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May 25, 2018

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Christa Big Canoe  
Legal Counsel  
MMIWG National Inquiry

***Sent Electronically***

Dear Ms Big Canoe:

**Re: Response Ruling on the May 18 2018 Child Welfare Motion of the  
Assembly of Manitoba Chiefs**

Thank you for the Ruling on the Assembly of Manitoba Chiefs (the "AMC") May 18<sup>th</sup> Motion to compel the inclusion of Child Welfare in the Government Services hearing.

Having sought clarification on the process for dealing with the AMC motion, we note that AMC was not permitted to make any submissions to the Commission. We are now in receipt of the Ruling of 25 May 2018.

In reviewing the Ruling, we noted a factual error in paragraph 5 which states that "the AMC has not suggested any witnesses or had any discussions with Commission Counsel as about witnesses they would like to have called at any of the hearings."

By way of reminder, please find attached a letter from February 20, 2018 from the Grand Chief Dumas of the AMC to Chief Commissioner Buller which proposes the creation of expert hearings as well as suggests specific individuals for the Commission's consideration. We have also enclosed a letter from March 23, 2018 from Chief Commissioner Buller to Grand Chief Dumas which states that the Commission is grateful for the recommendations.

Please confirm that a correction of the factual error in the Ruling will be made.

Yours truly,

Anita Southall  
Counsel

Byron Williams  
Counsel

Stacey Soldier  
Counsel

Joëlle Pastora Sala  
Counsel

Encl.:

February 20, 2018 Letter from Grand Chief Dumas to Chief  
Commissioner

March 23, 2018 Letter from Chief Commissioner to Grand Chief Dumas



Assembly of Manitoba Chiefs  
EMPOWERING OUR NATIONS

February 20, 2018

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Chief Commissioner Marion Buller  
MMIWG National Inquiry  
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Vancouver, BC V6C 2N3

**Sent Copy via Email:**  
[m.r.buller@mmiwg-ffada.ca](mailto:m.r.buller@mmiwg-ffada.ca)

Dear Chief Commissioner Buller,

**Re: Procedural Questions and Recommendations for the MMIWG National Inquiry Expert Hearing**

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Kindly accept this letter regarding some procedural questions/concerns and recommendations for topics and experts to be considered for Parts III of the National Inquiry into Murdered and Missing Indigenous Women and Girls (the "MMIWG NI"). I write you directly as the AMC and the AMC legal counsel has written numerous times to you, Commission Counsel, and staff – usually without an acknowledgement of receipt and most often without a response.

**1. Procedural Questions**

*(a) Meeting the mandate as identified in the TOR*

Cognizant that your mandate expires on December 31, 2018 based on the current Terms of Reference for the MMIWG NI, the AMC is very much aware that you have, on several occasions, indicated that the short timelines for the Inquiry will limit the Commission's ability to complete a meaningful process.<sup>1</sup> Regardless of whether an extension is granted, the Commission should have a plan on how you will fulfill your mandate within the time provided, including the scheduling of hearings for Parts II and III. We have asked for that plan and not yet received it.

For a number of months, you have stated that you intend to request an extension of time for the MMIWG NI. However, based on the APTN's interview of you on Nation to Nation, we understand that as of January 18, 2018, a request for an extension had not been made.<sup>2</sup>

It has recently come to my attention that you subsequently met with the federal government about the MMIWG NI. We know you are to have an independent process, so AMC hopes that your meeting was to only to request an extension. Please confirm if the request for an extension of time for the MMIWG NI has been made, and share the plan for the hearings of Parts II and III.

*(b) Availability of Transcripts*

According to Rule 49 of the *Legal Path: Rules of Respectful Practice for the National Inquiry into Murdered and Missing Indigenous Women and Girls* (the "Rules"), "best efforts will be made to have a transcript

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<sup>1</sup> See for eg: <http://www.cbc.ca/news/politics/mmiwg-interim-report-1.4381903>

<sup>2</sup> <http://aptnnews.ca/2018/01/18/chief-commissioner-explains-delay-in-asking-feds-for-extension-on-mmiwg-inquiry/>

posted to a website transcript repository which will be fully accessible to the parties within 48 hours of the evidence transcribed."

However, on February 2, 2018, the Parties with Standing received an e-mail from Mr. Bryan Zandberg, your assistant and Registrar to the MMIWG NI. The e-mail correspondence contained an online link to access the transcripts and exhibits from the Expert Hearing on Indigenous Law and Decolonizing Perspectives, which was held in Winnipeg approximately five months earlier on August 22-24, 2017.

We are wondering if and when transcripts for the ongoing Community Hearings will be made available.

Given the AMC guiding principle of families and survivors first, the AMC has the responsibility to ensure that our participation and recommendations in Parts II and III are reflective of what has been heard in the community hearings to-date. As a party with standing only in Parts II and III, it is difficult if not impossible for us to honour the three main goals of the Inquiry (finding the truth, honouring the truth, and giving life to the truth as a path to healing), without having access to the information that is being shared by families and survivors.

It is the survivor and family member voices that guide AMC's work and participation in the MMIWG NI.

Considering the upcoming Expert and Institutional Hearings and the timeline under the current Terms of Reference, we ask for timely access to the transcripts for all previous Community Hearings, and also ask for your commitment that Commission staff will follow Rule 49 of the Rules and make the transcripts of subsequent Part 1 Community Hearings, Part II Expert Hearings, and Part III Institutional hearings.

## **2. MMIWG National Inquiry Expert Hearings**

According to the Rules, Part III of the National Inquiry will focus on "expert evidence through witnesses, witness panels, and other processes on matters relevant to the discharge of the National Inquiry's mandate."

According to the NI 14 September 2017 News Release, the Expert Hearing on Human Rights scheduled for October 2-4 2017 "will take place in Montreal at a later date." According to Rule 61,

Commission counsel will endeavor to provide in advance to both the witness and the parties with standing related to issues with respect to which the witness is expected to testify, documents that will likely be referred to during the course of that witness's testimony, and a statement of anticipated evidence where obtained.

For your information, our legal counsel has made repeated requests for a schedule update from your legal counsel. Many of our counsel's emails have gone without the courtesy of even a response. To-date, no procedural schedule has issued despite our repeated requests.

We again reiterate our request for an update of the schedule for Parts II and III of the MMIWG NI in order to ensure we can meaningfully participate in the process.

As the Montreal Expert Hearing was postponed less than three weeks prior to the planned October 2-5, 2017 dates, we expect that many of the anticipated expert witnesses have already been selected.

We request disclosure of the anticipated evidence for the upcoming Montreal Expert Hearing.

It is our understanding that the MMIWG NI intends to hold additional Expert Panel Hearings following the Montreal Expert Hearing. Given the MMIWG NI commitment to decolonization and the overall limited



resources, we would respectfully propose the following Expert Hearing Panels: Racism, Health, Poverty and Socio-Economic Inequalities, Media and Communication.

Without the benefit of the MMIWG NI definition of "experts", we propose the Commission acknowledge that family members and survivors are experts themselves, and also put forward the following individuals for your consideration:

*a) Racism*

- Senator Murray Sinclair, first Aboriginal Judge appointed in Manitoba and Canada's second, served as Co-Chair of Aboriginal Justice Inquiry in Manitoba, Chief Commissioner of the Truth and Reconciliation Commission, former adjunct professor of law at the University of Manitoba, recipient of many awards (including but not limited to the National Aboriginal Achievement Award, Manitoba Bar Association's Equality Award, Distinguished Service Award).

*b) Health*

- Dr. Sherene Razack, Distinguished Professor and Penny Kanner Endowed Chair, Department of Gender Studies, University of California at Los Angeles;
- Dr. Mary Jane McCallum, Professor, Department of History, University of Winnipeg;
- Dr. Barry Lavalley, Director of Education, Ongomiizwin-Education, University of Manitoba; and
- Dr. Janet Smiley, International Leader in the field of Indigenous Health, published over 100 peer reviewed publications on the topic of Indigenous health, one of Canada's first Métis physicians, recognized in 2012 with National Aboriginal Achievement/Indspire Award.

*c) Poverty and Socio-Economic Inequalities*

- Dr. Leslie Spillet, Founder and Executive Director of Ka Ni Kanichihk, Past Executive director of Anishinaabe Oway Ishi, inducted into the Order of Manitoba for 2012;
- Dr. John Loxley, Professor in the Department of Economics, University of Manitoba; Fellow of the Royal Society of Canada; and
- Dr. Michael Hart, Canadian Research Chair in Indigenous Knowledges and Social Work, Professor, Faculty of Social Work, University of Manitoba.

*d) Media and Communications*

- Duncan McCue, journalist and instructor at the University of British Columbia, he did a fellowship at Stanford University and wrote a book on Reporting on Indigenous communities.
- Tanya Talaga, journalist, who wrote a book called Seven Fallen Feathers about the deaths of young Indigenous men in Thunder Bay.

We look forward to receiving a response to our letter by March 1, 2018.

Sincerely,

**ASSEMBLY OF MANITOBA CHIEFS**



**Grand Chief Arlen Dumas**

cc: AMC First Nations Women's Council  
Grand Chief Sheila North Wilson, Manitoba Keewatinowi Okimakanak  
Grand Chief Jerry Daniels, Southern Chiefs Organization  
Jennifer Cox, Interim Legal Counsel, MMIWG National Inquiry  
Anita Southall, Filmore Riley LLP, Co-Counsel to AMC  
Joëlle Pastora Sala, Public Interest Law Centre, Co-Counsel to AMC



National Inquiry into Missing and Murdered Indigenous Women and Girls  
Enquête nationale sur les femmes et les filles autochtones disparues et assassinées



March 23, 2018

PO Box 500 Station A  
Vancouver BC  
V6C 2N3

Assembly of Manitoba Chiefs  
Grand Chief Arlen Dumas  
Suite 200 – 275 Portage Avenue  
Winnipeg, MB  
R3B 2B3

Dear Grand Chief Dumas,

**Re: Procedural Questions and Recommendations for the MMIWG National Inquiry Expert Hearing**

I write in response to your letter dated February 20, 2018 regarding parts two and three of the Truth Gathering Process. Please excuse the delay in response to your letter. As you are aware, part one Community Hearings have been on-going and continue in April. Our focus has been on hearing the truths of family members and survivors over the past number of months.

**1. Procedural Questions**

*(a) Meeting the mandate as identified in the TOR*

The Commissioners feel strongly that in order to complete our mandate to the fullest extent, and engage in a meaningful process, we will require an extension of further time from the federal government. However without an extension we still plan on completing our mandate, including parts two and three of the Truth Gathering Process (Institutional and Expert Hearings), in the current time frame ending on December 31, 2018. We have previously stated that without an extension the work we do in parts two and three will not be as comprehensive as we would like, and the ability for parties to engage in the process will be limited due to time constraints.

On Tuesday, March 6, 2018, the Commissioners on behalf of the National Inquiry formally requested an extension by submitting a letter to the Minister of Crown-Indigenous Relations and Northern Affairs. In this letter the National Inquiry is requesting two additional years in order to complete our work. As well we submitted, and made public, our work plan for the current mandate time line. Both items are available on our website at the following: <http://www.mmiwg-ffada.ca/files/extension-request-letter-and-workplan.pdf>.

*(b) Availability of transcripts*

Parties with standing are entitled to receive copies of the transcripts for any part of the process that they have been granted standing. Therefore the AMC will receive transcripts of hearings in parts two and three. Participatory rights for any party with standing can be found in rule 25 of the Legal Path:





National Inquiry into Missing and Murdered Indigenous Women and Girls  
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Rules of Respectful Practice, available on-line at <http://www.mmiwg-ffada.ca/files/legal-path-final.pdf> and also in the August 17, 2017 Ruling on Standing and Funding also available on our website at <http://www.mmiwg-ffada.ca/files/standing-and-funding-decision-english.pdf>. Parties who had standing to the first Expert Hearing now have access to the transcripts. Registrar Bryan Zandberg provided parties with access to the documents along with password access to your legal counsel. As transcripts are produced in future hearings the same process will be used. This is because documents are large and it is a secure way to ensure that parties that have signed their undertakings of confidentiality receive the documents.

All of the public hearings of part one (community hearings) are available by video on-line. The National Inquiry is also looking into ways to post public hearing transcripts on our webpage but currently do not have that capability. Any of the in-camera or private transcripts are only available to parties with part one standing.

## **2. MMIWG National Inquiry Expert Hearings**

The National Inquiry has not currently confirmed dates for the part two and three hearings which will take place this spring and early summer. Please know that we will release this information to parties with standing as soon as it is available. We will ensure that it is shared in a timely process in order for the most meaningful participation by parties in the process. We expect preliminary conversations with parties to begin in the next few weeks.

The Montreal Expert Hearing originally planned for October 2 – 5, 2017 was partially postponed due to the last minute cancellation of several planned witnesses. Also a number of parties with standing had indicated that they wanted to consult more on the witnesses and the hearing. Following the first expert hearing there was a debrief meeting with parties with standing. They provided a lot of constructive feedback and suggestions. At the time all parties were invited to provide us with written suggestions on witnesses, topics, and ideas for the Institutional and Expert Hearings. We have received a number of suggestions from national parties with standing and other parties on the types or specific witnesses that should be called.

Therefore we have taken the time since October to re-evaluate the proposed evidence to be called, and the chosen witnesses. We have also committed to work with the parties with standing to ensure that they have meaningful input into the process of the expert hearings, and are able to be involved in the development of the hearing, including calling witnesses. As a part of this commitment the National Inquiry's legal counsel will be reaching out in the coming weeks to arrange for preliminary conversations with parties with standing to discuss potential witnesses, the selection of evidence, and the process of the hearing. Please note we will involve you in those discussions.

The topics for National Inquiry Expert Hearings in addition to the Human Rights Hearing will be announced in the coming weeks. We are grateful for your recommendations regarding topics to be explored, and we will take your input into consideration when planning.



National Inquiry into Missing and Murdered Indigenous Women and Girls  
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The Commissioners hold family members and survivors in the highest regard, and have found their testimony throughout part one of the Truth Gathering Process to be invaluable. We acknowledge their status as experts in their own regard, and it is because of this position that we have made them the focus of several months of evidence collection through our community hearings.

The National Inquiry is very grateful for your recommendations of witnesses to be called for part three hearings. We are committed to ensuring the parties with standing are involved in the process of determining witnesses to be called, and will begin those discussions in the coming weeks.

On behalf of my fellow commissioners, and the National Inquiry, I would like to thank you for your correspondence and the thoughtful recommendations you have put forward to this process. We continue to be extremely grateful to organizations that are meaningfully engaging in this process, and would like to encourage you to continue to reach out to myself, and our staff, with input and recommendations. As well should you have any questions or concerns going forward please note you can contact the office of our interim executive director, Calvin Wong. Please see information below:

Lauren Casey – Acting Issues Manager, Executive Director Office

[L.Casey@mniwg-ffada.ca](mailto:L.Casey@mniwg-ffada.ca)

604-318-3376

Sincerely,

*Marion Buller*

Chief Commissioner Marion Buller

cc: AMC First Nations Women's Council  
Grand Chief Sheila North Wilson, Manitoba Keewatinowi Okimakanak  
Grand Chief Jerry Daniels, Southern Chiefs Organization  
Jennifer Cox, Lead Commission Counsel  
Anita Southall, Filmore Riley LLP, Co-Counsel to AMC  
Joëlle Pastora Sala, Public Interest Law Centre, Co-Counsel to AMC  
Calvin Wong, Interim Executive Director – National Inquiry MMIWG  
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