National Inquiry into Missing and Murdered Indigenous Women and Girls
Truth-Gathering Process
Parts 2 & 3 Institutional & Expert/Knowledge-Keeper
“Child & Family Welfare”
Fort Garry Hotel, Grand Ballroom
Winnipeg, Manitoba

Mixed Part 2 & 3 Volume 13
Thursday October 4, 2018
Panel 4: “A Voice for Children and Youth”

Dr. Mary Ellen Turpel-Lafond

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II

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Topic: “A Voice for Children and Youth”

Chair: Christa Big Canoe, Commission Counsel

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

Grandmothers, Elders, Family Members & Knowledge-keepers:
Lorraine Clements (National Family Advisory Circle – NFAC), Lesa Semmler (NFAC), Louise Haulli, Pénélope Guay, Leslie Spillett, Laureen “Blu” Waters, Bernie Williams, Dave McPherson (Firekeeper), Benjamin Morriseau (Firekeeper), Annie Bowkett, Thelma Morriseau & Stan Lapierre, Jenny Lay, Isabella Daniels, Velma Orvis, Mary Crate & Agnes Spence & Dawnis Kennedy

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--- The hearing starts on Thursday, October 4, 2018
at 8:21

**MS. SHAUNA FONTAINE:** Okay. Good morning.

Thank you for joining us once again, we are on day 4 of
our expert, institutional and knowledge keeper hearings on
the family and child welfare. To begin with this morning,
I just wanted to bring everybody’s attention to what today
represents across the nation.

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

So, we are honoured to be here today, this
October 4th, to support families in their local events and
vigils, and we encourage you all to also take time today
to attend some of these local events. There will be two
events, which will be hard for the Commissioners to attend
at lunch time of course, but anybody in the public, if you
have time, just sneak out at lunch. At the Legislature, they will be having a feast and a pipe ceremony. This evening, at the forks, there will be a vigil starting at 7:30 at the monument, at the Missing and Murdered Indigenous Women and Girls monument. So, I encourage you to attend these events, support local families as they gather to honour and remember their loved ones.

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

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

**(MUSICAL PRESENTATION)**

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

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

**COMMISSIONER QAJAQ ROBINSON:** Good morning.

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

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

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

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

MS. ANNIE BOWKETT: (Speaking Inuktitut).

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

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

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

MS. ANNIE BOWKETT: (Speaking Inuktitut).

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

MS. ANNIE BOWKETT: (Speaking Inuktitut).

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

MS. ANNIE BOWKETT: (Speaking Inuktitut).
COMMISSIONER QAJAQ ROBINSON: What I quickly learned was the way the system worked, and the way foster parents were supported or worked with, I learned very quickly that this was something that did not work for my husband and I.

MS. ANNIE BOWKETT: (Speaking Inuktitut).

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

MS. ANNIE BOWKETT: (Speaking Inuktitut).

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

MS. ANNIE BOWKETT: (Speaks in Inuktitut).

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

MS. ANNIE BOWKETT: (Speaks in Inuktitut).

COMMISSIONER QAJAQ ROBINSON: I witnessed mothers weeping. They weren’t permitted to see their children, the children that had been apprehended. They were prohibited -- forbidden from seeing their children,
and I witnessed their struggle.

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

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

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

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

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

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

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

**COMMISSIONER QAJAQ ROBINSON:** I am also witnessing Inuit children who are being divided, siblings who have been divided. One of the children we cared for
had a younger sibling that was in another home. This can’t happen.

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

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

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

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

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

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

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

--- PRAYER

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

**MS. SHAUNA FONTAINE:** Thank you, Annie.

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

Thank you.

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

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

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

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

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

It’s with great pleasure today that I get to lead Dr. Turpel-Lafond in testimony, and before we begin today, Commissioners, I am going to kindly ask that
Dr. Mary Ellen Turpel-Lafond is affirmed in on the eagle fan.

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

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

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

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

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

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

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, thank you. First of all, I, too, want to recognize the First Nations territory that we are gathering on here today. And so, my name is Mary Ellen Turpel-Lafond or Akikway (phonetic). I was actually given that name by an elder named Mary Roberts from Roseau River First Nation here in
Manitoba. And, I originally come from Norway House Cree Nation on my father’s side. My mother is from Thunder Bay, Ontario. And, I am a mom. I just want to make a point about that. I have four children, and I’ve raised three other children. And, I currently am a Professor of Law at University of British Columbia, Allard Law School, and I am the Director of the Indian Residential School History and Dialogue Centre, and I am a practising lawyer. That’s my current situation. I’m happy to go through some of my background if you’d like, Christa.

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

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

In my law practice, did extensive work representing chiefs and children, family issues, including representing them in courts to get their children back in
their communities. I also worked in the areas of custom adoption. I handled as a lawyer back in the 1990s one of the first custom adoption -- Cree custom adoption cases in Saskatchewan.

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

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

Then, I was appointed in 2006 as British Columbia’s first representative for children and youth, which is an independent officer of the Legislative
Assembly of B.C., and I served that role for two terms or 10 years. And, in the context of that work, with a small staff, I covered lots of areas with child welfare, special needs issues, issues around domestic violence and access to services. And, over the decade, was involved in approximately 17,000 child welfare cases, and conducted investigations and reviews of child injuries and deaths and reported on that with powers of inquiry. So, produced approximately 90 reports of different kinds in relation to that.

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

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

However, I wanted to ask you, I note you had stated that in your investigative power that you
produced over 90 reports, but in your academic work, I can’t help but notice, and I’m not asking you to go through all of them, the immense amount of writing you’ve done, as well, in terms of published works. And, I believe that starts -- there’s a number of them.

Specifically, under -- sorry, I’ve lost the page. There we go. Sorry. Page 10, that you have a number of refereed publications, that you’ve authored a book, that you have a number of conference proceedings as well as a number of non-refereed publications.

It looks, as you go through this very long list, that you’ve focused on a couple of areas. I notice in your academic work, there’s a lot of focus on treaty rights, self-determination, inherent jurisdiction. So, sort of some practice -- legal practice based on treaty rights. But, then, also, ...

...there are, as you have mentioned, a lot of works on the family, child welfare and then of course your investigative reports. Out of all of these works, are there any in particular, other than the ones we will be talking about today, that are worth highlighting?

DR. MARY ELLEN TURPEL-LAFOND: I think the -- there is a range, and as you indicated, these are -- this is kind of like an academic CV in particular. The publications do focus a significant amount on issues
around children and women, and inherent treaty and Aboriginal rights. And, as well as some of the issues around Indian Act challenges that First Nations communities in particular have experienced in terms of trying to establish proper governments. So, a fair amount of work in that area around sort of the impact of colonial policies on First Nations and Indigenous governments, human rights and child welfare and family issues. So, I would say those are sort of the -- some of the core areas of those works that I would highlight.

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

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

**MS. CHRISTA BIG CANOE:** Yes. And, I know a lot of our witnesses are modest and do not like this part where I go over the awards, but I do put it in simply for the purpose of when we are talking about what you can
speak to. I notice you have also received just recently the Lifetime Achievement Award from International Society of Adoptable Children for achievement in promoting adoption and kinship placement in B.C.

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

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

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

--- **Exhibit 34:**

CV of Dr. Mary Ellen Turpel-Lafond (15 pages)
Witness: Dr. Mary Ellen Turpel-Lafond
Counsel: Christa Big Canoe, Commission Counsel

**MS. CHRISTA BIG CANOE:** Now, Mary Ellen, we see all of the academic achievement and the leadership you
have demonstrated, but I have a question for you, because
all of this absolutely is important and means something,
but in terms of balancing your knowledge and awareness, is
it fair to say that your lived experience in the community
you come from actually drives the work you do and is
valuable in terms of knowledge as, say, the degrees that
you have now obtained?

DR. MARY ELLEN TURPEL-LAFOND: Yes, I
certainly would say -- although I am, like, you know,
pleased with the academic achievement, I would say that,
to use the saying, my, kind of, karma has ran over my dog
many times, which is my lived experience as a parent and a
community member, and also as just an individual who has
worked extensively with families, including my own, is
really very significant and very humbling because of the
fact that all of that education, while it is extremely
significant, it also sometimes fails to equip you to deal
with some of the most important issues, which are
hopefully some of the issues we will be able to talk about
today, which are about making sure there are children and
families that are supported and have their needs
understood and met inside Canadian society and inside each
of the provinces and territories of Canada, and, in
addition, inside their own communities, and sometimes even
inside their own families.
MS. CHRISTA BIG CANOE: Thank you. Chief Commissioner and Commissioners, based on the knowledge, skills, practical experience, training and education as described by Dr. Mary Ellen Turpel-Lafond, and as evidenced in her curriculum vitae, I am tendering Dr. Mary Ellen Turpel-Lafond as an expert specifically in the areas of law, legal and investigative practice, with specific expertise in child and family services, child welfare, custom adoptions, treaty rights, circle court process, domestic and sexual violence against women and girls, and investigational practice, specifically investigative reporting.

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

CHIEF COMMISSIONER MARION BULLER:

Certainly. We are satisfied that Dr. Turpel-Lafond has more than enough experience, education and training to be qualified to give expert opinion evidence in the areas outlined by counsel. Thank you.

MS. CHRISTA BIG CANOE: Thank you. So, Mary Ellen, when I looked first -- I think we are probably
going -- it is fair to say we are going to spend a lot of
time today mostly in your role as the provincial advocate
and the reports you have created, but I know you will be
drawing from your other experiences and awareness. And
so, I thought a good starting point, when I first went to
the website, I was actually quite impressed of the dearth
of reports that are available on the British Columbia
Provincial Advocate’s website, and exploring and learning,
and just coming across some terms I was not even familiar
with.

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

DR. MARY ELLEN TURPEL-LAFOND: Yes. So,
there was an arms-length review of the child welfare
system in British Columbia for a number of reasons,
including the fact that there had been a number of deaths
of children. And, one particularly tragic -- many tragic
deaths, but one that garnered a lot of attention because the parents and grandparents, especially the grandparents, brought it to public attention was the death of a child named Sherry Charlie who is Nuu-chah-nulth, and was on Vancouver Island.

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

That created a significant degree of concern in British Columbia, leading to the creation -- after a report by a very distinguished individual, the Honourable Ted Hughes, who was formerly a judge in Saskatchewan, and a Deputy Attorney General, and a very significant thinker in terms of public policy, did a review calling for an independent advocate, and he wanted an independent officer of the legislative assembly that would conduct investigations and reviews, and a statutory power so that there would be the ability to compel all of the records needed, but also that there would be reports prepared that are public reports. So, there would be a degree of transparency and a commitment to look into the
circumstances of whether or not children and youth, and somehow known to government services -- we say known to the ministry, whether or not their deaths or injuries were in any way preventable or connected to the services they did or did not receive.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** That's the Ministry for Children and Family Development in British
Columbia, which is the ministry that has responsibility for child welfare, adoptions, special needs, youth justice, and a few other -- adoption as well. And so it's a kind of an overarching large ministry in British Columbia.

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

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

And my role was to kind of animate and make sure in a way that those difficult conversations that might be needed with agencies that maybe had files sitting
for a long time could be -- could occur in a very professional forum, but also would be deeper discussions about the apparent need for some very significant change in British Columbia.

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.


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


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

**MS. CHRISTA BIG CANOE:** And I note in Schedule C, we have the final progress report on the implementations of recommendations of the B.C. Children and Youth. This is the -- this is, again, is the Hughes
Report, it's the final progress report. Can you just tell us a little bit about this?

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

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

So between 2006 and 2010 when this report came out, not only did I perform these functions, but one
of my roles was really to look and see was this report and its recommendations, were they taken up. Because frequently, you will have a report that is really endorsed on the day it's released, and then kind of loses attention, and it loses traction on the ground.

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

So the role that I played, not only made recommendations myself, investigated matters, but also tracked whether or not government in all of its components, that administrative side, public bodies, were implementing those recommendations. So lots of care goes into crafting recommendations, monitoring the implementation of recommendations, and with a strong lens on whether or not children and families are receiving the services that they need to receive, and whether or not their issues are appropriately visible and understood at all of those sort of levels of public works and public service.
MS. CHRISTA BIG CANOE: Is there anything in particular that you wanted to point out in this report?

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

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

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

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

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.

Exhibit 36 will be the Final Progress Report on the Implementation of the Recommendations of the B.C. Child and Youth Review (Hughes Review), November 29th, 2010, Representative for Children and Youth.

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

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

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

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

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

And the idea was to have a national organization, for two reasons. One, because we don't have
a national children's commissioner, and there is a very significant gap in terms of looking how things work together, and there are differences, but there are big gaps. We also have a lot of situations where we have children that move interprovincially.

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

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

So we created a national council to try and work in that vacuum to see how we may be able to share our experiences and offer that before, for instance,
parliamentary committees, and be an advocate body ourselves to promote as indicated in this one report that we produced as the Canada Council on issues, such as issues for Aboriginal children and youth, and taking a very strong human rights focus, so looking at the conventional rights of the child, looking at the United Nations Declaration on the Rights of Indigenous People as it applies to children and families, but also practically and pragmatically looking at just the practice gaps.

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

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

**MS. CHRISTA BIG CANOE:** So, Mary Ellen,

just so everyone is aware, at Schedule D, we are talking
about the council’s document, Aboriginal Children and
Youth in Canada: Canada Must Do Better. We had a
provincial advocate before us at the human rights hearing,
Corey O’Soup, and this document did go into evidence at
that time. But, for ease of reference, I would kindly
request that this document be marked the next exhibit to
Mary Ellen’s evidence.

**CHIEF COMMISSIONER MARION BULLER:**

Certainly. Exhibit 37 is the Canadian Council of
Provincial Child and Youth Advocates, June 23rd, 2010,
Aboriginal Children and Youth in Canada: Canada Must Do
Better.

--- Exhibit 37:

“Aboriginal Children and Youth in
Canada: Canada Must Do Better,”
Canadian Council of Provincial Child
and Youth Advocates, June 23, 2010 (14
pages)
Witness: Dr. Mary Ellen Turpel-Lafond
Counsel: Christa Big Canoe, Commission
Counsel

**MS. CHRISTA BIG CANOE:** And, Mary Ellen,
this particular document, as you said, was identifying a
crisis that all of the provincial and child youth
advocates, whether they are independent or not, agreed as
a statement was important to make. Who was this document
aimed to? Was it only to, like, a federal concern or was
it more broad? Was it so they could use this document in
each of their jurisdictions? How were they trying to use
this 2010 document?

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

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

And, hence, you know, our recommendations
in that report were recommendations geared to federal
government. And, we would have met with certain federal
leaders around this report and submitted it to them, and
engaged in discussion with some members of the House of
Commons and Senate on it as well.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
that it is fair to say that the issues continue to be
serious issues. And, while they have a greater degree of
visibility today than they maybe had in the run up to when
we produced this national report, I think what was
happening was there were more independent officers being
appointed. So, some of those children’s advocate offices were expanding, and they were, to some extent, taking the role of the British Columbia model to be looking at deaths and injuries of children, and then beginning to see the magnitude and seriousness of the issue.

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

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

And, as president, I was really promoting amongst my colleagues that they dig deeper to get better information. And so, the report is imperfect because it does not give you everything, and I think it probably
understates the difficulty, and I think we probably continue -- my expertise would tell you that we continue to understate the magnitude of the difficulty and the extent of challenge that First Nations, Métis and Inuit children, youth and families, and women experience in this social serving area, in terms of trying to get support when they need it and get it before it is a crisis, and then having to respond to the crisis of removal of children, and, in some instances, sort of systematic removal of children from their families and their communities.

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

**DR. MARY ELLEN TURPEL-LAФOND:** Yes, I think the Canada Council of Child and Youth Advocates really started to ring the bell louder and louder, and promoted with the federal government a stronger need and urge to address it. And so, that report, again, I will just complete my thoughts on it by saying, you know, we were talking about there being a national planning, and particularly around Aboriginal children and youth, a proper active national plan to respond to it, as opposed to leaving it all into various provinces and territories,
and leaving to some extent those jurisdictions to flounder, which they were. And then, of course, leaving, in desperation, First Nations, Métis and Inuit children and families trying to seek support which they could not find.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Right. So, in order to effectively do the work in this area, it was very important, at least for me as -- when a person who has been experienced in sort of justice processes and other processes, it is very important to have access to
all of the information. So, powers to be able to compel
all the material and information is critical.

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

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

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

So I really went and I had confidentiality
and privacy protections, which are needed to do that, but
you have to be able to have that investigative scope, or
you simply will not be able to produce investigative
reporting or public reporting that is as meaningful as it can and should be and that is consistent with what is required by a subject as serious as the subject I was dealing with.

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

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

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

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

Yet in my work as a representative on the frontlines advocating directly with First Nations and
Métis children, their lived experience was completely disconnected from the public announcement about the we've solved whatever aspect of the child welfare system would be announced on any given day. So this report was driven by wanting to understand how is it that there are these announced innovations, yet we appear to have this disconnect between the actual experience on the ground.

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

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

At the same time, I recognized that they had created very big expectations that First Nations communities -- and in British Columbia, there is more than 200 NANs and that's the Indian Act term that there are a
number of nations -- those nations were wanting
desperately to have their own authorities recognized, to
have their Indigenous laws and practices recognized, and
the government was sort of announcing that they were going
to do it, but it was never happening.

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

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

So I looked at where the resources went.
Not that it wasn't important to give resources, it is, but
how many actual files there were with actual children that
got service. And what I discovered was despite -- you
In-Ch (BIG CANOE)

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

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

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

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

22 Also recommended that the Attorney General
23 of British Columbia actually have a proper policy, prepare
24 a proper policy so that jurisdiction can be recognized.
25 So where First Nations wanted to have their own Indigenous
laws and practices and occupy the field of child welfare
and child services, you know, although there was a lot of
talk about it, there was actually no framework.

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

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

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

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

"The program must be based on an understanding of the
needs of Aboriginal Children and Youth and Families, be
grounded in evidence based strategies and practices and
collaboration, not governance." (As read)

Can you just explain a little bit about
that?

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

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

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

Others have what we call C6 or high-level
delegated services to do child protection and
investigations. They're still all under that command-control system of the province and all delegated by that one superior public officer called a director of child welfare.

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

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

So, it just really tracks how these fundamentals were not in place. And, I would suggest probably -- I am not currently in the role, but I would say probably in most jurisdictions in Canada, when you look at it from that real structural, legal, political lens, they are all command control systems with little inroads where a director may give a little power to someone. But, they are not based on recognizing and
working with other governments, namely Indigenous peoples’
governments, because, in fact, they do not recognize
Indigenous peoples as having governments in the first
place or having the power to exercise their own authority.

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.

Exhibit 38 is When Talk Trumped Service: A Decade of Lost
Opportunity for Aboriginal Children and Youth in B.C.,
Special Report, November 2013, by the Representative for
Children and Youth.

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Special Report “When Talk Trumped
Service: A Decade of Lost Opportunity
for Aboriginal Children and Youth in
B.C.,” by Mary Ellen Turpel-Lafond,
Representative for Children and Youth,
November 2018 (92 pages)
Witness: Dr. Mary Ellen Turpel-Lafond
Counsel: Christa Big Canoe, Commission
MS. CHRISTA BIG CANOE: And, we are going to turn to another report that you authored, and it was in October 2016, it is an aggregate review. Can you just help us briefly explain what is the difference between something like a special report and an aggregate review?

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

So, I would, you know, virtually every week receive multiple reports of sexual violence toward children and youth. And so, what I would do -- I mean, it would be, unfortunately in the system we are in, impossible to report on all of them because they are so pervasive. What I would do is I would take groups of these and I would put them together to try and understand
if we are seeing some patterns, and then analyze in depth what happened with those children and youth, and what kind of children and youth were they, what were their life experiences and what were the services.

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

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

I also want to ask a question before we get into this report. Often when you are looking at your reports, you will see a little call-out box or stories you are sharing about youth. But, I just wanted to be clear to anyone watching or listening, when I see a youth’s
name, is that their real name?

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

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

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. I mean, I think terminology is extremely important, and how you see and define what is sexual violence requires care.
And, the definition that I embraced, which I feel is an evidence-based definition that I worked on pretty closely with a number of others who have expertise in this field, and as well as a number of children and youth who shared with me their views.

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

It also can include taking images and sharing images through websites and social media. And, also it includes all those categories that are sometimes referred to -- and I am very cautious about the expression called "survival sex". It is a very complex and a very
loaded expression because it is mired in sexual violence. Namely that an individual girl, boy, male, female has to exchange a sexual favour or act to receive those items which are sort of essential for life: food, shelter and other things. Sometimes with respect to kind of being abused is part of kind of a process of abuse, but there is generally violence.

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

And, one of the challenges we have with respect to working with children and youth that have been sexually abused and adult women and men, particularly in my experience, Aboriginal youth, children and adults, is this really pervasive construct of being sort of a willing victim, or having somehow placed yourself in a position of vulnerability so that, well, what did you expect? So, again, the research I did and the evaluation -- because I
saw so pervasively in those files that mentality as somehow they are kind of putting themselves in a position where it happens. So, it was really significant to be clear that this is the -- not doing a victim blaming construct is critical for the reporting that I did. And, also be really clear that this is not consent. Like, someone who has been groomed to -- a child that has been groomed to essentially provide sex to the gratification of an adult is not someone who is a consenting participant in that process. They are a victim, that is a blameless victim.

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

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

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

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

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

So they survey all children and youth -- well, all the youth at certain stages, if not annually, every few years, and then they have information. So
that's the self-report survey. Really critical because information from youth is important. It's not like some telephone survey.

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

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

So what I found in this report was there -- you know, I may have found a group of youth who report, well, I'm not really the victim of sexual violence. And you're like, excuse me, the police have been there eight times because your partner has, you know, committed an act of sexual violence or another peer has. So how do you see that?
And so just understanding that this is a matter that's very significantly underreported, and the context of reporting the pressure not to report. So reported, 23 percent of Aboriginal women.

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

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

And again, the McCreary Society with funding from myself, as a representative for children and youth. The provincial health officer, we usually got them to contribute, so they would do these surveys. But these are not mandatory government surveys that are done regularly or supported. They're very -- we kind of piece together resources to try and keep good information about
the lived experiences of children and youth. But that points to some important evidence that we did find.

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

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

I would ask that we pull up Figure 2 please.

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

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

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

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

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

Of course, we know women and girls are disproportionately reporting sexualized violence. And
then of course, looking at the correlation between of
those who are reporting, sexualized violence, what about
the intersection of poverty and difficult circumstances,
material circumstances in their lives or the lives of
their family.

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

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

And -- so in this aggregate report, looking
at, you know, well why are there not a lot of
prosecutions. If there is this much sexualized violence
against Aboriginal youth in British Columbia, 23 percent
of the girls, well how many prosecutions are there? How
many complaints are there?
And then again, in my role as representative, advocating for children and youth, actually sitting in courtrooms with the children who have been sexually abused who decided to go forward with a police prosecution of sexual assault against a perpetrator. So I have that really -- privilege to be able to do that to support those like young women and see their path through a court process.

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

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

So it really gave me that up close personal
understanding of how those systems respond to real victims in real time in real courtrooms. And that's one piece, but there's many -- lots of room for improvement, I will put it respectfully. At the same time, they are like a miracle. It is like a miracle moment. Like, oh, my goodness, there was a conviction after a horrific sexual abuse and -- you know, even myself sitting there in the court room with this young woman, thinking, “If this does not go for a conviction, I hope she is going to make it because she is in really tough shape.” And then even having a conviction is not going to address all of the issues in her life, because she will be very vulnerable having been a victim of sexualized violence in a recurring basis in her life, being a 19-year old looking into her adulthood and thinking about what supports will be needed. So, these aggregate reports allow you to look at groups of experiences and allow you to look a bit more at the course. It is not one; right? But, every person has a unique and individual experience that has to be honoured and respected. But, you do begin to see that the level of vulnerability is so apparent for Aboriginal girls, and yet they are also not receiving the kind of response that we would expect in a society that has established processes, like a criminal justice process.

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

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

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

So, what I learned in this cohort of 121 children -- so, there were 109 girls and 12 boys. So, the age at which sexualized violence was reported to have first occurred ranged from the age of 3 to the age of 18. So, 23 of the children were 12 or younger. So, like, early experiences of sexualized violence. Ninety-eight of the children were between the ages of 13 and 18. And then of course, looking at male/female, you see very elevated female victimization, and male victimization looks kind of
similar in the early period, but then female victimization just really does a big uptick into early adolescence. So, high degree of vulnerability during adolescence.

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

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

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

For this one, of the 121, 79 were Aboriginal. And, you can see that 5 of the 79 were girls and the remain -- or boys, pardon me. And, the remainder
were girls. So, 74 were girls. And then this just
graphically shows you kind of who they are. And, the
purple, the dark purple colour is the Aboriginal female.
And so, again, you can see that, disproportionately, the
Aboriginal female is jumping out as significant. The
light purple is little pieces of non-Aboriginal sort of
male and non-Aboriginal female, but the dark purple is the
Aboriginal female, which is very high.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Right.
Well, I do not think that anyone prepares a report knowing what the results will be; right? So, that is the first point. The second point is, I have not travelled the journey that this Inquiry has travelled to hear everything that you have heard. But, the contribution that I can make is to say, there should be very good work done. 

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

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

So, I found two things. One, sort of like, oh, we cannot talk about it because it is too traumatizing. Well, yes, it is traumatizing for the victims. Believe me, we are outlining some horrific trauma that they have experienced without a doubt, but we
are also outlining the fact that they’re left after
they’re victims. So, not only have they been traumatized,
but they have experienced incredible levels of
professional indifference from these core social serving
systems.

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

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

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

The point is, we are seeing overrepresented still in families. But, those who are particularly vulnerable, who are actually out of the family are maybe being victimized again and again and again. So, it is a really unfortunate situation, but it tells the story of a trajectory of violence. As opposed to an episode, it is a trajectory, meaning a course. So, some sexual violence appears to be related to greater vulnerability, to more sexual violence, and that is important to note because it also presents the opportunity to break that path, to interject in that path and stop it.
And so, the report looks at, you know, if your sexual violence is occurring in foster care, well, we can address that, actually. There are ways to respond to that. And, if the sexual violence is happening in relationships, like young adolescence, we need to improve safe relationships, and we need to work on that, and we have to address it.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** That’s right. So, this kind of gives you the, kind of, graphic understanding of the extent or risk that’s there. And,
again, that looks at -- you know, there is this category that everybody recognizes, which is, like, normal sexual experimentation by children and youth; okay? Human sexuality is not where all sexuality is sexualized violence. These are all outside the realm of, kind of, normal sexual exploration by young people which would be considered sort of clinically in the range of normal. This is more -- this is violence-related unwanted sexual activity and sexual violence.

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

**DR. MARY ELLEN TURPEL-LAFOND:** The only other issue I really would pay attention to was for the 79 Aboriginal children and youth in the review who experienced sexual violence, when I really look at their experience, many of them had no cultural plan. They’re supposed to have comprehensive care plans, and they didn’t have a cultural plan of care, which is a really significant thing. I mean, it’s more than paperwork to have a plan. It’s about being connected to family, those natural supports that are kinship supports, cultural supports, family supports.
So, not having that planning means they may not have that dimension of being able to report abuse within a supportive and understanding environment. So, I just make note of that, that how child welfare systems work, because they’re often removing children from their natural cultural kinship supports, and then the ones that have been abused and experience sexual violence are children that do not have this.

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

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

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

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

**MS. CHRISTA BIG CANOE:** And, I know the report goes into great detail on a number of issues that you’re addressing, like the value of stable homes, different child protection responses. I do note that on page 24, there is discussion of promising practises. And, I couldn’t help but notice in the Turtle Talk Program, you know, the primary focus is on teaching children safety and prevention skills. And, you had said earlier, you know, part of this is having the ability to have kids, particularly vulnerable kids who are placed into protection or are away from home, to have an understanding of prevention skills against sexualized violence and what is, you know, their rights.
Is something like Turtle Talk Program, even when there’s not plans in place, something that also is a protective factor for youth who are at risk from the system?

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

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

So, most of the kids in that will have already been a victim, but what it does is it helps create boundaries. So, one of the challenges with those who have had sexualized violence in the early years is there’s a lot of challenges with boundary setting, and boundary
setting meaning in relationships, physical boundaries, emotional boundaries, even family boundaries.

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

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

So, Turtle Talk is a brilliant program, because it’s really a child-friendly way to talk about boundaries. And, you know, the Red Cross has programs. There are other program that are offered. These are --
like, innovative little programs are great. They’re here
and there. But, do we have a comprehensive program? And,
again, you know, my reports speak to the absence. So, a
very small number of children would get the Turtle Talk
Program, but those that do would probably have the benefit
of being able to set those boundaries and know how to get
support when something happens in the future, and it’s
protective.

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

The other one is child and youth advocacy
centres. Canada has supported a range of child and youth
advocacy centres. Some of them, I would say, are more
effective than others in terms of do they have an
Indigenous focus? Sometimes they’ll have an Indigenous
program, but do they have an Indigenous focus? And, you
know, they might be established by people who have been
victims, and they’re really important spokespersons for
addressing victimization, like maybe a former NHL player,
or a very significant person who has taken this on, and I have a high degree of respect ...for the work that they do. I think the issue is this isn't sort of like a celebrity issue for Indigenous people. So the idea of child advocacy centres that really focus on those childhood and adolescent experiences of sexualized violence and work effectively to recover and respond to those.

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

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

In the case with Indigenous kids, I find that people are really nervous to run those programs because they're worried about disclosures. And it's a bit of a bad thing happens, which is the kids make disclosures
in the school, then the Ministry for Children and Families is there, and then they might be removed from their family.

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

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

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

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

So I think the idea about even in investigations, and you'll see in this report some instances I highlight which concern me. Again, having a
very strong degree of training in law, and it's not all about, like, you know, sort of mainstream legal approaches but justice approaches are important. Seeing that the police response, when there was a reported sexual abuse, sexual assault.

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

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

And so those sorts of practices are very fixable, and they are the sorts of issues where you're like not only is it poor -- are poor investigative practices unacceptable in sexual violence of Aboriginal children, and all children, but also if you have poor practice, which I saw repeatedly, that impacts a victim's circumstance and their likelihood to not report. And so these are factors.
So that report just identifies some of those cases, and I have many of them where, you know, the police response was less than perfect, and the police response impact on the child and young person was something where I was working hard to repair the damage that had been done and really having to talk to them. No, you have a right to be safe. You have a right to call people to get support. This wasn't supportive. I apologize, but you should be interviewed again by appropriate trained professionals and we should go through it again.

But of course, a victim having to go through multiple questions and investigations becomes so hard on the victim, especially if they are returning, you know, to a group home without proper support. So we have to realize how people live -- and I appreciate this Inquiry has -- but how people live this experience.

And my role was to sort of to more hold account -- to account the others who were supposed to be doing their jobs, but for some reason seemed to have a blip when it came to this cohort of young people.

**MS. CHRISTA BIG CANOE:** Chief Commissioner and Commissioners, I request that we make this the next exhibit please.

**CHIEF COMMISSIONER MARION BULLER:**
Exhibit 39 is Too Many Victims: Sexualized Violence in the Lives of Children and Youth In Care, An Aggregate Review, October 2016, Representative for Children and Youth.

--- EXHIBIT NO. 39:

Aggregate Report “Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care,” by Mary Ellen Turpel-Lafond, Representative for Children and Youth, October 2016 (62 pages)

Witness: Dr. Mary Ellen Turpel-Lafond

Counsel: Christa Big Canoe, Commission Counsel

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

CHIEF COMMISSIONER MARION BULLER: Certainly; 10:35.

MS. CHRISTA BIG CANOE: Thank you.

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

--- Upon resuming at 10:43 a.m./L'audience est reprise à 10h43
DR. MARY ELLEN TURPEL-LAFOND, Resumed:

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

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

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

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

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

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

So it's always really important to
recognize the courage of the family to do that, and her family -- I really learned a great deal working with her family about the experience of their family.

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

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

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

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

So, the interesting thing about Paige’s story is that she was basically homeless in the Downtown Eastside in -- under the nose of all of these social serving agencies, and she was well known to police and everyone else, yet the story of her life was -- as you will see in this report, the story of her life was one of really never receiving the basic level of support that any child would need to grow and develop, let alone her. And, she had some complex health needs that were well known. She was supposed to be followed by the children’s hospital
regularly. She was not followed and supported.

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

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

And, tragically, a short period after she died, her mother also died of a drug overdose in the Downtown Eastside. And, she lost her grandmother. And,
all of them had incredible stories, and we could never do justice to their life stories. But, this isn’t in an attempt to tell the story about sort of that walking in her shoes for a period of time.

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

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

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

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

Now, the issues with youth agreements, and you will see this with Paige’s report as an example, is, is a 16-year old in our kind of contemporary society, let’s take Vancouver as an example, going to be able to live independently? Like, is it realistic to think that they can live independently? Because just the concept of independence sounds like you are fully on your own. So, are they ready? And, I think most of us who have children and grown children know that, you know, they do not leave
home till quite significantly later in life, and nor
should they. We do not want people to ever leave home,
certainly from the Indigenous world view. But, the fact
of the matter is, demographics and evidence tells us that
most young people are not really ready for independence
until, you know, well into their 20s for a variety of
reasons.

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

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

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

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

And, in Paige’s report, one was the duty to report a child in need of protection. So, in Paige’s report, you will see, I raise very serious issues about the fact that Paige was clearly in need of protection, but they were not reporting her grave circumstances to the authorities. And, it is, in fact, in British Columbia, under the Child Family Community Service Act, an offence not to report. And, in fact, a number of jurisdictions, it is an offence not to report a child in need of protection. In British Columbia, there has never been a single prosecution under that provision. It has never been enforced. And, essentially, they have indicated they will never enforce it.
So, that is a really serious issue for Indigenous children. Because what happens is, systems become normed to just not reporting. Like, oh, that is what happens to Aboriginal girls. They are in the Downtown Eastside. They are living in shelters. They are on the streets; that is just what happens. So, you will see in this report the professional indifference, I call it, to the circumstance becomes a really important piece of child welfare exposing a frailty in the child welfare system when it comes to Indigenous children.

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

**MS. CHRISTA BIG CANOE:** I could not help but note on this particular report that the very back cover actually cites the legal duty to report, Section 13 of the CFCS, 14(1). And, it speaks to the punitive provision of not reporting, 14(6); that a person who commits an offence under this section, so a person who has
reason to believe that a child needs protection under Section 13, must promptly report the matter to a director or person designated by the director. And, if you fail to do that, it is up to a fine of $10,000. So, you obviously found the legal duty to report substantial enough that you actually put it on the back cover.

DR. MARY ELLEN TURPEL-LAFOND: I did. And, also, this report caused a lot of reporting. So -- and it was one of those situations where the Ministry for Children and Families was somewhat annoyed with me, because they were like, give me a break, we have 25 percent uptick in reportables because of your report. But, I’m like, well, that -- because you should have. And, what you should be concerned about is the fact that you haven’t had reports. And, when you walk through the Downtown Eastside and you meet Aboriginal girls living on the street, like, why hasn’t every single person who saw them that day report it? And, I think we see that across Canada, the fact that it’s just, like, well, it’s kind of normed. So, it was a piece of advertising that was important, and it’s just not people on the street. It was the Emergency room responders, it was police, it was others, and hospital staff, and those who are running these agencies who were encountering Paige.
So, it’s not all about, you know, ringing an alarm and reporting, but it is sort of about when you don’t see child abuse and recognize that it’s child abuse. So, Paige, being in the situation she was in, was a clear and obvious example of abuse and neglect, yet not reported.

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

So, I continue to identify that through the Paige Report. When it comes to Aboriginal children and youth as being a very significant issue, possibly, as I said in this report, which led to a fair amount of conflict, I would say, identify that it would appear to me that there is a systemic level of race discrimination with respect to Aboriginal children. And, that was a very
sensitive point for everyone, but I think it’s well supported on the evidence of this report.

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

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

And SRO tends to be not a particularly nice place in terms of they’re frequently shuttered. We just had one shuttered in Vancouver. There’s often a lot of prosecutions under the safety rules in the municipality about how they’re operated. So, it might be like a smaller building in the Downtown Eastside where maybe occupancy could be, like, 40, but there’s 200 people.
And, there’s someone at the front desk. Occasionally, it’s a parolee, who regulates who goes in and out, and you’re not supposed to have kids there, but it’s a place where a lot of things happen. A lot of sex work occurs. A lot of drug trade happens. It’s a place where there’s a lot of challenges for the individuals who live in SROs, but it’s also a place that is not appropriate for a child to be raised.

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

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

So, she has this young child, Paige. And, she comes into Vancouver, and actually thinking she’s going to get service. And so, she was not in a good state of health, and she had incredible issues that she
experienced in her life. And, she had this child, though
they had this very strong bond, this mom and child bond
which is so important and significant, no matter what the
life circumstance.

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

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

So, Paige’s mom got no support, so Paige
had no support. So, she bounced around. And, I put
pictures, actually, in the report. It was kind of
controversial, because they were, like, “You can’t take
one of our pictures of our SRO and put it in your report.”
We also went into the SROs just unannounced to see, like,
who was actually there. You know, the frontline kind of work that you need to do to have the real picture, because this isn’t just about pieces of paper; it’s about someone’s life.

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

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

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

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

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

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

DR. MARY ELLEN TURPEL-LAFOND: Yes.

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

DR. MARY ELLEN TURPEL-LAFOND: Yes. So, this was a picture -- this is a pretty typical picture, and I think, you know, many people connected with the Inquiry will not be unfamiliar with what it is like to
come to a major urban centre and face being in a shelter. I included the picture of the shelter for a few reasons, is it’s not an appropriate place to raise a child. And, sometimes you have to have a picture because, actually, society becomes so insulated from it.

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

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

So, in terms of her own sexual predation and being the victim of sexualized violence, if you want to prevent sexualized violence to adolescent girls, Aboriginal girls, please don’t put them in shelters, because the pressure on her to do that would be enormous.
And, it’s already being reported that this is happening.

And so, she’s trying to survive, and she’s in this environment. So, not only does she have an acute degree of vulnerability, but, actually, she’s being redirected by a social-serving system to stay at a shelter.

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

And, again, that’s very important, because when you think about that picture of the shelter, it’s probably better to be on your aunt and uncle’s couch than
In a shelter by a long shot. And so, one of the reasons why I included that picture -- I didn’t include a picture on the aunt and uncle’s apartment, although I was tempted. But, they were really sweet. They were, like, “Well, I don’t want a picture of my house in your report,” which I can understand. They had a wonderful, loving home. But, the issue is really how the system makes choices. And, the system can make choices that can create such poor outcomes. And, when you step back in Paige’s life and think about the many issues that she’s experiencing, and she’s getting this. And then while she’s in that youth -- or that shelter, they’re saying, “Well, we’ll give you a youth agreement.” Well, if she’s living in a shelter with her mom and she’s caregiving for her mom, how will giving someone like that a youth agreement actually respond?

The other issue I would just note is Paige became labelled in the Downtown Eastside as a young person, because she herself was being found places where she’d be intoxicated, slumped, you know, over on the street. One time when she was 14, the police responded to a call, and she was naked and covered in blood. She went to the Vancouver General Hospital Emergency, and she was released to someone’s friend, like not to a parent. I mean, she was in incredible vulnerability and stress, but when you look at what she was experiencing, all of these
individuals who were encountering her, yet it was just sort of normal.

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

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

MS. CHRISTA BIG CANOE: And, I’m going to call up Figure 10. When Paige eventually ages out of
care, her life becomes constant turmoil, and I know in the report, you talk about 50 moves in two and a half years, from September 2009 to May 2012, and we have a map that you produced in the report up on the display there, and it’s contained at page 35 of the report. Do you want to tell us a little bit about this constant turmoil?

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

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

So, actually, when you think about it and when I thought about Paige’s life, what was amazing was how resilient she was. She had a very significant health problem, and she didn’t have proper eyesight, and she
didn’t have her glasses. So, she couldn’t always see well, but she was able to navigate, and she was a really great student. She did really well at school. She was described as being particularly brilliant, and she liked school. But, it’s pretty hard to be in school when you move 50 times in two and a half years. It’s pretty hard to know where your next -- like, your immediate needs become the priority. Not only her immediate needs, but she was also the primary caregiver to her mother who would deteriorate overtime, would also be abusive toward her or have partners that were abusive toward her.

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

So, this is youth. This is a picture of a youth, an Aboriginal girl in, again, one of our wealthiest
cities. So, what’s really staggering is where she was.

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

So, how does she find her way out of that? Well, she doesn’t. And, unfortunately, in her 18th year, she has a short stable period in foster care where she is connected with an Aboriginal foster mom who she connects well with. She cleans up. She’s getting support. And, before you know it, she’s out of care with her garbage bag
on the street. And, even the foster mom was very traumatized saying, “You know, I was constantly calling the Ministry saying we cannot let this kid age out of care. Like, give me a contract or give me something. I’ll keep her. A couple more years, she’s going to be okay. She has a lot of resilience. She’s got a lot of strength.” And, they’re, like, “No. On her 19th birthday she’s done, and if you, foster parent, try to keep her, we will delist you as a foster parent. So, stop advocating for this child and get back to business,” which is the next child. So, it really demonstrated that professional indifference, which was acute.

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

And, on the next page, you also say, “The use of transition houses and shelters as a sole protection
response in isolation of primary risk factors was wholly inadequate and continued to leave this child at risk.”

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

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

And, part of that is recognizing that within our provincial systems for child welfare, there are these sort of underground realities. One is that there are kids like Paige, that are homeless, in SROs, and they are on the street. And, in fact, in the Downtown Eastside at the time of Paige -- and I had quite a set too with the
government about this. I said, I know 125 cases. And, they said, well, there is only one Paige. And, I said, I know there is 125 kids. And, we had a challenge -- it was a bit of a power showdown, but it was in the end healthy, which was having to hold them to account, to say you actually have not paid attention to those children and you do not know where they are.

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

The other way that the system norms this indifference is they have a label for these kids that is really problematic. And, it was actually a phrase that was prohibited in my office by me because I found it to be so offensive, which was, they would say that the kids are “service resistant”. That’s the quote, “service resistant”. Like, Paige is resisting services. But, Paige was never actually offered any meaningful services
with Indigenous lands, with a kinship connection, with a cultural component, so how could she be service resistant when there is no services?

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

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

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

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

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

So, that is a stark contrast of, you have this child welfare system missing in action with a lot of indifference, with very poor representation or involvement
by Indigenous people, and then you have the clients who
are all these Indigenous kids who are needing support from
school and child welfare and other. So, that is systemic.
But, Paige’s life story talks about what it is like to be
a child in that system.

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

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

--- **Exhibit 40:**

“Paige’s Story: Abuse, Indifference
and a Young Life Discarded,” by Mary
Ellen Turpel-Lafond, Representative
for Children and Youth, May 2015 (80
pages)
Witness: Dr. Mary Ellen Turpel-Lafond
Counsel: Christa Big Canoe, Commission
Counsel

**MS. CHRISTA BIG CANOE:** Thank you. I am
going to ask you a question about the next report, but I
am not going to actually focus any detail on it. But, I
think in your materials at Schedule H, there is, I think, the fact that this report actually exists is a point in and of itself. And so, the report is called, Approach with Caution: Why the Story of One Vulnerable B.C. Youth Can’t be Told, and this is a special report. Can you please tell us what this report is about?

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

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

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

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

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

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

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.

--- Exhibit 41:

Special report “Approach With Caution:
Why the Story of One Vulnerable
B.C. Youth Can’t be Told,” by Mary Ellen Turpel-Lafond, Representative for Children and Youth, May 2016 (18 pages)

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

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

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

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

And, given the fact that those in the child welfare system and requiring support from the child welfare system are largely Aboriginal children and youth, and they do have a new unit that is doing work, which I was very happy to see, they are still not hitting it. And, I think it is important to just point out that they report, as an example, that they spent $2 million. So, again, in British Columbia, there is 204 First Nations, there is large Métis communities, there is large urban communities, so that would have been, you know, $1.5 million to 24 partners, and then a bit of money to transition houses, a very small amount. But, it just gives you the idea the work is -- the work is before us, not behind us in that area, and I certainly found it very challenging to see the type of investment that is needed in responding to domestic violence and family violence in terms of the experience of Aboriginal families and victims in B.C.
MS. CHRISTA BIG CANOE: And you're comfortable if any of my friends have questions for you in relation to your knowledge of this report?

DR. MARY ELLEN TURPEL-LAFOND: Yes.

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

CHIEF COMMISSIONER MARION BULLER: Yes.


--- EXHIBIT NO. 42

British Columbia’s Provincial Domestic Violence Plan, second annual report, Provincial Office of Domestic Violence, 2016 (40 pages)

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

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

While we were in Vancouver, during our community hearings, which is where people shared their
truths and their stories, we actually held a youth panel specifically on aging out. And there's a clip here, I think it's helpful if you get a chance to see it and comment in relation to your report too.

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

--- VIDEO PRESENTATION

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

So, there’s this big assessment done about where a child is leaving and what the risk factors are,
but not on the other side. So, you can’t really actually weigh which one is going to harm the child more. But, you know, the three strong young women that shared their stories and what I hear over and over again in your reports is they’re leaving circumstances that might not be ideal, but they’re put into far riskier circumstances, and then they go through a system without the supports they need, and they age out without proper supports.

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

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

And, I think that what the three young people identified in their comments in the video in response to the question from the Commissioner was really, like, the lack of protection in their families for shocks that families go through. Like, all families face an illness. You know, there could be an illness of a
relative, but they don’t lose their children. All families can face a sudden economic downturn. Someone loses a job or whatever, but they don’t necessarily lose their children. And, all families can experience parental mental illness. It’s common. But, you don’t lose your children.

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

And so, to work, take care of children and take care of other children, whether they’re parents, grandparents, aunties and others without support in the system, and that one little shock that we all have to be prepared in life for different shocks, but one shock happens to them and it’s out the door. Whereas in other situations, people have insulation or cushion against the shocks of life because they have more economic stability; they have more respect in the system; they’re able to command attention of the healthcare system; they’re able
to command attention of services. But, for these kids, as I heard, and I’ve heard a lot, they can’t get that attention.

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

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

You know, like, that whole idea of that report about leaving care caused me to begin a campaign in British Columbia that there would be tuition waivers for all kids that were in care at all schools. I got a few, and eventually I got all 25, which was great. So, if you’ve been in foster care or been in child welfare, adoption, there’s tuition waiver. And, I know that people would say to me, “Well, why, Mary Ellen? Like, no one is
going to go to UBC. I mean, these kids are in care. They’re on the street, like Paige."

And, I was, like, “Well, no, actually, I think if we prepare a different path that we expect.” Like, I expect my kids to get educated. Well, why wouldn’t I expect all kids? But, if you prepare a different path, the different path happens. And, in particular on that one, just on kids in care going to post-secondary, there’s all kinds of kids in care going to post-secondary in B.C. now. Hundreds.

And, I talked to them, and they’re, like, “Well, I failed every single year of high school. And, they put a thing on my report card saying, like, you know, ‘You’re the biggest loser of all time. You’ll never succeed.’ And, by the way, now I’m at school and I’m doing really well.” Because, actually, if you think about, like, those kids that were talking, or of Paige, or others, even if a tragedy happened in their life, their incredible resilience. And, we don’t want any child to have these adverse horrible experiences they’ve had. But, actually, a lot of people have them and they do really well. Because, in part, they recognize you can survive. And, there’s good ways to survive if you have culture, if you can build community, if you can build family. If you can find those supports around you or rebuild them, good
outcomes happen. But, if you have no one helping you and you’re 19, it’s pretty tough.

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

And, late adolescence is a really important time. It’s a really important opportunity to repair trauma. It’s a really good time to reconnect. And, if anyone has raised teenagers, which I’ve had a few, you know, they can be a handful, and they train you, and they can have challenging behaviours sometimes. And, they send messages to us. And then, all of a sudden, it’s like, where did that come from? Look at this person? I remember what they used to be like, and they’re like that. And, our job as the parents, and grandparents, and aunties and others is to be that bigger person that sees transitions in life, and doesn’t just see a bad person doing a bad thing.
And, what we see in this child welfare system and these kids is how one single episode, and that’s it. “My mom fell asleep and didn’t get me to school that day.” Or, “My mom had cancer and got sick.” It just -- the turn in the road that they experience doesn’t have that concept of a plan, and have a life course that sees people as more than just, like, a file or a moment. It has to see them more as a person developing with an identity.

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

--- VIDEO PRESENTATION

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

**DR. MARY ELLEN TURPEL-LAFOND:** I think that that is a very common experience, what she talked about,
and that I think it, kind of, symbolizes everything wrong with the system. I also think that that young person, like from her earlier comment -- I know I am not here to tell people what to do, but when I think about what recommendations you might come to -- like, when she talked about getting her file, you know, like there is something just obscene about a young person being mailed a file, you know, and having to interpret that file.

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

And so, I really think among the issues you should reflect upon, is all of the harm and all of the damage that has been done in this child welfare system for these young people, that they want to know what happened to them, they want to be able to interpret it and understand it, and they should not be left alone. There should be people that can sit down with them and say, this is the best of what I can help you understand what it
means, because they want a report card, they want to have a picture, they want to know about heir mom, they want to know about their community.

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

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

So, I do not care if you are 40-years old and you want to get your file, look at it and have it -- I am not saying interpreted, but have support to understand what that means by real people that have a trauma-informed approach with cultural supports and respite, and a real good understanding of strength and resilience, and a very positive mentality. And, that is so critical.
Like, the idea that that person would be in a room somewhere with a file and actually having to put her file in another garbage bag and move around with it. Like, I mean, it is just unimaginable that someone would have that kind of, you know, experience in Canada and not to identify how damaging that would be to have. You know, it is just such an indignant way to let people, A, experience it, and B, have to learn about it.

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

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

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

--- **Exhibit 43:**

"On Their Own: Examining the Needs of
B.C. Youth as They Leave Government Care,“ by Mary Ellen Turpel-Lafond, Representative for Children and Youth, April 2014 (61 pages) Witness: Dr. Mary Ellen Turpel-Lafond Counsel: Christa Big Canoe, Commission Counsel

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

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

DR. MARY ELLEN TURPEL-LAFOND: Yes. Well, this report is an example of a suicide death of a young Aboriginal girl on a First Nations community in British Columbia. The dimension that is important about this report is it was a community where the community got so tired of child welfare that they prohibited social workers from coming to the community. And, in fact, they shot at
social workers. They did not hit anybody, but they threatened to shoot them if they came on the reserve because there was a really fractious relationship between the ministry and that community.

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

So, just this piece of, we have massive jurisdictional fights in Canada over who is there, people do not want social workers in the Indigenous community, there is a lot of issues. These issues need to be worked out, but while all of this happen, there is real people, and what happens to the real people is pretty terrible.
In her case, she did not get support and she really had a terrible outcome.

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

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

So, that story is really that story which I think we will probably see elsewhere across Canada, where people just say, no more child welfare in our community. And, you know, I understand the authority to do that, but
just what is going to happen on the ground? Let us not forget, this is not just making an announcement, there are real people that need support.

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

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.


--- **Exhibit 44:**


Witness: Dr. Mary Ellen Turpel-Lafond

Counsel: Christa Big Canoe, Commission
Counsel

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

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

And so, the grandparent that steps in to raise the child because the parent is struggling with addiction, it is a really hard position for them to be in because they have to set boundaries with the relative and
the loved one, and those boundary setting behaviours may be challenging because of their own violence, and their own history, and their own addiction history and their own sense of guilt about how they raised their children.

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

So, it examines those issues and, again, finds that not a lot of thought has been put into these issues. And, in the Aboriginal community, among the presenting factors that parents experience for reasons why children are involved in the child welfare system, the top three, of course, are they’re over-profiled for poverty. That’s one big one. I’m sure Dr. Blackstock spoke to it. Violence, family violence is a very significant factor, and parental addiction. So, they’re among the key presenting issues. And, see that the prevention lens is not there. So, it’s very easy to remove. It’s very easy
to have the harsh intervention, but there are often not a lot of supports around addictions.

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

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

Why don’t we, or how can we look at risk assessments more broadly to include more of the family or an Indigenous perspective? And then the other side of
that is, should we not be weighing where the higher risk lays?

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

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

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

I mean, you tick it off, and then you are high risk, but that doesn’t respond to the fact that there
are things over which we can’t control, that are environmental. And so, those risk assessment tools are extremely punitive and harmful for Indigenous people, and they’re frequently not tested appropriately and evaluated as tools.

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

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

So, these tools are problematic. And, of course, you know, today, probably in this province and
every other province, someone is applying that tool to an Indigenous family. So, it’s not just an academic issue; it’s a very serious issue. And, that report partially speaks to that. And, I’m sure Dr. Blackstock highlighted it from her research.

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.


--- Exhibit No 45:

Investigative Report “Children at Risk: The Case for a Better Response to Parental Addiction” by Mary Ellen Turpel-Lafond, Representative for Children and Youth, June 2014 (60 pages)

Witness: Dr. Mary Ellen Turpel-Lafond

Counsel: Christa Big Canoe, Commission Counsel

**MS. CHRISTA BIG CANOE:** I’m cognizant of the time, Chief Commissioner, so I’m going to take your direction on this. I estimate I need an additional 20
As a previous witness said, never get in the way of food. So, we’ll stop for lunch until 1:00, please.

Thank you. And, if I could, just as a housekeeping matter, please remind that the parties with standing go eat first, but if you could meet no later than 12:45 in the Assiniboine Ballroom for the verification, cross-examination verification. If each party can have one representative or counsel there for that process, that would be helpful. Thank you. And, we will return at 1:00.
examination. The list should be coming in the interim
brought by our legal staff to both you and I and parties.

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

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

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

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

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

Is there any point that you would like to
highlight in relation to or give us a little context of
this report?

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

MS. CHRISTA BIG CANOE: Thank you.

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

CHIEF COMMISSIONER MARION BULLER: Yes. Trauma, Turmoil, and Tragedy: Understanding the Needs of Children and Youth at Risk of Suicide and Self-Harm, An Aggregate Report, November 2012, Representative for Children and Youth is Exhibit 46.

Counsel: Christa Big Canoe, Commission

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

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

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

And just noting, in that cohort of the 15, all 15 of those families had a documented history of abuse in the mother's family and on the part of the mom. So mom had experienced physical and sexual abuse. The infants died or were -- in these instances they're all deaths. And the interplay of poverty and lack of supports services for moms who are -- or Aboriginal women of reproductive age in terms of the nurse home visiting programs, and so
forth, that are not there in their lives. So the report really speaks to their circumstances.

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

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

**CHIEF COMMISSIONER MARION BULLER:** Yes.


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

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


Witness: Dr. Mary Ellen Turpel-Lafond

Counsel: Christa Big Canoe, Commission Counsel

**MS. CHRISTA BIG CANOE:** Now the next report I do want to spend a few minutes on -- and I'm going to actually ask the AV team to please pull up Figure 13 -- The Not Fully Invested. This is a follow-up report on the
representatives past recommendations to help vulnerable children in B.C. This was released October 9th, 2014.

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

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

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

And of the recommendations I made, there were over 100 -- well, it was, of course, over a long period of time too -- 72 percent had been substantially or fully implemented. And I just pause on that. It sounds
like an abstract number, but it's very important to know if they're being worked on. And so it's that follow-up commitment.

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

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

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

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

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

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

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

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

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

And so, this issue of measuring, it is not like what an auditor does on, you know, value for money; although what auditors do is really important. Performance management and focusing on outcomes is critical, because there are two factors two consider. One, there is something called the Hawthorne effect, which
is if you just pay attention to something, it usually improves, just by virtue of profiling it, which is a really good thing, it just only gets you so far.

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

Plus, Canada is calling -- British Columbia or Canada is called to report periodically to various bodies on progress with respect to Indigenous, say, children. So, under the U.N. Convention on the Rights of the Child, there is the Committee on the Child, there are periodic reports. Having been involved in that process of monitoring those reports, those reports are -- tend to be
very shallow and they don’t have a lot of content.

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

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

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

DR. MARY ELLEN TURPEL-LAFOND: No.

MS. CHRISTA BIG CANOE: Okay, perfect. On
that basis, Chief Commissioner and Commissioners, I request that we exhibit Not Fully Invested as -- sorry, that we enter Not Fully Invested as our next exhibit.

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

--- Exhibit 48:

“Not Fully Invested: A Follow-up Report on the Representative’s Past Recommendations to Help Vulnerable Children in B.C.,” by Mary Ellen Turpel-Lafond, Representative for Children and Youth, October 9, 2014 (48 pages)

Witness: Dr. Mary Ellen Turpel-Lafond

Counsel: Christa Big Canoe, Commission Counsel

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

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

So, when you have an entity, like a public inquiry, when you look at success for those inquiries or institutions, generally they are more successful if there has been a process to track, monitor and report on compliance and implementation. If that isn’t there, then we tend to have successive reports.
So, what I would say, what would have happened in my role is I would have probably had to do the same report 10, 20 times, whereas a single report with a very thoughtful set of recommendations very much tracked and monitored could lead to change. Now, someone still has to promote that change, because change doesn’t just happen spontaneously. And so, that focus on it is critical.

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

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

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

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

So, in the child welfare field, recommendations may need to be directed at both the federal government to appropriately perform its kind of fiduciary obligations, but also to provincial systems that have come in sort of through the back door of the Indian Act, in particular through Section 88 of the Indian Act. And, in those provincial systems, they often do not have points of accountability for Aboriginal children and families. They are just another child in a system, yet
they are actually taking on a responsibility to peoples, and they don’t have that concept.

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

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

So, that means very succinct recommendations with a very clear understanding with appropriate tools will be important to address the extent to which families and women, in particular, have been impacted by the -- not only residential school system, but by the child welfare system, and how families have been so broken and need to be able to be supported to repair. So,
it is a particular pressing part. I am sure you have many pressing areas, but this is one that requires a lot of urgency, because there are large bureaucracies that need to change.

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

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I do. And, I would say on the first point, you are absolutely right. There is a need for a point -- even an independent officer, point of leadership for children. And, I know you have had Dr. Cindy Blackstock as an expert, and I view her as having been the unofficial national children’s
commissioner for Indigenous children, and she is a remarkable individual. But, had she, in fact, been in a role with proper access to information, she probably would not have taken ten years to get a human rights decision. There could have been a significant change; that is one example.

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

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

**MS. CHRISTA BIG CANOE:** Thank you. Mary Ellen, I could spend all day talking with you quite frankly, and I am very honoured to be able to actually
lead your evidence today. And, the amount that I learned reading each of these reports and how surprising information I thought I knew that I did not really know, it has been a learning journey for me, and I want to thank you. I am done with my examination-in-chief, but I have just one housekeeping issue that I would like -- actually, two housekeeping issues I would like to get onto the record before we go into cross-examination. It just makes it ease of reference, so that it is on the record.

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

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

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

CHIEF COMMISSIONER MARION BULLER: 25.

MS. CHRISTA BIG CANOE: 25. And, just so
my colleagues and friends know. It is already in the
record on 25.

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

CHIEF COMMISSIONER MARION BULLER: Okay.

And, it has been disclosed?

MS. CHRISTA BIG CANOE: Yes.

CHIEF COMMISSIONER MARION BULLER: Yes.

Okay. A By-law for the Care of our Indian Children:
Spallumcheen Indian Band By-law #3 - 1980, is Exhibit 49.

--- Exhibit 49:

“A By-Law for the Care of Our Indian
Children: Spallumcheen Indian Band By-
Law # 3 - 1980”

Witness: Dr. Mary Ellen Turpel-Lafond
Counsel: Katherine Hensel, Counsel for
Association of Native Child & Family
Service Agencies Ontario (15 pages)

MS. CHRISTA BIG CANOE: 49. Thank you. As
I have stated, I am done my examination-in-chief. And, at
this time, I would like to proceed with the cross-
examination order and begin inviting parties with standing
up for the purpose of cross.

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

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

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

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

We know that there are many Indigenous
communities or representative organizations across the
country that are in the early stage or phase of a land
claim or modern treaty process — whatever language the
government is using these days, I am not sure. And,
included in that, many communities are attempting to
rebuild their internal capacity to get back on a path
towards being able to deliver their own child and family-
related services.

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

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

And, I think no matter what community
context or nation context is rebuilding their systems,
they are left to kind of clean up messes that other people
made in terms of disrupting families. It is important to
support families along that process in a non-judgmental
strengths-based way, but also to give a voice to young
people. And, I think that the involvement of youth
councils is really important to be heard and to be
visible, and I think it is very important to make sure
that there are the representation of all genders on those
councils so that they do not become dominated by one position or another. So, that is a really significant piece.

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

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

MR. ROY STEWART: Perfect. So, you just mentioned many communities or nations having to almost clean up the mess that others have made. And so, in my brain, I immediately went to, you know, provincial or
teritorial services that are delivered to Indigenous communities.

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

DR. MARY ELLEN TURPEL-LAFOND: I think I wasn’t privy to hear everything Dr. Blackstock said, but I’ve heard some comments like that before and read them from her. I think it’s important to change how we think about cultural competency, and culturally competency should be a requirement of the job for those people who
are engaging in providing services or partnering with Indigenous communities. And, I don’t think it should be pan-Aboriginal cultural competency kind of whatever. It should really be based on the tribal groups that you’re going to be engaged with, which have high degrees of distinction, whether they’re Inuit, Métis or First Nations. The diversity is significant.

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

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

Take Newfoundland and Labrador as an example. There should be sort of a competency agreement with the territory and the province on how you will expect
that to work, and it’s a very formal thing. It isn’t, “I took an hour of online training,” “I saw a Disney movie.” I mean, it has to be a very serious issue based on competency.

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

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

I think I would be very disappointed if cultural training was just some big watered-down program as opposed to getting to know, and I would just conclude by saying if you’re in a community and you’re, like, say, a social worker in an Indigenous community, you need to learn about the community in a humble -- culturally-humble way, and you need to develop competency, and you need to
appreciate that there is going to be a history that wasn’t all your making, but you’re stepping into something.

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

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

MS. CHRISTA BIG CANOE: Thank you.

MR. ROY STEWART: Perfect. Thank you. I’m way over time, unless I can have another half hour? Thank you.

MS. CHRISTA BIG CANOE: Thank you, Mr. Stewart. Next, we would like to invite up the Congress of
Aboriginal Peoples. Ms. Alisa Lombard will have six minutes.

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

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

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

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

DR. MARY ELLEN TURPEL-LAFOND: Yes.

MS. ALISA LOMBARD: Dr. Blackstock this week spoke about the great difference that Canada’s disclosure of records in proceedings before the CHRT made in relation to connecting the links associated with systemic shortcomings, among other discoveries of information, that assists everyone in understanding the causes, the real issues leading to the insidious
consequences this Inquiry is tasked with examining.

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

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

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

And so, the impact on maternal mental health and physical health is, you know, almost
immeasurable, and there’s no question it’s another one of those shocks building on other shocks in life that can be a tipping point for mother’s mental health.

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

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

In terms of the investigative issues, yes, absolutely. I mean, these issues are so significant. They shouldn’t be glossed over. And, I’m not saying that the work that I did is exemplary in any way. I mean, I think it could have been better in a lot of ways, but you
can see that it’s investigative, meaning all sources are looked at. Families are treated with respect, and their information is taken very seriously. And, you work with families, and you are accountable to families, and I think that some of that thinking is a little bit new in our systems in Canada. There’s a lot of roles that people have that create division. Like, I’m a coroner, that’s all I do. Here it is. I’ll mail your result.

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

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

**DR. MARY ELLEN TURPIL-LAFOND:** I think that we have some mechanisms in Canada that deal with compliance in different ways. But I think you'll probably
have to create some new mechanisms.

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

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

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

MS. ALISA LOMBARD: Thank you so much.

MS. CHRISTA BIG CANOE: Thank you.

DR. MARY ELLEN TURPEL-LAFOND: Thank you.

MS. CHRISTA BIG CANOE: Next, we would like to invite up the Native Women's Association of Canada.

Ms. Virginia Lomax will have six minutes.
---CROSS-EXAMINATION BY MS. LOMAX:

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

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

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

And also in that case, grandparents could be the support. But grandparents were from a fairly rural
and remote First Nation, and they had very limited understanding about mental health. So they didn't know what was going on with their daughter. So they could take the grandchild, but they couldn't cope with the daughter, and she would have serious psychosis. And as a result, they would let the child go with mom because they were overwhelmed with mom.

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

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

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

So safety planning needs to involve community and community knowledge, and it needs to take into account safety. Unique people have unique needs,
moms, kids, grandparents, and others. So that is a very important part of what gets done. But safety is only going to be as good as that plan to follow it out.

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

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

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

And the interesting thing in that case was the Chief of that community, like he was a Chief, he had been a youth worker, he was a Chief that had to like run
his community, but he also was like the mental health worker. He'd go in and he'd contain and protect people who had mental health issues, and he was doing like 100 jobs. And he was trying to do the best job he could, and he'd be calling the health system, say could someone please come and help me.

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

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

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

Coming back, if you need to in remote communities, you have to use Telehouse, use Telehouse. You sometimes need people from remote communities to have brief periods of hospitalization, but you don't want them to be released in like downtown Winnipeg and never get
home again. Like you need a care plan; right?

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

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

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

I'm not saying that people are intentionally getting up and saying let's find the poor families and take their kids, but the poverty aspect speaks to the inability of say a mom to be able to command the supports that she needs to raise her child. But if
she's in straitened circumstances because of her family and so forth, it's unrealistic to think she would be able to command those resources.

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

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

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

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

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

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

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

**MS. CHRISTA BIG CANOE:** Next, we would like to invite up the Regina Treaty Status Indian Services.
Ms. Erica Beaudin will have six minutes.

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

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

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

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

Recently, I was contacted by the daughter who lost her mother over 10 years ago. I have known her since the day after her mother went missing. She was a
Little girl when her mother went missing, and then was later found murdered a couple months later. A few months ago, she relocated to B.C. to start a new life away from the memories. She was very pregnant and starting to have anxiety attacks, because she was all alone without any support other than her boyfriend.

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

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

As you must know, trust and access to
relevant services is crucial. Would you say the trauma that children of MMIWG2S experience would require special types of supports and interventions?

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

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

The type of support that they are going to need when they are in grade school is different than the support they are going to need in early adolescence, the support they are going to need when they become a parent themselves. I mean, understanding the absence of a mother is a really difficult thing and, from cultural customs,
are really important, because generally there is a substitute, which is an auntie or a grandmother, right, in tribal systems, but when families have been so dislocated, you need to have that substitute support.

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

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

But, just, you know, seeing them struggle with that situation was just really difficult. And, seeing the inadequate response to that process was, in
some ways, placed more of a stigma than a support, in part, because although we had some very strong elders like Elder Ernie Crey, from the Sto:lo Nation, whose sister was one of the victims, just didn’t have enough cultural supports for victims and their families. And, I can’t say enough how important those cultural supports are, and they are not in the system.

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

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

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

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

**MS. CHRISTA BIG CANOE:** Some cases, it has been three and four minutes beyond, so I am sorry, but ---
MS. ERICA BEAUDIN: No, that’s fine.

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

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

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

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

So, I am going to give up 30 seconds of my time to honour all those, because a year ago, Michèle
Audette and I were walking across from Prince Hubert to Smithers to honour the residential school survivors and the missing and murdered women along Highway 16. So, if we can just have, like -- I am going to give up 30 seconds of my time to honour those and those who continue to struggle.

(MOMENT OF SILENCE)

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** Well, first of all, thank you for your comments and I am sure -- particularly when I was talking about Paige and her
experience and her mom, it is a path that you know many women have walked in that particular area. So, I really appreciate you being here and also your -- opportunity to have some time to reflect. Thank you.

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

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

And, I think the issues that you are raising, which is we cannot go back and change that past, which has been horrific, we need to understand it and we need to come to grips with it fully in Canada at every level. And, although Canada has apologized and comes to grips with it there, it is left to the survivors to clean
up the pieces and the family. And, I think that is one of the hardest pieces, is in families, when you see some people have been so profoundly affected and we have to move forward. So, the residential school issues are very relevant to what we are talking about here today. It is not ---

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

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

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

And, it affects our children too. You know, the theft of our children. We are -- we work, like, in a circle like, so how are we going to fit in a square that is not effectively working for us and our people?
You know, the missing and murdered women, the theft of our children, theft of our land, you know, and residential school survivor, this Canadian system has not done anything right for our people today. So, I am hoping that today is an eye opener for people to realize that the laws do not work for us, we have to use our -- our natural laws as Indigenous people are not being respected, our culture, you know, and our identity.

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

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

**DR. MARY ELLEN TURPEL-LAFOND:** I will just say that I think that you are really coming to the key point, which is, first of all, the systems that we have
been talking about today on child welfare, the one thing that is not acknowledged, which contributes to a negative image, is that inside First Nations, Métis and Inuit families, there are many caregivers that have been taking care of children. And, yes, there are many children that have been removed, but what about honouring and respecting the caregivers, whether they are grandmothers, aunties, others? And, that lack of acknowledgement -- I think that is a really important point for women in particular, is to have that acknowledged. It is not like, well, that is what is expected or whatever. I mean, yes, of course it is part of a system, but how important it is.

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

And, I can only say that I respect the comments that you are making about the failing of the system. I am not going to defend the system because I think it has very significantly impacted communities and families, and in some places, like where you have been working and supporting community, I think changing that
community to be a very different kind of community is an important project. And, I know that is a lot more than this Inquiry, but changing that to be an important Indigenous community that is recognized and supported in a different way.

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

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

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

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

Dr. Turpel-Lafond, you were able to do all of this work because of the extensive powers that you had as the B.C. representative for children and youth; right?
You are nodding your head, so I think that is a “yes”.

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

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

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

**MS. SUZAN FRASER:** Okay. And, we know from Dr. Blackstock that information regarding the conditions of children and youth in care is not always given willingly?

**DR. MARY ELLEN TURPEL-LAFOND:** It is true.

**MS. SUZAN FRASER:** Okay. And so, in order for advocates to be able to do their work effectively, or representative for children and youth, they need to have access to really key information; right?

**DR. MARY ELLEN TURPEL-LAFOND:** They do. And, they need to have powers to be able to compel information. And, if need be, enforce those powers. And so, I did early in my time as representative. The government refused to give me records and I sued the premier of British Columbia and I got access to the records.

So, not only do you need to have powers, but sometimes you have to actually seek to enforce those
powers, and then once that happened, I was much more able to get things after that. But, I just say it as a point, even if they give you a power, it does not mean that you will get the material that you think you have. So, you have to have a fairly strong ability to make inquiry.

**MS. SUZAN FRASER:** Right. And, as I understand it, at the present moment, there is no consistent level of access across Canada; right?

**DR. MARY ELLEN TURPEL-LAFOND:** I would say the access to actual administrative records, like policing, and child welfare and stuff, and the really key pieces, is very inconsistent and also not willingly offered up. So, you really have to go and dig. It is not available in a regularized format about -- for instance, how many Indigenous children are there in care? What is their situation of their families? So, basic data information is not publicly available, but access in the systems is limited.

**MS. SUZAN FRASER:** Right. So, we might not know how many number of children are in care, we might not know what their backgrounds are, we might not know what the expected outcomes are for those children. We do not really track a lot of information that is key to understanding how we are doing, is that fair?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, we do
not. And, I will give you one very quick example which is, they might have said to me, only 200 children in this region in care are Aboriginal. But, then, when I cross-reference their information with the education system using their personal education numbers, I found out that a lot more were Aboriginal because they were identified properly in the education system, but... ...the child welfare system did not identify their Indigenous identity appropriately. So, even to know who is an Indigenous child, how many are in the system, it -- even in British Columbia, for the work that I did, I still think it is -- I would not feel confident to rely on it with a lot of work.

So, there is a need for a significant improvement around what is the information, what are the actual numbers, and what are the ages and circumstances and tribal identity of those children.

**MS. SUZAN FRASER:** Right. And then when we look at the absence of a Children’s Commissioner, even eight years after the call for there to be a Canadian Children’s Commissioner, we are left without the ability to track, for example, the implementation rate of recommendations coming from provincial advocates for children and youth, coming from coroner’s office, coming from inquest recommendations. That is all something that
a Children’s Commissioner could do; right?

DR. MARY ELLEN TURPEL-LAFOND: Yes,

absolutely they could and should do. However, they should
at the national level be working with provincial
equivalents as well, to have some nationally consistent
information.

Like, if you look at the UN Committee on
the Rights of the Child reports on Canada, they have
consistently identified Indigenous children as a priority
area for Canada to improve its human rights performance,
but also to have some uniform and consistent reporting.
But, without someone to drive that process at the national
level, it has not happened.

MS. SUZAN FRASER: Okay. And, on the topic
of Children’s Commissioner, do you believe that if Canada
were to create the position of Children’s Commissioner,
that that commissioner should be an Indigenous person?

DR. MARY ELLEN TURPEL-LAFOND: Yes. I
think, in fact, there should be an Indigenous
commissioner. And, I think the challenge that I certainly
found in British Columbia -- as an Indigenous person, it
was not as difficult for me because I, kind of, had some
knowledge of systems. I am not an expert, but I had some
knowledge, so I did not have to go learn everything.

MS. SUZAN FRASER: Right.
DR. MARY ELLEN TURPEL-LAFOND: I had some family and cultural knowledge. I think the problem is, a lot of people have short-terms and they really have no exposure to these issues. They are very -- come from different -- very different backgrounds. So, need to have Indigenous people. And, again I call, like, Cindy Blackstock our, kind of, unofficial national commissioner, but I mean, all of the information she received was either through a court process or through a Freedom of Information application, and most of it is 20 to 25 years old.

MS. SUZAN FRASER: Right. And, are you at all familiar with the recent report of the Office of the Chief Coroner, Safe With Intervention?

DR. MARY ELLEN TURPEL-LAFOND: Yes.

MS. SUZAN FRASER: You have read it?

DR. MARY ELLEN TURPEL-LAFOND: Yes.

MS. SUZAN FRASER: And, did you -- are you able to endorse the 10 guiding principles that they have set out in their report at page -- pardon me. It is at page 9.

MS. CHRISTA BIG CANOE: At 9.

DR. MARY ELLEN TURPEL-LAFOND: I think it is at page 66.

MS. CHRISTA BIG CANOE: I think the
principles are at 9.

MS. SUZAN FRASER: Might be looking at page 9 in the Executive Summary.

DR. MARY ELLEN TURPEL-LAFOND: Yes. Right.

MS. SUZAN FRASER: So, I think they are replicated in two places.

DR. MARY ELLEN TURPEL-LAFOND: Right. Yes, I have read those and I thought they were quite -- I mean, they are Ontario focused, but I thought they were quite positive and valuable, and I think they are pretty consistent with a lot of the reporting that would have been put on the record today from my office.

MS. SUZAN FRASER: Okay. Thank you very much. That is my time.

MS. CHRISTA BIG CANOE: Thank you. Next, we would like to invite up the Inuit Tupiriit Kanatami, ITK. Ms. Elizabeth Zarpa will have six minutes.

--- CROSS-EXAMINATION BY MS. ELIZABETH ZARPA:

MS. ELIZABETH ZARPA: Good afternoon.

Thank you, Dr. Turpel-Lafond, it is a pleasure to hear your testimony today. I want to also thank the people of Treaty 1 for allowing me to be on your land, and also I recognize your work, Annie, and the work of the elders. I want to acknowledge the family and the survivors of the missing and murdered. It is an important day today. I
want to thank the Commissioners and also the Inquiry staff
for all your great work.

    Earlier this morning, Annie highlighted her
personal experience as an Inuk woman who has been through
the foster care system. She described the experience of a
fellow Inuk woman whose child is in the system as
helpless. I think that descriptive term of a child care
system that leaves the family feeling powerless is
indicative of how it is not working. We have heard from
Ms. Susan Aglukark and also Ms. Sarah Clark about the
development of new programs to address the gaps and
services within Nunavut child care and youth programming.

    But, there is also a high number of Inuit
children and youth apprehended from their families and
sent down south that we have not heard from the testimony
this week. But, as we have heard from Annie, the issue of
Inuit children going into stranger’s homes down in
southern settings is a reality. So, I have potentially
two questions for you that I would love to get, to both of
them. We have heard over and over how the child welfare
system, a child protection system does not protect.

    And, regardless of the geographical
location, across the country, across territories in
Canada, there is a stark reality that the system is
perpetuating a lot more harm to the Indigenous families
caught up in them. It is uncertain how many Inuit families are caught up in these child care systems.

Would you agree that desegregated data — a desegregated data system analyzing Inuit children entering into the child and welfare systems should be established to better understand how Inuit specific child welfare structures can be improved?

**DR. MARY ELLEN TURPEL-LAFOND**: I think I certainly would. I think it is important, again, to avoid some pan Aboriginal approach. I think on Inuit experiences, they may vary by region as well. I mean, there may be some commonalities, but I think they should be specifically identified and reported on.

And, I would say that your one question about the experience of Inuit children who are sometimes sent to southern provinces. I did have that experience in British Columbia, where we would have children sent from the north, and it was not clear who their advocate was because they were under what is called courtesy supervision in the south. So, it -- occasionally I would get the report of a very serious injury and I would be like, well, this child is not even in our system. And, it is like a courtesy supervision which might mean actually no supervision because there is limited resources, like residential resources, so they are sent south. And, I was
very concerned about those issues.

And, I was very happy when Nunavut had a Children’s Commissioner, a representative modelled somewhat on the B.C., and I advocated and supported that to be created, but I think Inuit experiences are going to be distinct, just like even in First Nations. They are different and distinct.

So, from a rights perspective, each Indigenous people needs to be appropriately treated. So, for data, we need to understand not every experience will be the same. Particularly what I found from some of the children from northern areas was the family dislocation. Like, being placed in a completely different environment, and then not having adequate connection, so not having a lot of visits, connection, and then not actually returning back.

So, their needs were unique. I mean, northern communities needs, but Inuit needs were unique in the files that I saw for British Columbia. But, I appreciate that that might be very much bigger in other provinces like Quebec and elsewhere.

MS. ELIZABETH ZARPA: Thank you for that. And, my second question is three-pronged. It seems there are three ways to address the overrepresentation of Indigenous children within the child and family systems
throughout this country. The first is to continue with
the current systems and change portions of that system
incrementally, but ultimately keep the systems in place.
Second is to abolish the systems and create a national
Indigenous child and welfare system that is Indigenous run
and Indigenous led. The third is for the current system
to continue to run, and each of the individual nations
create their own child and family welfare system in their
own way, under their own jurisdiction.

Can you please indicate which, if any, of
these you agree is feasible and possible, and why to
imagine that?

DR. MARY ELLEN TURPEL-LAFOND: Well, first
of all, I do not see it as being only three. I see that
basically First Nations, Inuit and Métis need to be able
to make their own freely determined choices about how they
want to work here. Communities may decide to just work in
one area. They may just want to do prevention, they may
just want to do child safety, or custom adoption or what
have you. They should be able to make their choices. Or
they may wish to assert their law and have an entire
system, and that system might include even deciding
disputes.

To me, it is not an up, down, one, two or
three. I think there is a whole suite. The key piece is
the self-determination part, that communities need to be supported and nations need to be supported to freely make those decisions and get support. And, by freely make those decisions, I mean you cannot make a decision to enter child welfare if you have no resources and you have no support, so real decisions have to be made. So, partnering is important.

But, sometimes you make a decision, and then you go forward and you make another decision, so it might be that First Nations, Inuit and Métis governments as they are being more clearly recognized, Inuit have very recognized governments, can move into the field stronger and faster, and at different paces, that is their choice. I think, ideally, people should receive services designed by their own people and involving their own people and their own languages with their own culture, and that appears to certainly be much more successful.

So, I don’t think it is a one or the other, but I do recognize very much what you have said, which is there is a glaring absence of what the Truth and Reconciliation Commission called for, which is national child welfare legislation that enables what I am talking about, that recognizes and starts to repair the damage and gives tools to communities to make choices as opposed to having that command and control system. So, it is -- I
just think there is a lot more choice that should be
given, and that one of the answers it to let communities
make decisions. But, they shouldn’t feel like it is an
all or nothing. I think they should be supported along a
path.

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

**MS. ELIZABETH ZARPA:** Thank you, that’s my
time.

**MS. CHRISTA BIG CANOE:** Next we would like
to call up, the Native Women’s Association of the
Northwest Territory. Caroline Wawzonek will have 10
minutes.

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

**MS. CAROLINE WAWZONEK:** Good afternoon, my
name is Caroline Wawzonek. I am honoured to bring you
greetings and gratitude to everyone gathered here today on
behalf of the Native Women’s Association of the Northwest
Territories, and I acknowledge the warm welcome we have
received here on Treaty 1 Territory and to the homeland of
the Métis people. It is also the birthplace of one of my
birth ancestors, the Delage-maudiere (phonetic) family.
And, I am also a mother, and a daughter, and a birth
daughter.

I am going to focus my questions on Exhibit
45. You don’t need to be quickly flipping to it. I will
give page numbers for the sake of the record, but I am going to give enough of a quote that I hope you won’t have to flip around too much.

The first thing I picked up on or that I want to address is from page 39. You had written the mother, in that particular case study, reported that she relapsed soon after completing treatment, because her home environment included a roommate who was an addict. Some post-treatment care or a transitory program could have assisted the mother in planning for a home environment that was more supportive of her recovery and attended to her role as a mother.

And, there is very often very siloed responsibilities between agencies that might deliver that kind of care. And, I know you have spoken to that today, but if you could explain for me, where would you situate the responsibility for developing community-level care and how do you make it accountable?

**DR. MARY ELLEN TURPEL-LAFOND:** I think, first of all, any care system has to have a continuum of care. So, one of the challenges we see in addictions is you have detox, short-term treatment, and then people are just out. So, it is, again, in and out. It is not a continuum. And, when someone is a parent, planning for a family? So, they don’t necessarily have that concept.
Some places might where they can do more family-oriented work like important treatment centres and models that have been developed, but there are far and few between. I think we probably have lots of good examples we can talk about around promising practices, but it is the continuum of care.

So, in my view, health systems -- you know, public health systems should have a continuum of care and they should have a continuum of care to meet the needs of Indigenous women and families. So, my view is, where do you situate it? Everywhere. Everybody should have it and it should have been well developed by now, because it is well known. And, unfortunately, it places huge demands on a parent to go through short-term treatment, come back, be placed right back into the very same environment that they were in before, and life is becoming very overwhelming and there is a relapse.

So, you know, planning is, again, so important when there is a family. And, I don’t think there is appropriate planning in the health care system around addictions treatment and support for women and for Indigenous women that are parents.

**MS. CAROLINE WAWZONEK:** And so, would you agree then that it needs to -- there needs to be more responsibility and accountability on Child and Family
Services authorities to the extent that they are pushing someone to go and attend addictions treatment, that they also have a responsibility to ensure that there is aftercare appropriate to that family when the parents return?

DR. MARY ELLEN TURPEL-LAFOND: Yes, I think that is really important, and I think there are some key drivers that cause these things to happen. Like, we have a Canada Health Act, we have federal provincial agreements on health transfers and health funding. They can set priorities and say, you know, “Create an incentive program, a priority system.” I mean, there has to be some clear priority that we know that poor addictions treatment, poor quality short-term addictions treatment for moms is not working. So, we need to make -- create a priority that you have to incentivize and support post-treatment, like at-home-type supports.

And, we know that those things are going to cost money and we know they are important, but just speaking about the Paige Report as an example, you know, the system spent a lot of money to deal with all the crises that Paige was in. That money could have been bundled up and probably built a treatment centre for her and her mom, and it probably would have been maybe here today.
So, the question isn’t, like, where is all this new money going to come from? We are actually paying for really emergency bad outcomes, so we might as well put some money into a healthier space in which women who are parents can be more supported to be parents.

**MS. CAROLINE WAWZONEK:** That leads well to my next question. It comes out of page 33 where you said, “Treatment services need to be responsive to the unique needs and circumstances of parents by supporting the parent-child relationship, as well as addressing the developmental needs of parents and children.”

And, just in an earlier response, you had spoken to the importance of making that specific to community, to culture, to Indigenous values for the Indigenous community specifically, not amass. Is there some obligation on the existing provincial and territorial governments to be proactive in terms of supporting the development of what those relationships are going to look like? And then how does everybody share the accountability? How does the community share it with the provincial and territorial authority?

**DR. MARY ELLEN TURPEL-LAFOND:** I think there is a lot of accountability on everyone and I think it is how they deliver the services they now have, but also building them. So, as an example, I will use First
Nations Health Authority in British Columbia. They have been doing a service build-out in addictions. So, they inherited this much resources and they have been trying to coordinate with the provincial systems and the federal systems to have proper supports, but very Indigenous-focused, strength-based, culturally involved.

Now, the resourcing is not all there yet. They are building it. But, the partnerships are emerging that are really positive and in the construct of how they are building it is to put the child at the centre. And so, support not just the parenting relationship of “the parent has to do their job”, but actually understanding the connection that the child has to the parent.

Children have very powerful connections to their parents. And, even the child in the most abusive environment of daily violence from a parent will be very strongly bonded to their parent, and there is something called trauma bonding. The more unbalanced the relationship, sometimes the stronger it is. And so, even to help the child learn how to deal with trauma and trauma bond so they have healthy bonding, and so they don’t become like Paige, the caregiver for the parent. So, you need to do it for lots of reasons, but there are reasons for the child as well as mom.

And, the only other point I will say is in
delivering addiction services, in my experience dealing with Indigenous moms in particular, it is a very motivating -- I have never ever met an Indigenous mother that is not motivated by her child to address her health issues. In fact, that is a prime motivation. And, in fact, that will be the first thing that is said is, “I can’t continue like this. I’ve got this child. I’ve got to do better.”

So, motivating by supporting -- they don’t need to be told, “You have to take care of your child.” I think they know that part. The part is how can we work to make sure they have the supports that they will need to be able to be healthy and to understand the needs of their child? So, the focus is very different. It is not on shaming and blaming as much as it is on motivating and supporting.

MS. CAROLINE WAWZONEK: I think, again, you are leading well into my next question. It is from -- this one is at page 31. One study found that a social service program focused on enhancing family functioning, as you were just mentioning, led to a higher likelihood of successful reunification for families struggling with parental substance use.

And, now, it seems very often that enhancing family functioning and then the addiction side
are two different things that happen in social work. So, if you could explain, how do you bring those together? How do they get connected? And, again, how do different service providers hold each other accountable for those things?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, first of all, just having to overcome some of the myths, like myths that -- I mean, addictions is -- I guess it is a spectrum; right? So, they are not all the same; okay? And, the idea that substance abuse means there is absolutely no right to parent. I mean, this is just not a harm reduction model, so we have switched our models to more reflect support. And, I think that there have been some very absolute approaches in the child welfare system that are too black and white, and that there may be need to be lifelong supports for some individuals who have, like, some very serious substance abuse issues. And the issue is not always, like, what -- if they’re using or not, but what they’re using and how much, right?

So you want to modulate that and that helps protect and support the family. And you want to educate around that and you want to have access to, say, methadone as opposed to street drugs that may lead to an overdose.

So these are just health issues, and having that conversation and that mentally, in some places in
Canada, our healthcare systems are developing to be more harm reduction and support. Other places are still very black and white and very shaming.

So for Indigenous families, obviously there is always personal motivation when you come to these areas. But a really blaming approach to addictions is very hard on families, very hard on Indigenous mums because, again, the despair and depression. They may be self-medicating, horrible depression; I mean, they may have never had treatment for post-partum depression. They may have had, like, a succession of children and be like in such bad maternal health that they’re self-medicating. We’re not talking about, like, you know, recreational use.

So even contemplating that, boosting their health outcomes, using those opportunities to strengthen that, so I think the family-focused harm reduction, Indigenous cultural approaches, like First Nations Health Authority is emulating, are very good approaches.

**MS. CAROLINE WAWZONEK:** And it needs to be health but also social services involved.

**DR. MARY ELLEN TURPEL-LAFOND:** Oh, absolutely. I mean, because why remove the child if you can keep the child and provide support and improve family functioning? Because it’s going to improve the child’s experience themselves as a parent later.
MS. CAROLINE WAWZONEK: Thank you very much. Mussi cho.

MS. CHRISTA BIG CANOE: Thank you.

Chief Commissioners, Commissioners, it’s now 2:40. It may be an opportune time to have a 10- to 15-minute break. I’ll take your direction on that.

CHIEF COMMISSIONER MARION BULLER: We’re way behind schedule, so let’s make it a 10-minute break.

MS. CHRISTA BIG CANOE: Thank you.

So that should bring us back here at 2:50.

--- Upon recessing at 2:44 p.m.
--- Upon resuming at 3:01 p.m.

DR. MARY ELLEN TURPEL-LAFOND, Resumed:

MS. CHRISTA BIG CANOE: So Chief Commissioner and Commissioners, if we can commence with the cross-examination?

The next party I would like to call up is the Saskatchewan Aboriginal Women’s Circle Corp. Ms. Kellie Wuttunee has six minutes.

(SHORT PAUSE)

MS. KELLIE WUTTUNEE: I want to first acknowledge the Treaty 1 territory and the homeland of the Métis who’ve welcomed us into their territory.

--- CROSS-EXAMINATION BY MS. KELLIE WUTTUNEE:

MS. KELLIE WUTTUNEE: Good afternoon, Ms.
My name is Kellie Wuttunee; I’m from Red Pheasant Cree Nation. I’m legal counsel for Saskatchewan Aboriginal Women’s Circle Corp.

Ms. Turpel-Lafond, in your expert opinion, being cognizant of my short time with you, is the child welfare system as it currently exists appropriate for Indigenous children?

DR. MARY ELLEN TURPEL-LAFOND: No, I don’t think it is appropriate, for some of the reasons I’ve outlined today.

MS. KELLIE WUTTUNEE: What would be the central features of an ideal child welfare system for Indigenous children in care?

DR. MARY ELLEN TURPEL-LAFOND: One of the most important things that needs to be changed, kind of in a large stroke immediately, is to change the definition of the best interests of the child, so that the best interests of the child includes being with the family and the right of the child to stay connected to their community, their family, their nation, their identity, and to allow for the best interest of the child to be applied in a way that children aren’t removed because of poverty and they aren’t removed because of some of those continuing impacts of residential school.

So to the big issues of how we see best
interests of the child everywhere, that’s a big tool.
Otherwise I think empowering and supporting First Nations, Métis, and Inuit to be driving their own systems is a very key area, and partnering with them effectively.

So I think there’s some very fundamental power sharing and power transition changes that are needed.

**MS. KELLIE WUTTUNEE:** Thank you.

In your opinion, what are best practices to ensure that Indigenous children in care are developing strong kinship bonds with their families?

**DR. MARY ELLEN TURPEL-LAFOND:** First of all, I think there should be a priority on where First Nations children in particular are placed. I think they should be place within family; if not within family, within kinship community inside their own nation and with extended family members. And I think placed with another Indigenous nation is probably down the ladder, but then only as an absolute last resort placed with stranger foster care outside the nation. So I think that’s a very critical piece.

The most important thing is to keep them inside their family where they can have connection to culture, language, identity, and territory.

**MS. KELLIE WUTTUNEE:** Thank you.
In your opinion, does the risk assessment tools used in child welfare, reflect Indigenous family systems and the systemic barriers facing many Indigenous families? In your expert opinion, how would you change the risk assessment tools used by child welfare system?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, I think that those large risk assessment tools which are, again, “ticky box” kind of tools that have been tested, field tested in other environments, are not appropriate to the circumstances because they’ve also allowed for the removal -- systemic removal of Indigenous children from Indigenous families. So we haven’t seen the forest for the trees on that one.

On tools, I think there are other tools that Indigenous child welfare specialists have been developing, like signs of safety is one. There’s a few others that have been in development; for instance, in British Columbia and Saskatchewan and elsewhere, that are more based on Indigenous values and child systems.

So the idea of a computer-assisted tool is probably problematic for Indigenous families, given the complexity of the history and the need for support.

So I would really caution the use of those risk assessment tools for decision in the case of Indigenous children and families inside child welfare
systems.

**MS. KELLIE WUTTUNE:** Thank you. Just one last question.

Generally, in some of your reports there was evidence to suggest that Indigenous children in care receive substandard service from a number of players, including police, particularly sexualized violence. In your opinion, are police services responding appropriately to allegations of sexual violence from Indigenous children in care?

**DR. MARY ELLEN TURPEL-LAFOND:** I think that there’s a need for a very different kind of police response and I don’t think it’s kind of boots-on-the-ground, uniformed police officers. I think it’s more safety, and looking for safety, particularly for Indigenous youth, like young women, that might be in survival sex. And could be -- there could be predation, like Saskatchewan as an example, being recruited into gangs.

The safety issues for women requires a different kind of policing, a community policing that’s not the uniformed boots on the ground as it is connected to a hub of supports. So they definitely need different kinds of supports, that are more of, A, how to engage and, B, how to support safety, and how to provide meaningful
long-term safety to disrupt the people that are particularly preying on younger Indigenous women.

MS. KELLIE WUTTUNEE: Thank you.

Those are all my questions.

MS. CHRISTA BIG CANOE: Thank you.

Next we would like to invite up the Battered Woman’s Support Services; Ms. Summer Rain Bentham has 10 minutes.

--- CROSS-EXAMINATION BY MS. SUMMER RAIN BENTHAM:

MS. SUMMER RAIN BENTHAM: Good afternoon.

I’d like to start by acknowledging the Treaty 1 territory that we’re gathered on here today; the Elders, the Singers, the sacred items in the room, the Commissioners and Dr. Turpel-Lafond for her testimony today.

My name is Summer Rain; I am Gitxsan from Kitwanga on my Mum’s side, and Coast Salish and the Squamish Nation on my father’s side.

I am not legal counsel, and I am speaking on behalf of Battered Women’s Support Services.

I am mostly going to be referring to the report, Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care.

MS. SUMMER-RAIN BENTHAM: Dr. Turpel-Lafond, would you agree that 145 reports, which sounds alarming in its size, in actuality is a low number of
reported -- of reports of sexualized violence and that
many children and youth do not report the violence before
aging out of the care system, and that many do not report
at all?

**DR. MARY ELLEN TURPEL-LAFOND:** Absolutely.
I agree with that, yes.

**MS. SUMMER-RAIN BENTHAM:** Would you agree
that out of the 121 youth and children who reported being
the victims of sexualized violence while in government
care, 109 of these youth were girls and that out of that
109, 74 or 61 percent were Aboriginal girls?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, that’s
accurate.

**MS. SUMMER-RAIN BENTHAM:** Would you agree
that at the time of this report, Aboriginal girls
comprised only 25 percent of the total children in care in
B.C.?

**DR. MARY ELLEN TURPEL-LAFOND:** That’s
correct, yes.

**MS. SUMMER-RAIN BENTHAM:** And, would this
make Indigenous girls, Métis girls and Inuit girls at a
far greater risk of sexualized violence while in the care
of the child welfare system?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. A much
higher degree of experiencing and reporting sexual
violence. The actual level of violence in their lives, I would say it’s fair to assume it’s higher. But, reporting it at a higher level than anyone else.

**MS. SUMMER-RAIN BENTHAM:** Thank you. Would you agree that girls in this review who are age 12 or younger at the time of the sexualized violence occurring were four times more likely to be Aboriginal than non-Aboriginal?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, that’s true from that report.

**MS. SUMMER-RAIN BENTHAM:** Would you agree that children and youth in government care are more vulnerable to incidents of sexualized violence than their peers who are not in care?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, that’s very true. And, when I looked at large data in terms of all reported sexual assaults, they are disproportionately reporting sexualized violence, and the occurrence of sexualized violence among them is a many factor higher than their non-Indigenous peers or their peers who are not in care.

**MS. SUMMER-RAIN BENTHAM:** Would you say, in fact, in 2015 and 2016, statistics show that sexualized violence is the most common type of critical injury involving children and youth in care, equalling 21 percent
of all critical incident reports?

DR. MARY ELLEN TURPEL-LAFOND: Yes.

MS. SUMMER-RAIN BENTHAM: Would you agree that sexualized violence perpetrated against young girls and young women results from the interactions of a number of risk factors such as larger social attitudes to violence, and policies and practises that make some groups less safe and more vulnerable to victimization?

DR. MARY ELLEN TURPEL-LAFOND: I think that that’s really fair to say that, because the experience of marginalization is very significant, and that is also reported in my experience from my direct engagement with Indigenous girls in care, and also having, outside of this report, provided support, advocacy support to girls and young women who were experiencing sexual violence, and certainly felt -- you know, what they had explained to me, that it was more normed, and certainly struggled with the fact that it was difficult to get support around them.

MS. SUMMER-RAIN BENTHAM: Would you say that some of the groups that are more vulnerable would include women and girls being significantly more likely to be victimized with sexual violence, and would you agree that, generally, perpetrators go after children and youth
who are more vulnerable and least likely to be able to
defend themselves, and that Aboriginal girls and young
women experience especially high rates of sexualized
violence because of issues related to poverty,
intergenerational trauma, isolation and devaluing
attitudes towards them within society?

DR. MARY ELLEN TURPEL-LAFOND: Yes. And, I
think I was hoping to be part of something that was not
able to be launched fully, but I would have wanted to see,
like, sort of a geographical mapping of where sexual
violence occurs to understand it, because in my decade as
representative for children and youth, I would see over
the years, like, certain places -- Downtown Eastside might
be one, but there might be a park in a certain town, or
there might be a place, or a SkyTrain stop.

So, there are places where there’s a lot of
sexualized violence being reported, which suggested to me
that either a) girls were being exploited at that spot
because it’s too common to see those places. And so, I
felt that some of those tools of profiling and getting
geographical information would be really important to see
where risks are and respond. And, it could be -- maybe
it’s a group home environment where it's well known that
you can prey upon people in that environment. We know the
Downtown Eastside is a place where it’s easy to do some of
that and there’s a history there, but there are other locations.

So, I think that geographical understanding -- unfortunately, I didn’t have sufficient partnership with law enforcement and others to do that, but I think that would be very important to look at whether there are places, and I would suspect that there are places where there’s targeted exploitation. And, certainly, there were cases where I had a whole range of girls and young women who were exploited by the same individual. In some cases, there were prosecutions of that individual. So, he may have abused 20 girls in care and used one girl to introduce him to others.

So, the opportunity for that more targeted focus and the vulnerability was many, many times higher than the vulnerability of other girls, I would say, by comparison.

**MS. SUMMER-RAIN BENTHAM:** Thank you. One of the findings that came out of this report was that there was a lower standard for [MCFD] investigators of alleged sexualized violence when children and youth are in care than when they are not in care, and no policies or guidelines exist for guardianship, social workers specifically, for preventing and responding to sexualized violence once children and youth are in government care.
To your knowledge, is this still true?

**DR. MARY ELLEN TURPEL-LAFOND:** I think it’s still true, yes, and I think the challenge that many young people reported to me with respect to their social workers is that they always felt like they weren’t believed. Or, if they were believed, it was noted, but there was no further action taken. So, I think that that’s a trend that is problematic.

**MS. SUMMER-RAIN BENTHAM:** Thank you. In Paige’s story, Paige accessed a residential treatment program called Young Wolves Lodge. In this report, it said that Paige had a positive experience and was -- this was a placement where she stayed for a length of time.

Young Wolves Lodge was a specific -- specialized facility which created and catered to the needs of young Indigenous women 17 to 24 years old, providing counselling, Indigenous spiritual practises and life skills, to name a few. In the same report, it states funding was cut and the program ceased in March 2015.

Would you agree that programs such as Young Wolves Lodge need stable funding to ensure our young Indigenous women can access culturally-appropriate wellness models?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think urban -- the Urban Native Youth Association was the holder
of that program, and the Young Wolves Program was really successful, and it really engaged Paige in a positive space, and worked and supported her, and what I noticed about that program was the low barrier, but also the expertise and the staff to be able to create that positive relationship, and she felt really comfortable there.

And so, really, of all the services she had, that was, like, the one foster mom she got at the end who helped her, and then the Young Wolves Program was something that she really enjoyed going to and being part of. And, sadly, the contract was gone because a lot of these programs that are so valuable for the lives of people like Paige, for some reason in the system, they’re just seen as sort of a pilot or a short-term program.

And, I know the Urban Native Youth Association in Vancouver has tried very hard to re-establish these programs, but it’s hard to keep that staff when they’re fired or the money comes at the end. So, you just have these really great trained, young youth workers, Indigenous youth workers, but then your money is gone and you lose them.

So, stable good funding, really positive programs with people who can engage with youth, because engaging with youth is a unique skillset, and not everyone is going to have that skillset. And, engaging with youth
that have experienced sexualized violence is an additional skillset that’s really critical, and that’s a program that did a remarkable job, and it was really disheartening to see that shut down.

**MS. SUMMER-RAIN BENTHAM:** Thank you. In Paige’s story, you made six recommendations. How many of those recommendations have been implemented?

**DR. MARY ELLEN TURPEL-LAFOND:** Some of them were implemented. By the time I finished my term, it probably will be right to look at them again. I think one of the biggest issues was the establishment of an emergency response team in the Downtown Eastside to deal with girls.

There hasn’t been a lot of public reporting in the last two years. So, I wanted there to be more public reporting. It’s to the next office holder to kind of push that, but I think that the awareness that was created is there. Of course, I’m not very particularly happy about the duty to report. I’m not saying I want someone to be prosecuted, but the fact that it’s not taken seriously.

So, if people don’t have an obligation to report, the fact that that has not really been addressed, I think will be an ongoing issue, because those who are not getting reported as being a child in need of
protection tend to be the marginalized Indigenous girls who are deemed, as I say, this horrific term, “service resistant” when, in fact, good services will be engaging them. So, I think that those recommendations should be monitored very carefully, too.

**MS. SUMMER-RAIN BENTHAM:** Thank you for your responses. (Indigenous word)

**MS. CHRISTA BIG CANOE:** Thank you. Next, we would like to invite up the Assembly of Manitoba Chiefs. Ms. Jöelle Pastora-Sala -- oh, I’m sorry.

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

**MS. STACEY SOLDIER:** Yes, good afternoon. I am Stacey Soldier. I’m Anishinaabekwe from Swan Lake First Nation, and I am co-counsel with Ms. Pastora-Sala and Ms. Anita Southall for Assembly of Manitoba Chiefs.

I am humbled and honoured that the hearings this week are on my traditional territory. I acknowledge the sacred items and elders who are here today, and thank the staff and Commissioners for their continuing hard work in making these hearings happen and moving them forward. Finally, on this very important day, I want to send my love to the survivors and families. You are always in my heart.

Your Honour or professor, what may I call you?
DR. MARY ELLEN TURPEL-LAFOND: You can just call me Mary Ellen.

MS. STACEY SOLDIER: Mary Ellen. Okay.

Thank you. The hearings -- these hearings are to be trauma-informed, and you would agree with me, and I think we’ve talked about this today, or you’ve talked about this today about the traumatic part of child apprehensions and the needs for the mothers to heal. I would suggest that the punitive aspect of child parent separation is rooted in the colonization of this country, would you agree?

DR. MARY ELLEN TURPEL-LAFOND: Yes. I think that the policy -- colonial policies that were imposed without the consent, for instance, of First Nations like the Indian Act, Section 88 of the Indian Act that allowed the child welfare laws to come onto the territories of Indigenous people, those are all part of the colonial policies, as is the residential school experience. So, those were imposed, policies based on moral or religious superiority, by governments largely in the 19th and 20th century.

MS. STACEY SOLDIER: Absolutely. And, certainly, with that view comes this idea that punitive separations are necessary and appropriate. And so, we’ve talked about this today, that children are separated from their parents, one example, for parents not cooperating
with the agency. And, as someone who practises child
protection as either amicus or counsel for parents,
there’s a common condition that I see that no one has been
able to explain to me. The condition reads, “Cooperate
fully and be honest with the worker.”

What does that mean? Do you have a comment
about that?

DR. MARY ELLEN TURPEL-LAFOND: Yes. I
think that speaks to this real fear and power imbalance,
and I come back to that issue that I don’t think there’s
another service anywhere in any public sphere that has
more power than child welfare to knock on a door and
remove a child.

So, with that comes fear, and for parents,
sometimes the threat of “work with me or else”. And so,
if they have a social worker that they feel is not
listening to them, and they are in any way challenging the
worker, that can have punitive impacts on them. And, I
think because families have been so traumatized, when
workers are engaging with them, they will be very upset.
Their children have been removed.

And so, not understanding the unique
emotional reaction that First Nations families, for
instance, will have, it’s really -- you know, like,
sometimes we’ll say things in the records like “they were
not calm”, “they were highly excitable”. Well, I mean, given the circumstances, I can fully appreciate it, and I also think that there is an ethic of you do need to work with people. Of course, that’s important. But, sometimes you’re assigned someone that you just can’t work with, and you need to be able to have someone else. And, when you ask to replace a worker, that can basically take your file from kind of yellow to red, which is you’re circled as a problem, and things can be difficult.

So, the unchecked nature. And, I’m not saying social workers are doing it in a bad way, but it can be tunnel vision, and things don’t get challenged. So, you don’t have the chance to hear both sides. There’s really only one side, and I just would say in British Columbia as an example, presentation hearings, which is the initial hearing for the removal of a child, for Indigenous children, I looked at this, and 99 percent of presentation hearings, the ministry’s position is upheld. I mean, with that record of 99 percent, they should be buying lottery tickets. There’s no other part of the justice system where so often you’re absolutely right.

The reason why they’re absolutely right is because there’s no one there to oppose them, because they’ve been so, like, basically pushed out of the system and feel like they have no push back, and I’d say that’s
probably a good example of how you have no push back. And, if you’re not successful at presentation, you may be a long time until you get to a trial to respond.

So, the advice I’m sure you probably give your clients is please work with everyone, but that’s rooted in fear, and I think some of that fear is legitimate because it’s a one-sided system, and it’s extremely traumatic and, frankly, crazy-making for the families that are in it.

**MS. STACEY SOLDIER:** Right. And so, just a couple of comments in relation to that. In Manitoba in particular, we’ve had the devolution of services ostensibly to First Nations and Métis control. But, yet, we’re still seeing this very colonized approach to child welfare, and I would suggest that’s a very racist view, unfortunately, that we’ve taken on from that system. What comment do you have about that?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, I think the issue is we sometimes mistake devolution. Like, devolution meaning it’s still within the command and control of the provincial director. So, you’re designated by that command and control system to do something. So, the Indigenous or Aboriginal agencies, they were supposed to be a step towards something else. But, they haven’t been fully rooted in the nation, so they don’t represent,
like, Cree or Naheo (phonetic) ways of dealing with families, or Anishinaabe. They are still representing a provincial legal system.

And so, they’re really a halfway, and I think in terms of the experience of First Nations, and Métis, and Inuit communities, they are probably not very happy, often, with the kind of service, because it looks a lot like the kind of service that they had before. It’s different in a bit.

And, again, you heard from Dr. Blackstock. So, those agencies are also not funded to do prevention. So, they’ve been given a really hard job with no resources for prevention when we know that’s what’s needed. So, that is not really an answer, in any event. It was supposed to be a transition, and it seems to have stuck for 35 years without the next step, and I think that’s where there’s a very huge grievance at this time.

**MS. STACEY SOLDIER:** Yes. Thank you. My time is up.

**MS. CHRISTA BIG CANOE:** Thank you. Next, we would like to invite up Manitoba Keewatinowi Okimakanak, MKO. Ms. Jessica Barlow will have six minutes.

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

**MS. JESSICA BARLOW:** Good afternoon. I
would like to acknowledge the spirits of our sisters, the
elders and grandmothers, the families and survivors, the
sacred items in the room, the Commissioners, and the
staff, and the health support. Thank you. And, I would
also like to acknowledge that we’re on Treaty 1 territory
and homeland of the Métis Nation.

My name is Jessica Barlow. I’m legal
counsel on behalf of MKO. And, MKO is an organization
that represents over 25 sovereign First Nations in
northern Manitoba. And, thank you, Dr. Turpel-Lafond, for
your testimony today and for the work that you’re doing.

In a very recent report by Campaign 2000
from June of this year, it found that the highest rates of
child poverty in Canada are actually in the northern
Manitoba region. And, we just heard you say earlier that
there’s nothing more significant than poverty in
connection with the child welfare system; is that correct?

DR. MARY ELLEN TURPEL-LAFOND: Yes, that’s
probably the single largest factor that correlates with
removal of children is poverty. For all children, but of
course, for Indigenous children.

MS. JESSICA BARLOW: Thank you. And, in
your document Canada Must Do Better, which is Exhibit 37
on page 3 for the record -- we don’t need to turn there.
I’ll just give a quote, if I may? You go further than
that, even, and you say that to be an Indigenous child in 
Canada correlates with poverty-related barriers, including 
income, education and culture, employment, health, 
housing, being taken into care and justice; is that 
correct?

DR. MARY ELLEN TURPEL-LAFOND: That’s 
right. It correlated with poorer outcomes across all of 
those systems.

MS. JESSICA BARLOW: And you say that these 
disparities are alarming; is that correct?

DR. MARY ELLEN TURPEL-LAFOND: Yes. I 
think they’re alarming, and I think even the federal 
Minister of Indigenous Services Canada in January of this 
year called them a humanitarian crisis. So, at that time 
that we did the report in 2010, we were suggesting that it 
was a humanitarian crisis, that they would have such 
disparity, and in particular, those issues like you have 
highlighted, which are the poverty factors.

MS. JESSICA BARLOW: Thank you. And, 
yesterday, we heard Dr. Blackstock say that these children 
don’t always know that they’re not getting the same 
funding or equity as other children. They just know that 
life is a lot more difficult for them, and she also spoke 
about how you internalized these inequities as being a 
personal deficit. And so, we heard those beautiful young
women on the video today say that they felt like they were
garbage. And so, would you agree that youth internalize
this inequity as a personal deficit as well?

**DR. MARY ELLEN TURPEL-LAFOND:** I think they
do. And, I think, also, it creates a lot of divisions and
expectations, because I think we also live in a society
with a lot of social media. And, they may have access to
a window into another kind of culture in which there may
be -- like, at least needs are satisfied or maybe even in
excess, and I think that that creates a lot of dissonance
for them around what did they do wrong that they have this
difficulty, so there is a barrier.

And, also, I think they really experience
rejection, and there isn’t social cohesion. So, let’s say
they move for a high school to a different community, or
their family moves and they have to go to a school, high
school, grade school, whatever. There may not be
acceptance and there may be all of the assumptions, but
also socioeconomic status and social inclusion go
together, which means it may not exactly be the welcome
way and they may feel really challenged.

So, if they are in the child welfare system
on top of that and they have been removed because of
poverty, it is really difficult, and I think that there is
a lot of psychological impacts on children and youth in
care of feeling like they are not -- they don’t belong in
the same community that other people belong in.

**MS. JESSICA BARLOW:** Right. And, Dr. Blackstock went further, and she said that this sometimes
also impacts on their sense of self-agency. And, when
they see people in their communities unable to exercise
their agency in decision-making abilities that this is
also detrimental. And so, I am wondering with the limited
time that we have left if you can speak to the benefits of
having Indigenous agency and autonomy in decision-making
and also the design and implementation of programs and
services without having to give up this agency or
autonomy, or defer it to colonial institutions through
this command and control model, please.

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
absolutely the system needs to listen to children and
youth, and they need to have not just like, “I hear you.
Go away.” Like, really listen and engage their -- they
have a right to be heard; you know? Like, under the U.N.
Convention on the Rights of the Child, some child welfare
legislation speaks to it, but they are not really heard.
So, I think for Indigenous children and youth in care,
they need to be heard. And, if you listen to them, one of
the biggest things they say is, “I want to be connected to
my family and my community.” And, that is just the
message. And then the issue is, how does that happen?

So, their personal agency is really critical and their human rights are really critical, their right to be safe, their right to be heard, their right to be supported, their right to be raised in their own family and community, their right to receive, as Dr. Blackstock, I am sure, noted, same kinds of services that other children and youth have, but also the right to receive -- and I think we have to remember that, as a society in Canada, we need them to reach their full potential; right? They are the children. They are the future.

So, we need to give them supports to do that. And, if their starting line isn’t the same as someone else, because of all the challenges they have had, we need to adjust that starting line and we need to support them. So, it has got to be a slightly different mindset, which isn’t like, “Oh, you poor kids.” I mean, they are very hearty, resourceful, people with loud voices, but they need to be heard.

**MS. JESSICA BARLOW:** Wonderful.

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

**MS. JESSICA BARLOW:** My time is up, but I thank you so very much. Thank you.

**MS. CHRISTA BIG CANOE:** Next, I would like to -- I believe there are actually two parties, because
they have the same counsel. It is ANCFSAO as well as the Independent First Nation. So, the Association of Native Child and Family Services and Independent First Nations with Counsel Katherine Hensel having 10 minutes.

--- CROSS-EXAMINATION BY KATHERINE HENSEL:

**MS. KATHERINE HENSEL:** Wai (phonetic), Dr. Turpel-Lafond. As you know, my name is Katherine Hensel. I am a Secwepemc citizen, and I am very privileged and honoured to be here on Treaty 1 Territory with you here today. I am going to ask you to be asking -- I have 10 minutes. I am going to be asking you briefly about inherent jurisdiction, and then at some greater length, hopefully, about the best interest test under the provincial and territorial statutes.

My friend, Ms. Big Canoe, entered at my request Exhibit 49, A Bylaw for the Care of our Indian Children, it is Spallumcheen Indian Band Bylaw No. 3 dated 1980. You are familiar with that bylaw?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I am familiar with it and I have worked fairly closely with the community and Kukpi7 Wayne Christian, who was involved with this by and continues as Tribal Chief of the Tribal Council to promote authority and recognition of the Shuswap laws and practices for children.

**MS. KATHERINE HENSEL:** And, that is
throughout Secwepemc ul’ecw and indeed the Province of B.C?

**DR. MARY ELLEN TURPEL-LAFOND:** That’s right, yes.

**MS. KATHERINE HENSEL:** And, you are aware that pursuant to this bylaw since 1980, at least with respect to the Spallumcheen, and it is now called the Splatsin Band, which is one of our Secwepemc bands within the Secwepemc Nation, the people of Splatsin have exercised exclusive jurisdiction over child welfare as an element of their self-government since continuously -- uninterruptedly since 1980?

**DR. MARY ELLEN TURPEL-LAFOND:** I think that from my viewpoint, they had, like, longstanding inherent rights. I think the issue -- and I have worked with the community and with children from the community, I think the issue with the bylaw in 1980 was they are the only First Nation, I believe, in Canada that got a bylaw through, because, as I understand it, they passed a bylaw and the Minister of Indian Affairs didn’t disallow it, and so it ended up sticking. And, they have used it as one tool, but I know they rely extensively on their inherent rights, authority and Indigenous authority for their system.

So, in the work that I did with them, I always recognized whatever tools they brought to the
table, but they certainly were very active and engaged in making sure that their children and families were served by their community.

**MS. KATHERINE HENSEL:** Yes. And, in fact, the bylaw itself doesn’t say much other than, we will care for and protect our children exclusively under our own jurisdiction and in accordance with Shuswap law. It doesn’t set out policies, or procedures, or protocols. In particular, there are a few definitions, but it is an assertion of inherent jurisdiction?

**DR. MARY ELLEN TURPEL-LAFOND:** It is.

**MS. KATHERINE HENSEL:** Yes.

**DR. MARY ELLEN TURPEL-LAFOND:** And, I think there are some really important principles in it though. Like, there is a section on placement priority where children should be placed, which is under Section 10, so it does go to that issue of, “You should be with your parent or your own family.” So, it sets out a set of rules about where children from Splatsin should be replaced, and I think those are really significant. And, the dealings I had with them, when we have had a child in crisis, we tried to follow those principles.

**MS. KATHERINE HENSEL:** Yes. And, you described earlier some pushback, or resistance, or anxiety on the part of bureaucrats and other people in the non-
Indigenous system about the assertion of jurisdiction or
the exercise of jurisdiction being too complicated.

Now, I am going to suggest to you that with
respect to the operation of this -- of the jurisdiction of
the people of Spallumcheen, that it was actually fairly
straightforward. They asserted jurisdiction, they
operationalized it, it was resourced and it has been
running continuously since 1980 -- operating continuously
since 1980 without the loss of life of a single child
since 1980 under the jurisdiction of that band; is that --
you are aware of that?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think
that they have had a lot of success in terms of placing
the relationship with the Ministry for children and
families in a different light. I have been involved in
the past and sort of mediating and negotiating that when
sometimes the Ministry would have new workers that didn’t
respect the law and they had to get retrained. But, I
think they have maintained, without question, their
presence, and their role and their entitlement to be the
decision makers for their children.

**MS. KATHERINE HENSEL:** And, you mentioned --
-- you described at some length earlier and in your reports
the difficulties associated with transition planning, the
lack of forward thinking and planning with respect to each
developmental stage of children throughout their lives. I am going to suggest that the model employed by Splatsin is effective in part because this community knows that a Secwepemc infant will still be a member and a parent when they are 25, when they are 45, when they are a grandparent and an ancestor and their descendants are Splatsin’s future.

So, their investment in the interest of the child are conceived of in a way that contemplates the entire life of a child and beyond, and the collective has an interest not just in the fate and well-being of the two-year old as a two-year old or -- could you comment on that?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. No, I think ---

**MS. KATHERINE HENSEL:** Do you agree with that?

**DR. MARY ELLEN TURPEL-LAFOND:** I think it really reflects the Indigenous practices of defining an extended family, but also looking at the transitions, as you said, through the life course. And so, they took an effort to define, you know, that broadly from much more -- from the kinship and the nation based viewpoint.

So, it is not just like a child, it is a child in a family, in a community, in a nation. So, it is
a very holistic concept according to -- even though it is
an Indian Act by-law, it is premised on customs, and
traditions and practices of their nation.

**MS. KATHERINE HENSEL:** Okay. And, whereas
a worker may be only statutorily authorized and interested
in protecting and serving the interest of the child
throughout -- potentially throughout their childhood, but
what is in front of them, a nation is distinguished from
that in terms of the depth and scope of their engagement
and their interest in the well-being of the child.

**DR. MARY ELLEN TURPEL-LAFOND:** That is
right. And, like a social worker that may be a new social
worker assigned to the office near them, in the interior
or whatever, will need quite a bit of training to
understand that they -- like I said, cultural competency.
They will need a lot of training around the nation’s
practices because they will not -- like, in school, if
they went to social work, they might have just learned
this child focused. This is child focused, but in the
concept of extended family and community. So, generally,
they have to retrain every social worker that goes into
that community and they have done a very good job on that
front.

**MS. KATHERINE HENSEL:** Thank you. Kookshem
(phonetic). Okay. I am moving now to best interests.
And, I am just going to begin by -- for those who have -- listeners who are not legally trained, each statute and -- each province and territory has a statute relating empowering child welfare authority. And, each of them enumerates best interest factors that courts and workers are required to take into account in determining what is going to happen with a child and making decisions about that child.

Each of them requires -- each of these statutes across the country requires the courts to take into account the cultural background and interests of all children, and particularly those of Indigenous children. How have you seen that operate throughout the country and what problems, if any, have you seen arise as a result?

DR. MARY ELLEN TURPEL-LAFOND: Well, that is one of the key problems. Like, if I take British Columbia -- I did not study Manitoba recently, but if I take British Columbia as an example, there is the Adoption Act, there is the Family Law Act, there is the Child Family Community Service Act, there is a provision in the Public Guardian Trustee Act, there is sometimes three or four different definitions in one province of the best interest of the child.

And, they may have one or two references, some of which I have advocated for in the past to say, you
know, recognize the cultural background of the child, but they are just floating. They do not make any sense for Indigenous children, and families and communities. So, what they have done ---

**MS. KATHERINE HENSEL:** They are discretionary.

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, they have just taken a concept and they may, in recent times, added a word or two, but the fundamental concept of an Indigenous child being, like Splatsin, in the community, in the family structure, that an Indigenous child has a right to be connected to their Indigenous community, those concepts are often not there.

And, when we go to the federal side, like the Indian Act, there is no concept. Not that I am recommending the Indian Act be amended. Far from it, I think it should be gone. But, in the Divorce Act and in federal legislation, you will see another definition.

So, there is a really strong need to have a very clear reconstruction of the best interest for Indigenous children, recognizing the distinctions between First Nations, Inuit, Métis, but including some really key concepts about how they are -- not only have individual rights, but they are part of a community, and that their community should not be ignored in determining their
Furthermore, things like immediate safety. It is a very significant issue, safety for children, but safety for children in a community brings into an extended family concept or kinship placement. Outside of an Indigenous community, it might just mean safety means removal. So, those constructs were not developed with the appropriate -- they are, again, part of a legacy system that silenced or was imposed on top of Indigenous people.

So, the best interest of the child piece needs fundamental re -- basically a complete change. I mean, it has to be changed to a much stronger Indigenous concept. I am not saying we have a pan Indigenous concept, but I think we have some really clear principles that come out of things like Splatsin and other places that call for that, because that would give rise to tools that communities do not now have and families do not now have, who frequently get in a system where the best interest is just a judge says, best interest is -- like for instance on provincial systems here and across Canada, it says, stability is important. This child should stay with who they are with.

Well, a child might have been removed at birth, they might be two and they might be in a non-Indigenous home. But, the Indigenous family can take care
of them, but the principle of stability means they will never get back to that community. Or I have had many cases where they wanted an exception for adoption, to be adopted into a non-Indigenous family, and they say, well, stability, the child is very comfortable there. And, I am like, well, I understand stability, but what about their culture, when they grow up and discover they have not had this family? There will be very serious problems; right?

So, conceptually, it just has not -- you are absolutely right to ask the question. It has not been put out properly and that has affected women, families and children. So, that has allowed for that interpretation of a very individualistic approach, but also a type of discrimination to happen. And, that discrimination shows itself in the systemic nature of the removal of children without considering their family and their community, without considering all of this disruption their families had from residential school and poverty.

So, even things like children -- you know, if I had to draft the best intersect of the child, if I had my day, I would have a provision that says, no child should be removed because of poverty, no Indigenous child should be removed because of poverty. And, I mean, will there still be Indigenous children removed because of poverty? Yes, there probably still will be. But, at
least I put it there and at least someone is going to have to face it and do something about it; right? So, it is a tool. It does not change the world, but it is a very important tool for Indigenous children and families, because so much removal happens because of poverty.

**MS. KATHERINE HENSEL:** Thank you. I believe my time is long over.

**MS. CHRISTA BIG CANOE:** Next, we invite up Eastern Door Indigenous Women’s Association. Ms. Natalie Clifford will have six minutes.

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

**MS. NATALIE CLIFFORD:** Good afternoon. Natalie Clifford, Eastern Door Indigenous Women’s Association who represent the interests of Mi’kmaq and Maliseet women on the East Coast, with which I know you are familiar.

So, just to sum up, I also wanted to talk about the best interest of the child and perhaps I can capture what you have just said by saying, would you agree then that we can characterize the way the best interest of the child is currently applied quite broadly in Canada as based on a construct of the needs and values of western civilization?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think it definitely is -- comes out of that dominant Anglo
European concept of a family, the kind of non-Indigenous family structure, yes.

**MS. NATALIE CLIFFORD:** And, that by its application, the cultural aspects are then not central, rather an afterthought?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. And, in fact, like some of the things that drove the best interest of the child, if you look at the history, are things like the doctrines of *parens patriae*, which is actually a very patriarchal concept of father knows best, which is, you know, a very authoritarian model of the family, that there is a single authoritative individual that the child should be with.

So, the history of the best interest of the child comes out of this, sort of, culture, which was really -- almost goes back to the concept of ownership ---

**MS. NATALIE CLIFFORD:** Mm-hmm.

**DR. MARY ELLEN TURPEL-LAFOND:** --- of a male would own the family and so on. And so, these are very -- have very deep historical roots.

**MS. NATALIE CLIFFORD:** I agree. So, would you say then that we could characterize the current application of the best interest of the child as a tool of colonial violence right now?

**DR. MARY ELLEN TURPEL-LAFOND:** I think that
the application has resulted in incredible violence by removing children, but also silencing. I think silencing Indigenous peoples and families from being able to talk about the complete experience, and their own laws and practices and their own systems. So, it has been silencing them. And, able to make decisions about children without their involvement and without actually respecting and listening to the fact that this is the first peoples of the territory who experienced this incredible colonial system. So, there is a deep injustice to how those laws are developed. And, I think perhaps how they continue to be developed.

**MS. NATALIE CLIFFORD:** So, then, because of the generations of experience of the colonial systems in order to achieve substantive equality now, we need to deconstruct the application of the best interest of the child, and then reconstruct it with an informed approach based on a case by case basis specific to the community of the child, so First Nations, Inuit, Métis, and then within that where they are located. So, would you agree with that?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I absolutely agree with that. And, I think one of the issues we have, because we have all of these various systems with all these definitions is one of the reasons
why we need clear, maybe, federal legislation that has a very strong construct that when it applies to Indigenous people, will use more human rights respecting concepts like UNDRIP, more respect for the child’s rights. So, bigger tools. I know that is not the whole answer, but cleaning that up to repair some of that problem that is there. I mean, it would be valuable in every province and territory, frankly, but it would be great to have a federal piece that could just put it on a different footing, and then allow this work to change.

**MS. NATALIE CLIFFORD:** So, maybe I can push you a little bit more on that then. Would you agree that a failure of -- potential failure of the courts to allow a reconstruction of the application that the best interest of the child amounts to a violation of Canada’s international obligations of -- for example, to self-determination, but also to the Convention on the Rights of the Child with the underlying essence that children should be guaranteed a life free of discrimination and to have dignity and harmony in their development, would you agree that failure to have a national -- a federal approach and provincial accountability actually amounts to a violation of these obligations?

**DR. MARY ELLEN TURPEL-LAFOND:** I think they are really serious issues that should be looked at. And,
I think, in particular, one of the concerns is, there is not a lot of exploration of the rights of children and Indigenous children, and apart from the work on the Human Rights Tribunal, which itself is about funding, not necessarily the rights of the child. It is about equal funding.

But, if you look at Section 7 of the Charter, which is on life, liberty and the security of the person and what are the principles of natural justice, unfortunately, things like best interest of a child are not -- have not yet really been brought into our human rights system adequately. So, a lot of these areas just simply not have the appropriate focus.

And so, I agree with you. Instruments like UNDRIP that have really critical provisions like Article 8, permitting the forceful removal of children, or anti-discrimination, the U.N. Convention, these human rights principles are really significant, and resetting Canadian law around those principles or giving that new framework to work it out would be immensely helpful.

And, in fact, there are courts that are beginning to recognize that. They are few and far between, but the problem is the only time they do that -- we had a case recently with a Hu-way-it (phonetic) child in British Columbia. The only way they do that is if a
Chief intervenes and makes the argument, but it is like the litigation of Indigenous rights, like we know we are very happy that there is this path breaking decision in the Chilcotin case in the Supreme Court of Canada. It only took 25 years to get there, a lot of work and a lot of trial when everybody accepts it. Well, why did we have to go through 25 years of trial?

So, with respect to the rights of the child, if we leave it to a litigation context where people have to go and fight about the rights of the child, I am fairly confident there will be success, but we will be spending years and resources, and this is not a well resourced area, and communities. These communities that are struggling. Like, how are they going to be arguing these cases, and having the resources that they will need? And, how will those children have lawyers that they should have in those cases?

So, it is better to reset the law in a bigger way than leave it to people that you know are experiencing a form of discrimination to be left in the community. So, I guess how I see it is I can’t pronounce the absolute judgment on it, I just know it is not set in the right tone. But, I do think there is a really good opportunity to reset that.

MS. NATALIE CLIFFORD: Thank you.
MS. CHRISTA BIG CANOE: Thank you. Next, we would like to invite up the Assembly of First Nations. Mr. Stuart Wuttke will have six minutes.

--- CROSS-EXAMINATION BY MR. STUART WUTTKE:

MR. STUART WUTTKE: Good afternoon, Dr. Mary Ellen Turpel-Lafond. My name is Stuart Wuttke. I am general counsel with the Assembly of First Nation for the record. In your reports, and we read them with quite a bit of interest, we note that a lot of the reports were -- you mention the need for social workers and their desire to have more prevention-like programs and to be able to access more prevention-like programs to keep the children in the home.

However, during the time those reports were drafted, particularly in B.C., First Nation agencies were funded under the federal government, the First Nations Child and Family Services Program, under Directive 20-1. Are you familiar with that directive?

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

MR. STUART WUTTKE: And, Directive 20-1 created a perverse incentive for agencies with respect to not being able to provide any programs unless a child is apprehended, and I was wondering if you could speak to that.

DR. MARY ELLEN TURPEL-LAFOND: Yes, it was
absolutely -- actually, 20-1 is still in place, despite the Human Rights Tribunal and four compliance orders, and so on. And, I appreciate you understand this as one of the interveners and the -- or the co-applicant on the Caring for First Nation Society case, the 20-1 formula is so completely inadequate that funding was based on removing children, not trying to prevent the removal of children. And, while because of the Human Rights Tribunal, there has been some new money that has gone into prevention, and British Columbia is an example, there are 84 First Nations that aren’t covered by agencies.

So, for those First Nations, there is still almost no money for prevention. For those that are in agency, there is some money for prevention. So, we have had a human rights decision, we still have not seen fundamental investment in prevention in a sustainable, coherent way with a proper fiscal environment. So, there has been this great human rights victory, which I applaud and I am very grateful for the hard work that you and others did for that but, again, despite four compliance orders, British Columbia still has 20-1.

And, I don’t know what the evolution will be, but my -- certainly my fear in this area is, you know, governments change and things change. We could be back at 20-1 if there isn’t some sustained foundation for that.
So, you are absolutely right. What has happened has also happened because of the drivers around how the funding works.

MR. STUART WUTTKE: Thank you. In your report, Too Many Victims, you note that -- well, first of all, you would agree and you have said it that most First Nations children are apprehended as a result of neglect; is that correct?

DR. MARY ELLEN TURPEL-LAFOND: Yes, the largest single category is what is called neglect, which is poverty/neglect/some sort of suspicion that the family is not adequately able to meet the needs of the child. It can be a very amorphous category. At the same time, neglect of children is very serious, but in the First Nations side, we see it being very generously used as a big grounds for removal.

MR. STUART WUTTKE: Thank you. And, we note that in many of these cases, we have even heard from the videos, obviously they came from caring families, loving families, I found it quite disturbing in your report that, you know, despite the fact that children are being apprehended for neglect from potentially very loving families, they are being put into a system that would put them in danger of sexual exploitation or sexual abuse, and it really is not acceptable, but it still continues.
And, the fact that, you know, your report, you know, provides highlight or explains this to the provincial government, it is disheartening to know that children are still being put in this particular precarious situation as a result of a non -- you know, not changing any policies or not doing anything.

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, I think it is fair to say that those circumstances, despite the fact that we become aware of them through public reports, doesn’t mean they change. And so, the idea that -- let’s see -- there is even the most egregious example where there is an intervention by child welfare -- and, like, not neglect. Let’s say there is actual violence, serious violence toward the child, there is still the fact that they are placed into a system where they are at elevated risk of sexual violence -- sexualized violence, particularly girls, and boys, but girls, and creating that additional trauma.

So, the answer of removal is something that has caused a lot of harm in and of itself, and continues to cause concern around not only victimization up to the age 19, but of course -- I did one study on the justice system and sort of look at what happens after 19, and I don’t think that’s been looked at enough. But my concern is if I was to do another study in British Columbia to
look at victims of sexual violence between the age of 19 and 35, I would not be surprised if the very same individuals in the same cohort were then over-represented. So not only are they experiencing it, but we’re not stopping that experience. So in a way you can say they’re being harmed. So they’re harmed, apparently, in some way here and then they’re being re-harmed. So the system needs a very significant change.

MR. STUART WUTTKE: Thank you.

My last question; you mentioned that the situation in B.C., especially with the removal -- mass removal of First Nation children, is really a humanitarian type of crisis.

And when you take a step back and you look at the whole situation you realize, you know, people or groups of people that are facing humanitarian types of issues with respect to living in conflict zones; in the United States, migrant families being separated by various public officials; you look at refugees, people living in war zones; you know, you look at the lack of housing, the people being put in detention centres, assaults on personal dignity, exploitation issues, abuse of those responsible for protecting people; really, you look at that from a very high level and it’s really happening to many First Nations people in Canada, despite them being
citizens. They’re not facing -- you know, they’re not immigrating anywhere, but they’re really put in very similar situations, in very similar infrastructures or detention centres.

I was wondering if you can -- is there anything from the international humanitarian law that you’re aware of that may be able to -- that the Inquiry may be able to use to guide some of their recommendations?

**Dr. Mary Ellen Turpel-Lafond:** Yes, I think the issue that you identified, it is a humanitarian crisis and the Federal Minister of Indigenous Services, Jane Philpott, referred to it as that when she had an emergency meeting in January 2018.

I think it has to be looked at through that international lens of United Nations Declaration on the Rights of Indigenous People, the Convention on the Rights of the Child, the international instruments around the prohibition of racial discrimination.

But I would just focus on UNDRIP for a minute; and again on Article 8, which really identifies states having to take initiatives to prevent the forceful removal of children. And while someone will say, “Well, that was one case,” when you step back and look at the fact that it really is all Indigenous children; I mean, it’s the bread and butter of child welfare in,
particularly Western Canada, but other parts of Canada.

That is a very serious issue and UNDRIP is significant to reframe how we think about things, but it does suggest some very powerful concepts from an international perspective, like ethnocide, which is an international concept around purposefully stripping the culture and the identity of a child as a vehicle to change the culture and repress the culture.

I think these are really significant issues and I know when the TRC reported and looked at some international dimensions of what happened with residential schools, these are serious issues, and I think they should be seriously evaluated from a human rights perspective.

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

**MR. STUART WUTTKE:** All right, thank you.

**MS. CHRISTA BIG CANOE:** Next we’d like to call up the Treaty Alliance of Northern Ontario, the Nishnawbe Aski Nation, and Grand Council Treaty 3. Ms. Krystyn Ordyniec will have six minutes.

**MS. KRYSTYN ORDYNIEC:** Good afternoon, Chief Commissioner, Commissioners.

I’d just like to acknowledge Treaty 1 territory, the Elders, the prayers, the medicines. And as well I’d just like to take a second to acknowledge a conversation I had with one of the community members who
is with us today. And I thank her for reminding us that, especially on this difficult day, she reminded me that when we change one life we change the world.

So I just wanted to say thank you for your evidence today and thank you for being here.

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

MS. KRYSTYN ORDYNIEC: My name is Krystyn Ordyniec; I represent the Treaty Alliance of Northern Ontario, so it’s 77 communities in northern Ontario, as well as eastern -- north-eastern Manitoba.

Dr. Turpel-Lafond, I’d like to begin with something you said to my friend from the Battered Women’s Support Services Centre when she asked about recommendations, and you said that, “It’s up to the next office holder to push this through”.

And I wonder if you could speak about, we have volumes of inquests, inquiries sitting on shelves, and in this particular situation, what would have had to have been different in that report to ensure that it didn’t just get pushed to the next person; to ensure that that recommendation was seen through?

DR. MARY ELLEN TURPEL-LAFOND: Well, I think the issue is making recommendations that lead to change. But when there’s a lot of different systems that are either because they’re not serving children and
families, they’re not there; it’s actually really having
that point of accountability across systems. And when it
comes to Indigenous children, often they’re so -- like,
their priority is so low in the health system, their
priority is so low in the justice system, they’re overly
involved in the child welfare system, so they lose their
natural family advocates, so you don’t have that prior --
that point of accountability.

So I think it is important, like we talked
about a national focus, it’s just continuing to have that
accountability in every system to say, “What’s happening
with Indigenous children and families? Are they receiving
appropriate services? Do we have cultural competency?
Are we making sure that they’re safe and healthy and have
the best outcomes, and how are we working on that?”

So it’s really early days in changing these
systems. These systems are still very much old-school
systems, and we have to remember a lot of these systems
work a little bit like a fast food model. Like, you’re a
file I see, you’re in, you’re out; you’re in, you’re out;
you’re in, you’re out. It’s like a drive-through model.

And I see one of the Commissioners shaking
her head because she’s been in the justice system so she
knows well what it’s like, and she’s also been working in
her career to establish more comprehensive services for
families instead of taking them through all these doors.

So I think that that’s one very big issue in provincial systems, is you make recommendations and you can impact one side, but sometimes you need that point of leadership.

And it also speaks to why you really need Indigenous leadership, and Indigenous women’s leadership to be able to understand that lived experience.

MS. KRYSTYN ORDynyEC: Thank you.

I’d like to move to the report “Safe With Interventions,” so I think it was Exhibit 25. And one of the recommendations from the youth was that perhaps parents should be removed from communities for treatment and support rather than apprehending young people from the communities.

Could you speak to that and if you would agree with a different approach than, obviously, apprehension from communities, especially remote communities?

DR. MARY ELLEN TURPEL-LAFOND: Yeah, I think the idea that you don’t always have to, like, have the children removed. And I think the interesting thing, and it comes back to the comment I made earlier which is children are remarkably bonded to their parents, and sometimes they have a profile and trauma bond because
they’re abused, but they will invariably say, “I want my
parent to get help.” I mean, it’s very rare. I have had
cases where kids have said, “I hate my parent. And
they’ve done this to me and I’m never going to ever have
that.” Because of a certain Indigenous perspective, one
of the things is to promote relationships over time and to
allow people to have time and space. Because in kinship
communities, you just don’t do rejection because it
doesn’t work very well.

So that piece about the kids want parents’
needs to be met. And sometimes a parent who’s in the
throes of serious addiction, or has psychosis as an
example, yeah, of course they need medical care; they have
an urgent medical situation. So they do need support and
they do need to be removed and they -- when they are
healthier, the child’s happier. And the child wants their
parent to get support.

So, I mean, I’ve never met a child -- like,
the example, of course, is Page. Like, she wanted to be
in the SRO or the shelter with her mother, even if that’s
-- if that’s what it meant to be with her mother, that’s
what she would do. And the idea that she wanted to take
care of her. I don’t want children to be the carers of
parents; I want systems to care for parents, but kids want
their parents to receive support, just like they want
their siblings to receive support. And that’s the perfectly normal, healthy thing.

And many families in Canada have parents that have struggles and they get support and they still can be a parent. It’s just for Indigenous families, the support doesn’t come and so they tend to be broken up.

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

And I think for my last question -- I’ll have time for just one more -- something that I would suggest is the criminalization of the healthcare system such that for the first time when a youth or a young person is -- has contact with medical attention or medical care is when they’re in contact with the justice system. And I wonder if you could speak to that and the harmful effects of that being the time of either a diagnosis or ...for the first time that they would get help?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. So, I have done quite a bit of work in the youth criminal justice system in particular, and I have two thoughts about that. One is, first of all, a lot of places, they don’t get a lot of health support, so it is not very good. Other places, it might be the first time they actually get health support. So, British Columbia and Québec have the lowest rates of incarceration of young people, and I worked very closely in the youth justice system in B.C.
Whereas in Saskatchewan have one of the highest rates, and when I worked there, it was unnerving because the health system isn’t integrated. B.C. it was.

But, what happened, we had kind of a pact in British Columbia and the youth justice system with the Director of Youth Justice, which was we would never have a young woman that is pregnant in jail. And so, we had this understanding. It was a good pact. And, I’m like, “If I find out there is one kid,” and he was like, “Okay,” and we held him to account on everything. And, any woman -- young woman showed up who was pregnant, for instance, got maternal fetal health care and got placed. And so, it was like a prevention program.

So, actually coming into Youth Justice could end up really well, because we get family support and change the dynamic, get them out of custody, but that was a really deliberate plan; okay? That was well -- and as a result there were a few kids, as opposed to other provinces where you are -- where it is like a parade of constant unmet needs. So, Youth Justice isn’t a substitute for social services, but sometimes there is no wrong point. So, my view is if you have someone -- a child, a young person that is in need, they have obvious health issues, I don’t care what door they come in, how about we meet their health needs?
The other thing that we did in British Columbia, not totally successfully, was I wanted every youth that left custody, an Aboriginal youth, to have a doctor to go to. Like, “Well, we’re going to give you this,” right? We weren’t able to do it completely, but ones that were expectant parents or parents, we really went out of our way to do that, because it is like the care. It is not just a justice system. It is a care system. And, I think some of that thinking is really important, so don’t silo the justice system to be this harsh thing, because people -- even teens in the justice system are parents.

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

MS. CHRISTA BIG CANOE: Thank you. I would like to invite up Ms. Carly Teillet for the Liard Aboriginal Women’s Society. She will have six minutes.

--- CROSS-EXAMINATION BY MS. CARLY TEILLET:

MS. CARLY TEILLET: Tansi, bonjour and good afternoon. I -- as mentioned, I am Carly Teillet, and I am Métis from the Red River Community, and I would like to express my gratitude today and for this whole week being able to do this work at home in the Métis homeland and on the Territory of Treaty 1. And, I would like to take a moment to acknowledge the spirits of the women and the
I have the incredible privilege of acting
as counsel for the Liard Aboriginal Women’s Society, and I
am guided by and in the presence of some of our board of
directors. They are Kaska elders and grandmothers,
aunties and great grandmothers.

(APPLAUSE)

**MS. CARLY TEILLET:** Thank you for your
strong voice, and for your incredible work holding up and
honouring the lives of Indigenous children, and for
constantly showing everyone that they deserved better and
they are not forgotten.

The territory of the Kaska people is in
Northern B.C. and Southern Yukon, and they are proud to
live on unceded Kaska lands with a strong community that
is connected to their traditional lands, children, to the
future generations and, as they say, to those who walk
behind them. And, I would like to note that yesterday I
misspoke when I mentioned that they were negotiating a
treaty. The Kaska Nation is currently working to have
their self-government recognized by Canada.

So, in the Yukon, the Liard Aboriginal
Women’s Society has been trying to collect information
about their citizens, about their children, about their health, their medication, where they are. One of the elders shared that, at one time, she was a foster parent for sisters in the community, and she wasn’t successful in trying to keep the children together, and that one of the children was taken away, and that child became depressed, was then labelled and medicated.

Another elder shared a story about a family member’s child being taken into care, and then subsequently labelled for having behavioural issues and medicated. But, when the child came home to visit, she took the child out on the land and she said, “He slept so well on our land. All he needed was to hear from his elders and to learn from the land.”

Now, I asked the elders, “When you make your little ones’ mittens or moccasins, do you know if the children get to take those with them when they are removed and taken out of the community?” And, the elders answered in one voice, “We don’t know.” And then one said, “When they’re gone, they’re gone.”

They want to know where their children are, their grandchildren, their great grandchildren, and they want to know how they are doing so that they can support them, then, at the vulnerable time when they are finally let out, or released, or aged out of the system. They
need to know, are they being over medicated and -- or are going to need help accessing those medications to transition them back into the community? And, importantly, they want them to know that they are Kaska children, where they come from, that they are wanted and that they can come home. That is something they can’t plan for if they don’t know where the children are, if they don’t know how they are doing.

And so, this afternoon, you discussed how there is inadequate information collected in several areas and how simply paying attention to something improves outcomes. And, I noted that there are many recommendations in the reports that were put into exhibits about information. And, you discussed how you, in your role, struggled to get information from the Ministry, and in particular, Recommendation 5 on page 62 of the report, When Talk Trumps Silence, mentioned making public reports about the safety and well-being of Indigenous children in care.

So, building on that recommendation, would you then recommend that information about Indigenous nations children needs to be shared with family and community when it is safe to do so?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes, absolutely. First of all, I think you have really
described the situation well that I saw repeatedly, which
is members in community, particularly grandparents,
matriarchs, want to know what happen to children. And so,
they should. At the same time, I have worked with
children who want to know where they are from, so what a
terrible disconnect.

But, in the reports that I have done, and
there is another report that was done in British Columbia
by Grand Chief Ed John on the child welfare system, and he
echoed the same point, which was -- it was focused at this
point more at First Nations, but saying that First Nations
need to know where their children are and who they are.
So, what I contemplated and Grand Chief Ed John reported
on was that the Ministry for children and families would
actually work with communities, and give the names and
start working on them. There has been a lot of barriers
to do that.

So, first of all, in British Columbia,
there are privacy barriers. They won’t release that
information. So, they may engage the community on a case
by case basis, but they won’t give them the full
situation, and that is a really big issue. Even we talked
earlier about Splatsin and the bylaw and the work that
they have done with Kukpi7 Wayne Christian, even they had
the same issue which is, there are these kids in
Vancouver, they are from our nation. So, the privacy wall is a really hard privacy wall when you have had this systemic removal of children.

So, to come back and -- well, first of all, we shouldn’t have that removal. There should be ongoing links; right? So, we need to stop that part. We need to work on the roots of the children and connecting. And, we have some good homecoming programs that are -- been offered in -- Haida-Gwaii run some really strong homecoming events with their children. Other nations, like I said, Kwùmut Lelum is one and Vancouver Island, some Salish peoples are doing really strong work. But, the fundamental issue is the right to know where your children are. Does a nation have a right to know who their children are? Or can the provincial system tell them, “Sorry, this is private. We won’t tell you.”

So, where that lands right now is the provincial system says it is private, we won’t tell you. And, it is a really frustrating situation, because (a) you can’t plan for the future properly, (b) you can’t do all of the work, because it is not just those kids and young adults, but it is their children. So, as nations are reaching out to find out, they hit that barrier.

And, again, like we saw that young person on the tape today talk about -- she gets her file. Like,
how is she going to go get her file and then say, “Oh, I am Haisla (phonetic), or I am Kaska Dena, or I am Haidar (phonetic), I am Cree,” and then she is going to go off to go figure all that out. Like, that is a very big path to walk. I mean, I’m not saying we haven’t seen it before, but her -- and she probably wonders, like, how come they don’t care about me? And, I saw that a lot. How come my community doesn’t care about me? Well, they don’t know about your situation unless we connect.

So, that privacy issue is a very significant issue, and I think if we’re looking at some kind of federal resetting of this area, particularly for some legal reform, expressing the right of Indigenous governance to know about their children so that they can have the right -- children can have the right to know their families, and the community has a right to keep them connected.

There are some cases where I’ve had, like, young people say, “I don’t want them to know who I am,” you know, or really tough situations where a child is the product of a sexual assault, and there’s a lot of issues in the community because it’s a prominent individual who is still in a position of power in the community. So, they may say, “I don’t want that revealed.” There has to be discretion.
But, generally, for 90 percent, it should be open, but it really isn’t. It’s a locked system. It continues to be a locked system, and I think you’ve adequately identified it. So, the answer to the elders of Kaska Dene elders is they won’t tell you. You know, you don’t get to find out, which in and of itself is really problematic, because then you can’t do the repairing that you need to do.

MS. CHRISTA BIG CANOE: Thank you.

MS. CARLY TEILLET: Thank you.

MS. CHRISTA BIG CANOE: Next, we would like to invite up New Brunswick Aboriginal Peoples Council. Ms. Amanda LeBlanc will have six minutes.

--- CROSS-EXAMINATION BY MS. AMANDA LEBLANC:

MS. AMANDA LEBLANC: Thank you. Good afternoon. My name is Amanda LeBlanc. I am the interim President and Chief of the New Brunswick Aboriginal Peoples Council. We represent the rights-bearing Aboriginal people of the province who reside off reserve, and also offer access to all Indigenous people who live off reserve in the province.

I want to thank you for your strong testimony today, because I really appreciate how you are very clearly a very decorated academic, very experienced lawyer, but the way you present yourself and the
information is very easy for us non-counsel people here to follow, which I think is really important, especially for those at home watching. So, you make it easy for people to understand. So, I really appreciate your ability to do that today for us.

Earlier, you stated that the Indian Act has destabilized Indigenous nations; is that accurate?

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

**MS. AMANDA LEBLANC:** Can you just talk a little bit about your views on the relationship and the link between the destabilization caused by the Indian Act and the disconnect from culture and community that Indigenous families, and particularly children, have experienced in the child welfare system to this?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, I say that because of the history of the Indian Act. So, you know, from 1844, there was a kind of plan through the Indian Act to basically undermine the existence of Indigenous governments, and that plan was a particularly vicious plan, including leading into the 1920’s when the Haudenosaunee government was forcefully -- the traditional government was shut down. I think it went underground, it wasn’t shut down, but they attempted to shut it down.

So, there were these incredibly aggressive acts by the state to shut down Indigenous peoples’
governments, and actually, band councils are not governments. They’re actually derivatives of the federal government. They’re not even governments. They don’t even have legal standing. They don’t have legal personhood. They’re actually zero as a matter of law, which in and of itself is an incredibly offensive thing. So, the purpose was to remove that.

Now, I think Indigenous nations have had to work around the Indian Act and survive, and there’s been all kinds of things going on. It’s a complex story. But, the fact is the Indian Act was there to smash First Nations and to destroy them, and the residential schools were there to take the Indian out of the child.

And, as the residential schools were closing, they were becoming orphanages. And, as those changed, it was a child welfare system. So, I think when we think about the impact of colonial policies and practises in the Indian Act, the Indian Act stands as one of the most repugnant attempts to undermine Indigenous government. It also, through, as you will well know, the definition of who is or is not an Indian, the many amendments, the many cases that have been taken, destabilized matrilineal systems, destabilized families and attachment, prohibited who could be buried in their community, threw women out, and they couldn’t even be part
of their own community for burials.

So, I mean, the impact of legislation like that which continues to this day is astounding. I mean, it’s colonial, yes, but it’s extremely destabilizing. So, Indigenous governments, First Nations, Inuit, Métis governments, culture, laws and values were totally railroaded through these practises. Did they disappear? No, of course they didn’t, and it’s a testament to the resilience of Indigenous people that they didn’t. But, we can’t underestimate how all of these things interact.

So, when we talk about child welfare, we sometimes have to have a really big conversation. And so, when someone says, “How did that happen?” It’s, like, well, I’m sorry, you’re going to have to take more than a day. It’s going to take a bit of time, but it did happen through very definite actions by the state to crush Indigenous peoples’ identity and government.

And, it didn’t work, but there’s been a lot of damage, and the damage is now on the hands of Indigenous peoples and their communities to repair, and I think that’s probably a lot of what you must be doing every day in your work, because even concepts like non-status and non-status on reserve, off reserve, all of these concepts are incredibly offensive and create all kinds of barriers for children and families.
MS. AMANDA LEBLANC: Just to build off that a little bit, you’ve talked quite extensively about the need for federal policy, but also tools for accountability at a provincial level, because that’s realistically where this is playing out.

With that, the TRC has had very clear recommendations on how to deal with some of these issues. To the lay person, common sense would allow for applicability and implementation of these.

We often don’t see it like that, though. We often see the government’s response to issues in terms of the ability for First Nations communities to be able to implement it. We need money. We need the funding for that. We don’t see health care at a provincial level — we don’t see provinces competing and submitting proposals that last one year for their health budgets. Yet, for international -- or sorry, for Indigenous organizations, that’s often what we’re forced to do. We’re forced to compete and kind of undercut each other. And, it’s the people who have the most capacity who are in a better position to receive those monies.

So, with your recommendations to have very clear and concise recommendations going forward from this Commission, how can we ensure that any policy changes either at a federal or provincial level, that we hold them
accountable, that it’s not going to be something as
offensive as project funding, but real sustainable,
meaningful, long-term core-like funding or something like
that, how can we ensure that?

DR. MARY ELLEN TURPEL-LAFOND: Well, I
think there would have to be very direct recommendations
that are well crafted to support that, because if you’re
not absolutely clear, the message won’t be heard. So, you
have to be really crystal clear. They’re not going to
figure it out on their own; right? And, particularly in
the context government, it’s hard to push for change for
things that they’ve done for a long time to be done
differently.

But, when we’re talking about the magnitude
of issues we’re talking about today, about how families
are in this incredible state of needing to repair from all
of this damage that’s been done, you know, it has a cost,
and it continues to have a cost. And, as I said earlier,
we’re paying for bad outcomes.

You know, there’s a cost to bad outcomes,
there’s a cost to good outcomes. I’m not saying it’s a
simple matter of economics, like, in and out. But, the
point is there’s also the reward that comes with the
system that works well. And, I used the example earlier,
I think, of this one agency, Qualmet Laylam (phonetic) on
Vancouver Island where the last three years hasn’t had a single removal. Yet, the number of removals of children at birth in the provincial office is high. It’s one of the highest in all of the province, yet they haven’t had a single removal. And, they’ve done that because those nations have put all of their resources into making sure that doesn’t happen.

Now, is it sustainable? Probably not. They need proper funding but, you know, they’ve done that. I mean, I think they’re probably saving the system a lot of money and they’re doing a lot of repair. So, I’m confident that with good recommendations and good coordination that things will change very significantly, and I’ve seen examples of good change. But, people need support to make change. Not every place is going to be able to do that. And, even Qualmet Laylam as an example, like, they want to support others. You know, they want to be networking. Like, the child welfare work that’s being done by a tribal government, that’s great. They want to network with others. And so, they should, and we should make it easier for them to do that.

MS. AMANDA LEBLANC: Thank you.

MS. SHELBY THOMAS: Thank you. Next, Commission counsel would like to call Vancouver Sex Workers’ Rights Collective who is represented by Ms. Carly
Teillet, and she will have six minutes.

--- CROSS-EXAMINATION BY MS. CARLY TEILLET:

MS. CARLY TEILLET: Tansi, bonjour and good afternoon yet again. Because it is important to do so, I would like to express my gratitude at being home on the lands of the Métis Nation and in Treaty 1, and to acknowledge the spirits of the women and the girls, their families, the survivors, the elders, the medicine and all of the sacred items that are here with us today.

And, as I mentioned before, I am Métis, and I was born here in St. Boniface, and I also have the honour of acting as counsel for Indigenous women, and LGBTQ, gender fluid and two-spirit individuals who engage in sex work and trade in Vancouver’s Downtown Eastside.

Now, this morning, I was struck when you said “social workers have incredible power to knock on the door and take children, more power than I would ever grant in a warrant”, because there is this presumption that generally speaking police can’t enter your home without having talked to a judge or a justice of the peace. There are legal tests. Yet, for the removal for a child, breaking apart a family, that only comes before the court after the child is taken.

Dr. Blackstock spoke yesterday about the importance of highlighting the requirement in so many
pieces of children’s and family legislation that removal will be the last resort, or that all alternatives to removal be explored, and she thought this might be an area where we need to challenge in the courts the removal of the children. And so, I want to ask you from your experience, both as the child and youth representative and as a former judge, would you comment on whether you think it would be useful to have a judge or justice review a potential removal before the child is taken?

DR. MARY ELLEN TURPEL-LAFOND: Yes, I think it is really important. And, I think what is important in any system is checks and balances. And, for Indigenous families and communities that have very limited access to legal resources -- and, again, I point out -- I was talking about the Indian Act earlier, just remembering that it wasn’t until 1951 that First Nations under -- anyway, because of the prohibitions in the Indian Act could hire lawyers for counsel, let alone have resources to do that, those barriers are huge.

When the checks and balances -- checks and balances -- I mean, having been a judge, and I know one of the honourable Commissioners has sat in that role as well, you know, someone gets to make a decision. And, one of the issues in bureaucratic systems is, sometimes you don’t know where to go to get a decision. So, you have had your
child removed, and you just -- you are in, like, a crazy circus. And, I have certainly helped a lot of families where it is like, “We don’t know where,” -- well, ultimately, you have to get into court and there is going to have to be a decision taken with information in front of a judge. That is a very high barrier, not to mention a lot of judicial centres, these things could be delayed for years.

I have had kids, in my experience, in -- they have only had a presentation hearing, yet they have been removed for seven years. They have never even had their hearing. I mean, it is not unusual, and of course they happen to be Aboriginal kids, largely. So, the justice pieces to it are critical. And, the idea of having an authorized -- checks and balances are critical. So, the power, no one else has more power.

On the other hand, protecting children is important; right? I understand that. But, when the power is so extensive, such as the power of a social worker to get every one of your health records and read it, I mean, no one else has that power. I mean, a police officer wouldn’t be able to get a warrant to get all of your health records. They might be able to get, you know, very limited, but they would have to prove under very strict tests. Nobody ever challenges it. So -- and, also, you
wouldn’t even know they had your records.

So, just that component is a very extreme level. There is no -- I would say to you there is no other agency that has that degree of power in society that I know of. And, I was always very mindful, and I continue to be very mindful of that, because that is where I feel there has to be accountability, checks and balances, and when it comes to, for instance, Indigenous families, changing that test, like you said, like Dr. Blackstock indicated, I would be in full agreement with her, we need to put in that best interest of the child reset, least intrusive measures. You have to demonstrate that you have taken steps. You can’t just remove, because it is just too easy to remove and leave, and then put them in a system.

So, least intrusive measures is critical, but checks and balances, I mean, judicial authorization -- I mean, I have had -- as a judge, I have had mental health teams show up at my house in the middle of the night to do a mental health warrant. I mean, you work the telephone, you all get assigned, you do it, you can’t remove someone and place them in a hospital for their own protection without getting authorization of a judge, yet you can remove.

So, I am not saying it is the only answer.
It is just there is a certain level at which the decisions are taken and, after the fact, the family has to fix the issue and then they don’t feel heard. Even if they had a little bit of a chance to be heard some other places, I think it could help develop some balance.

**MS. CARLY TEILLET:** So, for my last question, I want to talk a little bit about housing. So, one of my clients, WISH, runs an overnight drop-in shelter in the Downtown Eastside, and they have approximately 300 women that use the drop-in centre. Now, they also operate a mobile access van, and they -- stats from 2017 say that between 500 to 1,000 interactions with women a week in the van. These are women that are not going to the shelter.

And so, you showed a picture of one of the shelters in the Downtown Eastside and you said, “This is not a place to raise a child,” and my clients agree, their shelter is not a substitute for a home, but the problem is, where are the homes? They are not available. So, when a woman leaves a situation of violence with her children, she might only be able to take her children and nothing else.

And, you had said you would like to see no children being removed for poverty. Well, in the Downtown Eastside and in many other areas of Canada, children are being removed because there is no housing, or inadequate
housing, or over crowding. So, would you extend that
recommendation that children not be removed for poverty to
say that children should not be removed because of
housing?

DR. MARY ELLEN TURPEL-LAFOND: Yes, I think
the issues about housing are very significant. And, I
have seen situations where children have been removed
because of housing. And, I have also seen situations
where we have been able to become engaged and even have a
transition plan where there are some temporary -- even if
it is hotel accommodation for the family, I mean, find
something other than removal. I think those are wise
investments.

But, I think the shortages of, for
instance, for Aboriginal people, family supported housing.
Like, there might be shelter space for one person, but it
is not the family, and that is what we saw with Paige.
And, that was just one child. It is, you know, when you
have a larger family unit, it becomes more complicated,
but
we know that we have the need.

So, Aboriginal-focused housing, supportive
housing -- I mean, there have been some limited
investments, but they should be given a priority on
placement for women and families where the children are
facing, you know, possible removal. So, there has to be a priority set on that group that are vulnerable. So, more support in that area is absolutely needed.

Some parts of the country, it is better than others. Some, it is very acute. And, as you know from Vancouver and from British Columbia, we have the unfortunate situation of having tent cities develop. And, in some of those tent cities and different parts, there sometimes are young people and families, and that is a very significant concern, and I think we really need to think about that in terms of the vulnerability of Indigenous families and making sure that we have adequate housing.

MS. CARLY TEILLET: Thank you for that. It has been honour to talk with you.

MS. SHELBY THOMAS: Thank you. Next, Commission counsel would like to call Pauktuutit and all, and they are represented by Ms. Beth Symes who will have six minutes.

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

MS. BETH SYMES: Dr. Turpel-Lafond, my name is Beth Symes, and I represent Pauktuutit, which are the Inuit Women of Canada; the Inuit Women of Labrador; Saturviit, which is the Inuit Women of Nunavik; the Ottawa Inuit Children Centre; and the Manitoba Inuit Association.
I want to begin in Iqaluit, we learned how important it was to count. And, for Inuit, with numbers comes money, programs, et cetera. So, my first question is, in British Columbia, does the government disaggregate Indigenous numbers into First Nations, Métis and Inuit.

**DR. MARY ELLEN TURPEL-LAFOND:** It does, but only in certain systems. So, in the education system, it does. So, the Aboriginal identifier in the child welfare system is just Aboriginal. It may have a status/non-status, but it’s not highly specific. In the education system, it is more specific. So -- and then in the health care system, there is an identifier that has more detail.

So, the challenge we see is sometimes one system does and one system doesn’t. But, could they do that? Yes, you do data matching and then you can find out. Have they reported that? Not very much.

**MS. BETH SYMES:** And, we’ve heard so much that the best care for a child is one that is culturally appropriate. And so, for an Inuk Child in British Columbia who comes into care, it’s critical to know that that child is Inuk, or else it can’t even begin looking for the proper care; isn’t that accurate?

**DR. MARY ELLEN TURPEL-LAFOND:** That’s absolutely accurate.

**MS. BETH SYMES:** And, once again, then,
could we recommend that in the area of child and family services, as Ms. Hensel so eloquently put to everyone about beyond the best interests of the child, it is essential to count, essential to disaggregate Indigenous into its components so that the Inuk child is not left at home?

DR. MARY ELLEN TURPEL-LAFOND: Absolutely. I would say that probably of all the children, the Inuit children will be most vulnerable to not being appropriately identified. I would say Métis would be second and First Nations would be third, in my experience, but Inuit would be the most vulnerable.

MS. BETH SYMES: You said that in your 10 years as being the representative of children and youth in British Columbia, you wrote, or your office wrote, some 90 reports. I have to say you or your office are compelling authors. You have produced very powerful advocacy documents and that that power of them, I suggest, has made a profound difference in how children -- the lives of children, especially children at risk, are considered in the public opinion. Was that deliberate?

DR. MARY ELLEN TURPEL-LAFOND: I think the -- I think it’s important to do the work, and I do think that there is some Indigenous methodology that comes with it, which is a very basic point, which is stories are like
a kind of medicine. They can heal and they can hurt.

And, I think it’s very important to tell stories from a perspective of the real lived experience, but also, with a much stronger healing emphasis. And, what is healing is truth telling, and unvarnished truth telling is very significant.

And so, that represents a bit of an Indigenous methodology mirrored with, you know, various approaches, but I think the idea that telling the lived experience of people is very important, and seeing statistics is also critical for some people, but understanding something like Paige’s life, you can’t understand it unless you really see it, and I think that that’s one of the key issues in the hidden experiences of Indigenous people in the child welfare system, and the hidden experiences of Indigenous women is not seeing it and not seeing it in terms of its full lived experience. So, that’s a part where it’s not perfect, but I think it is a very significant kind of -- stories are a kind of medicine, and they’re extremely empowering, and valuable if they have that component.

They can also be very toxic and harmful if it’s not appropriate, and it’s not with families, and it’s not with communities. That can be a really bad place. So, it’s a challenging space.
MS. BETH SYMES: Dr. Turpel-Lafond, in this area, which quite frankly is simply a wash in jargon, you have deliberately, at least it appears, deliberately chosen to write in simpler or plain language, and that was a conscious choice?

DR. MARY ELLEN TURPEL-LAFOND: Absolutely. I mean, people have to understand what’s happening, and there’s a lot of babble that’s expressed in many professions, not to mention the legal profession myself that I come from, and I think plain language is very significant. And, if you can’t explain something in plain language, then you should be writing.

MS. BETH SYMES: And, given your approach, do you understand that you then won the hearts and minds of not only people of British Columbia, but across Canada, and you therefore raised our consciousness with respect to this as a pressing public issue?

DR. MARY ELLEN TURPEL-LAFOND: Well, I think it -- I don’t think it’s really me. I really think it’s about the story and, like I say, making sure that it can be told. And, when you look at the experiences of -- again, I’ll take Paige as an example, they deserve to have their story told and to have it told in the best way they can. I’m not perfect at it, but the best way they can
story. It provides some -- it’s never going to provide peace to that family, but it provides understanding.

And, for a lot of families, my experience was if they knew what happened, it provided them with a type of understanding that allowed them to have some personal reconciliation. And so, I think that’s a very important ethic and, generally, that should be observed. And, it’s not easy to do it, and I’m sure there’s always going to be someone that’s unhappy about it, but I think finding that is really critical, is not to do things that are over there and are disconnected from the families and the loved ones, because again, I think with Indigenous peoples’ experiences, it has all been so disconnected that there’s no power put back in the family and community, which is where it should be placed.

MS. BETH SYMES: I wish you ever success in the next stage of your fabulous career. Thank you.

MS. CHRISTA BIG CANOE: Thank you. Next, we would like to invite up Animakee Wa Zhing #37 and other First Nation communities, including Obashkaandagaang First Nation, Eagle Lake First Nation, Grassy Narrows, Ojibway Nation of Saugeen. Ms. Whitney Van Belleghem has 10 minutes.

--- CROSS-EXAMINATION BY MS. WHITNEY VAN BELLEGHEM:

MS. WHITNEY VAN BELLEGHEM: Good afternoon.
I would like to start by thanking the people of Treaty 1 and the Métis Nation for having us here today. I would also like to acknowledge and thank the families and survivors here with us, the elders, the Commissioners, the Inquiry staff and the witnesses.

As was indicated in the introduction, I have the privilege and honour of representing several Anishinaabe nations that were granted joint standing, Animakee Wa Zhing #37, Asubpeeschoseewagong First Nation, the Ojibway Nation of Saugeen, Grassy Narrows First Nation and Eagle Lake First Nation.

I’d like to start by discussing funding and the role that plays with preventative services. During your evidence this morning, you mentioned that there’s a need to shift the child and family welfare system to being prevention oriented. You mentioned that one of the challenges in achieving this is frontline coordination.

Can you provide more information about the systemic and funding barriers that may affect the on the ground ability to provide effective prevention services on reserve in First Nations?

DR. MARY ELLEN TURPEL-LAFOND: Yes. I think the issue about prevention is about preventing, and what we’re preventing is what are the presenting situations in communities that cause child welfare to
become involved?

So, again, the top three that we’ll come back to again, and again, and again are poverty issues that we’ve talked about, addictions issues and parental addictions, and violence, family violence. The smaller issues, not as frequent but they’re still there are sexual abuse issues and others, but those are the big issues.

So, around prevention, it’s what kind of services and supports are in community? And, communities have not been funded to do parenting programs, to do supports in those core areas. And so, they’ve seen that only recently, since Human Rights Tribunal has there been some resources, and I’m not sure if the nations that you are representing have an agency or not that they benefit from. But, there’s a real disparity that has now developed between those nations who have an agency and those who don’t. And so, we’re seeing a second level of kind of no prevention.

So, it might be -- like, if you take a nation that’s in an agency and one beside that isn’t, this one might be funded at a magnitude of 100 times of this one today, because again, we still have these funding issues, but they may be both Anishinaabe nations, and they may have the very same issues and may have families related to each other, but one will get some funding and
one won’t. So, these are very chaotic funding approaches, and they’re in flux, and they affect what can be done, because there’s been some one-time money around the Human Rights Tribunal, like one year or two year, but these programs take time. Like, you need to be able to invest for a five-year investment and recruit.

So, if you only have someone -- like, here’s your one-time funding, then it’s very hard to develop, as I’m sure you know, particularly in remote communities to develop your resources and your programs if they’re going to be just shut down.

MS. WHITNEY VAN BELLEGHEM: Thank you. And, can the funding model and the command and control system associated with delegated Aboriginal agencies reduce the resources available for providing prevention and support services?

DR. MARY ELLEN TURPEL-LAFOND: I think you’re going to have to help me understand that question a little bit better. Can you give me an idea about what you’re thinking about how the delegated agencies do that?

MS. WHITNEY VAN BELLEGHEM: So, in terms of the funding model, some funding models, they receive more funding based on the number of children in care.

DR. MARY ELLEN TURPEL-LAFOND: Right. Okay.
MS. WHITNEY VAN BELLEGHEM: So, I guess my question is, does this funding model ---

DR. MARY ELLEN TURPEL-LAFOND: Yes, does the model itself drive the problem?

MS. WHITNEY VAN BELLEGHEM: Correct.

DR. MARY ELLEN TURPEL-LAFOND: Yes, it does, and I think Mr. Wuttke for the Assembly of First Nations touched upon that earlier, which is we have these legacy formulas, like 20-1. Like, they’re old policy directives, and they don’t make any sense, and you get paid -- it’s like a nominal role for school. You get paid by how many kids are in care, not to do prevention. And so, it almost serves the purpose to remove children.

Those are problematic, and I think the Human Rights Tribunal has been very clear to say that is tantamount to discrimination. And, although that Human Rights Tribunal only applies to the federal level, I think a lot of us see analogy in the provincial systems as well.

MS. WHITNEY VAN BELLEGHEM: So, keeping that in mind, what legislative or policy reforms might you recommend to support First Nation communities with ensuring that child and welfare services they receive are focused on prevention?

DR. MARY ELLEN TURPEL-LAFOND: Well, first of all, I think the Truth and Reconciliation Commission
calls to action are pretty important. They’ve been sitting there for a number of years, and TRC Call to Action 4 is about having comprehensive rights-based transformative child welfare legislation to create a better foundation for all of this. And then under that, obviously some funding.

And so, funding formulas need to be based on core funding, capital funding, you know, needs based or equity-based funding. I mean, these are basic funding principles very similar to the same funding arrangements that are in place for health care and other federal provincial arrangements.

So, Indigenous governments should be funded under a proper formula, and that formula should take into account all of the normal operational costs of child welfare. And, I think as I said earlier, just taking Saskatchewan as the example, there’s a reason why it costs more than $1 billion a year to run the child welfare system. Like, it’s a cost, and that’s probably almost 80 percent, if not 90 percent, Indigenous children already. I mean, that’s a provincial expenditure.

The idea of how you fund and what you do, this has to be fundamentally rethought. And, I appreciate it has been blown up through the human rights process, but something has to come back that makes more coherent sense
for funding a social-serving sector and allows Indigenous
governments to plan and deliver and support their
families.

**M.S. WHITNEY VAN BELLEGHEM:** Thank you. I’d
like to change gears a little bit and talk about the
impact that placement has on children. Would you agree
that it’s beneficial for a child to remain in the
community instead of being placed outside the community
where they may not have family?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
think it’s always beneficial for children to have
stability in their community, and with their family, and
their kinship family. If it isn’t with a kinship relative
in the community, if it can be with a kinship relative out
of the community, that’s fine, but they have to have the
connection.

So, the first preference should always be
to keep within the immediate family, extended-family
concept using the -- whether it’s Anishinaabe or other
concepts of the family, that would be the first priority.
That might be off, like, in an adjacent town or something,
but that concept of keeping the child. The child has a
right to be in their family. It’s actually a right under
the U.N. Convention on the Rights of the Child. It’s a
human right. So, it’s not just my idea; it’s actually a
human right. So, we should comply with their human
rights.

**MS. WHITNEY VAN BELLEGHEM:** Thank you.

Would you agree that aside from the negative impacts that
may immediately affect the child being placed outside of
their community that there’s also negative effects in
terms of the impact on the child to their -- when they
return to their family or to the community when they age
out of care?

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. I
mean, I would like to see children returned well before
they age out of care, and I don’t think any child should
grow up in care. The fact that someone grows up in the
foster care system and is not in a family is in and of
itself an incredible problem, because they’re drifting
through foster care. Foster care is supposed to be
temporary, meaning, you know, a month. It’s not supposed
to be you have it all your life, and Indigenous children
are more likely to grow up and spend their entire time in
care.

And so, that’s an issue that’s not
appropriate. So, yes, when they return, if they’ve spent
their entire childhood in foster care, and in some of the
cases I’ve had, and I’m sure you’ve seen in your own
communities you’re representing, they may have 20, 30
foster placements, and they turn 19. I mean, it’s incredibly harmful in their lives, and to repair and rebuild -- I know they can, but they’re in such bad shape, and the foster care system was not designed for people to be raised in. It was designed as a temporary emergency measure. Somehow, for Indigenous children, it has become normed that they can be raised in a foster care system and drift through that system.

So, absolutely the harm when they return. I mean, every youth and child is different. Every young person is different, but when they’ve had, like, more than five, 10 placements, it’s really truly awful what they’ve gone through, and their need to have a supportive person and family to process it, and it’s really hard for them.

And, also, sometimes their own relations will say, “Well, but you grew up in the city, and you had a nice house with your own private bedroom,” and there would be resentment toward what they’ve been through. So, the complexities of those conflicts are very deep, and I think they cause a lot of trauma on every side.

**MS. WHITNEY VAN BELLEGHEM:** Thank you. So, then, what recommendations would you make to support maintaining the child’s connection with their family and home First Nation while they’re in care outside of the community?
DR. MARY ELLEN TURPEL-LAFOND: Well, first of all, I think they should have the priority of placement that we’ve talked about. Furthermore, I think that it should be required that there be what I called early cultural plans, which means there has to be an operationalized cultural plan. So, you don’t just, like, go later and find out who your family is.

So, you participate in Treaty Day if you’re treaty. You participate in cultural ceremonies. You’re engaged with your family, you’re connected to your family. So, there isn’t that discontinuity between your identity, your culture and your time in foster care. So, that needs to be flipped. And, that culture planning is really significant, and that has to be a more mandatory part of the process.

And, like, you know, I audited culture plans, and a lot of them were really not adequate. It would be like the child -- the child was in a non-Indigenous home but it will say, “The child is exposed to Indigenous culture because we have a piece of art on the wall.” You know, or “The child is exposed to something because the child may be Anishinaabe and they’re in a Salish thing.” Like, there’s no tribal sense.

And so, it’s very limited. So, those plans need to be meaningful and connected to their family and
nation of origin. Like, not just pan-Aboriginal; family
and nation of origin. Their culture, their language,
their territory needs to be known to them. So, active
measures have to be taken to do that.

**MS. WHITNEY VAN BELLEGHEM:** And, that’s all
my time today, so thank you very much.

**MS. CHRISTA BIG CANOE:** Thank you. And,
the last party that we’d like to invite up for cross-
examination is Awo Taan Healing Lodge Society. Mr. Darrin
Blain will have six minutes.

**MR. DARRIN BLAIN:** Thank you. Chief
Commissioner Buller and Commissioners, good afternoon. I
also want to honour our hosts who provided us with a very
meaningful song this morning and quite a beautiful prayer.
And, to Annie for attending the qulliq today. Thank you.
It’s very much appreciated.

My name is Darrin Blain, and I represent
Awo, what’s known as a women’s shelter in Calgary called
Awo Taan Healing Lodge. It’s an honour for me to say
hello to an old friend today, Dr. Turpel-Lafond. You had
the privilege of teaching me in 1993 ---

**DR. MARY ELLEN TURPEL-LAFOND:** And, you’re
not the only one. Mr. Wuttke, too.

**MR. DARRIN BLAIN:** Indeed. Indeed. So, I
hope that it was more teaching of me and not admonishing
... so it’s an honour to be here.

DR. MARY ELLEN TURPEL-LAFOND: Well, you’ve turned out okay, it looks like, so...

(LAUGHTER)

MR. DARRIN BLAIN: It’s an honour to be here with you, and it’s not every day that I get to appear in front of two of the best lawyers this country has to offer, both yourself and your counsel, Ms. Big Canoe.

(APPLAUSE)

MS. CHRISTA BIG CANOE: Thank you.

--- CROSS-EXAMINATION BY MR. DARRIN BLAIN:

MR. DARRIN BLAIN: Now, the beauty of going last is that all you and I need to do is take a walk through the evidence that the parties with standing have already laid out for us and put a bow on it, and give it to the Commissioners and we’ll call it good.

We are making a public record, of course. Some of my questions might sound redundant; they might sound like it was covered a week ago or earlier this week, so bear with me. We are making a record.

And, Dr. Turpel-Lafond, is it your affirmed expert opinion that given the systemic and endemic, professional indifference in the child welfare system, and of the failure of leadership in government in the child welfare system, that these are direct, contributing
factors of missing and murdered Indigenous women and girls
in this country?

DR. MARY ELLEN TURPEL-LAFOND: Yes, it is.

MR. DARRIN BLAIN: Thank you.

And I want to talk about the dusty white
elephant in the room. I know I’ll get into a taxicab
tomorrow at about 5 o’clock, I’ll make my way to the
airport and I’ll tell the cabdriver what I’m here for.
That cabdriver will say to me, “Oh, another report.
That’s just going to get dusty on the shelves and
nothing’s going to be done about that. Why are they
paying all you people to do this?” And I’m hearing these
things in taxicabs; Quebec City, Regina, Calgary.

So I wonder if we could walk together for a
few minutes and just brainstorm a little bit. You have
been certified by Ms. Big Canoe as an expert in general
law, and I wonder if we could impose upon you to
brainstorm for a minute or two about how this report can
have some sticking power; how this thing can have some
stay power; some foundation so that it doesn’t attract
that dust that people are talking about.

Can you help the Commissioners understand
what they can do in their report to help this thing stick?

DR. MARY ELLEN TURPEL-LAFOND: Well, first
of all, I think making the report reflect the information
that’s been received about the circumstances that families
have been through is incredibly impactful. I think in
terms of the recommendations to change systems, they need
to be powerful recommendations, and as we know with the
Truth and Reconciliation Commission, they didn’t call them
recommendations, they called them “Calls to Action”
because the Commissioners felt they were stronger than
recommendation; they wanted action.

So there may be some areas that are
recommendations; there may be some things that are calls
to action. So it’s important to make that distinction,
and I think building on what we’ve learned.

Certainly as one person I don’t see reports
as dust. I mean, I appreciate they don’t get actioned but
when I look at the importance of reports that have been
produced in Canada, like the Royal Commission on
Aboriginal Peoples, the report of the Truth and
Reconciliation Commission; these are really significant.
In my life, they’re very significant to me, and they’re
deeply meaningful and they’re impactful and I’ve seen a
lot of progress and change.

I’d like to see more progress and change,
and I wish we didn’t have to go through these processes
but they’re very important.

And so being focused on the subject is
critical. And the subject here that I have expertise on
is the treatment of Indigenous families and children. And
as I’ve indicated, the very challenging situation that
they’ve experienced in the systems that have blown up
their systems, and there’s so much loss and disruption in
their families. And that requires a very strong rebuke,
and that requires a very strong push in a direction that
will repair.

People can’t take away harm but you can
repair and systems have high degrees of accountability so
one of the things I would say is to be -- I won’t say
unflinching, but if a system has failed there must be
truth telling that that system has failed, and it’s very
hard to shellac that. And I think that’s a really
important piece.

And having said that, people need to get
over that part and then get onto the work. But if it’s
not truth telling, then it doesn’t do a service to the
subject.

And by that I’m not saying trying to
intentionally inflame people, but I think that this is a
very serious issue and a very serious set of
recommendations that must come out of this that will have
not only national impact, there will be international
impact. And we may need an international rapporteur to
monitor Canada’s progress on these recommendations.

(APPLAUSE)

**DR. MARY ELLEN TURPEL-LAFOND:** It may not be possible to do that within Canada, given the massive failure that we’ve seen and the impact of that. I would say that, I would not be afraid of that.

So I think you’re raising some very critical points; incisive, creative, but pointed recommendations are important and making sure those recommendations can go to a place that they will honour the information and the stories and experiences, that’s a very critical point.

So you’re not going to put them on the bookshelf. And some people will. There will always be people that ignore and say there’s nothing good to come of anything. There’re deeply cynical, jaded people in all professions, not to mention the legal professions. But I think they’re just a minority. I think most people will be very engaged and very responsive to the reports that are developed.

**MR. DARRIN BLAIN:** Yes, ma’am.

And thank you, Doctor.

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

(APPLAUSE)

**MS. CHRISTA BIG CANOE:** So Chief
Commissioner, Commissioners, that actually concludes the cross-examination.

I do not want to exert my right to re-direct but I do have one comment or question if you’ll allow me to make to Mary Ellen.

Mary Ellen, throughout this process we have offered the opportunity in both Part 1, 2, and 3, to any of our witnesses that if, you know -- I know that you didn’t -- you came with an immense amount of recommendations and knowledge, so we’re not saying you are required to provide us this, but I just want to invite you that should you, after leaving here and having given more thought to what you spoke about today, decide you might have some further recommendations, whether it’s in relation to how the Commissioners are making recommendations, tips, advice, or more specific recommendations, I invite you to please feel free to provide them to me as Commission counsel and I will provide them to the Commissioners and the parties with standing. And that’s not an obligation; that’s just an invitation.

DR. MARY ELLEN TURPEL-LAFOND: Thank you.

MS. CHRISTA BIG CANOE: And, again, it was an immense honour to be able to lead your evidence today. I feel like proximity of sitting this close to you just
makes me smarter.

(LAUGHTER)

**MS. CHRISTA BIG CANOE:** So thank you very much.

**DR. MARY ELLEN TURPEL-LAFOND:** Great.

**MS. CHRISTA BIG CANOE:** At this point, the Commissioners likely have some questions.

--- **QUESTIONS BY COMMISSIONER ROBINSON:**

**COMMISSIONER QAJAQ ROBINSON:** I’m the youngest so they make me go first all the time.

I do have a few questions. You used the term, “courtesy supervision,” and identified that as a huge concern. I’m hoping you can elaborate on that because I’m not -- I want to make sure I understand why it is such a concern, particularly because I know for the Nunavut Territory, likely the Yukon and the NWT, that these are tools used.

There are, as far as I know, no group homes in Nunavut, and no homes for those with serious needs. So this is, I suspect, a mechanism that’s being used across the Territories.

**DR. MARY ELLEN TURPEL-LAFOND:** Yes. The issue of courtesy supervision is kind of a fancy term for we’re sending someone somewhere else and we’re letting them know they’re going there, but they don’t actually
need to do anything about it. And if something goes awry, I guess you call back to the originating jurisdiction. But the courtesy part is not mandatory.

So this is a very complex issue because the guardianship of children from, for instance, the North, when they’re sent to other, like, provinces to receive, like, maybe because have complex behavioural needs or they have urgent medical needs, or other -- there is just no resource available, they need a guardian. So, just the legal concepts of guardianship.

Guardianship remains with the provincial director in the territory, but they are transferred out then in, say, a group home where it is a guest shared guardianship where day-to-day care is provided. So, there are some very fundamental legal problems with this construct, and there is a lot of laxity, there is a lot of looseness in the child welfare system to have this courtesy.

And, what we don’t get in Canada in the child welfare system is they have -- we have all of these systems that are provincial and territorial, yet you have these children moving between territories and provinces, and it is all left to an interprovincial protocol that is casual, and I -- actually, I did a report that caused them to change it, because we had a child move to Saskatchewan
from B.C. and critically injured there. But, it is all casual. It is all -- like it is not even a legislative basis. It is all policy.

So, courtesy supervision is just a polite way of saying, “We are sending someone somewhere else to do it.” And, again, we should always have the concept of, what will we do with our own children? You know, I have 16-year-old twins, and I would not send them to Nunavut to say, “Could you please give courtesy supervision wherever,” -- like I want to see where my kids are. And, if it was, like, just courtesy -- and it sounds like, well, kind of not even parented, is that going to be courtesy -- that is not going to be good enough to have courtesy supervision. I wouldn’t want that for my children. Why would we have that for children who come from the North and are sent to Southern placements?

So, that concept needs to be very carefully addressed. The practice of courtesy supervision, no interprovincial and national standards or regulation for the movement of those children -- and, I am willing to say, from my experience as president at Canada Council of Child and Youth Advocates, I would say the majority of them are Northern children and they are Indigenous, largely Inuit, children. And so, that is a group that would be not only underserved, but invisible.
So, it is kind of like the kids that are in hotels that are invisible in the Southern -- these kids are in courtesy supervision and things happen to them.

Serious things happen to them, because I have seen the reportables on the serious things that happen to them, and I wasn’t even able to investigate it, because they are not under the supervision of the director.

So, I would have liked to have done a report into a child that committed suicide, who was placed in a group home, who was Inuit on courtesy supervision, but that is not my job. So, I can’t advocate for them. I mean, I attempted to get them support in their home, but how can someone from Nunavut be an advocate for someone in Winnipeg? It is -- it doesn’t work. So, this concept is a very problematic -- it is like a no man’s land.

COMMISSIONER QAJAQ ROBINSON: And, the -- if there was -- there is an advocate and a representative now in Nunavut, but even with their legislated powers would have no authority to get anything from Ontario.

DR. MARY ELLEN TURPEL-LAFOND: That’s right. And then the other thing is, they have limited budgets too; right? So -- I mean, I stuck my nose in a lot of other people’s business when I was doing child welfare, just because families. Families come from everywhere. And, I tried a lot of times to get children
advocacy services in other provinces and territories, or find out how they were doing when they had siblings in another province. Remember, there are a lot of families that are blown up, and there are a lot of different places. And so, the lack of coherence across.

I mean, that is why federal legislation needs at least to be able to have some imperative and around the best interest of the child that they are not just scattered. And, you know, no child should be -- guardianship should just be passed that easily. These are very significant issues.

COMMISSIONER QAJAQ ROBINSON: I want to touch on the federal child welfare -- the legislation. I am not up to date on what is -- is there an appetite for the development of that legislation?

DR. MARY ELLEN TURPEL-LAFOND: I think there is a very strong appetite for it. I think the TRC recommendations were good recommendations, the call to action. I think it is very needed. I think the challenge, like all issues of legislation in Canada, is whether or not Canada can pass and develop rights respecting legislation, or whether it is sort of Indian Act 2.0, and I think that is the perennial challenge.

At the same time, I think it is possible to have very good legislation. I think it is needed. And, I
think it is the sort of thing that will have to be improved through time with the right emphasis on human rights, new definitions of best of interest of a child, which may have to have some principles around the interest of children from the North in particular.

And so, there are benefits. I mean, legislation is just one tool. It has to be implemented, but it changes -- it shifts things very quickly. And so, with the gaps and the danger that we have in Canada, it is extremely needed, and I -- my perception of it is that there is a very strong consensus to support it.

COMMISSIONER QAJAQ ROBINSON: Do you have thoughts on the mechanism of how it should be developed? There are concerns right now, for example, with the rights recognition framework, or even the passing of the legislation that was going to create -- make the United Nations Declaration on the Rights of Indigenous Peoples a Canadian legislation domestic law, yet we hear from Indigenous groups that that was largely done unilaterally. Sorry, big word at the end of the day. Do you have thoughts on how this legislation, at that national level, should be developed and who should be at the table?

DR. MARY ELLEN TURPEL-LAFOND: Well, I think it has to -- I think there is a lot of evidence of where it is going to come from, which is communities and
nations, and Inuit and Métis. And, certainly in the work
that I am doing more recently with the B.C. First Nations
Leadership Council, which represents all the First
Nations, they are not the rights and title holders, but
they are the organization, and some work that I have done
also with the Federation of Saskatchewan Indian Nations on
these issues in the last while, they have a really strong
position, and they have thought it out extensively, and
they have very sound proposals. So, they have done a lot
of work. And, I would hope that if legislation is going
to be developed, they will draw upon that.

I am not privy as much to the work with the
Métis Nation, but I have seen some of their material, and
there is a lot of consensus there. On Inuit, I understand
that there has been a lot of work on that. There has been
extensive work. And, as you say, there is a Commissioner,
there is Inuit women, there is all sorts of work that has
been done for a long time. This isn’t just new.

So, my instinct is that there is a lot of
strength to do it. The question is, really, I think from
the Indigenous side, the work that I have seen is they
want that transformative, rights-based, respectful
foundation. And, I would hope government would be more
open to that, which means, you know, not necessarily
talking about it. Like, they should table a bill that is
very informed by that, and then allow there to be a debate and hear from people. Like, that is the point. It is like, we are never going to get things perfect, but they need to get something and that response to that. Because even if we were to get a bill and get legislation, it is going to take time.

But, even -- as I said with the Hawthorne effect, the federal government providing leadership to address things like courtesy supervision will just automatically help courtesy supervision, because those kids that are now under courtesy supervision, everyone is going to say, “We’ve got to do a better job for these kids.” So, you prime the system for change by showing the leadership. So, that, I think, is very important.

But, federal government is not used to the field of child welfare. It is generally a provincial field. So, not surprising -- they probably don’t have a lot of in-house expertise, but they could work with Indigenous representatives and I think they could have a lot of success.

COMMISSIONER QAJAQ ROBINSON: Thank you. A lot of the factors that play into apprehensions that you have shared with us and that we have heard regularly are issues like housing, poverty, health, education and those services. And, when we were in Calgary and had a
representative from the Indigenous services branch of
INAC, I think that is what they are called now, talk about
FNIH, First Nations Inuit Health, and other services that
they provided, and they take the position that these are
not rights-based.

And, I am wondering from your perspective,
absolutely child -- child welfare, child protection needs
to be rooted in a human rights, Indigenous rights
framework. But, these other services that have such
foundational impact, the state does not look at them and
the services that they provide in those areas as being
rights-based. And, I worry about failing to do that in
conjunction with properly recognizing the rights of
children in a child welfare context. And, I think that
that step needs to be taken as well, that recognition of
human rights as they relate -- or medical education,
housing, socio-economic, all of these rights being
recognized domestically as such, and funded as such and
entrenched in our legislation as such. And, I am
wondering if you agree with me on that point.

DR. MARY ELLEN TURPEL-LAFOND: I think that
the rights based approach for children and child welfare
is very important, because it includes the children’s
right to belong to their community and their family. So,
it has to include the recognition of the community,
nation’s rights.

The rights are important. How I view it though, I view it like this, which is the Truth and Reconciliation Commission I think rightfully and profoundly said that UNDRIP is the framework in their interim report, and in their final report and their calls to action. And, the UN Declaration of the Rights of Indigenous People, it is a very interesting instrument, it is a declaration, some of it has the rights, some of it is conceptually about how you have relationships. It is extremely valuable.

And, when I think imply it to this area, where it is being applied actually already in some court decisions, what it does is it gives another -- it is like putting on a new set of glasses and seeing it. So, it brings a human rights framework. And, because UNDRIP is about the minimal standards for the survival of Indigenous people, I think that that is where we have to be. And, it brings in other human rights standards, but UNDRIP is so critical. And, again, it is not recognized fully. It has been ratified, it has not been fully implemented, but this is, again, the kind of lens.

So, we may need to get into really specific arguments about right spaced funding, but UNDRIP provides a bit of latitude to have that discussion. Not everything
is going to fit there, not everything will or will not, but I do think the Human Rights Tribunal decision has introduced a level of rights to funding and that has changed the Canadian law -- not the provincial law, but the Canadian law.

So, I do really feel that the Truth and Reconciliation Commission has given us a very clear signal of where to go, but we are not using it. So, that UNDRIP lens I think is critical and that is a fundamentally human rights lens, the preamble, and UNDRIP itself speaks to it being as, like, a process of bringing in all human rights standards, but applying them specifically to the circumstances of Indigenous people.

And, again, Canadian Indigenous people, we are very involved in the development of UNDRIP, and not surprisingly, it has a lot of value to a field like this. People think about it in another field, this is actually really valuable because provisions prohibiting discrimination are really significant, and provisions on children.

So, I think you are right, it will have a human rights lens, but exactly how it has it for Indigenous children, youth and families will be unique, but that is -- you know, UNDRIP is not new, it is 10-years old, but it is new to be implemented.
COMMISSIONER QAJAQ ROBINSON: Those are my questions. Thank you so much.

--- QUESTIONS BY COMMISSIONER BRIAN EYOLFSON:

COMMISSIONER BRIAN EYOLFSON: Thank you very much, Dr. Turpel-Lafond, for coming and joining us today and sharing your expertise with us. I just have a couple of questions just, kind of, related to what my colleague was just asking you.

You also talked about risk assessment tools in your evidence as being problematic for -- when they are applied to Indigenous families, some of them being developed perhaps in the United States and not really being appropriate when applied. So, also applying a human rights lens or framework, would you say the application of those risk assessment tools are factors to Indigenous families as discriminatory? Could you comment on that?

DR. MARY ELLEN TURPEL-LAFOND: I would say that it has great potential to be discriminatory because -- first of all, I am not sure if they have been validated officially and appropriately at the level of evidence for this context. So, first of all, I am not even sure if they are valid tools, okay? Because the validity needs to be established and tested, so I have yet to find the validity testing on Indigenous families. Most of them are US tools that are adopted. So, before we even get to the
discrimination part, I am not sure about the validity.

They are not extensively challenged in courts in Canada, mostly because Indigenous children and families do not really go around and make challenges to the validity of scientific instruments that are used by large social serving systems. Should they? Yes, they should. They probably would fail. And, I have yet to see a single validation for Indigenous specific.

On the issue of, are they discriminatory? Well, when the application of those tools does not take into account factors beyond the control of the individuals, so it is not really within the control of an individual parent that there is alcoholism in the family, that there has been incredible family disruption, yet those are all risk factors. So, there are things outside of the personal control of a protecting parent potentially, so that develops an element of discrimination.

And, also, the vulnerability. It does not take in to account the vulnerability of the family and the community. So, automatically it would invite a lot of care to look at different nature of discrimination. And, if it was like a charter type of a challenge under Section, say, 15, there are those things like family status, it seems to really be discriminatory on that.
There is gender, it seems to really pick off women because women are disproportionately the caregivers and they all fail these tools. Picks off on those who have disabilities because sometimes -- because of adverse childhood experiences and abuse. An Indigenous mom may already be on a disability pension because she has had significant disabilities maybe because of injuries from violence.

So, when you look at those categories, it is really hard not to see that. And then when you get to the other categories that are really deeply meaningful, like culture, and identity and spirituality, these deeper issues, then I think we are into another whole thing. But, it strikes me that it is very problematic, and we would have to have the risk assessment tool developers, you know, from California come and testify in a court, and assess whether it is valid.

Like, I think it would probably be tossed if it was really looked at. Yet, what is ironic is it is relied upon because it is an efficiency tool. It is a quick checklist instead of doing work. So, it is a move toward less funded systems, technology. Ironically, these things can prejudice certain groups more than others, and likely Indigenous families would be much more harshly impacted than others.
COMMISSIONER BRIAN EYOLFSON: Thank you. I wanted to ask you about one of the documents you referred to in your evidence, the Provincial Domestic Violence Plan, second annual report, 2016. And, you referred briefly to the issue of the province not sufficiently addressing the issue of family violence, and you said they had just done a little bit I think, or to that effect. So, could you comment on what needs are not being addressed or what is lacking in terms of what the province is not addressing?

DR. MARY ELLEN TURPEL-LAFOND: Well, I think the issue is a Provincial Office of Domestic Violence is an important office to review deaths for instance. Like, fatalities where a mom is murdered, it is a domestic violence homicide, it is an Indigenous woman, they need to do some panels, they need to review those. In Ontario, there are special panels. They do not always do special standalone Indigenous reviews, but the domestic violence fatalities for Indigenous women, as an example, they need to be looked at very carefully.

Having worked in the context of those fatalities myself, with trying to get children placed after a fatality, after mom is murdered, there is really complex factors that went into the violence and so forth. So, prevention is critical, evaluation is critical and
programming is critical.

And, like I say, there is a placeholder, there is a line there, there is a page, but it is not dig deep. The work is not deep. At the same time, at the federal level, there was legislation to strengthen protective orders for First Nations women on-reserve. That legislation was passed to create another tool of protective orders. An office like the one in British Columbia should be very carefully assessing how many orders are sought, how many orders are enforced, who enforces the orders, were the orders effective, were the women adequately supported by these orders, what were their issues? Like, I would expect to see detailed reporting. I would expect to know how many orders were given, did they work, why did they not work? I would like to see all that detail every year.

But, instead, we have a page that talks about some money that is given out to 204 First Nations, which turns out to be $2 million. And, I am not saying that they are not trying. It is just that it so does not match the magnitude of the issue and it is not heavy enough, it is not serious enough. And, I say the same thing with the federal government, if we take the 91(24) responsibility, where is their assessment of how many of those protective orders that they envisioned in their
legislation how many of them have worked? How many of them have been granted? What are the barriers to those? They’re enforced in a slightly different way. Not all police forces will enforce those orders under the federal legislation that are unique to, for instance, First Nations women. Where is that analysis?

So, you know, we have some new developments, but I’m not seeing rigour with those. I’m seeing a very superficial response, and I would expect to see much more rigour. So, I included that in my evidence just to say I’m glad there is an office, but don’t think that just because you created an office, work happens. There has to be serious, rigorous work.

COMMISSIONER BRIAN EYOLFSON: Thank you. And, I wanted to ask you about -- you referred to the report Not Fully Invested from 2014, and I believe you said that in over 100 recommendations that you made, approximately -- or I think you said 72 percent were substantially or fully implemented. But, I noticed in the report you also said that it’s important to look at the recommendations that the government did not implement, and that the answer to that question was troubling, and that there were several significant recommendations that, perhaps, weren’t implemented. I’m wondering if you can comment a bit on the ones that weren’t implemented and
what the problem may have been or why a lack of traction on those recommendations?

**DR. MARY ELLEN TURPEL-LAFOND:** Well, what was interesting is — well, first of all, having 72 percent is pretty good. But, at the same time, not good enough. You absolutely asked the critical question, and that is the ones that are easy to do are the ones that take more simple policy changes. The ones that require deeper system changes and investment, they’re stumbling. And, the ones that require clear leadership, they are sometimes stumbling.

And, not surprisingly on some of them are those fundamental issues affecting Indigenous families in particular. So, changing the child welfare system in a planned, focused, fulsome way. So, the Government of British Columbia is in a period of change right now, but despite, you know, supporting talk about Indigenous child welfare, never supported the authority of those First Nations who exercise their own jurisdiction. So, I made lots of recommendations; that didn’t happen.

So, it kind of looks like it’s happening, but it’s not. So, that’s the other issue, and I say evaluating recommendations, you need to evaluate it in terms of substance. You can accomplish something through other means, but there has to be substantial compliance.
So, it’s not like a ticky box again, in and out, up and down. It has to be very -- more depth.

And, it’s evident. Anyone that reviews recommendations, it’s evident where real work is happening, and real work is not happening, and most of the time, people will be very straight up with you and say, you know, we haven’t done anything on that. And, they’re like, well, why? So, we need to develop insight.

So, not infrequently, that is with respect to programs and services that impact Aboriginal people and Indigenous people, and not infrequently, a province will say it’s because it’s the federal responsibility. So, it’s, again, in the child welfare, it’s, like, everyone and no one. And so, that is unacceptable. Another reason why we need clear federal regimes, so there can be leadership provided to that.

COMMISSIONER BRIAN EYOLFSON: Thank you very much. Those are all the questions I have.

--- QUESTIONS BY COMMISSIONER MICHÈLE AUDETTE

COMMISSIONER MICHÈLE AUDETTE: Oui, while you’re putting your second ear, I’m just going to say now I understand why Maître Blain is good, or kind of good. But, of course, before I say something or ask questions to you, amazing colleague, Mary Ellen, there is also amazing women who took the mic today that are from the grassroots,
survivors, family members, and that, for me, is amazing. And, they asked questions like they were lawyers, or very to the point.

So, all the people that are here are learning from you. So, I’m very impressed by the women and the men, and the Canadian lawyers also that represent the Indigenous organizations or grassroots organizations that put their heart in this.

And, of course, we had an opportunity to have a little bit of a history. History is very important for me and my family, and October 4th is known now around the world. Around the world. On the media, we will see that the Native Women’s Association of Canada started that movement, but today, we had a woman, a lawyer, Maître Fraser, who taught us that it came from Kitigan Zibi, a woman from there. So, thank you for that teaching. Very important. Bridget Tolley’s family. Her mom.

Of course, I will ask my question in English -- in French. I’m tired. No, I’m not. I’ll be tired in 2019, after the Inquiry. But, you’re welcome to answer in English, of course.

Alors, c’est un grand honneur pour moi d’être évidemment assise près de vous, là. On vous a vu défendre les intérêts avec beaucoup, beaucoup, beaucoup de passion et d’amour, alors félicitations.
Et ma première question, on l’a vu par la présentation de Me Big Canoe : vous avez un CV impressionnant, un curriculum impressionnant, félicitations! Comme a dit… j’ai oublié votre nom, excusez-moi, des Maritimes : même si vous avez un CV académique incroyable, vous êtes capable de vulgariser des enjeux complexes, un milieu complexe ou une culture qui n’est pas nécessairement la mienne au quotidien. Et merci pour ça.

Et ça fait longtemps que vous êtes là-dedans, donc ma question : vous avez sûrement vu se produire des changements qui ont été des succès par soit vos démarches ou les démarches d’autres gens comme vous. Est-ce qu’il y a des choses qui ont changé? Est-ce qu’il y a des choses qui sont positives ou qui sont marquantes qui peuvent servir de modèles pour nous, comme commissaires, au moment de la rédaction du rapport et des recommandations?

DR. MARY ELLEN TURPEL-LAFOND: I do, and I think that that’s -- that’s a very important piece, is do I see things shifting and improving? Yes, I do see them shifting and improving, mostly because I see the hard work by Indigenous people to place a priority and focus on this. So, lots of work about putting children at the centre, and I really value that.
Then, there are places, like I talked about Quamet Laylam. There are places where there’s been no removals of children, and there are also systems, and you would know in the Cree territories in Quebec, there’s efforts to strengthen child services. And, the James Bay Northern Quebec Agreement has been there for a long time.

Sometimes those old agreements, older agreements, required you to have the provincial rule’s equivalency. A lot of that is being revisited now and being strengthened. So, I see some really big strengths there for where people have agreements. The Nisga’a nation, which have a very significant modern treaty, they’re indicating that they want to draw down their authority on child welfare and expose more clearly their Nisga’a law and practices, and I think that’s exciting. And, Haida and Gitxsan, and we’ve heard a bit about Shuswap and others.

So, I see a lot of amazing work and creating that space for Indigenous law and practice and families. And so, I really do see the potential for remarkably rapid change if we can support that initiative, and if systems can support that initiative.

The other part that I think is really critical is, again, because of the Human Rights Tribunal and the attention to the discrimination, the level of
funding, I think there’s been a greater awareness. So, even that money, even though it’s on a stable basis, is actually beginning to bring some hope and some planning where there was no planning before, and planning for what people want to do. Very positive. I’d like it to be stable and improve, but very good signs.

The other part that I think is really significant that’s most meaningful to me is I like to see the voices of children and youth mobilizing, and I think -- when I think about the population of, like, our First Nations in particular, sometimes -- and again, I’m a parent with young children -- or teenagers and young adults, and I sort of have to remind myself, like, 70 percent of this community is under the age of 24. Seventy percent. Like, where I’m the geezer, and that’s okay. I’m the old one.

But, the point is that they are going to hold a level of accountability beyond what anyone ever held, and they are getting very strong voices, and they are highly intolerant of the type of hostile systems that people have been through. And, because of the miracle, in a way, of social media, they’re connecting themselves to their families without help from the system.

In fact, systems will tell them, “You’re not allowed to communicate with anyone from your family.”
They’re, like, “Well, I’m sorry, but we’re already, like, connected every single minute.” So, those are really different realities and those are -- that can be a very powerful system. And so, I really think about everything we can do. We may not have all of the answers in our generation, but to empower that voice. And, not to be opposed to their elders and their parents, or whatever, but to actually enjoy a higher degree of safety and security.

So, I think, actually, many Indigenous people are able to more protect their families than in the past that they could, because it is a safer place, in a way, because after things like the TRC and the understanding of that, these are important. And, the people that can are less tolerant of those situation where they can’t. So, I see positive there. And, again, I would recognize that that is largely driven by women, so I really applaud and recognize that.

I did say earlier though, what would be very meaningful to me in terms of a just system would be for, say, Canada, provinces and territories to recognize the caregiving that Indigenous women and men, but primarily Indigenous women have done, and that that is a form of care that was not adequately supported, but nevertheless happened. Like, I think that is a very
important act of reconciliation. I know we need to address issues around removals of kids and apologize for that, that is very important, but we should also affirm and recognize all of the caregiving that has occurred despite all of that disruption. So, that is pretty miraculous.

And, actually, sometimes I look at situations where we have very powerful political leaders, as an example. And, I was just in a room with leaders of the Saskatoon Tribal Council. We were meeting on child welfare issues with the Minister. And, they were all going around the room talking about they have been raised by their grandparents or great grandmothers — grandmother or great grandmother, and they are all very strong leaders and very powerful individuals.

But, all I could think was, well, what if they hadn’t been? You know, what kind of leadership would they have? But, because they were, they had that extra support from that older generation — and they were actually, like, incredibly strong. And so, you really get that juxtaposition of those who were raised by kinship, caregivers, matriarchs, grandparents are, like — you know, despite everything else they have been through, they are incredible leaders.

And then people that haven’t — it is not
that they can’t also be leaders, because I think of someone like Grand Chief Stewart Phillip, Grand Chief of the Union of B.C. Indian Chiefs, who, himself, was removed from his community and has found not only his path back, but he is one of the most powerful leaders, despite everything he went through. So, I see value in both, but what I am trying to explain is just that I think it has become more clear that that caregiving burden that was taken by Indigenous families in light of all the busting up of the family through residential school, how valuable that has been.

It is not just providing a house, providing a home, but it preserved the transmission of a culture and a language that saved, in many ways, in many places, those cultures and languages. And, I appreciate the North and the South will have different circumstances, but that is a really remarkable thing. And, I think that there is a lot more honouring of that.

I would like to see the government properly recognize and honour that, and understand and name that for what it is so it isn’t just ignored or expected. It should be named and specifically appreciated, particularly that those grandmothers and aunties with everything else they had in their life were able to also do that. That is pretty remarkable.
And, I think, like, just for myself, I would say, personally, you know, sometimes people will say to me like, “Oh, Mary Ellen, like, you have to work and you’ve got kids,” and “How is your life? How do you do it?” And, I think, “Well, you know what? I have a washing machine and a shower.” I am not on a trap line. I am not using an outhouse. I mean, I have all kinds of benefits and conveniences. And, how people of another generation managed?

I really -- I lift them up with their accomplishment, but I also think we need to recognize all of the things that they were doing, and it is work to take on that caregiving responsibility when you are not just raising three, four kids. Some of them were raising 10 and 12, and over a lifespan. Not all at once. But, some of them, as I think some of our speakers said, they are grandparents in their 80’s and they are still raising children with no support from any system. So, that gives me a lot of hope and it gives me a lot of examples of positive change that, you know, I am sure you have heard about and you do celebrate everyday, but that is remarkable resilience.

**COMMISSIONER MICHÈLE AUDETTE:** Oui. I will try in English for this one, because it was -- I took it -- the note in English. It was from Cora Morgan, a very
powerful presentation and with a lot of emotion, of course. And, she was talking about, I will say in my words, my English, that there is an industry built around the family and the children, the child welfare system, and a lot of money is put towards that. Same thing in other cities, like Vancouver, we went many times walking in the Downtown Eastside, or meeting with the groups there, or in other places, Thunder Bay and so on.

And, we see, like, last night, the reality of all those layers of discrimination or systemic cause on a human being, on the women that we spoke with last night on the youth -- with the youth or the men. And, it was very ouch; you know? It is hurtful. And -- but we have heard also from them last night and over the months with this hearing, women need a safe place. Children needs a safe place. And, last night, I saw something that I was like, how come we don’t have that in Vancouver, or Montréal, Toronto, Thunder Bay? It is a beautiful centre for youth. It is open seven days a week. And, on Friday, Saturday and -- on the weekend, it is 24-hours.

And, when we got there last night, it was very late, I saw young girls, and I have twins, two beautiful girls, they know them, and right away I said, “I hope they are not walking by themselves.” They saw my reaction, they grabbed me and they said, “No.” I didn’t
say nothing. They take her from the home, bring them to
the centre and bring them back. And, it is amazing what
they do with zero funding from the provincial or federal
government. And, for me, I was like, that is something we
should have across Canada, and it is the Rossbrook House,
and it is for all people, all culture, but mostly
Indigenous people are there.

And, you saw three generations. A young
woman who was using the service there, and now she is on
the managing, you know, team. She has been there 20-
something years. So, for me, that is a real success. And
so, I was wondering if you saw organizations also like
this outside of Indigenous governments, and I commend
them. They are saving lives or protecting.

My other question also is, we have heard,
not only with the Inquiry, but we read the news or we
participate to events, and we will hear from people that
the child -- the children -- or I will speak for the
Indigenous children, don’t seem to be a priority for any
government across Canada. And, when we ask the question
informally to the government or we visit their website,
they will present measure, or program, or initiative for
the children.

But, from your expertise or your passion
and by all the reports that you presented to us, it seemed
like it is not a priority. I don’t want to put words in your mouth, but from where I am sitting, it doesn’t -- because it is an industry that separate the families, instead reunited the family, and I believe that all government here in Canada did sign that convention pour les droits des enfants, la convention internationale. So, how do you explain that? That they do sign that convention? They do say that there is something for the youth when you look at their website? But, when we see the children on the street last night, it is not what I see on the website.

**DR. MARY ELLEN TURPEL-LAFOND:** I would say that the level of focus on children by the federal government in Canada has been low in comparison to other countries. And, certainly in my time as children’s representative and the president of the council, I had the opportunity to meet with the Children’s Commissioner of Norway, you know, New Zealand, Australia, other -- England, Wales, a lot greater focus on human rights of all children at the national level.

So, we have references here and there like you say, but it is not a sustained clear focus, it is all over the place. And, I think that it is not consistent. Other federal states have more focus and I think the convention was ratified, but I do not think they had put
sufficient mechanisms at the national level. They put
everything into the provinces and regions, and it is not
adequate. So, I think you are right, I think there is a
lack.

In terms of moving forward on change, I
think it is hard to have children’s rights issues as a
priority, in part, again as I said earlier with the
federal government, because they just do not have a lot of
experience in the child welfare area because it is a
provincial area. However, their opportunity to provide
leadership is enormous. Just being -- providing some
basic leadership with some basic change would be extremely
valuable and would -- they are not going to deliver
programs. They are going to set some requirements around
how -- what are the expectations, how children should be
treated, and those should be consistent with rights. And,
it could be that they have been afraid to do that, because
they are afraid that that is going to reflect on them, but
they have already had numerous reports that have suggested
they have not quite made that by international bodies,
like the UN Committee on the Rights of the Child.

So, I mean, they are at the point where
they need to move forward and I do not think there is any
room to not move forward. And, the question is, I think
from Indigenous peoples and others -- the TRC was very
clear. They need to move forward. And, one of the reasons why I think we talk so much about the human rights issues is, if we do remember the residential school experience, the fact that the child did not have rights to seek a remedy during that time when they were being treated so horrifically.

Historic injustice is very serious, but what we learned about it was you need to have a remedy in real time. And, Canada has to make account for what happened, and they have, and it is not an over process, but you have to have a remedy at the moment. Giving someone a remedy 75 years later is not real justice. So, when it comes to these issues with children and parents, you need to expedite that.

So, the federal government would be very valuable in that area, and I think the pressure on them to move forward has grown, and grown and grown. And, if they do not, given the fact that they themselves have labelled it a humanitarian crisis, I think that that will lead to even deeper international examination of whether or not there are some very fundamental state violations by Canada of those international standards.

COMMISSIONER Michèle AUDETTE: Merci. My last comment to you is that, if it is possible for you tonight, to light a candle or come to the vigil. There is
a vigil here in Winnipeg or, again, a candle in your room
or where you are going to be for the children left behind,
that lost their mom or grandmother. And, it is like for
Mary who left five children behind and all the siblings,
so we have to think about them also in this important
work. So, you are again, you are so welcome to walk for
the families and with the families. Merci beaucoup.

--- QUESTIONS BY CHIEF COMMISSIONER MARION BULLER:

CHIEF COMMISSIONER MARION BULLER: I have
three areas for questions for you, I will try to avoid
more stories. The first area for question is information
presented in court, risk assessments, things of that
nature.

Assuming for the moment that Gladue reports
are required wherever the liberty of an Indigenous person
or child is at stake, what role, if any, do you see for
Gladue reports at any stage of protection?

DR. MARY ELLEN TURPEL-LAFOND: I think that
that is a very important concept, which is, as you know,
they have been developed for sentencing. And, they
provided, in some places, not all, a much more meaningful
understanding of the circumstances that are at play. And,
they have changed sentencing, which I think has been
really -- there is a lot more to be done, but they have
been very helpful.
I think the very same construct needs to be present for the lives of Indigenous families in the child welfare system. I mean, obviously not at the point of going to a permanent removal sooner. So, having a requirement to understand, not just the children’s -- the children’s best interest means understanding their family and their community structure, and what factors have been in their families and communities that may have contributed to them coming into the child welfare system, and what strengths could be identified for them to get out of that system.

So, I think that type of analysis, deeper analysis is really important, and that could easily be built in to these systems. That there is many places even without any amendments that they could be built in, but they may need to be explicitly built in. And, it might be that when there is a removal -- like a presentation hearing. Before the court considers a presentation hearing, they have to have that, because that puts pressure on the system; right? Timelines put pressure on the system. But, requiring those are critical, because it requires you to turn your mind and then be assessed on a broader set of factors. It does not guarantee a result, but it brings in another level of analysis.

And, people tend to say, well, I do not
have the expertise, and then they have to work with the community to get the expertise. So, it is a good process.

I think the Gladue process has been very significant. I think it has got much more work to be done, but it has been really important to develop awareness in the criminal justice system of the intergenerational issues for Indigenous people.

CHIEF COMMISSIONER MARION BULLER: Thank you. The next area that I want to ask you about is the duty to report and how that, first of all, was highlighted so graphically in Paige’s report.

What I have heard and my colleagues have heard from families and survivors across Canada is along the lines of, and I am paraphrasing, my children are better off with me living in a hostel or in substandard housing than they would be in a foster home, so I am going to hide them essentially from the authorities. And, that belief is shared by other people who might be in a position to report or would have a duty to report that the living conditions for these children, in theory, would place them in need of protection, but they are better off with mom, dad or extended family.

So, my question to you is, how much do you think the failure to report has to do with mistrust or fear of the system as opposed to indifference?
DR. MARY ELLEN TURPEL-LAFOND: I think there is an element of that. And, I do think the one thing I would say about child welfare systems is that they fail. They can be an absolute abject failure.

And so, in the U.S. -- not in Canada, but in the U.S., entire state child welfare systems have had to be put under court supervision, Utah, Washington state, Florida, whatever, because they failed for exactly what you said, which is there is the duty to report and the duty to protect. There is also the duty to support. So, if you look at that massive -- I mean, systems failed in New York state as an example, and Washington state, because they did not do prevention. So, they did too much removal and no support.

And so, any time the system gets too extreme to one thing, it can lead to a failure. So, the fear of reporting because someone might take an action, and they only have one action to take, represents a failed system. And, I am not saying these systems are all failed in Canada, but they are showing really significant signs of being so fractured for a whole bunch of reasons. Not having adequate resources, not having well-trained people, targeting only a particular population, that they do not stand up to scrutiny.

So, as a result, there is this element that
is, we do not want to report because why, we do not want
to invite this into their life. But, the challenge is,
then there is no service, so you have to report. I mean,
as a matter of moral imperative and principle, we cannot
be a society that does not report child abuse. If we
become a society that does not report child abuse, then we
become a very substandard society and that is not
acceptable. That is like saying we will tolerate abuse of
children, because it is the better good. That is
completely -- that is a failed system, and that mentality
cannot be allowed to prevail.

And so, the duty to report -- the reason
why I emphasize it was I was well aware of the fact that
the system had severe frailties, and -- but, at the same
time, I thought we have to put it back on the right shelf,
which is, you can’t allow the child to -- they are the
ones whose lives are experiencing this. So, yes, the
parent may be better at protecting them in the shelter
than on the street, but actually the shelter protection
isn’t working, because the child is being assaulted by mom
and mom has untreated mental illness. So, we have to
address it.

So, it only goes underground. So, I think
your point is a really good one. People do hide out.
They -- you know, they don’t like the system. And, I have
seen people who deliver a child at home, or they have an infant in a tent instead of going to a hospital, because they don’t want to have the child removed. There are those cases, but you have to place the value on the child, and by doing that, you must have a report.

The question is, you have to report to a system that does the right thing. And, right now, it does a lot of this, which is removing, and it doesn’t do a lot of that supporting. But, with -- the power to remove is the duty to support. So, this is a very important dynamic and it has not been set to the needs of Indigenous families.

**CHIEF COMMISSIONER MARION BULLER:** Thank you. Last area for questioning has to do with legislation and existing opportunities that are on the books. In the B.C. laws, relevant laws, for example, as we both know, they are the opportunities to remove the offending parent from the home rather than removing the children from the home. It is the opportunity for supervision. Here, in Manitoba, there is the opportunity to have homemakers attend at a home. There are other opportunities for, in other provinces, for something short of removal, cultural supports, things of that nature.

The B.C. legislation says the children have certain rights to maintain cultural ties. They have --
they are all listed beautiful concepts of maintaining ties with language, culture, heritage and their service delivery principles in the legislation that say much the same thing. These children have -- Indigenous children have rights to maintain contact with their communities and vice versa, Sections 2, 3, 4 and 5 of the Act.

So, there are these opportunities that already exist and have existed for quite some time to various degrees all across Canada, yet they are not being used. And, the service principles that are enumerated in legislation guaranteeing cultural rights for Aboriginal children are not being upheld. So, there is, to me, a disconnect between what has been legislated and what is happening on the streets in terms of service delivery to -- the default is to go to removal when there are all these other options that would allow community involvement in the plan for the children, family involvement in plan for the children and injecting that cultural component already. It is already there, and it is not being used.

DR. MARY ELLEN TURPEL-LAFOND: I think the issue about what is not being used, which is important to point out, like for instance the rights of children in care in British Columbia, that is Section 70 of the CF and CSA. They have a right to, like, you know, use the phone privately, contact their family, have their own religion,
other things, but there is no remedy if they don’t have
the rights. So, they have rights without any remedies.
And, having been the child advocate -- they can call the
child advocate, but I can’t, like, go to court and get
them -- I can just use my powers of persuasion, which were
fairly strong and effective in lots of cases but, you
know, you eventually have washed over by hundreds of cases
where their rights aren’t recognized.

So, these concepts that you are describing
that are little additions to parts of legislation, they
are very important additions and they came from strong
advocacy from the Indigenous community, but they are
largely the not enforceable parts. There is no -- it
doesn’t say the family can seek a remedy; right? The
family can seek judicial review, or whatever. It is just
-- they are concepts; right? So, they are not the
enforceable part. It is not the teeth in the legislation.
It is kind of, like, a side thing, and it is not taken.
And, if it was taken, we would have a lot more progress.

But, particularly, the rights of a child,
they have no rights. There is no children’s law program
in most provinces. They can’t go to a court. They can’t
take an action on their own behalf. An adult has to take
it for them. You have to have a proper guardian. You are
at the mercy, often, of the public guardian and trustee
for your state guardianship and your personal
guardianship. So, they don’t really have remedies, and I
think strengthening those remedies for Indigenous children
and families to make them meaningful is really an
important part of it.

And, again, I come back to that concept of
time. You know, time does pass quickly in the life of a
child; right? Childhood is not -- childhood is 988 weeks,
and before you know it, it is over. And, a lot of these
systems will take half of the child’s childhood to even
make, as you know, in some places, even in a province like
British Columbia, you won’t get a judicial determination
for seven years. And, that is not because someone didn’t
want to do it, you just can’t even get into court. So,
these are rights that are meaningless because there is no
remedy, and there is not the sufficient appetite in the
system to enforce them.

So, hence, they are very ripe for
improvement and rights should have remedies. And, most
vulnerable citizens, like children in care, children from
Indigenous families in care, Indigenous families need to
be the ones that have very easily accessible remedies, not
these super complex...

The final point I will make, which is a
kind of legalistic point, I know, which is my view of one
of the reasons why that doesn’t work is most non-
Indigenous families when they have family difficulties use
the family justice system. Or, if a child is in crisis,
they use the guardianship order under the Family Law Act
to transfer the child. It is very easily done and it is
just normalized. Indigenous families don’t get that
access to justice. So, by the time -- all that family
stuff is just useless to them, because there is no access
to justice.

So, by the time they need support, they are
in the child welfare system, and everything has become so
severe when it could have been forestalled, let’s just
give grandma guardianship. Okay, that’s easy. I can do
that in five minutes as a bench order, a consent order.
But, now, we have a massive child welfare problem.

So, these are the points where they do have
rights, they are very not enforceable and they don’t have
access to justice. So, without building those on ramps
and supports, even the nicest words in legislation will be
not worth very much.

CHIEF COMMISSIONER MARION BULLER: Okay,
thank you. Well, thank you very much for spending a very
long day with us. Sometimes it is nicer to be out in the
sun. We are all very grateful ---

DR. MARY ELLEN TURPEL-LAFOND: Thank you.
CHIEF COMMISSIONER MARION BULLER: --- for the time you have spent with us, for the knowledge you have shared with us, for your expertise, your humour and, of course, your incredible dedication to children.

We have just a little gift to give you in return ---

DR. MARY ELLEN TURPEL-LAFOND: Oh, thank you.

CHIEF COMMISSIONER MARION BULLER: --- and that doesn’t really require a lot of explanation for you, I know. We have an eagle feather for you ---

DR. MARY ELLEN TURPEL-LAFOND: Oh, thank you.

CHIEF COMMISSIONER MARION BULLER: --- to hold you up on those days when you need a little holding up. And ---

DR. MARY ELLEN TURPEL-LAFOND: Thank you.

CHIEF COMMISSIONER MARION BULLER: --- on those days you can go higher, to help you go higher. So, it is with great, great gratitude that we give you a little gift, because what you have said today and all days has made such a big difference to our work ---

DR. MARY ELLEN TURPEL-LAFOND: Thank you.

Thank you very much.

CHIEF COMMISSIONER MARION BULLER: --- and
to all children.

DR. MARY ELLEN TURPEL-LAFOND: Thank you.

CHIEF COMMISSIONER MARION BULLER: Thank you. Ms. Big Canoe, we are adjourned until 8:00 tomorrow morning. (GIFTING OF EAGLE FEATHERS)

MS. CHRISTA BIG CANOE: It’s been a long day. Thanks, AV. Just a quick announcement for parties with standing, you have received material for Dr. Wade for tomorrow, and I kindly request the same request I always give you each night, is if you want to cross-examine tomorrow, can you please, between 7:30 and 8:25 tomorrow go to the Assiniboine Ballroom so that you can draw?

MS. SHAUNA FONTAINE: Thank you everybody for staying late with us this evening. To close us off, we’re going to ask Mary Crate to come on up and close us off with a prayer song.

(MUSICAL PRESENTATION)

--- Upon adjourning at 6:09 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

October 4, 2018