of a couch and a dining room table.

MS. PATRICIA TATE: The couch and a dining room table?

MS. CATHERINE DUNN: Yes.

MS. PATRICIA TATE: Not so as you’d notice, but there is a cement floor, cement bed. Four by eight is the size of the average cell. Depending on the type of cell that an individual is in, one may be in the cell with a camera; one may be in the cell with no toilet facilities, like dry celling. The other thing that happens in segregation in particular are baby dolls. Baby dolls are a piece of cloth, I beg your pardon, a pyjama that a woman is required to wear with -- and not allowed underwear, not allowed tampons or pads if she happens to be on her moon time. And, the reasoning behind that baby doll pyjama, which is made out of -- not even made out of material, made out of paper, is allegedly the safety of the individual. And, it’s cold, and stark, and barren.

MS. CATHERINE DUNN: Thank you. Those are
my questions.

MS. CHRISTA BIG CANOE: Thank you. We’d like to invite up the Government of Canada. Ms. Anne Turley will have 6.5 minutes.

--- CROSS-EXAMINATION BY MS. ANNE TURLEY:

MS. ANNE TURLEY: Good afternoon, Chief Commissioner, Commissioners. At the outset, I’d like to thank the Wendat Nation for welcoming us this whole week here in their territory. And, I’d like to thank Diane for sharing your personal story this morning. And, I’d also like to say the Government of Canada respects the important advocacy work done by CAEFS. And, the government is not here today to exercise its right to cross-examination. Rather, pursuant to Rule 33 of the legal path, we will be submitting in writing evidence with respect to the Correctional Service of Canada’s programs, practices and policies that were criticized this morning.

I would just like to note for the record that it was unfortunate that Canada’s proposal to have a witness from CSC testify as part of the hearings this week was not accepted. In July, when we were advised of the topic of the hearings, we proposed Government of Canada witnesses for all four hearings. The proposal to have a Correctional Service of Canada person testify here this week was not accepted. And, I just note for the record
that is unfortunate because the Commission should have the benefit of both sides of the story, so to speak.
And, the parties are being denied the opportunity to cross-examine a Correctional Service of Canada official, as are the commissioners.

And so, it’s unfortunate. We are here today, and we will take the opportunity to submit in writing the evidence to respond to the criticisms we heard this morning. And, I would ask the Commissioners that when we do provide this that it be provided to the parties with standing so that it forms part of the evidentiary record as we are not able today to, through cross-examination, put on the record what we would like to.

**CHIEF COMMISSIONER MARION BULLER:**

Certainly, Ms. Turley. We look forward to the Government of Canada’s written submissions. They can go directly to our Registrar, Mr. Zandberg. They will be distributed to parties. And, by when can we look forward to receiving your submissions?

**MS. ANNE TURLEY:** I will have to consult and get back to you on the exact date.

**CHIEF COMMISSIONER MARION BULLER:** Okay.

**MS. ANNE TURLEY:** We will wait for the final transcripts so that they can review it and provide evidence in writing in answer to any of the criticisms
about the policies, programs and practices.

CHIEF COMMISSIONER MARION BULLER: Sure.

Just for the record, ordinarily, subject to what we’ve written in our public practice direction, merely these submissions will be tendered at a hearing. However, if Commission counsel is willing to waive that requirement, we’re certainly open to it because we welcome the submissions from the Government of Canada.

MS. CHRISTA BIG CANOE: Certainly, I am willing to waive it.

MS. ANN TURLEY: Thank you very much.

Thank you to the panel.

MS. CHRISTA BIG CANOE: Next, we would like to invite up the Native Women’s Association of the Northwest Territories. Counsel will have six and a half minutes.

And you'll note this time I said “counsel” because I cannot get your name correct despite you trying to pronounce it for me a few times. So please do introduce yourself before you start.

--- CROSS-EXAMINATION BY MS. CAROLINE WAWZONEK:

MS. CAROLINE WAWZONEK: My pleasure to do so. I'm here on behalf of the Native Women’s Association of Northwest Territories. They represent Indigenous women across the Canadian political boundary of the Northwest
Territories. And for the record, my name is Caroline Wawzonek.

I want to pick up a bit where my colleague Beth Symes had left off and you were talking about keeping women in their communities and how that benefits the communities and the women and reduces the over-incarceration. And in particular, you had mentioned that I think Inuit women are particularly over-represented in the provincial system.

Now, you also had said there is no concern particularly with the sections 81 and 84 of the CCRA which is the federal statutes that encourages having women kept in their communities and monitored in the community.

There is nothing at the provincial or territorial level that is a similar requirement for territorial or provincial corrections authorities to engage with communities. Is that right?

**MS. KASSANDRA CHURCHER:** That is correct.

**MS. CAROLINE WAWZONEK:** And if territorial and provincial governments had in their own corrections acts something similar, would that help address this problem?

**MS. KASSANDRA CHURCHER:** Absolutely, in the very same ways.

**MS. CAROLINE WAWZONEK:** Okay. Now having
just said that, there was a couple of problems that you did identify with the CCRA, one of them being policy decisions.

So if there was to be in territorial and provincial corrections acts something that encourages community supervision of a woman who has been sentenced, should it also be something that requires consultation with the community?

MS. KASSANDRA CHURCHER: It's the only way to do it authentically and meaningfully and effectively. So absolutely, there have to be consultations and other financial transfers so that the communities can do it independently.

MS. CAROLINE WAWZONEK: And that financial transfer, that was another of the criticisms you had of the CCRA process was the lack of sufficient funding.

If they are to be supervising someone who would otherwise be supervised in an institution, should the level of funding be comparable to what it would cost to house that person?

MS. KASSANDRA CHURCHER: Yes.

MS. CAROLINE WAWZONEK: And would that -- in your opinion, would that adequately support the community to deliver the necessary levels of programming to achieve rehabilitation and reintegration?
MS. KASSANDRA CHURCHER: It's difficult to say it would be equitable at 100 percent because so many of our communities are struggling with services, programs, and housing. However, it would be a start.

MS. CAROLINE WAWZONEK: At the other end of decarceration, the parole system if I could just address that with you briefly, I'm not sure if I heard it this morning or if it was just in the materials that Indigenous women tend to not get paroled or not get it as often or not as soon.

MS. SAVANNAH GENTILE: Yes, that's true.

MS. CAROLINE WAWZONEK: Thank you. And do you know whether there's any requirement to have Indigenous representation on parole boards?

MS. PATRICIA TATE: I can't speak to the fact that there is a requirement. I do know that we do have Indigenous representation on the parole boards presently, certainly in the Prairies.

MS. CAROLINE WAWZONEK: Do you know whether there's any requirement, whether it's in policies or otherwise, that if an Indigenous person is before the Parole Board, that there be an Indigenous person on the Parole Board before whom they are appearing?

MS. PATRICIA TATE: I can't speak to that. Can you?
MS. SAVANNAH GENTILE: I’m not aware of --
I'm not aware of any policy in that regard.

MS. CAROLINE WAWZONEK: From your
experience in terms of assisting women to go through the
process or hearing their stories, is it your experience
that they've had access or had the ability to ask to have
an Indigenous representative on the Parole Board?

MS. KASSANDRA CHURCHER: I think to answer
that, we can think back, Diane, to your experience having
an Indigenous parole meeting by videoconference just as an
example of the some of the limitations of trying to do
this authentically from within that system.

MS. CAROLINE WAWZONEK: Would it assist a
woman coming before the Parole Board if there was in fact
an Indigenous person ideally from their region or their
community there on that board?

MS. PATRICIA TATE: I actually think what
you're -- the last part of your comment was really
important to that question and the fact of the matter is,
again, I have to harken back to the fact that we're not an
autonomous people. We represent many different nations
and cultures and traditions across this country.

So I would -- I would certainly think that
if you had someone from your own community there, an Elder
or a community member, it would be a real benefit to you.
But that doesn’t necessarily transcend to the fact that just because you're brown you're going to be okay.

**MS. CAROLINE WAWZONEK:** And to the extent that the Parole Board is perhaps a first step on a path of reintegration, if you have that person from your community at that stage, would it be your opinion then that that would help the person take that first step?

**MS. PATRICIA TATE:** That would definitely be my opinion.

**MS. CAROLINE WAWZONEK:** And my last question I’ll just pick up on what you've just said. In the Northwest Territories, we have 11 official languages, none of which are Indigenous languages.

To your knowledge, if someone appears before the Parole Board, do they have any right to request that the proceedings happen in their -- in the language of their choice?

**MS. PATRICIA TATE:** Yes, they do.

**MS. CAROLINE WAWZONEK:** And is that made available to them?

**MS. PATRICIA TATE:** I'm not certain. I think there's a requirement that it's made available to them. The difficulties in accessing it may be cumbersome and cause delays that may ultimately mean that someone may choose not to go that route.
MS. CAROLINE WAWZONEK: At the level of programming inside an institution, same sort of question then. What degree of access or what kind of access do people have to their own languages, again considering that in the Northwest Territories alone there are nine different official Indigenous languages?

MS. PATRICIA TATE: I can't speak specifically but I can tell you that for women, to the best of my knowledge, there are no language considerations for programming of Inuit women.

MS. CAROLINE WAWZONEK: For Inuit women, do you know if that extends more generally to, for instance, Gwich’in women or the North Slave language?

MS. PATRICIA TATE: I'm sorry, I can't speak to that. I really don’t know.

MS. CAROLINE WAWZONEK: To the extent that a woman has an Indigenous language that's not represented in programming, would it be to her benefit -- to her benefit in rehabilitation and reintegration to have access to programming in her own language?

MS. PATRICIA TATE: Absolutely.

MS. CAROLINE WAWZONEK: Why?

MS. CHRISTA BIG CANOE: Oh, sorry, thank you. You're over time. Thanks.

MS. CAROLINE WAWZONEK: Thank you.
MS. CHRISTA BIG CANOE: Next, we would like to invite up the Assembly of First Nations. Ms. Julie McGregor will have six and a half minutes.

--- CROSS-EXAMINATION BY MS. JULIE McGREGOR:

MS. JULIE McGREGOR: Good afternoon, Commissioners, panel members. I'd like to thank you this morning for your evidence. I represent, as Ms. Big Canoe mentioned, the Assembly of First Nations.

I would like to start off my question for Savannah and can I call you Savannah? Is that okay?

MS. SAVANNAH GENTILE: Yes.

MS. JULIE McGREGOR: So it seems that since the 1990s, there's been a change in corrections policy for women in prison and it seems like it's been a regression, not that things were ever so great before but that there seems to be -- I'm thinking about making reference to the -- I'm making reference to the report on the Task Force of Federally Sentenced Women and it was referenced in the materials that were submitted under Jeanne Marie Greenough’s Thesis on “Women-centered corrections”.

So you have a lot of these -- and also it was discussed in Patricia’s evidence about the healing lodges that were developed in the ‘90s.

So there seems to be that there was a lot of momentum or maybe some changes happening in the ‘90s
and then it's regressed. The correctional policy for Indigenous offenders and Indigenous women offenders has somehow regressed. Can you comment on why that's the case or what were the factors that caused that?

**MS. SAVANNAH GENTILE:** I agree, it has regressed. I think there's been a trend towards a risk-averse culture and one that is very security driven. So you see CSC resorting more and more to security as a cloak from many policy decisions that they make within the various institutions.

And so in terms of the risk-averse, we're seeing that's a challenge for parole or getting women out on those ETAs because of a fear or -- a fear that something might go wrong and then that will come back on the system for having given those women that chance.

**MS. JULIE McGREGOR:** What, in your opinion, do you think are some of the things that Correctional Service Canada, some of the changes that will need to be made to affect policy change in the federal system?

**MS. SAVANNAH GENTILE:** In the federal -- I mean, we are really not for engaging in policy reform, because when we engage in that policy reform at the federal or the correctional level, it doesn’t really have a meaningful impact on the operational realities that come down on the women. So, that is why we focus on
decarceration and using those Section 81 and 84 to get
women out using decarceration strategies and those sorts
of things because, again, policy reform has not, for over
25 years, had an impact.

**MS. JULIE MCGREGOR:** Would you agree with
me that there is possibly a culture problem within CSC
right now in terms of their treatment of Indigenous women
offenders?

**MS. SAVANNAH GENTILE:** Yes, absolutely. I
mean, you are seeing that come out in the media more and
more at EIFW and elsewhere the culture of harassment,
sexual harassment and abuse even amongst staff. So, you
can only imagine how that might play out on Indigenous
women prisoners who have even less power, or no power at
all.

**MS. JULIE MCGREGOR:** In your opinion, do
you think that there is a lack of training or a cultural
appropriate training for not only those who are on the
frontlines working in the institutions, but also those who
-- you know, the bureaucracy and those who, you know, deal
on a higher level of that?

**MS. SAVANNAH GENTILE:** I don’t think
training could really address this. Unfortunately, I
think it is far too embedded in the institution and its
structure itself.
MS. JULIE MCGREGOR: Mm-hmm. I just want to move a bit, and this could be either for Savannah or Kassandra, these questions. I wanted to ask you a bit about internationally.

The NWAC Report, which was admitted into evidence discussed -- and it is the Indigenous Women in Solitary Confinement Policy Background. And, at pages 8 - 9 to 10 in the report, there is a list, and I am not going to go through all of them, but there is, you know, the United Nations Rules for Treatment of Women in Prisons and Non-Custodial Measures for Women Offenders. There is also what is known as the Nelson Mandela Rules. And, I don’t propose to go through all of these conventions or rules, but I do want to ask is, in your opinion and in your experience, is Canada’s treatment of Indigenous women in prisons or correctional facilities are they in keeping with those international standards?

MS. SAVANNAH GENTILE: No, I would say they are in direct contravention of those standards.

MS. JULIE MCGREGOR: Thank you. Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples states that, “States shall take measures in conjunction with Indigenous peoples to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence
Would you agree with me that correctional - - any changes to either correctional policy or the correction system in Canada should, at a minimum, reflect those standards? And, I know, again, you are going to say you are about -- you don’t necessarily agree with policy changes but, at a minimum, should there be some reflection of Article 22’s principles?

MS. SAVANNAH GENTILE: I do hesitate to say yes because, again, we have a really progressive legislative regime, one of the most progressive in the world, arguably, and that does not in any way play out on the ground because of policy. So, we put it in policy -- in a lot of cases, it just actually makes it look like we are accomplishing something, like the government is actually addressing the issue, but it is at face value. It doesn’t, like I said earlier, translate into the operational realities.

MS. JULIE MCGREGOR: And, very quickly, because I am almost out of time, internationally, are there any models of reform for correctional services for Indigenous -- that are focused for Indigenous women which are community led or community built? Do you have any ideas -- of examples of that?

MS. KASSANDRA CHURCHER: I could speak to
what is happening in Canada that is quite progressive. Our -- we partnered with Mi’kmaq communities in the Atlantic in Nova Scotia, and we are drafting a proposal for an Indigenous house. It would be a Section 81 agreement driven by the Mi’kmaq community of Nova Scotia. And, we haven’t submitted it yet, but we are trying to partner with more local organizations and governments to try to have them access this legislation and make it happen. And, slowly, but surely, the more Section 81 agreements are in place, the less we can be dependent on this structure and more an Indigenous community’s structure, which is our goal.

MS. JULIE MCGREGOR: Thank you very much. Those are my questions.

MS. CHRISTA BIG CANOE: Thank you. Next, we would like to invite up the Treaty Alliance Northern Ontario, Nishnawbe Aski Nation and Grand Council Treaty 3. Ms. Krystyn Ordeniec will have 6-and-a-half minutes.

--- CROSS-EXAMINATION BY MS. KRYSTYN ORDENIEC:

MS. KRYSTYN ORDENIEC: Good afternoon, Commissioners, Chief Commissioner. My name is Krystyn Ordeniec. I represent Northern Alliance -- Northern Treaty Alliance. It is made up of Nishnawbe Aski Nation, as well as Grand Council Treaty No. 3, which is 77 communities in Northern Ontario as well as Eastern
Manitoba, so my questions will focus on that context in the Northern and remote areas of Ontario and Eastern Manitoba. And, I just wanted to say thank you so much for your powerful and compelling testimony, and the personal story of Ms. Sere. Thank you.

Recently, Grand Council Treaty 3 hosted its annual missing and murdered Indigenous women and girls gathering. And, one of the concerns brought forward was violence in the community, and specifically with respect to increased violence committed by women. And, I know that one of the issues that you raised is that a lot of women are incarcerated because -- are due to non-violent crimes. But, what we are seeing at the community level is an increase in violent crimes. Could you comment on that and specifically what you would consider to be community support? And, I will leave it open to the panel who best could answer my question.

**MS. KASSANDRA CHURCHER:** There was also a mention of contextualizing violent acts when committed by women in that they are most likely defend -- in defensive or reactionary, protective of a child or a third party. You made a broad statement about violence happening at the community levels, so it is difficult to kind of articulate it, but we do know from the statistics that a lot of crimes that are associated with Indigenous women that fall
under the category of violence have to do with physical
abuse, defence -- in defence or reactionary.

So, I think that helps contextualize the
increase of what we are seeing happening. And, all of
that, of course, is consequential to the underfunding, the
lack of services and the lack of programs that exist at
the community level to help in the preventative manner so
that they can avoid coming into those violent situations.

**MS. KRYSTYN ORDENIEC:** Thank you. And, you
actually very accurately described what I meant, so I
thank you for that clarification.

One of the things that we also see is that
young people from communities are forced to leave the
community to attend postsecondary school education. And,
I wonder if you could comment on leaving that community,
and then initial interactions with the justice system or
incarceration when you are so far away and as a young
woman specifically?

**MS. KASSANDRA CHURCHER:** Well, I imagine
the Inquiry, of course, has well-documented the risk
factors associated particularly with young girls and women
in urban areas. And, the situation of having to be leave
your community to seek education in the urban centres
coincides with that information so that you then place
them in a situation of being at risk and vulnerable to
those other factors.

Ideally, again, they would be in their communities and able to pursue postsecondary education. And, unfortunately, due to just the realities, they are brought down into the cities, into the urban centres outside of their community, culture and language, and that leaves them at risk of being criminalized. And, it is something that needs to be better articulated and addressed as a preventative measure, because the numbers in the 18 to 35 category for Indigenous girls and women are increasing in terms of criminalization.

**MS. KRYSTYN ORDENIEC:** Thank you. One of the other things that is coming from the community level is -- and maybe you could explain how an individual, a woman would access your supports given the disconnect sometimes via communication because we just can’t reach those communities. They are -- you know, a lack of internet access, lack of the ability to know what is happening and know what supports are available. So, could you speak on what you think we need to bridge that communication gap?

**MS. PATRICIA TATE:** I actually think that there is definitely a communication gap in the resources. Frankly, being under resourced as a non-government agency makes it impossible for us to go into all the communities
on a regular basis.

I will say this, though. Within our organization, within CAEFS, we’re visiting institutions on a monthly basis, on a weekly basis, for the provincial systems. So, sadly, sometimes we don’t see the young women that we’re going to be dealing with until they reach the provincial or the federal system where they’re incarcerated.

That being said, once they do link with us from the institution and upon their release, if they’re released back to their own community or if they’re released to an urban setting, we definitely maintain contact with them and make every opportunity possible for us to have phone calls. We’re even setting up for that -- what do they call it?

**MS. KASSANDRA CHURCHER:** We also have a lot of remote workers as well right now who are going out ---

**MS. PATRICIA TATE:** Absolutely.

**MS. KASSANDRA CHURCHER:** --- of the office into remote communities. But, the nature of the work that our 24 locally community-based organizations are doing in terms of everything from counselling services to parenting to transition houses, to rental support programs, food banks, clothes banks, all of those services remain inaccessible to those who live in semi-remote or remote
MS. KRYSTYN ORDYNIEC: So, maybe you could speak on the relationships that you hope to foster either through recommendations or who would be partners either at the community level or through other organizations that you would really like to see either get funded or to be able to continue their good work as well?

MS. PATRICIA TATE: I actually think that within all communities, within Indigenous communities, whether those are First Nations or Métis settlements, there needs to be agencies and organizations who can be there for the individuals from the community. As I say, we don’t speak all the languages of the Indigenous community across Canada, but it would be ideally through the -- I’m going to say through the tribal council or through chief and council, whether that’s through the Justice Department or whether that’s through Health, someone at a community level needs to be engaged in helping to work with the individuals when they’re coming home from the institutions. And, we will gladly augment that and assist in any way we can to provide information around services that an individual might be able to access, even if they’re taking a medical taxi back into town to pick up information to be of assistance if they have mental health issues in particular, which would be
difficult to address at a local level, but are absolutely necessary to the healing and the wellbeing of people coming home.

**MS. KRYSTYN ORDYNIEC:** Thank you so much for your time.

**MS. CHRISTA BIG CANOE:** Thank you. Next, we would like to invite the Association of Native Child and Family Services. We’re re-inviting Ms. Josephine de Whytell up for eight and a half minutes, please. She represents more than one party.

--- **CROSS-EXAMINATION BY MS. JOSEPHINE DE WHYTELL:**

**MS. JOSEPHINE DE WHYTELL:** Thank you very much, Commissioners. Thank you, witnesses and elders in the room. On behalf of the Association of Native Child and Family Service Agencies of Ontario, my questions are focused towards the impact on children and children services.

My first question is for Kassandra. Are federally-sentenced Indigenous women often younger than their non-Indigenous counterparts?

**MS. KASSANDRA CHURCHER:** Yes.

**MS. JOSEPHINE DE WHYTELL:** Would you agree that more Indigenous female prisoners have a history of childhood trauma?

**MS. KASSANDRA CHURCHER:** Yes.
MS. JOSEPHINE DE WHYTELL: Indigenous youth aging out of care, would you agree that they are at a particularly high risk of involvement in the criminal justice system?

MS. KASSANDRA CHURCHER: Absolutely, and I had just spoken to the 18 to 34 demographic for Indigenous women and youth that is starting to see increased criminalization, which would address that aging out of the childcare system at 18.

MS. JOSEPHINE DE WHYTELL: Do you agree that Indigenous youth aging out of care are more likely to engage in income-generating crimes like fraud, shoplifting, prostitution and robbery rather than violent crimes?


MS. JOSEPHINE DE WHYTELL: And, do you agree that Indigenous girls in this situation are then more vulnerable to being victims of economic abuse as well as domestic violence?

MS. KASSANDRA CHURCHER: Yes.

MS. JOSEPHINE DE WHYTELL: So, where Indigenous parents go to jail, causing their children to be involved in the foster care system, and their children are a former Crown wards, they are at high risk of being
arrested for poverty-related crimes and more likely to becoming victims of violence and economic abuse, would you agree this leads to the perpetuation of the revolving door, so to speak, in terms of their reinvolvement in child welfare and ongoing involvement in criminal justice?

MS. KASSANDRA CHURCHER: I think there are very strong correlations to be drawn between those factors. Absolutely.

MS. JOSEPHINE DE WHYTELL: So, where the state removes a person from their family and public life, whether an adult accused or a child, would you agree the state should not deprive that person of their other rights?

MS. KASSANDRA CHURCHER: Yes.

MS. JOSEPHINE DE WHYTELL: And, it should only limit their rights to the extent necessary to give effect to the sentence in the context of prisoners; is that correct?

MS. KASSANDRA CHURCHER: I’m not sure.

MS. PATRICIA TATE: I think what you’re asking, your sentence is your loss of liberty, and that is the extent of what you are supposed to be sentenced to when you are incarcerated. So, I hope that answers it.

MS. JOSEPHINE DE WHYTELL: That does answer my question perfectly. Thank you. So, sentencing is not
intended to be punitive?

**MS. PATRICIA TATE:** Absolutely not.

**MS. JOSEPHINE DE WHYTELL:** It’s the loss of liberty that is the punitive element. So, where denunciation and deterrence are often used as grounds to incarcerate Indigenous offenders, can you advise whether these principles of denunciation and -- let me start that again. Can you advise whether or not long criminal sentences, long federal sentences for Indigenous women actually deter Indigenous women from becoming involved in poverty and poverty-related crimes?

**MS. PATRICIA TATE:** Sure. Actually, I think that it goes without saying that because nothing is happening to change the situation that the woman has come into prison with, whether that’s poverty, whether that’s undereducation, when she is released back into the community, her options are just as limited as they were before she came to prison.

**MS. JOSEPHINE DE WHYTELL:** And so, there really isn’t a deterrent effect of having long sentences for women?

**MS. PATRICIA TATE:** Absolutely not. And, unfortunately, sometimes the young women that we see on a regular basis are women who think that their stay within a justice system is almost inevitable. It’s part of the
transition of growing into adulthood.

**MS. JOSEPHINE DE WHYTELL:** And so, as you talk about growing into adulthood, how does the incarceration of youth impact their understanding of their culture and awareness of their cultural principles when they’re disconnected from their community?

**MS. PATRICIA TATE:** But, you know, I think that one of the problems that we run into with the youth is that we have people coming out of prison -- I’m going to kind of back the question up a little bit -- having people come out of prison and these young men and young women that are coming out of prison, they’re buff, they’re personable, they’re heroes. And, until we remove that hero element within the community of someone who has done time, who has beat the system by going to jail, going to prison, then we’re not going to be making a whole lot of impact on our youth. We really need our youth to know -- to have role models who may, indeed, have come through the justice system, but who have switched their lives up. That’s very hard to find in light of the fact that nothing is happening within the system to help that individual to re-configure their lifestyle.

**MS. KASSANDRA CHURCHER:** And, let’s not forget that the youth are the future knowledge keepers. They are the future leaders. They are the future judges,
and lawyers, and their whole community depends on them. So, when they’re removed from their community for incarceration for an extended period of time, and then have to go back with the social stigma of that, there’s also an impact generationally. It disrupts their own development into integral members of their community, which is so desperately needed.

**MS. JOSEPHINE DE WHYTELL:** If I was to suggest to you that the same occurs when they come back to their community after being involved in foster care, would you be able to agree that there’s a connection there?

**MS. SAVANNAH GENTILE:** Yes. And, in fact, there is a, sort of, pipeline between foster care — involvement in foster care and criminalization.

**MS. JOSEPHINE DE WHYTELL:** Thank you. And, when we talk about the impact on Indigenous women who are incarcerated, when they lose their liberty and their children are put in jail, they lose their children as well. Can you comment on the impact that that has on their mental health and their ability to rehabilitate?

**MS. KASSANDRA CHURCHER:** I do no think you need a doctorate in this; right? They are being separated from their children. Many of them, 64 percent, are single mothers, primary caregivers. That means, one day you are making dinner and picking up at day care, and next day,
you are in prison and you do not know who is going to do
any of that for your child. It causes an enormous amount
of mental anguish, and pain and anxiety to women on a day-
to-day basis to know that they are not with their
children. And, if they are not necessarily with family
and in a foster care system, not even know which families
they are placed with.

MS. JOSEPHINE DE WHYTELL: So, do you think
in terms of the child welfare system, how there is -- I am
going to suggest to you that there is a two year time
limit where a child can remain in foster care before they
are put up for adoption. Would you agree with me that
there is merit to pushing forward customary care or other
types of options which enable that time period to be
lengthened under the jurisdiction of the First Nation, so
that reunification can occur under the authority of the
First Nation, where it is in the child’s best interests?

MS. KASSANDRA CHURCHER: Yes. I don’t
know, Patty, did you want to speak to that?

MS. PATRICIA TATE: I will only speak to
one segment of that question, and that is the persons of
significant interest and that process. I definitely agree
that if family can be involved with an individual while a
mom might be away serving a sentence, it is important that
that is an option that is out there on the table, but it
needs to be somebody that has got more than a pulse.

My fear is and my experience has been that child and family services has not been as diligent about who qualifies to take care of children and in the best interest of those children as they report to be with respect to foster care.

**MS. JOSEPHINE DE WHYTELL:** Thank you very much for your answers.

**MS. CHRISTA BIG CANOE:** Actually, sorry, did you want to answer the other part of the component of that question? Yes, sorry, she was leaning forward to respond to your question, I would like to let her answer it.

**MS. KASSANDRA CHURCHER:** It’s just, women are criminalized for economic reasons, and then their children go into a foster care system where foster families receive hundreds of dollars for their care. If they received basic income in the beginning, would they even be criminalized and separated from their children? Like, it’s -- thank you.

**MS. CHRISTA BIG CANOE:** Thank you. So, next, we would like to invite up the Institute for the Advancement of Aboriginal Women. Ms. Lisa Weber will have 6.5 minutes.

--- **CROSS-EXAMINATION BY MS. LISA WEBER:**
MS. LISA WEBER: Thank you and good afternoon, Chief Commissioner and Commissioners. Panellists, thank you very much for your evidence this morning and this afternoon.

Diane, before I begin, I would just like to acknowledge and thank you very much for sharing with us your personal experience. I think it is so valuable and important for us to hear firsthand the experiences of our -- of us. So, thank you for that.

I would like to just briefly talk a little bit about my client. The Institute has been doing its work for 20 plus years, it is a provincial organization working out of Edmonton, offering programs and services to Indigenous women, including women institutionalized in federal institutions. They provide advocacy support also for women who are finding themselves first involved in the criminal justice system. So, that is just a little bit of context for some of my questions.

So, I would like to learn just a little bit more if I could though, and my first questions would be directed to Kassandra. If you could just tell us a little bit more about the organization’s national structure and also its affiliation with provincial E. Fry societies?

MS. KASSANDRA CHURCHER: Our national work is focused namely at the legislative advocacy level
supporting the five regional teams across the country on monitoring the conditions of confinement, and providing human rights based tools and advocacy for women who are incarcerated. So, that is primarily what the work of the national office is.

Our membership is comprised of the 24 community based organizations that are autonomous in their funding and in their governance, but also endorse the vision and mission of our work. So, provincially, we are very cognisant of the fact that our local Elizabeth Frys rely on the provinces for their funding to deliver these services and programs, so we try as much as possible to support what they are doing at the local level, in terms of filling gaps and services through our own national advocacy, to try to draw attention to where the funding needs to go and what the needs are at the local level.

**MS. LISA WEBER:** Okay. And, are you all -- like, do you have an independent board, an elected board nationally, as well as ---

**MS. KASSANDRA CHURCHER:** Yes.

**MS. LISA WEBER:** --- do the provincial bodies?

**MS. KASSANDRA CHURCHER:** Provincially, there are only -- there is the Canadian Council of Elizabeth Fry Societies in Ontario, there is
(indiscernible) in the pacific. We have some regional provincial bodies, mostly it is a collection of local Elizabeth Fry Societies. So, they are autonomous, we have an independent board, we have an association membership, but provincially, it is not consistent across the country.

**MS. LISA WEBER:** Okay. And, is there intentional Indigenous representation in those leadership roles?

**MS. KASSANDRA CHURCHER:** Yes. Patty Tate is our Indigenous Board representation at the national level, and each of the locals is encouraged to incorporate women with lived experience, as well as Indigenous representation.

**MS. LISA WEBER:** Okay. What about hiring policies? And, I am thinking in particular for senior decision making positions. Are there any hiring policies that target Indigenous people for those positions?

**MS. KASSANDRA CHURCHER:** Because our 24 societies are autonomous, we have no direct authority over them in terms of their hiring principles. Although, it is a priority, particularly because they are servicing so many Indigenous girls and women in their areas, to incorporate them into their management.

**MS. LISA WEBER:** Okay. You spoke a lot about a lot of the really good work. I just want to
acknowledge that it is really good work that your
organization has been doing. And, I just want to ask
though, just to confirm, that you are aware that there are
many grassroots non-profits, as well as individuals, who
are actually going into the federal institutions and doing
a lot of this work as well. You are aware of that?

MS. KASSANDRA CHURCHER: We are members of

the National Associations Active in Criminal Justice that
represents 17 national organizations, which in turn
represent all of those community-based organizations. We
meet with them several times a year, so we are critically
aware that there are multiple organizations. And, I would
like to address the fact that in every community there are
informal support networks delivering services and doing
their best to try to fill gaps where those organizations
or our organizations cannot support them.

MS. LISA WEBER: Thank you. I went to your
website just to, sort of, familiarize myself with the
national body. It is an okay question. It does say that
the organization works with and for women who are or may
be criminalized, and that, I thought, was an interesting
comment.

And, I am just wondering then, we have
heard a lot about the support of women who -- once they
are in a federal institution. I am just wondering, does
your mandate allow you to work with women who are perhaps facing trial or are victims within the criminal justice system?

**MS. PATRICIA TATE:** I can speak to that from the perspective of Saskatchewan. We have court workers who are in the courtroom on a regular basis, every day, supporting women while they are going through the justice system. So, we work with them before they may end up incarcerated, while they are incarcerated and certainly following any period of incarceration.

And, we also have a system to find resources in the community that can potentially help them not end up as incarcerated women, but rather in the community, and we provide a support system for them in the community should they be allowed to stay rather than be incarcerated. We also have two lawyers on our staff in Saskatoon that, although they do not represent individual women, they do make referrals for those women to the different resources in the community that they may need.

**MS. LISA WEBER:** Thank you. I just have one question I would like to get out the door before the timer stops. It has to do with judicial oversight and I would leave it open to the panel to decide who could answer. I really appreciate Diane’s comments about how the Gladue report in her experience may have
misinterpreted some of her life experiences. And, I would like to know whether or not you have heard from individuals that perhaps feel like the judge didn’t get it? And, given that, I am wondering if you would agree with a recommendation to this Commission that perhaps more Indigenous judges and justices should be appointed in order to facilitate a better understanding of the complex issues facing Indigenous persons involved in the criminal justice system?

**MS. SAVANNAH GENTILE:** Absolutely. Yes. They are not well understood, and we have actually seen cases where the use of a Gladue report actually works against a woman, because it has taken -- her history is taken to suggest that she is more likely actually to have committed this crime or have done this or that, because of -- given her history, which is a complete misunderstanding of the purpose of Gladue. So, yes, having more people who come from the perspective and can understand, I think, would go -- move us closer to having more effective Gladue reports or having them have more effect.

**MS. LISA WEBER:** Thank you. Those are my questions. Thank you to the Commission.

**MS. CHRISTA BIG CANOE:** Thank you. Chief Commissioner, Commissioners, we will have another seven parties at cross-examination and a short re-direct. And,
knowing the time is 2:30, this may be a good opportunity
to have a 15-minute break?

CHIEF COMMISSIONER MARION BULLER: Okay.

Fifteen-minutes, please.

MS. CHRISTA BIG CANOE: Thank you. And, if
we can return for 2:45 to continue with cross-examination?
--- Upon recessing at 14:26
--- Upon resuming at 14:51

MR. THOMAS BARNETT: Good afternoon,
Commissioners. Next, if we could call up Eastern Door
Indigenous Women’s Association. Natalie Clifford, you
have 6.5 minutes.

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

MS. NATALIE CLIFFORD: Thank you. I am
Natalie Clifford from Eastern Door Indigenous Women’s
Association, and I represent the interests of the Native
Women’s Associations for the four Atlantic provinces.
Specifically, we have Mi’kmaw and Maliseet women on our
board.

Ms. Sere, just a quick start with you to
set the stage, thank you very much for your testimony. I
wanted to make the point, and correct me if I am wrong,
but based on your story, is it fair to say that myself,
and my colleagues and other Indigenous women in the room
are arguably and potentially one step away from being
involved with the justice system?

MS. DIANE SERE: Absolutely.

MS. NATALIE CLIFFORD: So, what we are talking about today is, plain and simple, Indigenous women’s rights and Indigenous women who happen to be incarcerated; correct?

MS. DIANE SERE: Yes.

MS. NATALIE CLIFFORD: Do you think that the correction system and the justice system sees the issues in that same way, based on your experience?

MS. DIANE SERE: I would have to disagree that they see the same -- the issues in the same way as we do.

MS. NATALIE CLIFFORD: Sorry, could you clarify?

MS. DIANE SERE: Your question was does CSC see the same issues as I see them, and I am saying that I don’t believe that they see the same issues.

MS. NATALIE CLIFFORD: Thank you. Ms. Churcher and Ms. Gentile, my first question is in relation to the Kingston Inquiry at page 117. One of the recommendations was that the sexual harassment policy that applied to corrections employees would be extended to inmates.

I know this is an old Inquiry, and we are
talking about a new time today, but I just wondered if you could comment on whether to your knowledge the existing Corrections Canada sexual harassment policy is robust and sufficient to protect employees. And, by extension, would you, based on that knowledge, if you know, extend the same recommendation to application of the same standard for inmates today?

**MS. SAVANNAH GENTILE:** I think what we are seeing coming out of EIFW and elsewhere is that, no, it is not actually robust enough to even protect its employees at this point in time. So, I think that would need to be investigated further.

**MS. NATALIE CLIFFORD:** So, are Corrections Canada employees subject to strip searches to your knowledge?

**MS. SAVANNAH GENTILE:** If we are talking about in terms of strip searches versus not, then absolutely I would say no, they are not subject to strip searches in the same way that prisoners are. I was more speaking in terms of the sexual harassment and that, that is coming out of EFIW recently.

**MS. NATALIE CLIFFORD:** Okay. Thank you.

To your knowledge, again, based on that Inquiry report, another of the issues identified was the lack of access to female health care providers for women who are
incarcerated. Has this improved?

**MS. SAVANNAH GENTILE:** No. Actually, I think it has gotten worse. What they have moved to in a lot of prisons right now is doing teleconferencing with doctors. So, at GVI for instance, they have a doctor there once a week to see approximately 200 women. And, she spends the whole morning, actually, reviewing files. So, she has got about a few hours in the afternoon to actually meet with women, and it is not sufficient to meet the need.

**MS. NATALIE CLIFFORD:** Is there still an expectation that women who perhaps have been victims of violence at the hands of men are then expected to rely on psychologists who are also male while in the system?

**MS. SAVANNAH GENTILE:** Yes, that is the expectation and it is worse than that in fact. They have male guards who go through and do rounds in the houses even, so there has been a movement away from some of the recommendations around the cross-gender protocol, and I am seeing more of that where male guards are entering the units at night. There is not necessarily a female guard present with them, so that creates a lot of concern.

**MS. NATALIE CLIFFORD:** Thank you. Just a quick question on this of the difference between a healing lodge and a Section 81 institution, Ms. Churcher or Ms.
Gentile, could either of you provide some insight understanding that a Section 81 is under used? I noted that Section 81 wasn’t included in your recommendations, per se.

**MS. KASSANDRA CHURCHER:** Decarceration, wasn’t it?

**MS. SAVANNAH GENTILE:** Yes, I think it was or it was intended to be included under decarceration, the use of Section 81 as a decarceration strategy to get women out into community.

**MS. NATALIE CLIFFORD:** Just being mindful of the time, that is the only reason I am going very quickly before you. So, I wonder then, if you could very briefly paint a picture of -- because Section 81 is quite broad and under utilized, if you could tell us in your perspective what is a good model to come out of Section 81? And, I ask this because on reading the section in the legislation, I thought, well, this could look like anything from a house, where someone is living with a family, to an institution not unlike the healing lodge. So, if there is a middle ground that you could advise?

**MS. SAVANNAH GENTILE:** Actually, I think that it is a strength of the legislation that it is so broad, because it allows to be individualized to meet the needs and capacities of each individual Indigenous woman.
A one-size fits all approach, I don’t think, is the way forward for this. I think that there should be that kind of needs assessment and wraparound services based on what are the capacities or the -- its challenges for that particular woman.

**MS. NATALIE CLIFFORD:** Okay. And, it is up to communities and potentially NGOs to determine the best needs of women and apply a Section 81?

**MS. SAVANNAH GENTILE:** That was in consultation in working with that woman and organizations that are on the ground and very familiar with those kinds of issues facing that population.

**MS. NATALIE CLIFFORD:** Thank you. I think those are my questions.

**MR. THOMAS BARNETT:** Thank you, counsel. Next, if we could call up Femmes autochtones du Québec represented by Counsel Rainbow Miller? You have six-and-a-half minutes.

--- CROSS-EXAMINATION BY MS. RAINBOW MILLER:

**MS. RAINBOW MILLER:** Good day, members of the panel. Thank you for being here today. I represent Québec Native Women Association. I do have a few questions. Some of my questions have already been answered by the other parties’ questions.

So, my first question would be to the four
of you. As you mentioned earlier in your testimony, because the women who are incarcerated were not able to give their testimony, I was wondering if you could be their voice in this kind of question. As you have talked -- testified, there is a high percentage of crimes for which Indigenous women are incarcerated are related to poverty, but you have also talked to situations where women are defending themselves. And, I would like to refer to the report, Women in the Canadian Legal System: Examining Situations of Hyper Responsibility.

At page 97, I am paraphrasing, and it says that because of the lack of response of police, women can be forced to meet violence with violence and are susceptible to face criminal charges. I know that most of you have met with these women. Would you be able to give us examples of that where these women, you know, actually are victims, but in the system, they become the aggressor?

**MS. SAVANNAH GENTILE:** There are a number of examples. And, they are -- you know, Defending Battered Women on Trial is actually a book produced by Professor Liz Sheehy, and they examined a number of women’s cases to have them reviewed would -- you know, because the self-defence as it stands is a defence really made -- built for men in, you know, bar brawls or that kind of context not for a woman who has been
systematically abused, and then at one point fears for her life and reacts, or something of that nature. So, there are a number of cases like that documented in that book in particular. I don’t know if Diane or Patty or Kassandra had anything to add.

If you want specific examples, are you -- I am trying to think. You know, it is just sensitive. I don’t want to necessarily...

**MS. RAINBOW MILLER:** Okay. I understand.

**MS. PATRICIA TATE:** I am finding it difficult too.

**MS. RAINBOW MILLER:** Have you also heard situations where the women who were in a situation where they were acting in self-defence or either they were -- you know, they were -- it was the woman -- the battered woman syndrome, and they went to court, and that defence was not raised? Have you ever heard situations like that?

**MS. SAVANNAH GENTILE:** Yes, overwhelmingly women, especially Indigenous women, plead guilty. So, they don’t even have a defence.

**MS. RAINBOW MILLER:** Okay. And, that comes to my next question where in your report it says that Indigenous women are more susceptible to entering a guilty plea at a very high rate and also pressures in plea bargaining. Could you elaborate on that?
MS. SAVANNAH GENTILE: So, if, you know, a number of charges are laid or a very extreme charge, women feel the pressure to just get it done with. There are a lot of reasons why. One of those reasons is not to put their children and their families through a long drawn out court trial, especially if it was defence of other, in the case of a child.

And, I can think of a number of circumstances where a woman did protect a child against somebody who was sexually abusing their child. And, in those cases, the women don’t want to put their children through that, and so that might weigh on them. And, in other cases, there is the fear of getting a higher charge, and then a longer sentence. And so, they -- that weighs on them as well.

MS. PATRICIA TATE: And, one of the other issues that an Indigenous woman might face is that, in Saskatchewan, for instance, and I don’t think it is unique to our province, sometimes it takes up to two years to go to court to have a sentence -- to have a charge heard. And, if, in fact, it is looking like your sentence might be less than two years, you may hesitate not to make a -- to take a plea in order to get out of prison as quickly as possible so you can be reunited with your family.

MS. RAINBOW MILLER: Okay. And, what about
the -- where it says “pressure in plea bargaining”. Is
that pressure that comes from the lawyers that want to
close the case, or would you have examples about that?

MS. SAVANNAH GENTILE: Yes, there are
definitely instances where lawyers don’t necessarily want
to raise the defence of self-defence. They don’t think it
will be successful. And so, they don’t necessarily -- you
know, I see this a lot in the -- actually, the family law
context where it is -- you know, it is strongly
discouraged and cautioned against to raise any allegations
of child sexual abuse. So, yes, there are instances where
lawyers don’t think it is -- you are going to have
success, so they don’t believe in the case, and so they do
not pursue that kind of a defence.

And, the other issue is that women -- the
hyper responsibilization [sic], the whole premise of the
article is that women feel guilty and take responsibility
for things that they are not legally responsible for and
that sometimes gets lost in translation.

MS. RAINBOW MILLER: My question is, do you
think these women get enough legal advice and...

MS. SAVANNAH GENTILE: No, I think access --
-- this touches on the access to justice issue.

MS. RAINBOW MILLER: Yes.

MS. SAVANNAH GENTILE: It is a massive
problem and that these women aren’t necessarily gaining
access to lawyers.

**MS. RAINBOW MILLER:** And, would you agree
that timely and quality legal representation would
probably lower the percentage of Indigenous women who are
incarcerated?

**MS. SAVANNAH GENTILE:** Yes.

**MS. RAINBOW MILLER:** Okay. Thank you.

Those are all my questions.

**MS. CHRISTA BIG CANOE:** Next, we would like
to invite up the Assembly of Manitoba Chiefs. Ms. Stacey
Soldier will have six-and-a-half minutes.

--- **CROSS-EXAMINATION BY MS. STACEY SOLDIER:**

**MS. STACEY SOLDIER:** Yes. Good afternoon.

I first want to show my respect by thanking the Huron-
Wendat Nation for welcoming us yet again today on their
territory. Thank you to the survivors and families who
are here and who may be listening. You continue to
inspire me every day. Thank you to the Commissioners and
staff for all of your hard work yet again all day today,
as well as the elders and grandmothers for your support
and for your prayers today.

Witnesses, your testimony today has been
very eye-opening. I work in the criminal justice system
in my day job, and so I am very familiar with much of what
you said, and it doesn’t get any easier hearing it again. And, one of the things that was running through my mind was a quote that -- a quote that says, “I ask no favour for my sex. All I ask of our brethren is that they take their feet of our necks.”

And, what I am hearing and what I hear all today is that the women you serve are just asking to be treated in a humane manner. And, to have to ask that, and beg that, and have people advocate for them and still not get any further ahead, it is disheartening. But, for people like you, I did want to comment, the work you do is so important.

I wanted to address CAEFS and as well as the provincial counterparts with their involvement in the rural area. And, it was spoken to before with respect to the difficulty not only in funding, but also having staff working with women in the smaller institutions that are in the provinces. I wonder, Kassandra, if you can speak to that further.

**MS. KASSANDRA CHURCHER:** What we are noticing -- and two examples. Our E. Fry out of -- near Kamloops, our South Cariboo E. Fry, which is in a semi-remote area, deeply affected by the forest fires, and also our Barrie E. Fry in Ontario both service large vast territories of semi-remote communities.
And so, what they have started to adapt is having workers work remotely, meaning their workers will have a transport budget, take their laptop, cellphone and car and drive to a Tim Hortons three-and-a-half hours away to meet a woman and hear her story, find out what she needs, and then try to adapt. And, we are encouraging it because of the need. They are reacting and adapting to the gaps in services.

**MS. STACEY SOLDIER:** Absolutely. And, it appears that -- and I can say, for example, the Elizabeth Fry Society Manitoba, it is a small organization, it is a scrappy organization. They do an incredible amount of work for women, but are certainly limited to Winnipeg -- the Winnipeg area, essentially.

What I have read from their most recent annual report is that there are workbooks that are utilized by women in the Pas Correctional, which is essentially an 8-hour drive away from Winnipeg, and Brannon Correctional which is a 2-hour drive away from Winnipeg. Has there been any indication from funding sources, either provincial or federal, to expand these types of services to women in rural areas as well as women in rural institutions?

**MS. KASSANDRA CHURCHER:** I was at E. Fry Winnipeg’s AGM last week. I can speak firsthand of the
incredible needs and the incredible lack of funding they have to address those very real needs. And, part of their challenge, obviously, is how to service the northern communities as well.

Yes, it is part of the work that we are starting to do more actively and proactively at the national level beyond the prison abolition, advocacy piece, which is to advocate for funding and support services of our local Elizabeth Fry Societies, because they are doing so much work that is unfunded, that is informal, off the side of their desks, because when a woman calls and needs help, most of the time, they will respond, whether they are someone working or paid to or not. And so, we are going to do what we can at that national level to try to draw attention to the good work that they are doing.

**MS. STACEY SOLDIER:** Thank you. And, I will leave this question -- the answer open to anyone on the panel. And, I want to talk about the effects of colonization on Indigenous women within facilities, within the institutions. With your work with these women, are you finding that for many of them, incarceration is the first time they are getting meaningful exposure to their Indigenous traditions and culture?

**MS. PATRICIA TATE:** Absolutely.
Absolutely, absolutely, absolutely, and it’s frightening, and it’s sad to see that many of the women that we deal with who are incarcerated are coming to jails and prisons without any knowledge or any pride in their heritage and the richness of the cultures that they belong to.

It’s a lightbulb moment for some of them. And, some of them, they are not prepared to take on the task of making those changes, and have been so violated, so abused, so marginalized throughout their lives as Indigenous women that they’re not prepared to even acknowledge their roots.

I have to tell you, there’s women that I deal with that say, “Well, you know, I just told them I was Italian. It was a lot easier when I came to jail to be Italian than it was to be an Indigenous woman,” and that’s a sad testimony to the reality of what goes on out there in the community.

**MS. CHRISTA BIG CANOE:** I notice that both Diane and Savannah were either nodding or wanted -- if you wanted to add a response to that?

**MS. SAVANNAH GENTILE:** I think Patty covered it quite well.

**MS. DIANE SERE:** Well, I just wanted to add something to that, is that what happens, too, is a lot of these women are found -- or, brought into the jails
because they’ve lost their culture, right, the
disconnection to their culture, and what it means to be
living with the Seven Grandfather Teachings. So, when
they’re getting back -- when they’re incarcerated and are
able to connect back with their culture and start learning
the Seven Grandfather Teachings again, I think that does
help them a lot, and that needs to stay when they’re going
back into the communities.

**MS. STACEY SOLDIER:** Thank you very much.

Thank you for being here today.

**MS. CHRISTA BIG CANOE:** Thank you. Next,
we would like to invite up Ms. Elizabeth Zarpa on behalf
of ITK. Ms. Zarpa will have six and a half minutes.

--- **CROSS-EXAMINATION BY MS. ELIZABETH ZARPA:**

**MS. ELIZABETH ZARPA:** Good afternoon. My
name is Elizabeth Zarpa. I’m legal counsel representing
Inuit Tapiriit Kanatami. And, for those of you who may or
may not be aware, it’s the national organization that
represents Inuit in Canada.

I want to say thank you for coming and
testifying today. It’s a very important topic to speak
about, and you do it so eloquently and in such a short
period of time.

I want to highlight the testimony given in
relation to Indigenous women accessing federal programming
relating to culture, and in order for a prerequisite for them to access this programming, they need to be considered Indian under the *Indian Act*; is that correct?

**MS. PATRICIA TATE:** Not necessarily. They need to have proof of their Indigenous heritage. So, even though they may be a non-registered Indian, if they’ve been adopted out, part of the Sixties Scoop or, for that matter, have no sense of who they’re -- where their heritage lies, they have to be able to prove their heritage.

**MS. SAVANNAH GENTILE:** If I could add, it’s like a lot of practices and policies within CSC, that kind of practice is inconsistently applied.

**MS. PATRICIA TATE:** Absolutely.

**MS. SAVANNAH GENTILE:** Yeah.

**MS. ELIZABETH ZARPA:** Okay. And, just for clarity, I wanted to highlight -- the practice is something that I was uncertain around, so thank you for the clarification. And, I wanted to highlight for the record, and also individuals who are listening to this livestream, that Inuit are actually excluded from the *Indian Act* under Section 4(1), and I think that the practice of recognizing individuals from their nation and how they self-identify is an important practice. And, I would like to know whether you guys have any opinions on
best practices for CSC to follow through with for Indigenous women when they’re trying to access different programming?

MS. PATRICIA TATE: I think one of the problems is that the programming that’s offered is very generic and not necessarily programming that is going to meet the needs of all the Indigenous women who are incarcerated across the country. That being said, I think that anyone who self-identifies as Indigenous or having Indigenous heritage should be entitled to participate in any programming or any ceremonies that are offered within an institution.

I’ve worked in the prison system for many, many years, and I can tell you that sometimes those associate members of the brotherhoods and sisterhoods create a huge wealth of strength for those sisterhoods or brotherhoods, as the case may be. And, those are individuals who, although not Indigenous themselves, have chosen that walk as part of their healing, and their commitment to that healing can be very strong and very nurturing to a group of men or women.

MS. KASSANDRA CHURCHER: Federal Minister of Public Safety Ralph Goodale released a mandate letter to the new CSC Commissioner, Anne Kelly, encouraging the development and establishment of relationships with
Indigenous partners and organizations and communities. Particularly because you’re a representative of ITK and there is such a small number of federally-sentenced Inuit women, this is an opportunity where Correctional Service of Canada could approach for a Section 81 agreement and a transfer of funds to see if those women could serve their sentences or complete serving their sentences in their communities or in their territories. That is a concrete thing that could happen.

**MS. ELIZABETH ZARPA**: Great. And, that was sort of the segue into my next question was whether you’re aware of any sort of conversations with Inuit organizations or governments in relation to Section 81 or 84 programming in Canada’s north or Inuit Nunangat?

**MS. KASSANDRA CHURCHER**: No, not to our knowledge, or at least we haven’t been approached in the last year.

**MS. ELIZABETH ZARPA**: Okay. And, I would like to go a little bit deeper with regards to programming that has happened outside of an Inuit-specific framework, but one that has been successful or something that you see, successful elements of a Section 81 or 84 program that you see is working in a really great way to, sort of, reintegrate or work well for the Indigenous women who access those programs?
MS. KASSANDRA CHURCHER: Do you want to speak to Buffalo Sage?

MS. PATRICIA TATE: Yes. As it stands right now, there is only one Section 81 facility in Canada for women, and that is Buffalo Sage. It is a facility, as I mentioned earlier today, that is run through Native Counselling Service of Alberta, and they have a lot of expertise in Section 81 programming because they, in fact, ran the first Section 81 for men, which was Stan Daniels Healing Centre.

The programming that they are offering is -- although it is not specific to the Inuit population, it is -- all Indigenous people are welcome to participate in the programming, and it has proven to be extremely valuable within the framework of Corrections’ interest. And, again, as I mentioned before, CSC has dropped the program in their institutions. However, that program does run outside of CSC through Stan Daniels since it belonged to them in the first place.

I should say that one of the things about the program that makes it so uniquely valuable and rich is that it offers an opportunity for offenders or prisoners to be isolated from the population, general population of prisons, and to do their work in a safe, remote setting, oftentimes. And so, that has really given the program in
and of itself some uniqueness that was never available in
other programs that have been developed and offered in the
institutions.

**MS. KASSANDRA CHURCHER:** Another potential
positive is also the use of escorted temporary absences
and unescorted temporary absences.

**MS. PATRICIA TATE:** Yes.

**MS. KASSANDRA CHURCHER:** So, envisioned
under Creating Choices, it was community-in, community-
out. It would be a seamless dynamic structure for women
who are federally sentenced. Clearly, you know, Savannah
has addressed the fact that that’s not the reality. But,
CSC could very well start increasing the approvals of
escorted temporary absences, unescorted temporary
absences, to get women back into the community, and
volunteer, and work, and programming based in the
community.

**MS. ELIZABETH ZARPA:** Okay, thank you.

That’s my time.

**MS. CHRISTA BIG CANOE:** Thank you. Next,
we would like to invite up the New Brunswick Aboriginal
Peoples Council. Ms. Elizabeth Blaney will have six and a
half minutes.

--- **CROSS-EXAMINATION BY MS. ELIZABETH BLANEY:**

**MS. ELIZABETH BLANEY:** Thank you. Good
afternoon, elders, families, Chief Commissioner, Commissioners and witnesses. Thank you, panel, for your testimony this morning, and in particular for drawing our attention to the need to hear first voice on this important issue. Thank you, Diane, for sharing your story.

My name is Elizabeth Blaney, I am from the New Brunswick Aboriginal Peoples Council. And, the New Brunswick Aboriginal Peoples Council is a political voice for Indigenous peoples who live off-reserve on their ancestral homelands throughout New Brunswick.

My first question is for Ms. -- or I prefer Elder Tate. Earlier you, and just a moment ago, ITK’s counsel mentioned that there is a standard in identification that an Indigenous woman must meet in order to be eligible for programs and services. So, you explained a little bit about the process a moment ago, to the best of your ability, can you explain how women then prove their heritage?

**MS. PATRICIA TATE:** Well, certainly if someone is First Nation, they have got a treaty card or they have membership. Métis, same situation applies. In some cases, it has been a matter of providing documentation of your birth situation, that has been the standard that was set initially, when the pathways
programs first came into the institutions.

I don't know -- and I think that Sav has already alluded to the fact that this policy is not implemented on a regular basis or on a consistent basis at every institution, but the bottom line is, it is one of those situations that we unfortunately have to deal with in some facilities.

**MS. ELIZABETH BLANEY:** So, you mean, like, birth certificates to prove ---

**MS. PATRICIA TATE:** Yes.

**MS. ELIZABETH BLANEY:** Is that what you meant? Okay. And so, you say it has not been applied consistently, so I am assuming that there is no staff there to help a woman do this work?

**MS. PATRICIA TATE:** Oh, no. That would be the -- no.

**MS. DIANE SERE:** Yes, I just wanted to add to that. I know that at GVI, they have an Aboriginal liaison officer that the woman can sit down and they do an ASH report, which is an Aboriginal Social History, and get some of the information through that report. But, I cannot say how accurate it would be in order to determine someone’s heritage.

**MS. ELIZABETH BLANEY:** All right. Okay. Thank you. So, to the best of your knowledge, Ms. Tate,
are non-status women eligible for programs and services?

MS. PATRICIA TATE: Yes, they are.

MS. ELIZABETH BLANEY: If they meet that criteria of ---

MS. PATRICIA TATE: That's correct.

MS. ELIZABETH BLANEY: Okay. Thank you.

My next question is for Ms. Churcher. From the perspective of the E. Fry Society, do you agree that reintegration can only be successful if the programs and supports are created and implemented by those who can relate to the world view and culture of the Indigenous woman who is leaving custody?

MS. KASSANDRA CHURCHER: Yes. And, unfortunately, we did not spend much time today talking about the barriers and challenges to release and reintegration for women, once they come out of the correction system. But, certainly having those developed and led by Indigenous communities would be a start in supporting their reintegration.

MS. ELIZABETH BLANEY: Would you also agree then, that if the woman is non-status, off-reserve, she cannot be successfully reintegrated unless the supports and services then are tailored to her population?

MS. KASSANDRA CHURCHER: It is tough to say broadly because, you know, every individual woman has
their own path to walk. I think that it needs to be a support that exist, and that is an option and that is a choice, because having choice is privilege, and unfortunately, a lot of the women that you are speaking about do not have choice. So, I think that’s what I would endorse.

**MS. PATRICIA TATE:** I think that is absolutely what we need to look at. Every woman is an individual, every woman has her own journey and her own decisions to be made. What needs to be available is that the resources are out there for her to be able to have those choices. And, we talked about creating choices as — I mean, obviously that is fundamental to creating choices in the community for all women.

**MS. ELIZABETH BLANEY:** Thank you. My last question I would like to address to Savannah. So, on page 98 of the discussion paper, *Women and the Canadian Legal System*, the author state that, “Corporations holding permits successfully apply to court for injunctions to stop protests against development. And, courts are now readily convicting and imposing heavy sentences on Aboriginal leaders and activists when they resist the courts, commands to respect the corporation’s rights over Aboriginal land.”

The document, further down on page 98,
refers to legalized violence against Aboriginal peoples who assert stewardship over their traditional lands. Do you agree that the criminalization of women activists increases the vulnerability of Indigenous women and their children to violence both systemic, i.e. racism, child welfare, removal, and personal forms of it, of violence, including abduction and perhaps murder?

**MS. SAVANNAH GENTILE:** Yes. We talked at brief about that. I mean, as we talked about today all of the issues leading -- flowing from criminalization in terms of the impacts on family and children, definitely make those children and that family, that woman more vulnerable.

**MS. ELIZABETH BLANEY:** Okay. Thank you very much everyone.

**MS. CHRISTA BIG CANOE:** Next, we would like to invite up the Congress of Aboriginal Peoples. Ms. Lonbard will have 6.5 minutes, please.

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

**MS. ALISA LOMBARD:** Good afternoon. Thank you to the Huron-Wendat Nation for welcoming us on their territory, thank you to the elders, to the panel for sharing their knowledge and to the Commissioners for listening intensively.

My name is Lisa Lonbard and I am counsel
representing the Congress of Aboriginal Peoples. My questions today will relate directly to access to reproductive health care services.

In schedules K and L of the documents filed with the Inquiry, specifically two letters, the first dated July 10th, 2018 from CAEFS, addressed to Kikawinaw Rachel Parker of the Okimaw Ohci Healing Lodge in Maple Creek, Saskatchewan; and the second, a letter dated September 16th, 2018, also from CAEFS, under Ms. Gentile’s cover, addressed to Warden Brooke Kassen of the Fraser Valley Prison for Women in Abbotsford, B.C. These letters highlighted the organization’s concerns arising from their site visits with respect to CSC’s alleged breach of Section 86(1) of the Corrections and Conditions Release Act, which essentially provides or stands for the propositions that the service shall provide every inmate with (a) essential health care; and (b), reasonable access to non-essential mental health care that will contribute to the inmate’s rehabilitation, successful reintegration into the community.

Now, my question to the panel is, would you agree that reproductive health care constitutes an essential health care service for women while incarcerated?

**MS. SAVANNAH GENTILE:** Yes. And, what I
would say about health care, because we have not actually
touched on it enough today, it is a very serious issue.
Women are not getting access to proper health care. Their
health care appointments are escorted temporary absences
out to health care appointments, which are sometimes
scheduled months in advance, are often being cancelled
without any notice to the woman, and she won’t discover
this until the next time she goes to an appointment and
the doctor asks her why she has cancelled so many times.
And, frequently, women’s concerns about their health care
are not treated seriously.

**MS. ALISA LOMBARD:** On that note, can
anyone from the panel describe, from either observation
report or lived experience, the experience of an
Indigenous woman in receiving prenatal, labour and
delivery and post-partum health care, in addition to
reproductive health care in general?

**MS. SAVANNAH GENTILE:** Well, I mean, the
case of Julie Bilotta comes to mind. She was a woman
whose screams for help went unattended to for hours. She
was in a segregation cell where she eventually gave birth
to -- it was a breach birth. And, a year later, her son
died. So, I mean, in terms of the level of health care,
it is again inconsistent. Not all cases are that way, but
unfortunately it’s not as extreme an example as you would
hope it would be. So no, I don’t think that -- you know, there are incidences of women giving birth while shackled and that sort of thing, so no, I don’t think they’re receiving the level of healthcare that they should be.

**MS. ALISA LOMBARD:** Thank you.

Would you agree that the integrity of an Indigenous woman’s right to proper and informed consent in receiving reproductive healthcare is compromised while incarcerated?

**MS. SAVANNAH GENTILE:** Yes.

**MS. ALISA LOMBARD:** Thank you. Those are my questions.

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

Next we would like to invite up the Vancouver Sex Workers’ Right Collective. Ms. Carly Teillet will have six and a half minutes.

--- **CROSS-EXAMINATION BY MS. CARLY TEILLET:**

**MS. CARLY TEILLET:** Tanshy, bonjour, and good afternoon.

I would like to start by thanking the Huron-Wendat people for welcoming us yet again today to their territory to do our work and to acknowledge the survivors, the families, the Elders, the singers, the medicine and sacred objects that are here with us so that we can do our work in a good way.
My questions this afternoon will be for Kassandra and Patricia, if I may use your first names?

So when an Indigenous woman experiences an assault and she resists or she fights, as a survivor she can then face criminal charges for that act of resistance, for surviving?

**MS. KASSANDRA CHURCHER:** Yes.

**MS. CARLY TEILLET:** And those could include assault, assault with a weapon or attempted murder of the person who perpetrated the violence.

And this morning, Kassandra, you discussed the criminalization and incarceration of indigenous women who struggled to survive. And so I want to ask about that process of being charged and what happens. So when you’re charged with a crime for protecting yourself, you can then be sent to a pre-trial centre or a remand centre and you can be held there in custody until your trial. That could be eight months, a year. We heard two years this morning. And this could be a trial where you could be found not guilty because of self-defence.

We heard from Diane this morning how traumatic entering a remand centre can be. And so are you aware of any programs that assist or help indigenous survivors with the trauma of being charged, of being then processed by Corrections, and then that first process of
entering into that institution?

**MS. KASSANDRA CHURCHER:** First, I’d like to thank you for bringing up the remand centres and the holding time. That occurs all across the country, months and months of waiting for court time.

A lot of our local Elizabeth Fry Societies do have court workers. They would also have local support workers that will visit remand centres, will try to meet with women, try to connect them with their family, try to explain what is happening to them. I think we can for granted that people understand their rights, that people understand our criminal justice system or our corrections system, and people do not. When someone is charged, arrested and then put in a remand centre, they have a lot of questions.

So sometimes, but that again is not a consistent service across the country.

**MS. PATRICIA TATE:** I’d like to speak to the situation with regard to remand in Saskatchewan. Pine Grove Institution for Women has probably 75 percent of the population that are on remand status. You need to know that when you are on remand status in a provincial institution, you are entitled to nothing. You have no programs. You’re locked up 23 hours a day. You’re not -- you can’t go to school. You don’t have any access to any
of the healing programs that the population has, and the reasoning behind that is that of course you haven’t been found guilty of anything, so how can we then say you need treatment? How can we say you need AA? They have zero to do except sit in small cages on units that are overcrowded. To the extent that they had the chapel, recently the chapel was being used as a dormitory. Of course, that meant that was because in some -- because we had had an over-representation in the men’s provincial and all the men were in the gym at the women’s facility, so the women then inherited the chapel for a while. And these women are, as I said, locked up 23 hours a day with absolutely no programming and no access to any of the services that the provincial system can offer to its sentenced individuals.

**MS. CARLY TEILLET:** Patricia, if I may ask another question?

**MS. PATRICIA TATE:** Yes.

**MS. CARLY TEILLET:** You talked about Elders visiting the healing lodge and Elders from different nations would come and visit, and that was so important. Were any of these Elders two-spirited individuals or LGBTQ individuals?

**MS. PATRICIA TATE:** What a good question. Actually, no, not that I’m aware of. However, I do want
to tell you that most recently we’ve had an opportunity to visit with some LGBTQ people at Okimaw Ohci, and we are setting up a group there, and we do have a really well-respected two-spirited Elder in our community. Her name is Marjorie Bokesh (phonetic). Some of you may know of her from her international work that she’s done in the community, and she’s more than willing to attend the institution.

So we’re trying to put that process in place. It is a first, to be honest, but it’s one that we’re committed to seeing move forward. And I know that there are — maybe Sav can talk to other institutions where the LGBTQ community has been more active.

**MS. SAVANNAH GENTILE:** In terms of Elders, I haven’t heard of that, no. Not that I’m aware of. There are, you know, at GVI, a couple started the LGBTQ for Change group, and when they were transferred to Fraser Valley, they started that there as well. So there’s that sort of effort on the part of the women.

**MS. CARLY TEILLET:** So my last question, I’d to ask about access to children and family and kinship when you’re incarcerated. And I have very little time left, but I’m going to ask the question together.

It’s my understanding that access to internet is a privilege that can be awarded or taken away,
and I also understand that a lot of people in our community connect with their family through Facebook or through internet, and they connect with their children. That’s how we announce fishing and that’s how we announce hunting and deaths and all sort of celebrations.

So could you talk a little bit about the importance of preserving that kinship relationship and communication with the family, preserving that?

MS. KASSANDRA CHURCHER: First, there’s no access to internet in the federal system. So they don’t have the ability to follow Facebook feeds and pictures of their children. I think that...

Did someone else want to -- did you want to speak to that Diane? I saw you lean forward.

Just in terms of the communication piece, the phone system is something that we should be addressing. There is a class-based system in prisons that really replicates the issues that we see in the larger broad society. If you don’t have money to put on your PIN card to get access to the phone numbers you need, then you’re not making any calls. No one is going to hear from you. And oftentimes women come in without any money to be able to make any phone calls. We have a 1-800 number. They can call us toll-free, but for the most part, communication as simple as just a phone call can be
inaccessible to some women in prison.

**Ms. Diane Sere:** And I want to add to that that these women need to make requests to add these phone numbers to their PIN card, and it can take quite a long time for the jail or the prisons to verify those numbers in order to approve those numbers as numbers that they can call. And also, I mean, you know, with those PIN cards, it’s a payphone in the house, and if you don’t have any money, you’re not making any phone calls. You have no connection with the outside world. There is no internet.

**Ms. Carly Teillet:** I’m over time. Thank you so much for your answers. Merci. Migwetch.

**Ms. Christa Big Canoe:** Thank you. We would like to invite up Manitoba Keewatinowi Okimakanak. Counsel Jessica Barlow will have six and a half minutes.

--- **Cross-Examination by Jessica Barlow:**

**Ms. Jessica Barlow:** Good afternoon.

I’d like to acknowledge the Elders and Grandmothers, families and survivors, the sacred items in the room, the Huron-Wendat for welcoming us here. My name is Jessica Barlow and I’m legal counsel on behalf of MKO. And I would like to thank the panel members today for your testimony, and I would especially like to thank you, Ms. Sere, for sharing your truth with us today.
I’ll be directing my questions to specific panel members, but if any other panel members wish to weigh in, please feel free. And am I able to address you all by your first names? Okay, thank you.

So my first question is going to be directed to you, Kassandra, and earlier you spoke about public negligence and as it pertains to incarceration. And I'm wondering if you're able to elaborate on this for us, please?

MS. KASSANDRA CHURCHER: Yes. In a lot of our dealings, it comes down to an issue of public safety, public safety. That's a lot through the parole process. It's a lot of the work that we're engaged in with CSC. It comes down to risk assessment factors.

Public safety is this massive issue except there's no connection to the very real fact that it is women who live in the public who are not safe and hence come into the system through factors that I addressed earlier in my testimony, like addiction or mental health or poverty.

And so when I made the connection between public safety and public negligence, I think there's something to talk about in terms of what are the gaps that are leading to the criminalization of indigenous women and the disconnect that we see every day.
MS. JESSICA BARLOW: And so in terms of that, what types of further recommendations on top of the ones that you've made earlier would you make to address those gaps in this public negligence?

MS. KASSANDRA CHURCHER: I think one of the most powerful statements that was made, Savannah you had mentioned divesting from the prison system and investing in the communities. Money exists. Money is there. It's about where the money is being directed and so I think that's a pretty concrete way to shore up some of the holes in the social support network.

MS. JESSICA BARLOW: In addition, you had also said a similar thing about the child welfare system.

MS. KASSANDRA CHURCHER: Absolutely.

MS. JESSICA BARLOW: Wonderful. Thank you. My next question is for you, Savannah. You spoke earlier about "privileges" and I use that term very lightly, the privileges associated with the classification levels. Is that correct?

MS. SAVANNAH GENTILE: Yes.

MS. JESSICA BARLOW: Okay. And so is it fair to say that these privileges are in fact not privileges at all but instead they are basic human rights or needs that should not be given nor taken away by an arbitrary classification?
MS. SAVANNAH GENTILE: Yes, and I think that's why the OCI called it an illegal and discriminatory system.

MS. JESSICA BARLOW: And so I'm wondering if in your experience you can speak to why these privileges are being granted and taken away in such an arbitrary manner and if you could potentially provide any recommendations as to how that could be corrected?

MS. SAVANNAH GENTILE: Well, I think first of all, the system itself needs to be rescinded. It is a discriminatory and unlawful tool and I think that -- sorry, can you repeat the first part of your question?

MS. JESSICA BARLOW: Sure. So I'm wondering if you're able to talk about why they're applying this type of arbitrary classification and then any recommendations that you can provide to sort of address that.

MS. SAVANNAH GENTILE: It's an interesting question because it sort of requires me to understand why CSC is engaging in a policy that is unlawful. It is a form of social control of managing the women and keeping them obedient. CSC will say that it's for the safety of the women, the safety of the institution, but in our experience, when women are treated in lawful and respectful ways, there is no need to resort to maximum
security or segregation placements.

MS. JESSICA BARLOW: Okay. And further to that, so we've heard a lot about things like assimilation and conformity. And so what I'm hearing and would you recommend that more respectful manners be implemented by these institutions instead of these conformist and social controls?

MS. SAVANNAH GENTILE: I would say the max security or the secure units as a whole are rather inhumane. They create a lot of distance between the staff and the women and when you create -- you start putting up walls between the staff and the women, you're taking -- you're putting up walls -- you're failing to recognize their humanity.

So they are supposed to be engaging in dynamic security measures. That is interacting with the women, understanding who they are, where they come from so that they can be familiar with the dynamics in the prison and be able to address things proactively rather than reactively, but that's not happening and especially not in the secure units.

MS. JESSICA BARLOW: Wonderful. Thank you.

And my next question is directed to you, Patty. Earlier -- and we've heard a little bit about this already about disenfranchisement and earlier in your
testimony, you said that women that may potentially have been disenfranchised, they don’t count when it comes to programs and services and I’m wondering if you can explain that a little bit further.

And also, I just want to state that everyone -- everyone counts and I'm sure you would agree with me but I want to hear more about why they don’t count.

**MS. PATRICIA TATE:** When it comes to funding, I'm looking at the resourcing as average of the initiatives for Indigenous offenders. The institution is looking at the numbers of individuals who are represented by that population. And so if somebody does not have access to information that is specific to their heritage, then they may be -- they may be excluded from the ability to participate in programming.

I mentioned earlier that there are other exclusions for individuals who may want to be part of the Pathways program and methadone was one of those exclusions as well.

**MS. JESSICA BARLOW:** Wonderful. I thank you all so very much and I thank you for the work that you do. Good afternoon.

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

Chief Commissioner and Commissioners, that
concludes the cross-examination from the parties with standing that chose to cross-examine today. I do have a couple of questions for the purpose of redirect. On that basis, I would ask that we do set the clock for the standard time for redirect, although I don’t anticipate requiring it all. It's normally 20 minutes and it won't take 20 minutes though I don’t believe.

--- RE-EXAMINATION BY MS. CHRISTA BIG CANOE:

MS. CHRISTA BIG CANOE: I actually have just sort of two areas to follow up on. So at this point, based on the evidence that you gave this morning, the parties with standing were able to ask questions in cross-examination. Redirect allows me to either clarify or further explore anything that's come up in cross-examination.

And so I want to start with one of my colleagues, Ms. Catherine Dunn, had talked to the panel about strip searches and I think we've heard you resoundingly say how -- how negative they are.

But one of the areas I'm hoping to explore a little further is we've heard, you know, how insensitive -- Kassandra gave a very explicit description earlier as part of the recommendations as to the process itself and we've talked about the negative impacts it can have on the women that are being searched.
But I was curious if you guys could speak to if there's ever any consideration given to a woman's mental health. So you talked about the history of trauma but prior to doing a strip search, is there any assessment tools or anything put into place to know not just her mental health in the moment of being searched but what impact it's had on her prior or after?

**MS. PATRICIA TATE:** I'd like to just -- my colleagues I'm sure have got lots to share about this but the one thing that I think is significant when you're speaking and I think about the women who are coming back in -- and I'm using Okimaw Ohci as my example here, and when the women come back in from a work pass or an escorted absence, particularly work passes or for that matter going to church or to a ceremony, there is a little a little cup and in the cup there are short straws and long straws. It has virtually nothing to do with your security, security concerns pertaining to you, it's whether you draw the short straw. Those are the people who get tested and who get strip searched.

So do people consider your mental health and mental health issues in your history, absolutely not. They consider whether you've go the short straw.

**MS. SAVANNAH GENTILE:** And what I would add to that is that each institution is responsible for
developing a search plan. So the practice of strip searching actually varies across the prisons across Canada.

At GVI for example, the search plan has actually done away with all discretion in terms of the strip searching and strip searches are done mandatorily after work release or whatever. So there is no short straw or long straw. It's just you go out, you come back, you will be strip searched.

And I would also like to point out that the correctional investigator has documented that in as many as 30 percent of the cases, those strip searches aren't even done according to the policy. So a woman is meant to have her top or her bottom on at least one at a time, but in a lot of cases, women will be completely naked and that sort of thing. So, there's certain policies around how it's conducted. I would say it doesn't make it anymore humane or any less degrading. The women are amazingly resilient, and a lot of them, unfortunately, have learned to cope and numb out to that, and I'd say there's a big disconnect, because I've heard upper management at CSC say, "Well, it's not a big deal. It's just a part of institutional policy, institutional life."

So, there's a huge disconnect happening. I've had -- you know I've actually experienced eye rolls
when I talk about the trauma that women experience, in relation to strip-searching in relation to their history. So, there’s -- yeah, it’s unfortunate.

**MS. CHRISTA BIG CANOE:** Yes, go ahead.

**MS. DIANE SERE:** I wanted to add to something to that as well, and it’s not just the physical strip-searches, but they also do a lot of room searches. So, they’re disrupting your private, your personal property, and they also have dogs coming into your rooms and stuff like that. And, you know -- and we have women that are afraid of dogs, and we’re lined up, you know, on the walls, and the dogs are searching us from up and down, front and back. So, I mean, it’s just more than a physical strip-search. There’s also a lot of other invasive ways of searching.

**MS. CHRISTA BIG CANOE:** Thank you for adding that. I guess I’m just kind of sitting here shocked. And, Savannah, I know you’re not a lawyer yet, but I’m pretty sure you’re probably familiar with *Golden*. So, the Supreme Court in Canada made a ruling a number of years ago on strip-searches and its unconstitutionality.

So, beyond acknowledging the degraded experience that a -- so, in *Golden*, it was a detainee, not an inmate that experienced the search, the routine strip-search, and out of that case came a lot of what I thought
we would know as Canadians would be unacceptable procedures of strip-search.

But, when you talk about things like drawing a star, it tells me there -- not only has the discretion moved, it’s very randomized. And, if the outcome isn’t -- if I understood and heard you correctly earlier today, they’re not actually producing a lot of -- when they do their searches, they’re not actually coming up with, like, a lot of contraband or any of the -- anything.

So, to me, it is somewhat shocking. There’s also international law in relation to strip-searches. So, I wanted to give you the opportunity to speak to any further -- any further instruments, and I hate using the word “policies,” because I know your guys’ position on this, but what we know already in either Canadian law or international law that not only looks at this as a degrading and inhumane thing, but why it continues to persist, or you’re dealing with short straws and eye rolls?

**MS. SAVANNAH GENTILE:** Yes. In around 2005, actually, all of the deputy wardens at the prisons for women across Canada came out and were developing -- they developed a memo coming out against those kinds of routine strip-searches, because there’s routine and with
cause. So, we’re talking about the routine strip-searches which are either done randomly or -- they’re at discretion. So, randomly or in the case of GVI, mandatorily.

We did raise this issue with the National Office for CSC last fall, this past fall, and that is the letter I provided this morning. We did raise Golden. Unfortunately, they make the distinction between the prison environment. So, you know, they say it’s not binding and that we raise, of course, international tools, the Mandela Rules and that sort of thing, where it should be done as a last resort and there’s an acknowledgment internationally that it is retraumatizing, and that less invasive methods can and should be used.

But, again, this is sort of the move towards more punitive, more security-driven state, because they argue it’s necessary to address the issue of drugs, for instance, in the institution, and we continue to encourage them to provide -- to actually address the root cause of the drug issue. If there’s a drug issue and it’s related to addictions issues, and we should be dealing with the trauma and the addiction, not after the fact penalizing or, you know, using these highly punitive methods to keep drugs out when it’s, in fact, they’re not finding -- we did an Access to Information Request,
they’re not finding a lot. They’re not finding a great
deal of contraband, and when they are, it’s very non-
serious contraband, like a lipstick container or sometimes
pictures of ---

**MS. PATRICIA TATE:** Thirty-five cents.

**MS. SAVANNAH GENTILE:** Thirty-five cents.

You know, those are the sorts of things that are being
found. You know, there may be the occasional serious
piece, but it’s very rare. So, I would say it’s not
actually meeting its objective in conducting these strip-
searches in the first place.

**MS. CHRISTA BIG CANOE:** Does it take it too
far to say, for instance, because it’s based on safety --
like, when you look at the CSC policies that are all
available on-line, the conduct of strip-searches always
ties back to safety. But, for example, you gave -- this
morning you talked about when it’s in the same facility,
and the drug argument, or often there’s this language used
in corrections, a talking reference to the inmates of, you
know, the culture of drugs and everything. Is it too far
to say that it’s a lot easier to publicly put out there
that it’s always a safety concern instead of having to
deal with the real issues because of the failures in
programming and other things available to inmates?

**MS. SAVANNAH GENTILE:** Yes. I would say
that’s exactly right. And, I would say that is also a failure of the positive obligation under 4(G) of the CCRA to, you know, consider women’s particular circumstances when they’re -- in their practices and policies.

**MS. CHRISTA BIG CANOE:** Yes, thank you. The other area that I wanted to re-examine on -- my colleague, Ms. Lombard, had brought up about prenatal and birthing, and any care that’s available. It’s something we didn’t get a chance to explore too greatly in the examination in-chief, is what happens to women when they’re pregnant in custody, what happens to women when they birth, and what are the processes that immediately remove the child. Because -- do you guys have any examples where a woman who is pregnant in custody and birth isn’t able to keep their child with them in custody?

**MS. SAVANNAH GENTILE:** Yes. Actually, there’s a case that comes to mind for me. I don’t want to give any particulars because I don’t want to identify this woman, but, in her case, she was pregnant, she gave birth, and then they maxed her out, took away her infant child, you know. So, they’re preventing breastfeeding and that sort of thing as well for the child. She did fight it and she eventually won.

But, the trauma of enduring that for both the child and for herself exist. It happened, and you
can’t take that back. And, it was, I would say -- or her sense of it was that she was a high-profile prisoner and that had something to do with it. And, even after she won her grievance, she did get -- you know, she got comments here and there that it was -- you know, from staff here and there that, you know, they did the right thing.

MS. CHRISTA BIG CANOE: Right. And, there’s also potentially some shaming involved around a prison not being the proper environment to raise ---

MS. SAVANNAH GENTILE: Actually ---

MS. PATRICIA TATE: One of the other issues that women who are pregnant and expecting a child and are considering entering into the mother-child program which exists in the federal system is that with the -- with your inclusion in that program, Child and Family Services are automatically part of the process, irrespective of the fact that you may have a family at home, a mom, a dad or whoever the case may -- or the baby’s father, there are citizens that Child and Family Services has an open file on your infant while that child is involved in the mother/child program. And, particularly for Indigenous women who have had a not so great experiences which Child and Family Services, and perhaps being apprehended themselves or having had their other children apprehended, they’re not anxious -- they hesitate to participate in the
program for that very reason.

MS. CHRISTA BIG CANOE: And, like, what’s the plausibility of that program in terms of across the country or access to it for everyone? Does anyone know that information on this panel?

MS. SAVANNAH GENTILE: What was the ---

MS. CHRISTA BIG CANOE: So, the mother and child program, is it available across the country? Not the federal program, but is something similar available in provinces and territories?

MS. KASSANDRA CHURCHER: First, to address the federal mother and child program, it’s extremely restrictive, and I’m not sure if people are aware of that. You need to be classified as either minimum or medium. You can have no history of mental health issues. None of your crimes, of course, can involve a minor. If you don’t qualify on any one of those, or if you receive institutional charges, it will restrict your access to that program or remove you from the program.

So, women who have been accepted with their children, children can live with their parents, a mother full-time until the age four, and then part-time until the age of 12 from within the prison. If you have an institutional charge, if you’re maxed out, if you’re reclassified, then you’re removed from the program and
your child is removed from you.

**MS. CHRISTA BIG CANOE:** You’ve actually anticipated my next part of the question was, what happens if you get reclassified? So, you earn the right to be in a lower classification, access a program, demonstrate the ability to retain your child within the program when something happens. So, again, is it like a snap decision if your classification goes up you lose? And, as Patty’s point out now, then -- because there is already involvement by child apprehension, the child is then apprehended? Is that the general -- is that what happens?

**MS. KASSANDRA CHURCHER:** Could I make a comment about institutional charges? They can be behaviour, attitude, sometimes -- it is -- it can be incredibly subjective and inconsistent, and invisible boundaries from which women have to try to negotiate their safety, which is why it is so difficult for them sometimes to “respect institutional policies”, because often times they don’t receive the institutional policies. They don’t know what is guiding the culture and the framework there.

**MS. CHRISTA BIG CANOE:** Diane?

**MS. DIANE SERE:** I wanted to add something about institutional charges. It could be something as simple -- and I got an institutional charge. I got an institutional charge for having somebody else’s t-shirt in
my room. So, it was a woman that was living in the same house as me, and her t-shirt was in my room. And, when they did a room search, that t-shirt was not on my personal property list, and I got an institutional charge for that.

**MS. SAVANNAH GENTILE:** There is another case actually. I don’t have the full citation. It is the Twins case, and it was -- actually involved passing a chicken wing, and it went -- I think it went all the way up to the Supreme Court, because it was an institutional charge.

So, women are encouraged to do -- engage in pro-social behaviour, but at the same time, if they share food, that is a charge. If they can’t visit in each other’s houses, that is a charge. If you are in a relationship, don’t think about going into their house, that is a charge. And, women in relationships are also often prevented from being in the same house.

There used to be a rule in the handbook, in the prisoner’s handbook actually, that said same-sex partners could not reside in the same house. Two women at GVI actually filed a human rights complaint, and that rule was removed from the book. But, it still, in practice, happens.

**MS. CHRISTA BIG CANOE:** So, is it fair to
say that, in particular, as it relates to anyone accessing the child -- the Mother-Child Program that there is always an atmosphere of fear that you can instantaneously lose your child?

**MS. SAVANNAH GENTILE:** Yes, I would say definitely, especially because those are -- they are minimum security women often. So, they often -- you know, they have a lot to lose. They have -- they can lose their child, they are on their way out, so parole is very present in their mind. They don’t want to rock the boat and that sort of thing.

You know, we had an incidence where a woman had, you know, every month, she can go out into community to purchase some things, like diapers, everything she needs once a month. She, with her own money, bought a little kiddy pool for her 2-year-old son, and staff told her she couldn’t use the pool, so they took it away and now he is using, like, a bucket, which he loves. But, you know, she went out and bought a pool for her son, and he is not in prison as much as he is there with his mother; you know? The child in some ways is being punished.

**MS. PATRICIA TATE:** So, he is now in a Rubbermaid bucket, just so you can picture that. I am talking about the big Rubbermaid bucket is what he is allowed to sit in. And, the comment that was made to mom
by staff was, “What will a community think about you having a bucket -- a pool out there for your son?” Now, I am not sure what they would think about him sitting in a Rubbermaid bucket, but my bet is it wouldn’t be nearly as favourable as if he had a pool.

**MS. SAVANNAH GENTILE:** There are -- if I could quickly add, there are other complications as well. So, if a woman is in the Mother-Child Program and there is another spouse involved, if -- we have had in cases where that partner has their visits suspended for six months, and then they are denied access to seeing their child inside because they are in the Mother-Child Program. And, the reason for the suspended visits is often a positive Ion scan.

So, there is an Ion scanner which tests for drugs, except that it is well-documented that there are a lot of false-positives. I, myself, has -- have tested over. A lot of RA’s do, but we usually aren’t denied access to the institution when we do. But, when it is a visitor, they are and sometimes they have their visits cancelled for six months, which has huge implications for a woman who is involved in the Mother-Child Program.

**MS. CHRISTA BIG CANOE:** Thank you for clarifying and sharing that additional information. I have no further questions in re-direct. At this point, I
would like to ask the Commissioners if they have questions.

--- QUESTIONS BY COMMISSIONER QAJAQ ROBINSON:

COMMISSIONER QAJAQ ROBINSON: Sorry, just sorting out our lineup. I want to thank you all for being here. I have a number of questions, and I am grateful that we are on-time.

In your testimony, and I think this question will be predominantly for Kassandra and Savannah, but I welcome other input as well. You talked about the - even -- that Indigenous women with severe or acute mental health challenges are even further marginalized. And, I am wondering for women in CSC’s custody, if they have severe or acute mental health challenges, where are they held?

MS. SAVANNAH GENTILE: Often, they are held in the secure unit in maximum security. They often receive maximum security designations. They also do have the SLEE (phonetic) Unit, which is supposed to be intensive mental health support where they have staff who are present more regularly, they have behavioural counsellors and that sort of thing present on that unit. But, frequently, they do end up in maximum security. Like, I mentioned that earlier I think, and those units are not in any way equipped to handle women with complex
mental health needs.

And, you know, we have been trying to encourage for years CSC to engage with Section 29 of the CCRA to -- which allows for the transfer of women into mental health facilities in community. The problem is that -- well CSC does say that it is too expensive to engage in those agreements, but there have been forensic psychiatric facilities in community that have put proposals forward to CSC to do so. But, they haven’t -- there is, I think, one or two mental health beds in this country for women under Section 29, so it is not used.

**MS. PATRICIA TATE:** We also have Regional Psychiatric Centres where women -- where there is a women’s unit at the one in Saskatoon. The other option for women who have extreme psychiatric needs is at Pinel, which is a mental health institution in Québec that corrections has a standing arrangement with it. We have a unit there where women are -- will go for programming, specific programing.

**MS. SAVANNAH GENTILE:** And, if I could add about RPC and Pinel, that they are duly designated prisons and psychiatric -- forensic psychiatric facilities. They operate very similarly to the prisons. In fact, in some ways, they are more punitive. Women are often held in segregation when they are transferred to Pinel or to RPC.
COMMISSIONER QAJAQ ROBINSON: What is RPC?

I am not good with acronyms.

MS. SAVANNAH GENTILE: Regional Psychiatric Centre.

COMMISSIONER QAJAQ ROBINSON: And, that is the one in Saskatchewan?

MS. SAVANNAH GENTILE: Yes.

COMMISSIONER QAJAQ ROBINSON: Okay. And, you said it is dual, so it is men and women?

MS. SAVANNAH GENTILE: Yes.

MS. PATRICIA TATE: Regional Psychiatric Centre has one unit for women and the rest of the facility is for men. So, there is one individual unit that the women -- that house women only.

COMMISSIONER QAJAQ ROBINSON: And, it is within this -- can you describe what that unit looks like? Like, what is a unit? Is it a house? Is it a hallway with cells?

MS. PATRICIA TATE: It is actually a pod with cells in the -- on the pod and a -- I want to call it a -- it is very similar to the secure unit. Very similar to the secure unit. And, it does house up to probably 20 women.

COMMISSIONER QAJAQ ROBINSON: Okay. And, do they have access to the outdoors? Do they have access
to culture, spiritual services within those psychiatric facilities?

**MS. PATRICIA TATE:** I can’t speak to Pinel and what is available there in Québec. But, I can tell you that there is a female elder and there is a spirituality room that is located within the Regional Psychiatric Centre. The women do have access to sweats and to an outside courtyard that they can take advantage of the outdoors, although it is not very large.

**COMMISSIONER QAQAQ ROBINSON:** Okay.

Savannah, you said two beds -- that there are two beds available. Can you expand on that ---

**MS. SAVANNAH GENTILE:** I would have to double check what is the latest figure. I am pretty sure that is accurate, but...

**MS. KASSANDRA CHURCHER:** CSC had an agreement in Belleville, in Ontario, for two beds. But, clearly from what Patty and Savannah have already spoken about, it is an under utilized, under funded part of the legislation that exists specifically for women who have mental health issues.

Should they be in prison, does prison then exasperate those mental health issues? We have seen women enter with no mental health issues and exit with mental health issues. So, there is definitely work to be done
under Section 29(2) to get them in the proper facilities.

MS. SAVANNAH GENTILE: Yes, the Office of the Correctional Investigator has been very critical on this issue, and the fact that -- like, there have been recommendations for CSC to engage in those kinds of arrangements and agreements. And, I think the criticism levelled was if they had done that, implemented the Ashley Smith recommendations, then it is quite possible that others would not have died. You know, I think of Terry Baker who died in a segregation cell at GVI. It might have even been the same cell that Ashley Smith died in. She was just taken off suicide watch just prior to her death.

COMMISSIONER QAQAQ ROBINSON: Is it fair to say that what you are telling us right now is that there are women in this country who are, right this moment, in the exact same situation that Ashley Smith was in?

MS. SAVANNAH GENTILE: Yes.

COMMISSIONER QAQAQ ROBINSON: Thank you. I want to talk a little bit about your recommendation about decarceration. I guess my first question is this generally for corrections -- all corrections or is this specifically for women?

MS. SAVANNAH GENTILE: Yes, the legislation exists for everyone. I mean, as a woman centered
organization, we are going into the women’s prison, so I can really only speak to the situation and experiences for women. And, I would say that the demographics are quite different between the female and the male populations, and so I would not be -- it is not within my area to say that it should be broadly applied.

But, what I will say is that, you know, women represent 5 percent. And, what the Honourable Louise Arbour suggested was that, that should not be a reason to disregard them. In fact, it might be a good starting point to trying to actually implement some of these sections of legislation to start doing things differently.

**COMMISSIONER QAJAQ ROBINSON:** We have heard from witnesses, and I think specifically of the testimony of Fay Blaney when we were in this city talking -- we are in Quebec City; right? Okay. And, she talked about how a lot of the violence is gender based, that it is male violence on women and gender and race based violence.

In light of that, and I am not going to go into her citations and references to that, but it makes me think that if we are going to look at responses, we have to look at responses differently when it comes to men and women. So, I am wondering, if we are looking at decarceration, should different considerations be made and
there be a gendered lens and a race based lens to that as well?

**MS. SAVANNAH GENTILE:** Yes, absolutely.

**COMMISSIONER QAJAQ ROBINSON:** Thank you. One of the things that I think about when you talk about decarceration and the utilization of Section 81 is -- I am not going to use the term “capacity”, because communities have the capacity. It is the infrastructure.

And, we just came back from Nunavut where the resources and the services available to the community that is there already is so scarce and stretched, I can see a huge concern about taking on further -- like, taking on a Section 81, as much as a community may want to do that, when the infrastructure and the services available already are so heavily taxed. Would you agree with me that in addition to applying the act -- Section 81 and the provisions within the act that allow for this community taking ownership, in parallel, has to be that investment in the services and the infrastructure within the broader communities?

**MS. SAVANNAH GENTILE:** Yes, I think it should be taken as an opportunity to make that investment.

**COMMISSIONER QAJAQ ROBINSON:** Thank you. I want to look now at alternative measures before going into custody. And, you talk about the room for discussion and
a fulsome and thoughtful application of the corrections
and -- CC something-something act -- what is it again?
What is the acronym?

**MS. SAVANNAH GENTILE:** CCRA.

**COMMISSIONER QAJAQ ROBINSON:** CCRA. But,
is there work that needs to be done to actualize more
effectively alternative measures as outlined in the
criminal courts and the Criminal Code, that not only
should we be looking at something different than
corrections, we should be looking at something different
even earlier on, in a more robust investment and
supporting of initiatives that look to get even away from
the criminal justice system from the onset?

**MS. PATRICIA TATE:** You know, within
Saskatchewan, we had an investment in domestic violence
courts and processes, whereby individuals could attend
court and they could -- with a guilty plea, they can
attend programming, lengthy committed programming that
would allow them to leave at the end of the program
without having a criminal record.

That is just one tiny example of the kind
of alternative measures that could easily be put in place
and could be implemented for, not just for Indigenous
people, but for people across this country, that would
relieve the justice system of some of the burden that they
have of people that do not really need to be there.

**MS. SAVANNAH GENTILE:** Sorry, if I could

just quickly add. Even before we have a guilty plea or a
charge of any kind, if we are investing in things like
guaranteed liveable income, you know, those sorts of
things will go a long way. You know, the Mincome project,
I cannot cite in too much detail, but it saw tremendous
improvements, cuts to health care costs and increase in
return to grade 12 and completion of grade 12. Like,
tremendous benefits. That is the kind of investments
communities need, affordable housing, guaranteed liveable
income -- you know, poverty is one of the key issues that
we are often not addressing, we are not talking about it
at all.

**COMMISSIONER QAJAQ ROBINSON:** Thank you.
Patty, I think you were about to use the word that we have
heard so much, pilot project?

**MS. PATRICIA TATE:** Yes. It was a pilot
project. It is not a pilot project any longer. And, in
fact, I know that there have been other provinces who have
replicated the programming that is being offered in
Saskatchewan for -- specifically for domestic violence.
But, it does not have to be about domestic violence, it
could be about any kind of charges that an individual is
having to deal with.
Years ago, with young offenders, there were lots of alternative measures that were offered to young offenders who were just starting up on -- their criminal behaviour was just fresh. And, if they could be captured at that moment in time, prior to ever having had a criminal record, and being incarcerated, and having to, you know, serve time where they are living in fear, and they are living with violence, and they are living with gangs, if we could do that more than we are currently, it would certainly be a bonus.

COMMISSIONER QAJAQ ROBINSON: And, the government should not be doing it by piecemeal pilot project ---

MS. PATRICIA TATE: Amen.

COMMISSIONER QAJAQ ROBINSON: Sorry, Kassandra, I think you were going to say something?

MS. KASSANDRA CHURCHER: Well, I just wanted to note that several of our societies run youth and adult diversion programs. They are very proactive in fostering relationships with community members who sit on community justice committees, who then act as representatives and case managers for the member of community who has come into the court system.

They foster relationships also with Legal Aid lawyers and the court system, so that there is phone
calls that happen, we have someone who could go into programming, do you have space, we are going to put in a motion. Some of that interruption into divern (phonetic), of course, happens even at police stations; right? And so, there has been several of our local societies that are investing more and more in youth and adult diversion programs to keep them out of the system you are talking about.

COMMISSIONER QAJAQ ROBINSON: Final thing I want to say and I have to honour, we have heard from some families that diversion, that release into the community, that there have been murders, there have been brutal acts committed by people who have been in the system and come out or were released early. And, we heard people that felt that there should have been -- there was no safety provided because of short sentences and releases.

And, I want to give you the opportunity to connect your position on particularly decarceration to the creation of safety for the women and the girls, because there are women that we have heard from who were raped, who were murdered by men who had done it before. And, we have to honour that truth that the families are experiencing and bring this to their safety and protection. And, I want to give you that opportunity to connect what you have presented to us today to that.
MS. KASSANDRA CHURCHER: There will be two parts. I will answer first, then Savannah, I will defer to you. As you know, I have also lived in northern communities as well, how close they are, how supportive they are of each other.

What I remark in my experience is the lack of support services, the lack of mental health, the lack of addiction support, the lack, the lack, the lack. There is -- when people, like the examples you were giving, are released back into their community, maybe a psychologist flies in once every three weeks or six weeks, maybe someone gets funding for an addictions program to talk about alcohol and drugs. Maybe there is no funding, so there is no program this winter.

There is a severe lack of local support, both preventative and protective for the people who have been impacted by this, but also for their own community members that are being reintegrated into the community. They are not being reintegrated with the proper supports to help address issues of trauma, and issues of abuse, and issues of addiction and issues of mental health, and so unfortunately they resort to some of the same coping mechanisms and self-medication mechanisms that led originally to their criminalization. I think, Savannah, you want to discuss the gender based nature of the
MS. SAVANNAH GENTILE: Yes. Well, it is what you brought up earlier, which is why we focus on women in prison and why there needs to be a gender based approach to these, to implementing these decarceration programs or plans, because there are vastly different issues to consider when you are looking at a male population versus a female population. Women are often the victims of such crimes and women frequent -- you know, the vast majority of crimes that women are convicted and sentenced for are poverty related. So, we are not talking about crimes of violence, although that does happen.

And, the reality that we are faced with is that people eventually leave prison. And, the question we have to ask ourselves is, are they coming out better or worse? And, I think invariably the answer is worse. So, that is not an investment in public safety or community safety. And, at the moment, we are not doing anything to address that, we are actually contributing to the problem rather than addressing the root causes. And, that is why again, the focus on divesting from the prison to invest in community, because prisons are hugely expensive, huge overhead costs and they tend to suck resources from communities.

And so, these communities are still left
without the resources and these people will eventually get
out, they will eventually go back. And so, I think that
points to what I said earlier, is that, you know, really,
do we care about women and children? Because contributing
to this prison system is not doing anything for them.

COMMISSIONER QAJAQ ROBINSON: I have one
final question. You know, the reports that you provided
us, the findings that we have heard from the Office of the
Auditor General, the Office of the Correctional
Investigator, even, you know, court decisions have made
findings, whether it is about strip searches, whether it
is about segregation, you name it, we know what it is, we
know what needs to be done, but it is not done. These
bodies, the correctional investigator, the auditor general
are part of the checks and balances that we expect in our
society to hold government to account -- to guide them,
but to hold them into account. What is missing?

MS. SAVANNAH GENTILE: One of the key
issues is that the Office of the Correctional
Investigator’s recommendations, like many of these
recommendations, are not binding. So, the CSC is not
bound to them. There is no way to enforce them
implementing these recommendations, which I think is one
of the reasons we talk about -- if we could get judicial
oversight, there might be some more ability to control or
monitor those decisions in terms of segregation, in terms of these things, you know, to hold CSC accountable for the decisions it’s making. I mean, that is what comes to mind immediately, it is just they are not binding.

**COMMISSIONER QAJAQ ROBINSON:** Okay. I want to -- those are all my questions. I want to thank all four of you so much. Diane, I want to thank you for sharing with us your truth, your expertise. And, I want to also say, for me, I wanted to hold a hearing like this in a women’s facility. I hate when I do this. And, it was a big part of our extension request, you know the hurdles of trying to get in those walls, and it will be a disappointment I will carry for my life. And, I want you to share with the women how much we wanted to hear them. I cannot end today without saying that, that they are valued and they are not forgotten. So, I just need to say that.

**MS. KASSANDRA CHURCHER:** We will make sure they know.

**COMMISSIONER QAJAQ ROBINSON:** And, we will not forget them in our report.

**MS. SAVANNAH GENTILE:** If I could just say, I think it will mean so much to the women to know that there are people outside who are talking about it and invested in these issues. It means so much to them.
MS. PATRICIA TATE: So, thank you for that.

--- QUESTIONS BY COMMISSIONER BRIAN EYOLFSON:

COMMISSIONER BRIAN EYOLFSON: I, too, want to thank all four of our panellists very much for coming and sharing your evidence with us today. And, Diane, I want to thank you for sharing your truth with us, your personal experience.

I just have a couple of questions -- a lot of questions have been asked and I just want to back up a little bit. Kassandra, to the beginning of your evidence earlier this morning, you were talking about systemic factors such as colonialism, racism, sexism, addiction, health issues being translated into risks as opposed to needs in the system. And, I am just wondering if you can comment a bit more on that or unpack that in terms of how that happens in the system at what points, and by what mechanisms and how that plays out.

MS. KASSANDRA CHURCHER: Happily, I will defer to any one of my colleagues to also discuss this. You know, the condition of being over-policed and under-protected I imagine has been well-documented by your travels across the country.

When history -- when a person’s story becomes a report, their name becomes a number. It loses the value and the richness of the context, particularly
within the corrections framework who has a mandate to rehabilitate and reintegrate, but tends to focus on public safety. So, histories of abuse, or violence or addictions when translated into a correctional plan, translated within the system tends to look like warning flags instead of looking like needs, instead of reading like help.

And, what happens is then when it moves further along the justice system into the correction system, instead of providing those supports to address the original needs, you end up becoming over-classified and increasingly restricted until you are on Level 3 of a secure unit with no access to counselling, or programs or education. And, that is the disturbing cycle of what happens when someone documents their history with the intention of telling their story to where they can end up on the other end of the correction system.

**MS. SAVANNAH GENTILE:** If I could just quickly -- I briefly touched on the Custody Rating Scale as a tool that was developed for white men, and we have touched now on the gender -- the need for a gender-specific focus. And, part of that is some of the ratings that come in look at homelessness, family instability, family violence preceding imprisonment. And, those are taken as risks partly, because it was a tool developed for men, and women react very different to those
circumstances. They become victims overwhelmingly. But, that is not -- the tool doesn’t take that into account. That is part of the issue. So, those things that make them victims actually get interpreted as risks.

And, women also -- there is institutional -- what is the word? Long day. Institutional adjustment is one of the ratings. And, I really think of that as, how well do you acclimate to structured oppression; right? Things like emotional instability and that sort, which could be indicators of mental health issues become indicators of risk. So, it is actually built into their tools in a way, and that is part of why we have been challenging them.

You know, this was challenged in (indiscernible). And, essentially, what came out of that was, yes, they discriminate, and that was essentially the result. The tools are discriminatory. Now, they have to do something about it, but it has been a long battle actually around the classification tools and that sort of thing.

COMMISSIONER BRIAN EYOLFSON: And so, what impact could this have on Indigenous women who are already facing these factors that are causing them to be vulnerable to violence, and then these factors are interpreted as further risk factors in terms of their
programming?

**MS. PATRICIA TATE:** I think one of the issues -- I have been going into the institutions for well over 30 years now, and my -- every visit I go, there are women that I meet and I wonder how they are vertical. How can they possibly still be vertical in light of the history and the story that they share?

And, these are women who are already at -- as they enter into an institution feeling less than adequate, more than marginalized, less than valued in any way, shape or form. So, when you add to that, the assessments that are made of them with respect to risk, you are compounding the trauma. Sometimes I have been -- I have spoken sometimes about trauma that women experience. And, when I am talking about Indigenous women, I am not talking about trauma. I am talking about trauma, trauma, trauma, trauma and they are still standing up.

You know, these are women who have every gift that they could possibly have and strength to be able to move forward with their -- in their lives, but they are not given the tools that are necessary in order to facilitate that happening. And, as a result, they are returning to the communities, as Sav said, worse off than when they arrived in the institutions.
COMMISSIONER BRIAN EYOLFSON: So, in terms of programming, training, education, you know, Indigenous women ending up no better or worse off when they leave, what is missing in terms of training, programming, education that might be of some assistance?

MS. KASSANDRA CHURCHER: Nothing inside a prison.

MS. SAVANNAH GENTILE: That is it. It is a really -- it is an impossible environment to investigate your trauma. You know, it is not a space for healing. Often if you -- if there are trauma responses then to -- trying to address, look into your trauma, those are penalized. Poor behaviour, bad attitude, talking back; you know? So, it is not a safe space for that in the first place.

MS. KASSANDRA CHURCHER: We all know the detrimental history that state-run education has had on our Indigenous communities. So, when we hear programs and training and education from within corrections, right away it just feels and looks like every other education initiative put forward by the government in the past that has been inauthentic and disconnected from an Indigenous person’s life and their reality, and has left us with the legacy of residential school survivors. So, we are very, very against endorsing education or training as corrective
measures for what is happening within the prisons for Indigenous women.

**MS. SAVANNAH GENTILE:** Yes, I think the women inside who do -- you know, I have heard prison is the first place -- first time I felt safe. You know, those sorts of comments are common. And, I think that is a real indictment on our communities if prison is the first place a woman feels safe. It is -- you know, it is a terrible situation.

And, I wanted to just also say that if women with mental health are having a difficult time adjusting at a lower level of security in the general population because of their mental health, then CSC has a duty to accommodate them, not increase their security rating and punish them for their mental disability.

**COMMISSIONER BRIAN EYOLFSON:** Thank you very much for answering my questions.

--- **QUESTIONS BY COMMISSIONER MICHELÉ AUDETTE:**

**COMMISSIONER MICHELÉ AUDETTE:** Merci beaucoup. Est-ce que mon micro est ouvert? Yes, it is! Okay... désolée! Alors, mes questions vont être en français.

Juste avant de poser mes questions auprès des témoins, je veux juste clarifier une chose tout à l’heure : dommage pour la plupart d’entre vous, avec le temps que vous avez pour poser vos questions, car je vous
avoue, vos questions sont très bonnes. Et le commentaire que j’ai fait à mon collègue tout bas était : « Ces questions sont bonnes. » Donc, Me Dunn, je ne vous accordais pas plus de temps, mais je disais que vos questions étaient bonnes! Alors, désolée pour les autres collègues, ce n’était pas pour dire que c’est ma préférée, ce n’est pas ça du tout! [Rires]

Et juste pour dire aussi que mon rôle de commissaire, je le prends au sérieux, mais souvenez-vous : mon école, c'est la communauté, ce n’est pas le monde juridique, ce n’est pas le monde du droit. Donc, peut-être que je ne fais pas les choses comme on devrait faire dans des commissions d’enquête, mais je suis convaincue que j’ai ma place au sein de cette enquête, convaincue!

Alors... surtout quand on entend des témoignages comme vous toutes, depuis ce matin et de vous dire sincèrement que je marche à côté de la commissaire Robinson à l’effet qu’aujourd’hui, on se retrouve dans une situation, je le répète, une enquête historique et beaucoup de preuves vont être manquantes, beaucoup trop de preuves, notamment celles de la réalité des femmes incarcérées, des femmes qui se retrouvent dans les pénitenciers, dans les prisons provinciales ou fédérales.

Et je tiens à remercier aussi Mme Melanie Morrisson, qui est derrière moi, qui est membre du Cercle
des familles pour aviser et soutenir les commissaires dans leurs travaux. Elle est venue avec moi rencontrer les employés de l’établissement à Laval, un établissement fédéral, un pénitencier, où là, on a rencontré pour parler de l’Enquête nationale puis donner la perspective d’une famille qui a perdu un être cher, l’impact que ça a, ainsi de suite.

Donc, il y a eu des tentatives, à maintes reprises, pour essayer de travailler avec Elizabeth Fry, de voir comment on pourrait aller dans les pénitenciers, les prisons et ainsi de suite. Dans ma conclusion, je vais vous revenir avec ça.

Alors, pour mes questions, l’article 81, l’article 84 ; souvenons-nous que pour la plupart d’entre nous, peut-être qu’on comprend qu’est-ce que c’est parce qu’on travaille avec ça, mais souvenons-nous que cette Enquête a un volet éducatif : comme je demandais hier à Me Big Canoe de nous expliquer la règle Gladue, parce que la plupart des Canadiens ne comprennent pas qu’est-ce que c’est. Et si c’est possible, dans vos réponses, quelques secondes, nous expliquer, à ceux et celles qui écoutent ces audiences, c’est quoi l’article 81 et 84.

Dans votre document Spirit Matters, vous parlez justement de ces deux articles-là sur le système correctionnel et la mise en liberté sous conditions,
pouvez-vous nous donner des exemples que ces articles-là ont été mis en œuvre? On va commencer avec 81.

**MS. KASSANDRA CHURCHER:** Oui. Je serais contente de partager un exemple. J’ai mentionné ça avant; c’est le travail qu’on fait avec les Micmacs de Nouvelle-Écosse. On a développé une maison autochtone pour des femmes. C’est un exemple extrêmement intéressant, parce que c’est à Cape Breton, mais c’est hors de la communauté autochtone, qui est juste à côté. Et on pense que ça serait un exemple pour adresser les femmes qui, peut-être, ne veulent pas retourner dans leur communauté, qui veulent rester dans un centre urbain.

On fait ça en partenariat, car la maison serait supportée par la société Elizabeth-Fry de Cape Breton, mais entourée avec toutes les connaissances, toutes les expériences des aînés des communautés micmacs en Nouvelle-Écosse. Alors, on est en train de développer le programme, la demande de financement avec Services correctionnels Canada, on doit le soumettre pour approbation. Mais on croit que ça va commencer à donner un exemple de qu’est-ce qu’on peut faire avec l’article 81.

Et pour des autres communautés, je voudrais adresser le fait que quand on rencontre les femmes en prison et on parle nous aussi comme l’article 81, l’article 84. Fréquemment, les femmes ne connaissent pas
les lois, leurs droits : « Savez-vous que vous avez le
droit de demander à votre communauté de supporter une
demande pour sortir de prison? » « Non. C’est quoi ça?
Comment on fait? Personne ne m’a donné d’information. »
Alors, quand on discute de l’éducation au
public, c’est même une éducation que nous, on doit faire
et on doit être conscientes, quand on rentre dans la
prison, que les gens ne connaissent pas que c’est une
réalité, que même juste une femme en prison peut écrire
une lettre pour demander à sa communauté de supporter sa
demande. C’est avec aucun avocat, avec le système de
justice, juste une lettre, mais les femmes n’ont pas toute
l’information. Et des fois, c’est à nous de la partager.
Alors ça, c’est une limite. Mais on essaie
de faire plus d’éducation au public, même avec les
communautés autochtones. J’ai un beau-frère qui est chef
de sa communauté et on était en discussion ; lui aussi a
demandé : « Est-ce que c’est quelque chose que moi, je
peux demander pour notre peuple, pour amener les femmes
ici, pour rester chez nous? » J’ai dit : « Absolument. »
Mais il n’y avait aucune information pour savoir comment
le faire. Alors ça, il y a un grand manque de
communication et éducation autour des articles 81 et 84.

COMMISSIONER MICHELE AUDETTE: L’exemple
que vous donnez, est-ce qu’il y en d’autres? D’autres
MS. KASSANDRA CHURCHER: Il y a l'exemple à Toronto, je vais laisser Savannah en discuter. Et il y a aussi un exemple qu'on essaie maintenant de faire une attente sous l'article 81. C’est pour une femme noire, de retourner dans la communauté noire de Toronto. C’est un peu une autre façon de l’adresser pour les femmes en minorité.

MS. SAVANNAH GENTILE: I think it is a real challenge actually getting the Section 81s and 84s underway because the legislation is broad, and there’s not a lot of information, and CSC certainly isn’t doing anything to facilitate these agreements, and the reality is that they have the funding to do it. So, what happens is, you know, organizations like ours are trying to fill those gaps, trying to engage in conversations with our community partners like NWAC, and there are challenges with getting these agreements started in certain communities, for sure. It’s been highlighted already that some of these communities are lacking infrastructure. There is an apprehension in others about accepting some of the -- you know, if there has been a crime and it’s caused -- had an impact on the community, there’s an apprehension in some communities of accepting or bringing these women back.
The other thing is that they don’t necessarily have to go back to their community. There are other communities that they can go to or urban centres, and I think -- and beginning to engage in discussions about what is possible under Section 81 because, really, the legislation is broad enough that the sky is the limit. I think communities just need information and resources and support.

So, that is something that we have discussed and we’ve begun trying to develop tools to assist communities or organizations who are interested in beginning that application process, trying to simplify it, because it has become quite a hurdle, actually, quite an overwhelming process to engage in, which is unfortunate because it creates barriers for communities.

So, you know, again, part of the challenge is funding, to get funding for a position to actually specifically look at Section 81s and begin those conversations in communities to identify what are the barriers, what are the needs, what resources are necessary, what infrastructure is in place or needs to be put in place.

I think beginning to engage in those conversations is really important. It’s unfortunate, but we don’t have a lot of examples of -- successful examples
other than, you know, the one institutional example.

**MS. PATRICIA TATE:** I’m going to speak to Section 84s, because I think we’ve alluded to it a couple of times throughout the course of the day, but we have not really discussed it.

There is a significant difference between a Section 81 and a Section 84, and guess what the significant difference is? It’s about money. There is absolutely -- there are absolutely no resources available to a community who suggest that they want to participate in a Section 84 release for a woman to their area.

In the beginning when Section 81s and 84s were implemented, Corrections had set it out that it was entirely at the woman’s responsibility to make all the arrangements for a Section 84 release, if that was her desire.

So, think in terms of a woman who may indeed decide that she wants to move to a community where she knows no one. And so, she knows none of the resources. The original arrangements and the original process that Corrections had in place was that those women were responsible to find those resources in the community that they wanted to reside. And basically all that section 84 commitment is just that, a commitment by agencies, organizations and individuals in a specific area that are
willing to work with you when you are released from an institution, that are willing to support you on your journey. That could be a medical team. That could be mental health. That could be a chaplain or an Elder who is there for you and is willing to take on that responsibility. It could also include AA or some other addictions programming, and it could be family members as well.

But all it amounts to is a group of people who have come together and said “We’re willing to support this individual.” Obviously, if this individual is going back to a reserve, it makes it very easy to find those resources and community members who are prepared because each of the individuals who work at the Band Office might have a mandate. You may have a mandate for Child and Family Services. You may have a mandate for mental health. You may have a mandate for addictions. And so those people can come together.

When it’s an urban setting and the resources are not only more diverse but divested from each other, it makes a little bit more difficult, but certainly the suggestion when people start thinking about it is that there’s going to be resources made available.

Theoretically, a section 81 should be well resourced. It needs to be well resourced because
oftentimes people are having to travel to access the
support systems that they need even though the community
has taken on that task.

In the last year, we, in Saskatchewan, had
a situation where there was a community that was
suggesting that they might be interested in entertaining a
section 81 for a woman who has significant needs,
including mental health needs. The community was
relatively remote. The need was for a mental health
practitioner, for a psychiatrist, for a psychologist, for
transportation, for addictions counselling and so forth,
and because of that and the fact that the monies were not
as generous as one would have expected them to be to take
on this task, that community has had to bow out of the
opportunity, and this woman remains incarcerated as a
direct result.

But that’s the difference between a section
81 and a section 84. Is there anything else?

\textbf{Mme KASSANDRA CHURCHER:} C’est juste une
question de l’argent. C’est toujours une question de
l’argent.

Avant, j’ai mentionné que ça coûte à peu
près 192 000 $ par année pour avoir une femme en prison et
le projet qu’on développe maintenant en Nouvelle-Écosse,
c’a l’air que ça va coûter 90 000 à 100 000 $, moitié du
« Prix pour avoir un FAM dans la communauté. 

**COMMISSAIRE MICHÈLE AUDETTE:** Merci beaucoup. Merci justement de nous expliquer les différences.

Ensuite, vous nous avez donné beaucoup de documentation. Le prochain témoin aussi demain c’est une femme qui a une large expertise et connaissance sur les femmes qui se retrouvent en prison, les femmes incarcérées, femmes autochtones, on s’entend. Alors, on a pris connaissance aussi de ces documents de Madame Brassard.

Et partout on voit dans les rapports, dans les recherches, puis vous l’avez mentionné d’entrée de jeu, que le système de justice est une structure imposée, qui est complètement étrangère aux autochtones, puis qui se base sur un concept de punition, de réhabilitation et évidemment pour les femmes autochtones, une culture d’assimilation. Ça, c’est dit partout et par vous aussi. Ça tient pas compte de nos langues, de nos traditions, de nos cultures, de nos façons de faire en tant qu’autochtones.

Et je remercie nos aînés qui prennent de leur temps pour aller voir les femmes dans ces milieux-là. Vous avez aussi mentionné avec Qajaq Robinson sur... vous avez dit en anglais piecemeal. Moi,
je vous écoutais et puis je voyais la courtepointe en arrière, comment on est financé à petits morceaux, à court terme, sur une thématique ou sur une mode gouvernementale, une vague. Ici on parle de quelque chose de très, très... une institution depuis très, très longtemps.

Comment on pourrait faire en sorte que les choses changent. Alors, ma question c’est ça, ma première question. Est-ce qu’on doit faire table rase, repenser les solutions au complet pour adopter un système carcéral ou un système qui pourrait répondre aux femmes autochtones? Ça c’est ma première question. Ou ça serait quoi la meilleure façon de répondre à nos réalités, nous, les femmes, qui font l’objet d’une incarcération?

**Mme KASSANDRA CHURCHER:** J’aimerais en premier remarquer que vous êtes en train de le faire. L’Enquête est historique. Ça c’est un processus légal qu’on fait aujourd’hui, mais c’est absolument pas similaire d’aucune façon des processus légaux qui existent hors de cette salle. Je crois que c’est un exemple extrêmement important de comment on peut faire des choses. Les gens ont besoin de la concrétisation. Ça veut dire quoi un processus légal qui vient d’un esprit autochtone?

Et aujourd’hui et qu’est-ce que vous faites, vous êtes en train de nous fournir un exemple.

Je crois qu’il y a une grande discussions à
avoir pour comment adapter, changer et développer un système de justice autochtone qui est vrai dans ce pays et ça c’est du travail qui va avoir un grand impact sur qui rentre dans les prisons.

Un autre avocat a demandé une question :

« Si on voit plus de juges autochtones, si on voit plus d’avocats autochtones, est-ce qu’on va voir peut-être une réduction du nombre de femmes qui rentrent en prison? »
Dans notre expérience et qu’est-ce qu’on voit, oui, parce qu’ils viennent dans l’expérience dans le système légal avec une connaissance de c’est quoi la réalité de la personne devant eux, et c’est quelque chose qui manque.

Je vais laisser mes collègues adresser la question autour de comment on change le système carcéral, mais je voudrais remarquer que l’Enquête est historique.

**COMMISSAIRE MICHÈLE AUDETTE:** Merci.

**MS. SAVANNAH GENTILE:** It’s a really big question, how can we change things? I mean, the prison systems have been around for a long time, but if you contextualize them in broader history, they’re actually a relatively new invention and, I would say, a failed experiment at reform. You know, they were meant to be a more humane way than the guillotine and sending people off to the galleys. I mean, in that sense they are maybe perhaps better in some ways; in other ways not so much.
So I think, you know, if any of -- if certain not-for-profit organizations operated the way CSC operated, I mean, I think we would lose our funding relatively quickly.

And so I think it takes, in some ways, just the courage to say no, there -- you know, abolition sounds like a big thing, but you know, I was in a meeting with the UN Office on Drugs and Crime, and he actually said to me, “No, abolition, it’s not -- it is possible. It is possible and, in fact, it’s the only way.” I mean, it’s documented internationally in report after report that these things aren’t working, that this isn’t working. So why are we continuing to tinker and make minor changes to a system that is so incredibly harmful. We have to do it differently. I mean, how we actually get there, I don’t think any one of us is qualified to say on our own, but I think we need to start having the right discussions and the right starting point, because we often aren’t willing to go as far as to say “No, shut it down. Let’s think of new ways.” We’re often having the conversation of, “Well, if you change this about it, then visits will be improved.” Or how can we create more access between the prison and the community. Well, I think it is -- we have shown that over the past 30 years or more, it is not working and we just need to abandon that conversation of
reform so that we can start talking -- start at the right starting point for these conversations.

**MS. PATRICIA TATE:** I -- one of the things that I often remember is a quote that an elder shared with us one time in a meeting. And, it was a meeting about prison of course. And, he said, “You know, if you plant corn, don’t expect it to reap strawberries. And, just because you are going to build -- put more corn in and build bigger prisons and more facilities, it’s still going to be corn that grows out of that ground. It’s not going to be strawberries.” We need strawberries. We need a brand new approach that is restorative. And, interesting that I have used strawberries as the example, because it needs a heart.

**COMMISSIONER MICHELE AUDETTE:** Merci.

Aidez-moi à dire le nom. En 2006, j’ai visité les cinq établissements pour les femmes incarcérés à travers le Canada. Et, je suis allée dans un endroit c’était pour les femmes autochtones et puis il n’y avait pas de clôtures. Ce n’était pas comme visuel, l’architecture comme une prison traditionnelle avec les barbelés, le béton et tout et tout. Moi, j’avais le mandat d’écouter les femmes autochtones et à un moment donné, j’ai posé la question « ici depuis que c’est ouvert est-ce qu’il y a beaucoup de femmes qui se sauvent? » Il n’y a pas de clôtures ou de
barrières. Seulement une fois que c’est arrivé. Avez-vous déjà pensé ou réfléchi pourquoi il n’y a pas eu beaucoup d’évasion? Sérieux? Je ne savais pas.

**MS. KASSANDRA CHURCHER:** Oui, maintenant il y a des clôtures et je pense à Joliette. Et, aussi à Québec. Il y avait une section ou il n’y avait pas de clôture. Une fois, ils ont dit on va juste couper l’accès pour une période pour évaluer la situation. Maintenant, je crois que ça fait 18 mois et les femmes ont encore aucun accès pour aller se promener dans ce quartier. La remarque de comment les prisons ont changé depuis 2002, 2003 et 2004, on voit plus de sécurité, on voit plus de clôtures, plus de barrures, plus de restrictions à l’accès. Au début, c’était supposé être une communauté avec des maisons avec accès à toutes les places dans la structure. Mais, maintenant les femmes, des fois, ne peuvent même pas accéder à d’autres sections de la prison parce qu’il y a des préoccupations de sécurité. Si c’est vrai ou non, on ne sait pas. Mais, on voit que ça devient de plus en plus similaire aux prisons pour les hommes.

**COMMISSIONER MICHÈLE AUDETTE:** Thank you.

**MS. SAVANNAH GENTILE:** When the prisons were regionalized, you have to understand that the women were coming from a very different kind of prison, P4W. Very different infrastructure to, then, prisons that were
developed with the intention in mind of being very different; right? So, they didn’t initially have fences. The guards weren’t guards, they didn’t wear uniforms, and that created the opportunity for dynamic security for relationship building and connection, which is what these women needed to heal.

But, very quickly -- you know, and the -- one of the problems was CSC never developed a national strategy to address this, like, huge transition that women were going to go through. And so, you know, at every opportunity, it -- things like women escaping, right, which was literally them walking out, walking off the premises, because there wasn’t a fence, are -- were used to justify further security measures. So, that was part of the problem is that it wasn’t -- women weren’t properly transitioned either.

**MS. PATRICIA TATE:** There is still -- there is no fence around prison at Okimaw Ohci Healing Lodge at the present time, but is it any less a prison? Absolutely not. It is just as much of a prison as all of those facilities that do have a wall around them. And, the -- and much of that is not of the direct result of no fence, but it is the direct result of the staffing.

I am going to cite you an example. I sat in a meeting with individuals from the healing lodge one
Questions (AUDETTE)

day. And, the discussion was around staffing. And, one
of the staff of the institution said to me, “You know,
Patty? We hired a woman not too long ago. And, she came
to us with the best qualities that we would really look
for in a restorative justice, healing lodge environment.
And, we would look to her to -- we look to her to be an
example of who we would want to hire.”

And, we hired her. And, we sent her to
basic training in Saskatoon, and she came home wearing
steel-toed boots and has not taken them off. And, that is
an unfortunate reality that this is a militaristic model
of intervention that is part of the basic training that is
part of corrections’ philosophy. And, unfortunately, it
is very, very difficult to get beyond that when you are --
as a staff person.

I will say that because there is no fence,
it certainly gives the appearance of being less punitive,
less restrictive, more open and engaging than most of the
other facilities. But, the reality is, prison is a prison
is a prison. And, Okimaw Ohci is equally as much of a
prison with the same expectations of individuals as the
other facilities. Do women run? Not usually. But, by
and large, they don’t run because it is the best of the
worst.

COMMISSIONER MICHÈLE AUDETTE: Merci
beaucoup parce qu’à cette époque-là en 2006, les femmes
aimaient ça parce qu’on peut pratiquer notre culture,
notre tradition et notre spiritualité. Je vais juste
répéter pour être sûr. Les femmes appréciaient l’espace
parce qu’elles pouvaient pratiquer leur culture, leurs
traditions et leur spiritualité et ça accompagné de gens.
Je suis très attentive et sensible à votre réponse. Deux
dernières petites questions. Il y a des femmes qui sortent
des établissements. Et, selon vous les conséquences d’une
post-incarcération des femmes et des filles autochtones,
ça ressemble à quoi? S’il en a des conséquences.

MS. PATRICIA TATE: What a good question.
Actually, within our organization, we were committed to
hiring experiential women for a variety of different -- in
a variety of different roles with the Elizabeth Fry
Society of Saskatchewan. We have people who are mentors.
We have, actually, art teachers. We have people who come
in and volunteer. We have -- actually, one of the women
that is presently facilitating our women’s healing circle
is an experiential woman. We have tried to offer those
kinds of opportunities for women throughout the service.

But, it is really important that a woman is
solidly on her healing journey before that kind of an
opportunity is made available to them, because otherwise
we set them up to fail. We set us up to be disappointed,
because our women have not been acceptable and we set them
up to disappoint us and to fail themselves when they
really do need to take the time and energy to evaluate the
-- exactly what they want their lives to look like.

But, for the most -- it is interesting
because a lot of women who are leaving institutions are
wanting to give back. Women who are changing their ways
and looking at becoming part of the community really want
to be -- have something meaningful that they can do. And,
it is very hard for women who don’t necessarily feel that
they are entitled to be healthy, to feel like they can
actually move into just taking care of themselves for a
while. And, I think it is important that we support that
piece for women, but I also -- I am really grateful that
we have opportunities for women to work within our system
and to refer them to other agencies and organizations that
have like philosophies.

**MS. DIANE SERE:** The only thing I would
like to add to that is that, with the reintegration piece,
it is the stigma of having that, you know, criminal record
continues to follow you. And, this makes it very
difficult for women to be able to get employment or to be
able to get housing because, as you know, there is a lot
of housing that are looking at, you know, criminal
background checks to retain housing. So, these women are,
unfortunately, without those supports out there, having a very, very difficult time.

COMMISSIONER MICHELLE AUDETTE: Merci beaucoup. Merci beaucoup, Diane. Et, ma dernière question. Le fait que nous ne sommes pas en mesure d’aller écouter la vérité des femmes qui sont dans les établissements. Ça va être quoi l’impact sur le rapport de cette enquête nationale?

MS. SAVANNAH GENTILE: I am trying to think that through, it is an interesting question, because you have just gotten, sort of, a snapshot really of what is going on, and it is a lot -- there has been a lot of information to take in, I think. And, there is still much more. And, I think one of the most powerful -- I said this earlier, my best education has been going in and hearing and seeing again and again these issues come up and being able to connect it back to the systemic issues, to know that, yes, this is real, this is happening and this is -- you know, there is a place for individual accountability, but also we have to address -- we have to be accountable as a society to address the deep rooted inequalities that exist.

MS. KASSANDRA CHURCHER: On a tous les rapports, on a tous les pourcentages. Mais, c’est les histoires, ce sont des êtres humains, des vrais. Le fait
de les écouter à Nova dans le Nouvelle-Écosse ou Fraser Valley à BC et entendre la même expérience du système carcéral c’est remarquable. C’est difficile pour nous à communiquer leurs histoires personnelles, mais aussi l’impact que ça veut dire quoi d’être en prison pour eux et les histoires les problèmes qu’on remarque aujourd’hui qui sont dans les rapports. Il y a une vérité qui doit être communiqué de vive voix.

**MS. SAVANNAH GENTILE:** And, if I could just add that, you know, we have these statistics and these facts, and it has been well documented for decades. I mean, the record is very clear, CSC has not addressed the fact that women, particularly Indigenous women, are more likely to be classified as higher risk, that they are -- they are overrepresented in segregation and maximum security placement, as are women with mental health issues, they have higher rates of self-injury and suicide attempts and are unable to access the program that they need. That is, I think, abundantly clear in the evidence. It has been documented in so many reports that we couldn’t name them all in our submissions.

And so, just recognizing that, keeping that in mind, you know, everything that we do is driven by those stories, by those women’s truths, and it is really important to us to engage in legal reform efforts that
will actually address and hopefully lead to meaningful change, change that translates on the ground for them. They do not need any more laws that say nice things, they need a real change. I think that is the only thing I hope that this community can keep in mind when they are writing their report.

MS. PATRICIA TATE: My sense is that this committee is another voice voicing the things that we at CAEFS and at E. Fry organizations have been saying for a long time, and every individual who changes their position on what is humane and what is the way that we need to deal with each other is important.

We may only make a little step in the right direction, but you need to know that you are making a step in the right direction just by virtue of having this forum today, this forum. And, I might add, allowing us to present to you our story about the issues that we face on a daily basis in institutions.

Sometimes it seems that we are out there alone. Today I do not feel like we are alone and I want to thank you for that. And, I am very grateful that we have had an opportunity to speak to you and to share the issues that we see in institutions for women across this country. Meegwetch.

COMMISSIONER MICHÈLE AUDETTE: Commentaires
Patricia, Diane.

**MS. DIANE SERE:** J’ai le coeur gros.

**COMMISSIONER MICHELE AUDETTE:** C’est bon, tu peux prendre le temps.

**MS. DIANE SERE:** Je vais le dire en anglais, ça va être plus facile. These women, all they are seeking is validation. They want to know that we care about them, that their voices are being heard, and that we love them and that we support them. And, we want to help them, get out of these institutions.

**COMMISSIONER MICHELE AUDETTE:** Merci beaucoup, Diane, Patricia, Savannah, Kassandra. Merci beaucoup, beaucoup, beaucoup, beaucoup. Madam Buller.

--- **QUESTIONS BY CHIEF COMMISSIONER MARION BULLER:**

**CHIEF COMMISSIONER MARION BULLER:** First, I want to thank you all for being here today with us, it has been quite the education. I hate to say how many years ago now. 25 to 30 years ago, when I was a lawyer going into penitentiaries and prisons, that was an eye opener for me. And, I do not know whether I am surprised or not that, in the 25 and 30 years, a lot of things have not changed.

I also want to tell you that it was very painful and a very disappointing decision for us to have to not go to prisons and penitentiaries. And, not just
for us, but for our staff, and for our grandmothers and members of the National Family Advisory, it was a large disappointment for all of us because we all care.

So, having said that, I have some questions. We have listened to a lot of families across Canada with perhaps different viewpoints and I want to put those viewpoints to you for your response. I have heard from many community members in different locations across Canada who have said, we do not want offenders in our community, male or female, it does not matter, because we do not feel safe and/or because we think it is a matter of, Section 81 in particular, offloading onto us, the community, what CSC should have been doing all along. Another reason for not wanting offenders back in the community is a real fear of -- real or not, but real perceived fear of recruitment into gangs, male and/or female. Would any of you like to comment on what we have heard or what I have heard?

**MS. KASSANDRA CHURCHER:** It is always painful to hear when a community has to reject their own members based out of fear, which is yet just more proof and another indicator of the lasting and harmful effects of colonialism and intergenerational trauma. So, when you say that, I -- you know, to have to turn away a brother, a cousin, a sister, an aunt, because you are fearful, there
are so many factors underpinning that statement.

   When they say CSC has failed, it is the
justice system has failed. When we encounter an
individual woman, we see lots of people and systems that
have failed them, some of them going back to when they
were children; right? I think that there is work to be
done in this area in consultation with communities, and
there is a public education piece about how it can look,
how we can support members.

   Genuinely, the safety is an issue, but the
healing is a larger factor. And, I think that because of
the broadness of the legislation, an example like what is
happening in Nova Scotia, there is alternatives so that
communities can support their members on their healing
path so that they get to a point where they are strong
enough to be accepted back into the community. I don’t
think it is an “either or” or “black and white” situation
at all. I think there are places to have conversations
and have discussions.

   I will let maybe someone else -- it would
be good to address the stigma that a lot of women face
when they return into their communities and the challenges
as well for them, the burden of it.

   **MS. SAVANNAH GENTILE:** I think that, in
terms of Section 81s, it is really -- it really is up to
the community. So, there may be communities that are
comfortable with that and others who are not. And, I
think that is the brilliance about being able to address
it on a case by case basis, because you can get that
started in certain regards.

The other thing is, you know, all of these
strategies, decarceration, abolition, they are not
strategies that will be fulfilled tomorrow, or next year,
or even the year after that; right? They are very, very
long-term strategies. And, to build up the necessary
infrastructure and address those needs and those concerns
in a way that is satisfactory to those communities, I
think, is important. And, that is why, I think, it is
just a matter of being able to commit to that goal if it
is 20 years from now, but there is no commitment. There
is no commitment to decarceration or to abolition so that
we can work towards that. So, we keep going around in
circles having the same conversations.

I think, yes, it is going to take time. It
is really going to take time, and it is not going to
necessarily be for this generation, but maybe the next and
the next after that. Because if we can build the
infrastructure and communities can decide this for
themselves, the infrastructure, the resources that are
needed, then some decades from now, that -- those feelings
might be different.

**MS. PATRICIA TATE:** You know, I am -- I struggle with the issue of people being afraid. And, I recognize that in our -- my own home community where people don’t want individuals coming back. But, quite honestly, decarceration is only one piece of the puzzle. Decarceration isn’t the answer. It is part of an answer that is hugely complicated, and it certainly includes interventions prior to anyone going to jail or prison so that they can work parallel -- they can be parallel to each other.

If you can keep a -- if the community is healthy and if the community has resources to be healthy and to stay healthy, whether that is athletics for their students and parenting programs for their young moms, then that in conjunction with decarceration and the commitment that that community has to make is a practical expectation that can happen.

It cannot happen in isolation from other healing, because it is -- because if the community isn’t well, then they can’t expect -- be expected to work on the healing path of an individual who is coming home. So, it -- as Sav said, it is something that is going to take a while, but it certainly includes a community commitment to wellness.
MS. DIANE SERE: I think the only thing I can add to that is that, you know, it is unfortunate, because I feel like the whole world is living in fear. That is the reality of life today, that people are living in fear. And, what Patty was saying in terms of giving those resources to the communities so that they can build upon those fears in terms of providing the resources to build, I think that, you know, maybe that would stabilize a lot of peoples fears of, you know, certain activities happening in their communities.

CHIEF COMMISSIONER MARION BULLER: Thank you. In looking at decarceration, Section 81, Section 84 in particular of the Act, is an Indigenous woman at a disadvantage if her family, her community will not take her back?

MS. KASSANDRA CHURCHER: Compared to being in prison?

CHIEF COMMISSIONER MARION BULLER: Compared to a woman whose family will take -- or community will take her back.

MS. KASSANDRA CHURCHER: I think it is a very real and personal and subjective sense of rejection to have to live that. I wouldn’t want to speak for that experience. It is not mine. But, the conversation we are having is even if the community doesn’t accept that woman
back, the alternative shouldn’t be that that woman stays in prison. The alternative should be that there is a healthy, secure place that can help her and her healing, that connects her to her Indigenous culture and language, and that doesn’t necessarily have to be in the community. So, I think that is probably what we are trying to focus on.

MS. SAVANNAH GENTILE: If I could add to that? You know, one of the challenges we face as Elizabeth Fry Societies, a lot of the locals have halfway houses, but part of the problem is that they are very closely tied to CSC through contracts. And so, in all sorts of ways, some of those halfway houses become mini jails.

So, cutting ties with, you know, CSC, creating funding, there are all sorts of organizations out there, community-based organizations, that are just dying to do this work and are underfunded, and overworked and working from the sides of their desks. And, they can’t do it the way they envision doing it, because they are handicapped by contracts with CSC that place conditions on them that they have to become the jailor, conduct your analysis tests, which -- you know, monitor women, report to the parole board and send women back. You know, that creates distrust, but that is social control.
We need to get away from a model of social control, which is what CSC operates under and, yes, return to the principles of creating choices. But, you know, I think the point is, is that CSC, with its culture, has demonstrated it is not possible there. But, I really do think that that is possible in all sorts of different ways with community-run organizations who are connected to the issues.

CHIEF COMMISSIONER MARION BULLER: Thank you. One word that keeps coming up time and time again in these hearings and elsewhere is “trauma”. Trauma experienced by women and children, men for that matter as well. Within the federal system, what, if any, treatment programs are there to specifically address trauma?

MS. SAVANNAH GENTILE: There aren’t.

CHIEF COMMISSIONER MARION BULLER: No.

MS. SAVANNAH GENTILE: One of the reasons there aren’t is because it is a recognition on the part of CSC that it is not the place to be dealing with trauma, which is why we say that you can’t -- it can’t be done in the prisons.

MS. KASSANDRA CHURCHER: Any trauma work has to be coming from a place of trust, and the deep power imbalances that exist within the prison won’t allow for it.
CHIEF COMMISSIONER MARION BULLER: And finally, turning now to Gladue reports, perhaps this is an overstatement of the situation but as I see it, having used Gladue reports in courts regularly, it appears to me that there's a misuse of Gladue reports for purposes other than for which they were intended.

And a lot of that, from my perspective from what I've heard especially today, is that all players involved in the system from the -- in the penal system I'll say after they've walked out of the courtroom into the correction system, all players don't have a true or a real understanding of the purpose and content of a Gladue report and how that can be used to everyone's advantage.

And I'll just dial it back to comments made earlier about Gladue reports being rather than -- being used to identify risk as opposed to need. To me that sounds like a situation where the -- without being critical of individuals of course, where the advocate who is acting on behalf of the prisoner is not advocating for the proper use of that report based on lack of experience or lack of knowledge.

Feel free to disagree with me. I kind of hope you do but it appears to me that there's a lack of understanding the real purpose and enforcement of the real purpose of those Gladue reports.
MS. SAVANNAH GENTILE: I think there is a misunderstanding of the purpose but I think that it's more a symptom of engaging in a system that is part of the problem. Like it is -- in a sense, it's similar to reform efforts within corrections. It's building the capacity of the justice system which has historically disadvantaged and marginalized and criminalized Indigenous peoples.

And it's invasive and we've identified a number of problems and I think it's because it doesn't go far enough and maybe it comes too late. It comes at the point of a charge being laid and -- you know, and they're guilty. So it's about -- it's not even about guilt or not guilty, it's about sentencing.

So I think it's coming a bit late and it's actually just investing in a system that has been shown to be discriminatory against Indigenous peoples.

CHIEF COMMISSIONER MARION BULLER: So then are you advocating for the discontinuation of the use of Gladue reports?

MS. KASSANDRA CHURCHER: No, but there's a lot of education that could be done. Judges can have some training on how to use them, understand them, interpret and apply them. Lawyers can have training for the same, court support workers, corrections. The tool is a tool and it's only going to be as effective as good as what we
put into it. We've heard of non-Indigenous Gladue writers who don't have extensive knowledge, history or understanding. Diane, you shared with us your own story of your presentencing report.

There's no national framework for Gladue reports. There's no national standards and so it's -- again, it's piecemeal and it's inconsistent and it's inaccessible and it's costly and it is difficult because these women are disclosing their lives to someone, all of the ugly, hurtful, painful parts of their lives and we're leaving it up to chance that they'll find someone who understands, who knows, who cares, and that's just for the production. That's not even for the use.

So no, we are not endorsing its abolition. We're just saying that could we do better? I think so.

**MS. DIANE SERE:** And I wanted to add something too but it's just with Gladue, you know, they're not looking to use Gladue unless you're doing 90 days or more or -- yeah, 90 days or more I believe it is, right. And what's happening is that if defence counsel is looking at their client and not knowing what's going to happen with that client and what happens when they're going in court, they're doing their own submissions and it's being allowed to go on record as, you know, with their own
submissions, what they should be doing is right from the
time this person is charged, they should have that Gladue
so that they can see what brought them there, right, and
be able to utilize that from the beginning from whether
it's through bail and then through the child and then
through sentencing.

So in my opinion, I think that's a good
tool to be using in terms of dealing with Indigenous women
and men.

CHIEF COMMISSIONER MARION BULLER: Okay.

Thank you.

Well, we've kept you way too late, a very
difficult day for you. I can appreciate but thank you.
What you've told us today has made a difference to our
work and we want to thank you for that.

You've given us the gift of your knowledge,
experience, also of your time I note and so we have some
small gifts to give you in return. Tobacco of course for
the tradition but also eagle feathers because we know
there are days when you need some help flying. And
hopefully these eagle feathers will give you that lift to
keep doing your work in a good way.

So on behalf of all of us here, I thank you
very much for spending your day with us, sharing your
knowledge as I've said and enlightening us and everyone
who has been watching and listening. Thank you.

(PRESENTATION OF GIFTS)

**MS. CHRISTA BIG CANOE:** As you are gifting those, may I make a couple of housekeeping announcements for tomorrow?

**CHIEF COMMISSIONER MARION BULLER:** And we are adjourned.

**MS. CHRISTA BIG CANOE:** Yes. So as we're adjourning today, I see that our MC for the week, Nadine, probably has an announcement too, but I just want to remind parties with standing that there will be a draw tomorrow at 7:30, between 7:30 and 8:30 in the Dufferin Room for tomorrow’s evidence. And thank you.

(Closing Ceremony - Singing)

--- Upon adjourning at 5:36 p.m.
LEGAL DICTA-TYPIST’S CERTIFICATE

I, Félix Larose-Chevalier, 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.

Félix Larose-Chevalier

Sep 19, 2018