

Exhibit: *National Inquiry into Missing and Murdered Indigenous Women and Girls*

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Witness: Cora Morgan

Submitted by: Joëlle Pastora Sala

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**Families First:**

**A Manitoba Indigenous Approach to Addressing the Issue of  
Missing and Murdered Indigenous Women and Girls**

**Prepared for  
The Assembly of Manitoba Chiefs**

**Prepared by  
Joëlle Pastora Sala & Byron Williams  
Public Interest Law Centre**

**July 21, 2015**

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# Executive Summary

## Overview

Across Manitoba and Canada Indigenous<sup>1</sup> communities and families are grieving the loss of their daughters, sisters, mothers, cousins and friends.<sup>2</sup>

Statistics identifying the precise number of Indigenous women who are missing or have been murdered vary. According to the 2014 RCMP Report, there were approximately 1,181 MMIWG cases between 1980 and 2012.<sup>3</sup> Manitoba has the third highest number of incidents of missing and murdered Indigenous women and girls (MMIWG).

This is an epidemic which plagues Canadian society at large. The international community is watching.

*“This is a continuation of genocide, sixties scoop, residential school, to take away First Nation women.”*

## Links between cultural genocide and MMIWG

The recent Truth and Reconciliation (TRC) Report shone a light on many issues relating to Indigenous people in Canada. It described a policy of “cultural genocide aimed at essential structures and practices of Canada's Indigenous people.”<sup>4</sup> The TRC found strong links between cultural genocide and the epidemic of MMIWG. It called on the Federal Government to launch a public inquiry.

## Something must be done

While there may be different views on how to address the epidemic of MMIWG, there is general agreement that something must be done and that we must prevent future crimes.

At the heart of the issue stand the families of MMIWG. For many years, the families of MMIWG have urgently called on federal, provincial and municipal governments to examine the causes of this national tragedy and to explore solutions. Many families feel a sense of abandonment and frustration.

Most existing plans for action addressing MMIWG have been developed without the direct involvement of those who are most affected.

## Listening and Understanding

Guided by the principle and intent of putting 'families first', the Assembly of Manitoba Chiefs (AMC) partnered with the Public Interest Law Centre (PILC) to listen to and understand the objectives, values and priorities of the families of MMIWG. Elders, youth and a MMIWG Coalition of service providers were also engaged and their input was directly incorporated in the approach and Report.

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1 For purposes of this Report, the “Indigenous” is being used throughout to include First Nations, Metis and Inuit as identified in Section 35 of the Constitution Act, 1982.

2 As stated by Elder Thelma Morriseau, “*Everyday women and girls continue to go missing or are murdered. The violence against Indigenous women and girls must stop. The women and girls who are murdered and missing are someone's daughter, mother, wife, sister, grandmother.*”

3 Canada, Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, (2014) online: <<http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.htm>> [“Operational Overview”].

4 Cultural genocide is “the destruction of those structures and practices that allow the group to continue as a group. States that engage in culture genocide set out to destroy the political and social institutions of the targeted group.” According to the Report, “For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada.” see Truth and Reconciliation Commission of Canada, “Honouring the Truth, Reconciling for the Future” (2015) (“TRC Report”) at p 1.

Families of MMIWG, Elders, youth and the MMIWG Coalition were clear - “it's about time we do it our own way.”

### Research on existing processes, models & recommendations

In preparing for this Report, we have conducted extensive research on existing processes and models relating to the issue of MMIWG. Existing recommendations were compiled from reports of inquiries, commissions, committees and non-governmental organizations. We do not seek to replicate this work. Existing efforts and recommendations have provided us with a basis upon which to build. According to our review, certain considerations can lead to an effective process. These include:

- early and ongoing meaningful engagement of all affected individuals and knowledge holders at every stage
- clear Terms of References which have a broad enough scope to include systemic issues
- strong courageous leaders who are not afraid of advocating for the implementation of their recommendations
- adequate and secure funding for process and implementation
- meaningful and reasonable expectations and
- a clear implementation process.

Our assessment has found that some of the recommendations which remain outstanding date back almost 25 years. Despite apparent unanimity on the need for action, the ability to move forward is tempered by the reality that many promises have been made and not kept. To a large degree, the issue is not an absence of recommendations; it is the lack of political will and results.

*There are recommendations from the Aboriginal Justice Inquiry that have not been implemented. Those need to happen. That inquiry happened for a reason and a lot of good work was done... If we're not paying attention to that, it's a mistake. And then the work out of the TRC, recommendations are on the table, we just have to make it happen.*

Many of the recommendations made by families of MMIWG, Elders, youth and the MMIWG Coalition are consistent with those made by many reports over many years. The recommendations include:

1. **Supports** - More supports should be made available to the families of MMIWG that are culturally, spiritually and religiously diverse.
2. **Honouring Loved Ones** - Measures should be taken to ensure the memory of loved ones are respected and honoured. This includes making funding available for gathering stories, annual feasts, walks, vigils and memorials.
3. **Cultural Reconnection** - There should be more opportunities for Indigenous people to learn about their culture and healthy relationships for example through parenting and language programs.
4. **Interconnected Systems** (Policing, Justice and CFS agencies) - The accountability and effectiveness of the child welfare system should be improved with direct involvement of Indigenous people.

### Families First Process

Our engagement and research efforts have led us to move away from the debate of whether or not to call for a federal or provincial inquiry. Rather, we recommend the creation of “our own” defined process - a Families First process - to be steered by 'Families First Leaders'. The Families First Leaders are the decision makers of the Families First Process. The Elders have identified the importance of having 'Leaders' guiding the process as they will require courage to tackle this complex issue.

*“[W]e need true leadership to see the difference.”*

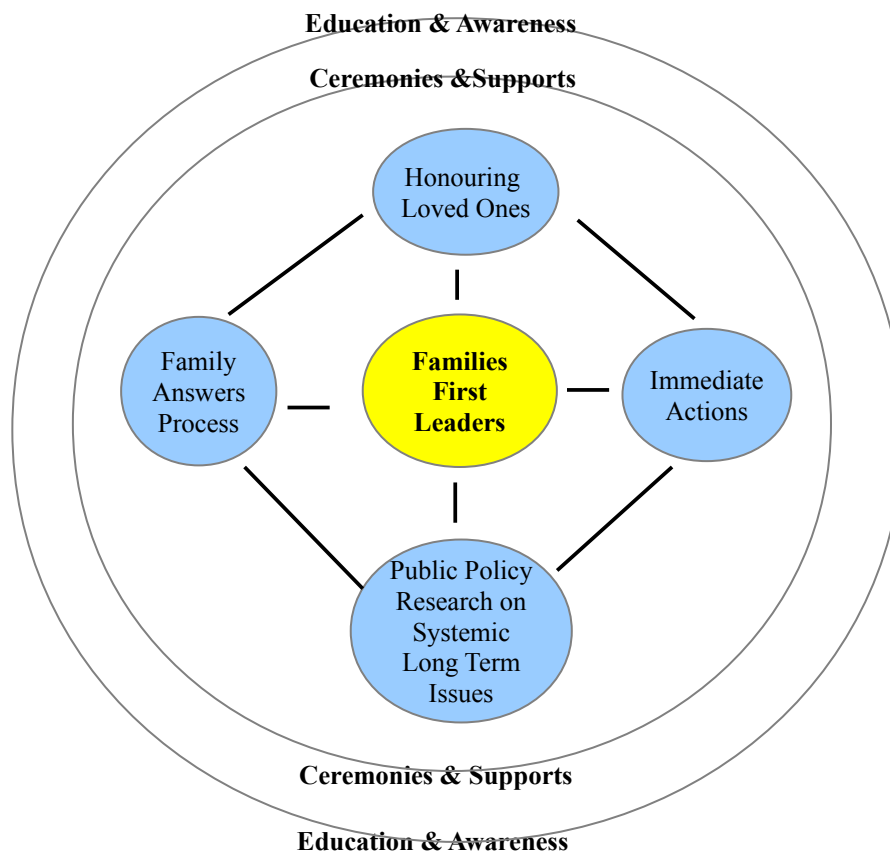
Further engagement is needed for the appointment of the Families First Leaders. On a preliminary basis,

we have heard that the Families First Leaders should include representation from:

- men and women
- North and South
- Youth
- Elders
- Grandmothers, and
- Technicians such as knowledge holders, researchers, academics and lawyers.

It is also recommended that there be eight Families First Leaders in order for a female and male to be responsible for each of the four main areas of work:

- Honouring Loved Ones
- Immediate Actions
- Public Policy Research on Systemic Long Term Issues
- Family Answers Process



*Honouring Loved Ones* - This stream of action would provide an opportunity for families to honour their loved ones in multiple ways. Its central goal is to empower families to tell their own stories and support them to maintain ownership of the way they chose to honour their loved ones.

*Immediate Actions* - The purpose of this area of work is for the Families First Leaders to identify core immediate actions; liaise with appropriate agencies to get a commitment to action; follow up and report back on progress; seek feedback from the families and others on the progress; raise public awareness on immediate actions needed and continue to push for action.

*Public Policy Research on Systemic Long Term Issues* - Opponents of a process for action indicate that there exists sufficient information and research on the issue of MMIWG. Yet families of MMIWG, Elders, youth, service providers, academics and the community at large continue to have unanswered questions.

The purpose of this work would be to complete and coordinate research on systemic long term issues including: the basic facts; the root causes of sexual exploitation and interrelated factors (poverty, child welfare, justice system, Indian residential schools, Sixties Scoop, etc).

*Family Answers Process* - Families have a lot of questions about their loved ones - their individual cases. This stream of action will have varying levels of formality and will provide an opportunity for: families to receive answers to their questions; better understanding of perspectives and responsibilities; improving relationships; more accountability and closure for the families.

Strong supports for all involved will be put in place to surround this work. In addition, education and awareness activities will be undertaken to promote positive relationships.

The proposed process will be guided by the seven teachings - respect, love, truth, honesty, wisdom, humility and courage. This Report - Families First - is the first step in a Manitoba-made way forward that can serve as an example for other jurisdictions to consider. Families First seeks to

- address the gaps of knowledge which have been created because families of MMIWG, Elders, youth and service providers have been largely excluded
- address the historic distrust between Indigenous and non-Indigenous people and focus on achieving long term relationships
- identify and achieve both immediate and long term solutions to address the social, cultural, political and economic issues relating to MMIWG by including those who are affected by the issue at all steps of the process
- educate the broader public on underlying historical and systemic issues contributing to violence against Indigenous women and girls
- give equal weight to natural, spiritual laws and Canadian laws
- honour loved ones and support families to feel strong enough to tell their own stories where they feel most comfortable
- support families and communities in individual and collective healing journeys
- validate the feelings of anger, frustration and sadness of the families and
- prevent more MMIWG.

We anticipate the process will evolve as more voices are heard, the Families First process begins and the Families First Leaders begin their important work.

Given the common acceptance that the issue of MMIWG must be addressed, Families First is a necessary step in the process of healing and reconciling.

*We are not there yet. The relationship between Aboriginal and non-Aboriginal peoples is not a mutually respectful one. But, we believe we can get there, and we believe we can maintain it. Our ambition is to show how we can do that.*<sup>5</sup>

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<sup>5</sup> TRC Report at p 7.



# Methodology

## The Timeline

*“We admire the leadership for taking on Families First and we need our leaders to speak up and inform government and educate them of who we are. They haven't a clue of who we are.”*

September- December 2014 (Phase One)

- The Assembly of Manitoba Chiefs (AMC) initiated the Families First Approach with the assistance of the Southern Chiefs Organization (SCO) and the Manitoba Keewatinowí Okimakanak (MKO).
- The AMC approached the Public Interest Law Centre (PILC) to assist in the creation of a recommended process for action. Phase One of the work was completed between September 2014 and December 2014. The purpose of Phase One was to engage with families and the MMIWG Coalition in order to identify next steps for action to address the tragedy of MMIWG.
- This Phase included preliminary conversations with six families of MMIWG (twelve individuals) and two meetings with the MMIWG Coalition (26 representatives were in attendance at the first meeting and 25 at the second meeting). Families were contacted by telephone, electronic correspondence, letters and social media. The MMIWG Coalition was invited by electronic correspondence.
- Concurrently with and in support of the engagement with families and the MMIWG Coalition, PILC and a team of *pro bono* lawyers prepared a number of research tools. We considered current initiatives from across Canada and compiled relevant recommendations from past proceedings. Mindful of the families' preference for a grassroots, Manitoba made approach, the legal team sought to draw the best from different approaches based upon the core objective of putting families first.
  - These research tools were important because both families and community organizations expressed a desire to move past the debate about inquiries versus roundtables and to development of their own Manitoba made process grounded in Indigenous knowledge and traditions, based upon putting Families First and taking the best from existing processes.

November 12, 2014

- The AMC Chiefs in Assembly endorsed the Families First approach.

December 8, 2014

- A draft report was completed by PILC with the assistance of a *pro bono* legal team and the advise of the AMC, SCO and MKO. This draft report included:
  - background on existing processes (inquiries, commissions, roundtables and advisory panels)
  - an overview of the lessons learned from the processes examined
  - a summary of the state of affairs and summary of existing initiatives
  - potential legal tools for persuading governments to act
  - a compilation of various recommendations relating to MMIWG from 43 past processes
  - preliminary considerations of natural and spiritual laws relating to MMIWG<sup>6</sup>
- The draft report was released in time for a Families First Forum which was co-hosted by the AMC, MKO and SCO at the Canadian Museum for Human Rights. Over 150 participants attended.

December 11, 2014

- Families First was unanimously approved at the Assembly of First Nations Annual General

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<sup>6</sup> The term 'natural and spiritual laws' is used throughout this Report instead of 'Indigenous legal traditions' or other terminology. According to Elder Henry Skywater, “in the language, the words used i.e. Indigenous legal tradition – any elder will tell you, unless you are talking about a tree, a plant- that word does not fit in [...] we have to be leery of the words; Indigenous legal traditions [...] I'm having a hard time with understanding those words.”

Assembly. The resolution obtained consensus on the Manitoba Families First Initiative to honour MMIWG and “involve and support their families first.” It also stated that

*any process including a national roundtable or inquiry must listen and hear the voices of the families of MMIWG, adequately support the families and communities in their healing journey, and honour the MMIWG.<sup>7</sup>*

January 2015 – July 2015 (Phase Two)

- Phase Two of the Project is being conducted.
- The purpose of Phase Two was:
  - to continue listening to families, Elders, youth and the MMIWG Coalition in order to further define the process
  - coordinate supports for families of MMIWG
  - propose considerations for Terms of Reference
- In early February 2015, a team of individuals from AMC, PILC and the Manitoba Research Alliance hosted gatherings in Thompson and The Pas to meet with families, grandmothers, Elders and youth.

January 2015

- Research into the 'cost of doing nothing' was initiated by Dr. John Loxley and Ms. Marina Puzyreva from the Manitoba Research Alliance.
- This research examines the cost to society of losing so many young Indigenous women and girls who otherwise would have led their lives as professionals, mothers, and home makers. It also considers the costs incurred by non-governmental and governmental agencies reacting to the tragedy of MMIWG. As part of that research, engagement was initiated with the Winnipeg Police Service, the RCMP and Manitoba Justice.
- This research is ongoing and further engagement is needed to determine actual costs relating to searches, loss of employment, child minding, etc.

February 2015

- AMC attended the AFN National Roundtable on MMIWG and submitted a brief Report.

May 13, 2015

- The Families First Foundation was incorporated.

June 20, 2015

- Inaugural Fundraiser of the Families First Foundation which began at the University of Winnipeg and finished at the Oodena Circle at the Forks.

July 21, 2015

- Families First Report presented to the Assembly of Manitoba Chiefs General Assembly

## **Our Approach**

PILC's approach to research and writing this Report is rooted in respect for families and other individuals and communities affected by MMIWG. We acknowledge natural and spiritual laws as being of equivalent value to Canadian laws.

A necessary step to creating any process is to speak with the individuals most affected by the issue. Our approach recognizes the authority and ownership of solutions rests within those most impacted by

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<sup>7</sup> See AFN Resolution no. 37/2014.

MMIWG. Our approach is flexible and recognizes that as more voices are heard, the process will likely change.

As of July 21, 2015, engagement has taken place with approximately

- 18 families of MMIWG
- 18 community members
- 18 Elders on three occasions
- 13 youth
- more than 36 representatives from Winnipeg agencies members of the MMIWG Coalition<sup>8</sup> and
- 11 one-on-one interviews with individuals from the MMIWG Coalition.

Generally speaking, individuals were asked about preferred processes and actions to address the issue of MMIWG. Facilitators included Gail Flett (AMC), Karen Harper (AMC), Katie Haig-Anderson (PILC), Keely Ten Fingers (independent), Jared Wheeler (PILC) and Joëlle Pastora Sala (PILC). A complete list of the questions asked can be found at Appendix A.

The goal of engagement was to determine next steps and to create an approach for action based on what we heard. Another important purpose of engagement was to identify immediate and systemic actions needed to move forward.

Our research approach recognizes the need to act with urgency given the circumstances.

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<sup>8</sup> A total of five meetings were held with the MMIWG Coalition on November 6, 2014; February 12, 2015; March 3, 2015; April 10, 2015 and May 21, 2015.

## Part I: Setting the Stage

*“We have to go back to the past to learn about our future.”*<sup>9</sup>

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<sup>9</sup> Elder Henry Skywater.

## Complexities of the issue of MMIWG

Indigenous girls are growing up in an environment of trauma and anxiety. Parents are fearful of letting their daughters go out with friends as Indigenous women and girls are among the most vulnerable citizens in Canada – the unacceptable targets of abuse, sexual assault and murder.

The tragedy of MMIWG is driven by a complex web of historic and current contributing factors perhaps best understood within the analytical framework of 'cultural genocide.'<sup>10</sup>

Cultural genocide is

the **destruction of those structures and practices** that allow the group to continue as a group. States that engage in cultural genocide set out to **destroy the political and social institutions** of the **targeted group**. **Land is seized**, and **populations are forcibly transferred** and their movement is restricted. **Languages are banned**. **Spiritual leaders are persecuted**, **spiritual practices are forbidden**, and **objects of spiritual value are confiscated and destroyed**. And, most significantly to the issue at hand, **families are disrupted** to prevent the transmission of cultural values and identity from one generation to the next.<sup>11</sup> (emphasis added)

From a historical perspective, this discussion involves, among other things:

- the forced relocation of Indigenous people from agriculturally valuable or resource-rich lands to remote and economically marginal reserve
- the replacement by the Federal Government of existing Indigenous governments with band councils “whose decisions it could override and whose leaders it could depose”<sup>12</sup>
- the outright denial of participation of Indigenous people in political economic, and social life
- the outlawing of spiritual and ceremonial practices and
- the separation of Indigenous families through the residential school system.

*“The first Prime Minister said that he wanted to take the Indian out of the child and ever since then, there have been policies [...] they treated us like less than humans.”<sup>13</sup>*

*“I try so hard to remain calm and not get angry. I do. Because deep down inside of my heart I know we are not equal. We are not considered equal in the eyes of the law.”*

The combined effects of these historical events have left

deep scars on the lives of many Aboriginal people, on Aboriginal communities, as well as on Canadian society, and have deeply damaged the relationship between Aboriginal and non-Aboriginal peoples. It took a long time for that damage to have been done and for the relationship we see to have been created, and it will take us a long time to fix it. But the process has begun.<sup>14</sup>

The historical disruption to Indigenous cultures by all levels of governments continues to have an enduring and adverse effect upon:

- the roles and value of men and women
- the role and impact of the Child and Family Services system
- the prevalence of sexual exploitation and
- the existence of gang related organized crime.

In addition, the legacy is reflected today in the “significant educational, income, health, and social

<sup>10</sup> A new Angus Reid Institute survey reveals that 70 per cent of Canadians endorse the term:

<http://www.thestarphoenix.com/news/Cultural+genocide+term+endorsed+majority+poll/11199419/story.html>

<sup>11</sup> TRC Report, *supra* note 4 at p 1.

<sup>12</sup> *Ibid.*

<sup>13</sup> Elder Lathlin.

<sup>14</sup> TRC Report, *supra* note 4 at p 237.

disparities between Aboriginal people and other Canadians.”<sup>15</sup>

*“I am not going to say we lost everything – it is in our heart, our blood and nobody can take that away from us and we must bring it back for our children.”*<sup>16</sup>

While some other destructive practices have been eliminated, the damage inflicted by the epidemic of MMIWG only grows worse as the number of impacted families increases.

*“The Indigenous ways have always been to protect our land, protect our children, protect our women. The earth is our mother, the sun is our father, the moon is our grandmother. We are all related. That's the most powerful teaching we can teach.”*

The issue of missing and murdered Indigenous women and girls is an issue that affects us all. We must all take responsibility.

## Background statistics

Indigenous women and girls in Canada are disproportionately affected by disappearances and murders.<sup>17</sup> The unprecedented scale of this Canadian and community tragedy was first brought to light by the Missing Women Commission of Inquiry in British Columbia.<sup>18</sup>

There are a number of challenges and limitations to be considered in reviewing the statistical information. First – there is very little publicly available data on disappearances and murders. Second – the inconsistencies in the historical and current manner in which the information is and was recorded may have significantly skewed the available statistics. Third – if and when 'ethnic background' is recorded, it is usually simply generically recorded under “Aboriginal” without specification as to whether the individual is First Nations, Metis or Inuit.

Despite challenges with the data, the story that is told is grim.

An RCMP Report released in May 2014 concludes that the rate of victimization by acts of violence against Indigenous women and girls is “close to three times higher” than the case of non-Indigenous women and girls.<sup>19</sup> According to the 2014 RCMP Report, there were approximately 1,181 MMIWG cases between 1980 and 2012.<sup>20</sup> In 2010, almost one in five cases of murders and disappearances involved children – girls under 18 years old.<sup>21</sup>

In the updated 2015 RCMP Report, it states that as of April 2015 for all police jurisdictions in Canada there were 174 missing Indigenous female cases. However a database created by Maryanne Pearce for the purposes of her doctoral thesis found that from 1990 to 2013 there were approximately 3,329 missing or murdered women across Canada.

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15 TRC Report, *supra* note 4 at p 183.

16 Elder D'Arcy Linklater.

17 According to the Native Women's Association of Canada (NWAC), more than half of the missing and murdered Indigenous women are under the age of 31 and 17% are under the age of 18. In addition, 88% had children and more than 440 children have been affected by the murder or disappearance of their mothers: Native Women's Association of Canada, *Fact Sheet: Missing and Murdered Aboriginal Women and Girls*, (2010) online: Native Women's Association of Canada <[http://www.nwac.ca/files/download/NWAC\\_3D\\_Toolkit\\_e\\_0.pdf](http://www.nwac.ca/files/download/NWAC_3D_Toolkit_e_0.pdf)> [“Fact Sheet”] at p.4.

18 Maryanne Pearce, “An Awkward Silence: Missing and Murdered Vulnerable Women and The Canadian Justice System” (2013).

19 National Operational Overview, *supra* note 3.

20 Ibid.

21 Fact Sheet” *supra* note 17.

Manitoba has the third highest number of incidents of missing and murdered Indigenous women and girls.<sup>22</sup> According to the RCMP Report, between 1980 and 2012, there were 196 'Aboriginal female homicides' in Manitoba, 20 of which were unsolved as of 2014. Research cited by the Winnipeg Free Press suggests that over the last 50 years, there have been 10 female children murdered including Phoenix Sinclair.<sup>23</sup>

The average age of missing and murdered Indigenous women in Manitoba is 20 (among those whose ages were known).<sup>24</sup> Overall, most of the known cases in Manitoba have occurred in urban areas, particularly in Winnipeg. However, the majority of the MMIWG moved to Winnipeg from rural and remote communities outside the city.

## Families First

Families have come together to organize walks, vigils and feasts in memory of their loved ones but many feel a sense of abandonment and frustration.

A wide range of governmental, national and international non-governmental organizations have raised urgent concerns over the scope and scale of the issue of missing and murdered Indigenous women and girls.<sup>25</sup> As highlighted by Amnesty International,

the level of international concern is demonstrated by the fact that in 2013 three international human rights mechanisms conducted visits to Canada either whole or in part to investigate violence against Indigenous women and girls.<sup>26</sup>

There has been a lot of public attention about whether there should be a national or provincial inquiry(ies), national or provincial roundtable(s), more police investigations or other formal processes.

Widespread agreement that the issue of MMIWG must be addressed offers an important opportunity for change. However, three significant challenges remain:

- to move beyond the debate over whether there should be an inquiry, a roundtable or some other formal mechanism<sup>27</sup>
- to ensure the voices of families of MMIWG are heard and their loved ones honoured and
- to overcome gaps and silos and initiate sustainable measurable actions that can and must be taken to stop Indigenous women and girls from becoming victims.

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<sup>22</sup> Operational Overview, *supra* note 3.

<sup>23</sup> Maryanne Pearce, "An Awkward Silence: Missing and Murdered Vulnerable Women and The Canadian Justice System" (2013). cited in "Manitoba's Missing and Murdered Aboriginal Women and Girls" (January 24, 2014) Winnipeg Free Press. The report also suggests a significant number of unsolved murders.

<sup>24</sup> Ibid.

<sup>25</sup> See Appendix C: Who Is Calling for What? and Appendix H: International Conventions.

<sup>26</sup> Amnesty International, *Violence Against Indigenous Women and Girls in Canada: A Summary of Amnesty International's Concerns and Call to Action*, (2014) online: Amnesty International Canada <<http://www.amnesty.ca/get-involved/lead-in-your-community/violence-against-indigenous-women-and-girls-in-canada-a-summary>> ["Amnesty Call to Action"] at p. 4.

<sup>27</sup> See for example: Aidan Greary, "Action, not inquiry needed on missing women: Judge" *Winnipeg Free Press* (7 November 2014) online: Winnipeg Free Press <<http://www.winnipegfreepress.com/local/action-not-inquiry-needed-on-missing-women-judge-281888051.html>>.

## **Part II: Answering the Call to Action**

“When to start? Now. There are a lot of things we can do that do not cost money; yes, reality is we need money to live in this world; must start and do things from our heart.”<sup>28</sup>

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<sup>28</sup> Elder Wayne Scott.



## **A Basis Upon Which to Build**

The issue of MMIWG is not new. The breadth of existing research, current initiatives and recommendations must be acknowledged. Much work has been done and continues to be undertaken by individuals, First Nations leadership, non-governmental organizations, governments, academics and agencies (CFS and policing).

### **Selection of Past and Present Research and Initiatives**

We undertook a wide ranging review of the past research and initiatives but recognize that our efforts may have inadvertently excluded a number of important activities. Past efforts were grouped based on the entity that conducted the research or carried out the initiative under the following headings:

- Grassroots Initiatives
- Community Organizations
- Existing Academic and Legal Research
- City of Winnipeg
- First Nation political organizations
- Manitoba
- National Aboriginal Organizations (NAOs)
- Federal Government and
- International community

A more extensive overview of past research and initiatives can be found at Appendix B.

### **Selected Highlights of Grassroots activities**

Many of the activities at the grassroots held by family members and concerned individuals and groups focus on honouring loved ones. Annual events are organized throughout Manitoba including: the Annual Memorial Feast in honour of Hillary Angel Wilson; Annual Awareness Walk for All Missing People hosted by Brenda Osborne; Annual fundraiser BBQ and Silent Auction hosted by Bernice and Wilfred Catcheway; and the Annual Mothers Day Feast for families of MMIWG hosted by Sue Caribou.

Many families, interested individuals and organizations have also mobilized to demand action on MMIWG. On August 25, 2014 a group of concerned individuals camped in Winnipeg's Memorial Park calling on national leaders for an inquiry into MMIWG. On several occasions, peaceful protestors have blocked traffic on busy Winnipeg intersections in an effort to raise awareness and call for an inquiry into MMIWG.<sup>29</sup>

Individuals have found creative ways to honour the MMIWG and to search for loved ones who are still missing. Many have taken to social media to share pictures and stories of their loved ones either to assist in search efforts or to honour their memories. In Winnipeg, a volunteer-based initiative named “Drag the Red” emerged after 15 year old Tina Fontaine's body was found in the Red River.<sup>30</sup>

A number of events and vigils are regularly held across Manitoba and Canada to honour MMIWG. These

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29 See: Megan Roberts, “Protestors block traffic on Portage to raise awareness over murdered, missing indigenous women” (September 2 2014) CTV News.

30 Drag the Red is an initiative which is composed of a group of volunteers who dredge the Red River in hopes of finding the remains of missing and murdered Indigenous women and girls.

include the Annual Women's Memorial March held on February 14<sup>th</sup>, the October 4<sup>th</sup> Sisters in Spirit Vigil and the Annual No Stone Unturned Concert for families of Missing and Murdered Women, Men, Two-Spirit and Children.

## **Community Organizations**

Many non-governmental and not-for-profit organizations have been doing valuable work on a daily basis with individuals at the grassroots. One example, Ka Ni Kanichihk, is a community-based organization that provides culturally-based education, leadership and community development, healing and wellness programs and services that are rooted in the restoration and reclamation of Indigenous cultures. In 2012, Ka Ni Kanichichk Inc prepared a toolkit for the families of MMIWG.

## **Existing Academic & Legal Research**

A number of academics throughout Canada are currently conducting research on the issue of MMIWG. A review of published articles relating to the issue points to a breadth of existing research diverse disciplines including law, sociology, criminology, geography and politics.

Examples of articles published in the area include:

- Professor Maryanne Pearce wrote a thesis for her postdoctoral studies at the Faculty of Law at the University of Ottawa on the issue of MMIWG. Her thesis is entitled - “An Awkward Silence: Missing and Murdered Vulnerable Women and the Canadian Justice System” (2013)
- In 2010, Professors Elizabeth Comack from the University of Manitoba and Maya Seshia from University of Alberta published an article examining violence against sex trade workers in Winnipeg, including violence against Indigenous women and girls.<sup>31</sup>
- Professor Brenda Gunn from the University of Manitoba Law School published an article in 2014 relating to the impacts of colonization on Indigenous women, including Indigenous women in the right to self-determination.<sup>32</sup>
- Professor John Borrows of the University of Victoria published an article in 2013 about reinterpreting s. 35 to include issues of gender and violence.<sup>33</sup>
- Professor Elaine Craig from Dalhousie published an article in 2014 about the Pickton prosecution on whether the families of the victims felt they received justice through the inquiry process.<sup>34</sup>
- Professor Melina Buckley refers to the Pickton inquiry principles of equality law relevant to the issue of MMIWG.<sup>35</sup>
- Professor Sherene Razack from the University of Toronto discusses the murder of Pamela George in Regina and traces the history of violence against Aboriginal women.<sup>36</sup>

The Legal Strategy Coalition on Violence Against Indigenous Women is a nation-wide coalition of groups and individuals engaged in legal advocacy and research to urgently address the issue of MMIWG. In December 2014, two legal research volunteers released a report which documents where recommendations relating to MMIWG have not been implemented.<sup>37</sup>

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31 Elizabeth Comack & Maya Seshia, “Bad Dates and Street Hassles: Violence in the Winnipeg Street Sex Trade” CJCCJ 2010.

32 Brenda Gunn, “Self-Determination and Indigenous Women: Increasing Legitimacy through Inclusion” CJWL 2014.

33 John Borrows, “Aboriginal and Treaty Rights and Violence Against Women” 2013 Osgoode Hall Law Journal 50.

34 Elaine Craig, “Person(s) of Interest and Missing Women: Legal Abandonment in the Downtown Eastside” McGill Law Journal 2014.

35 Melina Buckley, “No Shadows in the Fog: Personal Reflections on The Working to Make the Promise of Equality a Lived Reality” UNB LJ RD UN-B 2013.

36 Sherene H Razack, “Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George” 15 CJLS 2000.

37 The Families First Leaders may wish to explore potential collaboration with this legal research group.

## **Winnipeg**

In 2014 the City of Winnipeg and the Province of Manitoba announced a combined contribution of \$300,000 to expand access to a drop-in centre at Ndinawemaaganag Endaawaad Inc.

Also in 2014, Winnipeg City Council adopted a motion calling for a national inquiry or national roundtable.<sup>38</sup> The Resolution committed the City of Winnipeg to further fund Ndinawe annually for \$150,000 to ensure its long term viability and also called on the Winnipeg Police Board to task the Winnipeg Police Service (WPS) to do all things necessary to provide a proactive approach to prevent, investigate and solve the plight of missing and murdered Indigenous women in Winnipeg.

In late January 2015, Winnipeg was named Canada's most racist city. As a response, Mayor Brian Bowman created a website to solicit ideas on how to combat racism.<sup>39</sup> On June 22, 2015, Mayor Bowman, joined by Wab Kinew, announced the creation of the Mayor's Indigenous Advisory Circle (MIAC) "to advise on policies the city of Winnipeg can implement to build bridges and understanding between Aboriginal and non-Aboriginal communities."<sup>40</sup>

## **First Nation political organizations**

The Assembly of Manitoba Chiefs (AMC) has responded to the issue of MMIWG in a number of ways.

At the request of the families of MMIWG, in 2009 the AMC Chiefs-in-Assembly passed a resolution to call on the Federal and Provincial Governments for a Public Inquiry into MMIWG.

In 2012, the AMC played a central role in the development of a coalition of individuals and community service organizations focused on developing an action plan on MMIWG. This coalition is referred to throughout the Report as the "MMIWG Coalition." Together, the AMC and the MMIWG Coalition organized community mobilization activities, including walks and vigils.

In June 2012, the Grand Chiefs of AMC, MKO and SCO were involved in political mobilization. Together they wrote to the Provincial and Federal Governments calling for provincial and national inquiries into MMIWG. These requests were both subsequently denied.

## **Manitoba**

In response to the push from the grassroots and Indigenous leadership, Manitoba has become a leader on the issue of MMIWG. On August 26, 2009, Manitoba created a specialized task force of individual police officers, prosecutors and victim service workers to respond to serial predators and cases of MMIWG - the Manitoba Action Group on Exploited and Vulnerable Women. Based on a review of 84 investigations, Project Devote was created to investigate 20 unsolved historical homicides. In 2011, the organization launched a public awareness campaign aimed at helping the public empathize with families of MMIWG.

The Province's prevention efforts have focused on Tracia's Trust: Manitoba's Sexual Exploitation Strategy. It includes a three phase approach, including a multi-year plan with 23 components focusing on human trafficking, offender accountability and protection for victims. This strategy currently invests over \$10 million annually for initiatives to prevent and intervene against sexual exploitation of children, youth and adults in Manitoba.

The Province's intervention efforts have focused on supports for families. In 2010, the Aboriginal Issues Committee of Cabinet appointed Ms. Nahanni Fontaine as the Special Advisor on Aboriginal Women's Issues. Her primary focus and responsibility is the MMIWG portfolio. Since 2012, the Province has hosted annual Christmas celebrations for the families of MMIWG. "Wiping away the Tears," is an

38 At p 8:<http://www.winnipeg.ca/clkdms/ViewDoc.asp?DocId=13884&SectionId=&InitUrl=>

39 The website was [www.1Winnipeg.ca](http://www.1Winnipeg.ca).

40 City of Winnipeg "Mayor's Indigenous Advisory Circle members announced" (June 22, 2015) online: [http://winnipeg.ca/cao/media/news/nr\\_2015/nr\\_20150622.stm](http://winnipeg.ca/cao/media/news/nr_2015/nr_20150622.stm)

annual meeting where families of MMIWG gather to support each other in their healing journeys.

There are many other projects supported by the province of Manitoba such as: a Memorial Quilt project in partnership with the Winnipeg Art Gallery and a monument honouring Manitoba's MMIWG unveiled at The Forks.

Provincial funding is also provided for many programs, such as: the Aurora Family Therapy Centre's 'Unresolved Loss' program which enhances supports and long-term counselling for the families of missing persons; Ka Ni Kanichihk's efforts to expand and enhance the work of the Medicine Bear Project in order to increase partnerships and resources in rural and northern communities; and Eyaa-Keen's Ni Mino Biimatiziiwin Project (My Good Life) to address grief and loss experienced by families of MMIWG.

Most recently, the Province of Manitoba has offered to host the second national roundtable on MMIWG.<sup>41</sup>

### **National Aboriginal Organizations (NAOs)**

The National Aboriginal Organizations include: the Assembly of First Nations (AFN), the Congress of Aboriginal People (CAP), Métis National Council (MNC), Inuit Tapiriit Kanatami (ITK) and the Native Women's Association of Canada (NWAC).

NWAC launched the Sisters In Spirit Campaign in 2004. In 2005, it began a five year research, education and policy initiative addressing the root causes and circumstances of MMIWG. Since 2007, NWAC has hosted a series of National Aboriginal Women's Summit (NAWS) addressing the issue of MMIWG. In both 2009 and 2010 NWAC released reports focusing on the issue of MMIWG. NWAC has since released a number of other Reports and has also organized vigils in honour of MMIWG in a number of Canadian cities from coast-to-coast. In 2014, the Canadian Association of Chiefs of Police and NWAC partnered to create an action plan on MMIWG.

In 2012, the Assembly of First Nations (AFN) created a "Coordinated and Urgent Action to End Violence Against Indigenous Women & Girls - Towards a National Action Plan".

In February 2015, a one-day National Roundtable on MMIWG brought together the NAOs and representatives from the federal, provincial and territorial governments. There is little publicly available information about the follow up to the National Roundtable on MMIWG.

The AFN National Chief Perry Bellegarde continues to call on the Federal government to act immediately on the issue of MMIWG and to share more information on violence against Indigenous women and girls.

### **Federal government**

In 2009, an Aboriginal Affairs Working Group<sup>42</sup> developed recommendations and identified actions to, among other things reduce violence against Aboriginal women and girls.<sup>43</sup> In 2010, the Standing Committee on the Status of Women passed a motion to undertake a study on violence against Indigenous women and released a report in 2011 which outlines a number of root causes.<sup>44</sup> In 2014, the Canadian House of Commons unanimously passed a Motion recognizing a number of Indigenous women and girls have gone missing or been murdered and that the federal government has a responsibility to provide

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41 <http://globalnews.ca/news/2114030/manitoba-offers-to-host-roundtable-on-missing-murdered-women/>

42 Assembly of First Nations (AFN), the Congress of Aboriginal Peoples (CAP), the Inuit Tapiriit Kanatami (ITK), the Metis National Council (MNC) and the Native Women's Association of Canada (NWAC).

43 Aboriginal Affairs Working Group "A Framework for Action in Education, Economic Development and Violence Against Aboriginal Women and Girls" (2010).

44 Standing Committee on the Status of Women, "Interim Report: Call into the Night: An overview of violence against Aboriginal Women" (March 2011) 40th Parliament, 3rd Session. Also see: Standing Committee on the Status of Women "Ending Violence Against Aboriginal Women and Girls: Empowerment – a New Beginning" (2011).

justice for the victims and healing to the families.

The Special Committee on Violence Against Indigenous Women was appointed to propose solutions to address the root causes. With the assistance of the Native Women's Association of Canada (NWAC), the Committee produced a report which recommended a national inquiry. Despite this Report, the Federal Government rejected the need for an inquiry.

Recently, Senator Serge Joyal called for a proceeding in Federal Court “to obtain a declaration ordering the Canadian Government to establish a National Inquiry to investigate the plight of missing and murdered aboriginal women.”<sup>45</sup> It is unclear whether any follow up to this recommendation has been undertaken.

The RCMP issued a report in 2014 concluding that there is a disproportionate number of Indigenous women and girls who have been murdered, sexually exploited, and who have gone missing.<sup>46</sup> In 2015 the RCMP released an update which indicated that Aboriginal women continued to be over-represented among Canada's murdered and missing women.<sup>47</sup>

Despite repeated calls by individuals, non-governmental organizations and government- the Federal government continues to refuse to hold a national inquiry into MMIWG.

### **International community – a close eye on Canada's actions and inactions**

A wide range of international organizations and bodies, such as Amnesty International and Human Rights Watch, are also calling on the Canadian government for urgent action given the scale and scope of ongoing violence against Indigenous women and girls. Many international conventions and implementation committees have also called on the Canadian government to combat the high levels of violence against Indigenous women and girls.<sup>48</sup>

As a Member State of the Organization of American States (OAS), Canada has international and national responsibilities. For example, the American Declaration of the Rights and Duties of Man, adopted in 1948, sets out fundamental human rights and freedoms including in article 1 which states that “every human being has the right to life, liberty and security of the person.” The Inter-American Commission on Human Rights (IACHR) takes the position that the American Declaration on the Rights and Duties of Man is a source of legal obligation on Member States of the OAS, including Canada.<sup>49</sup>

Canada has **not** signed or ratified the *American Convention on Human Rights*. However, that does mean

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45 Senator Serge Joyal, “Missing and Murdered Aboriginal Women in Canada: What to Do?” (2014) at p 7.

46 Canada, Royal Canadian Mounted Police, Missing and Murdered Aboriginal Women: A National Operational Overview, (2014) online: <<http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.htm>> [“Operational Overview”].

47 Canada, Royal Canadian Mounted Police, Missing and Murdered Aboriginal Women: 2015 Update to the National Operational Overview (2015) online: <<http://www.rcmp-grc.gc.ca/pubs/abo-aut/mmaw-fada-eng.htm>> [“2015 Update”].

48 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Committee against Torture, June 2012 at para 20 ; Convention on the Rights of the Child – Committee on the Rights of the Child , October 2012 at para 46; Convention on the Elimination of All Forms of Discrimination-Committee on Economic, Social, and Cultural Rights, May 2006 at para 29 ; Committee on Economic, Social and Cultural Rights May 2006 at paras 11 (d), 15, 26; Convention on the Elimination of All Forms of Discrimination against Women – Committee on the Elimination of Discrimination against Women, November 2008; Report of the Special Rapporteur on the Rights of Indigenous People, James Anaya – July 2014 at paras 35 and 89; Human Rights Council, Report of the Working Group on the Universal Periodic Review , June 2009 at para 49; International Convention on the Elimination of all Forms of Racial Discrimination – Committee on the Elimination of Racial Discrimination, May 2007.

49 ... the Commission in its decisions has *repeatedly interpreted the American Declaration as requiring States to adopt measures to give legal effect to the rights contained in the American Declaration*. The Commission has not only required States to refrain from committing human rights violations contrary to the provisions of the American Declaration, *but also to adopt affirmative measures to guarantee that the individuals subject to their jurisdiction can exercise and enjoy the rights contained in the American Declaration*. (emphasis added)

the IACHR does not have any authority or jurisdiction to investigate allegations of human rights violations. Article 18 of the *Statute of the Inter-American Commission on Human Rights* and Article 20 of the American Convention on Human Rights give the IACHR the authority to observe Member States, issue reports, and make recommendations to governments regarding human rights violations.<sup>50</sup>

On December 21, 2014, the IACHR issued a report entitled, “Missing and Murdered Indigenous Women in British Columbia, Canada” ( “IACHR Report” ).<sup>51</sup>

The Report found that there is a “strong connection” between discrimination and violence against women.<sup>52</sup> The Report discusses the principle of “due diligence” within the context of MMIWG. It explains that the due diligence principle involves four obligations:

- the obligation to prevent
- the obligation to investigate
- the obligation to punish and
- the obligation to make reparations for human rights violations.

The Report calls on States to adopt “comprehensive measures to comply with due diligence in cases of violence against women.”<sup>53</sup>

In July 2014, a report was prepared by United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, dealing with several issues relating to the human rights of Indigenous peoples in Canada, including the issue of MMIWG.

Most recently, on July 6 2015, Dr. Pamela Palmater spoke to the 114<sup>th</sup> Human Rights Committee Session to brief the United Nations on Canada's relationship with Indigenous people. Dr. Palmater explicitly referenced the fact that Indigenous women and girls are over-represented in those that are missing or murdered – 16% nationally, but as high as 55% in provinces like Saskatchewan. She also called on the Committee to “take emergency action to address structural discrimination especially the over-representation of Indigenous children in care, murdered and missing Indigenous women and girls; and the over-incarceration of Indigenous peoples”

## Media

CBC News investigated reports of missing and murdered Indigenous women and girls over the last six

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<sup>50</sup> IAHRC report, p. 21.

<sup>51</sup> The IACHR limited its investigation to British Columbia because that province has the highest number of murdered and missing Indigenous women in Canada, primarily because of the “Highway of Tears” and Vancouver’s Downtown East Side. According to the IACHR Report, B.C. has about 160 documented cases of murdered or missing Indigenous women. The IACHR hearings were held at the request of the Native Women’s Association of Canada, the Canadian Feminist Alliance for International Action and the University of Miami Human Rights Clinic. In addition, the IACHR visited Ottawa and British Columbia to meet government officials, Aboriginal leaders, non-governmental organizations, and family members.

<sup>52</sup> “Gender-based violence is one of the most extreme and pervasive forms of discrimination, severely impairing and nullifying the enjoyment of women's rights.” : para 135, 138. It recognizes that Indigenous women “face two layers of discrimination as from the time they are born: first as members of their racial and ethnic group and second on the basis of their sex.” : Para 139.

<sup>53</sup> It states that: Given the strong connection between the greater risks for violence that indigenous women confront and the social and economic inequalities they face, **States must implement specific measures to address the social and economic disparities that affect indigenous women.** The IACHR recalls the statistics described in the previous section that demonstrate that **indigenous women in Canada constitute one of the most disadvantaged groups on Canada.** These statistics, according to some civil society organizations: point to the existence of **institutionalized racism towards Aboriginal people, and towards Aboriginal women and girls, in the laws and policies of the Government of Canada with respect to the child welfare and criminal justice systems, and in the provision of education [...] and other essential services. Canada is failing to live up to its [international] obligations [...]** to ensure that public authorities and public institutions eliminate racial discrimination, and to review and amend any laws or policies which have the effect of creating or perpetuating discrimination.”: see para 165.

decades in Canada and created a database in 2014 that is updated regularly. The project is ongoing.<sup>54</sup> Families have shared with us their appreciation for the manner in which these CBC stories are reported as they focus on telling the stories from perspective of the families.

## Existing Recommendations

### Overview

In preparing for Families First, a review of the existing research and initiatives was conducted to better understand the context within which the Process will operate. The review demonstrates that although the actions prescribed may vary, there is common recognition that the issue of MMIWG demands immediate attention. Appendix D includes a more detailed overview of the existing recommendations. The analysis also serves to better understand “who is calling for what”<sup>55</sup>, identify the existing research and action gaps and explore areas of future collaboration.

Recommendations were compiled from reports of inquiries, committees, and non-governmental organizations, all of which address the issue of violence against Indigenous women. Some of the recommendations which remain outstanding date back almost 25 years to the Aboriginal Justice Inquiry.

Based on past processes and initiatives, we already know that there are many immediate actions which could be undertaken to address the issue of MMIWG. Although some of the recommendations from prior processes are region specific, many lessons can be drawn from this review.

The purpose of this research was not to blame particular governments or institutions but rather to present concrete action items to governments and institutions while recognizing the important work that has already been done.

For ease of reference the recommendations were grouped into the following themes:

- Honouring the Memory of Missing and Murdered Indigenous Women and Girls
- Safety and Security Measures
- Policing and Justice
- Missing Persons Investigations
- Poverty
- Gender Inequality
- Addressing the Legacy of Racism and Assimilation Measures
- Social Services
- The Child Welfare System
- Migration from Rural and Remote Communities to Urban Centres
- Government Leadership

### Summary of Existing Recommendations

Theme	Existing Recommendation	Reports
Honouring the Memory of MMIWG	Ensure that memories of loved ones are respected and family members supported.	Committee on Violence Against Indigenous Women; Missing Women Inquiry; TRC Report; Inter American Commission on Human Rights Report on Missing and Murdered Indigenous

<sup>54</sup> CBC News, Missing and Murdered: Unsolved Cases of Indigenous Women and Girls, online: <<http://www.cbc.ca/missingandmurdered/>>.

<sup>55</sup> Appendix C entitled “Who is Calling for What?” includes an overview of the types of actions being called for by a number of local and national organizations whether it be inquiries, roundtables or other.

		Women in British Columbia, Canada.
Safety and Security Measures	<p>1) Create public awareness campaigns on violence against women and girls as a preventative measure.</p> <p>2) Put measures in place to protect women and girls from violence on reserves and urban areas, should be immediately protected from violence.</p> <p>3) Provide special consideration to violence related to sex work. For example - Provincial governments should fund collaborative action research on entry of women into sex trade.</p> <p>4) Safe houses and counselling should be made available to Indigenous women, girls and youth.</p>	<p>1) Committee on Violence Against Indigenous Women; Stolen Sisters; TRC Report; RCAP; Missing Women Inquiry.</p> <p>2) Missing Women Inquiry; Committee on Violence Against Indigenous Women; Stolen Sisters.</p> <p>3) Committee on Violence Against Indigenous Women; Missing Women Inquiry; CEDAW Report.</p> <p>4) Missing Women's Inquiry; NWAC; RCAP</p>
Policing and Justice	<p>1) Improvements must be made in responsiveness and accountability of police.</p> <p>2) Standards based on best practice must be put in place to address institutional apathy and racism in policing and justice.</p> <p>3) More effective investigative procedures should be implemented for dealing with violence against women and missing persons cases.</p> <p>4) Increased communication and information sharing with the families of MMIWG and media is needed.</p>	<p>1) Stonechild; Ipperwash; Missing Women Inquiry; CEDAW Report; TRC Report; Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada.</p> <p>2) Stonechild; Ipperwash; Missing Women Inquiry; CEDAW Report; TRC Report; Aboriginal Justice Inquiry, Committee on Violence Against Indigenous Women; Intergovernmental Missing Women Working Group Report; Stolen Sisters; Ipperwash; Intergovernmental Missing Women Working Group Report.</p> <p>3) CEDAW Report; TRC Report; Aboriginal Justice Inquiry; Missing Women Inquiry; Stolen Sisters; Intergovernmental Missing Women Working Group Report; Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada.</p> <p>4) Missing Women Inquiry; Stolen Sisters; Intergovernmental Missing Women Working Group Report, CEDAW Report.</p>
Poverty	Create adequate shelter and employment opportunities. Poverty must be understood by levels of government as a major driver of insecurity and vulnerability.	TRC; Committee on Violence Against Indigenous Women; Manitoba Ombudsman's Report; Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada; CEDAW Report; Phoenix Sinclair Inquiry; Assembly of Manitoba Chiefs, "Bringing Our Children Home: Report and Recommendations" ; Phoenix Sinclair Inquiry ; NWAC Report: Sexual Exploitation



		and Trafficking of Aboriginal Women and Girls; RCAP; Stolen Sisters.
Gender Inequality	Increase funding to support research and skills development to address gender social and economic inequalities for Indigenous women and girls.	Aboriginal Justice Inquiry; Royal Commission on Aboriginal Peoples; NWAC.
Addressing the Legacy of Racism and Assimilation Measures	All levels of governments should acknowledge inter-generational effects and expand education programs, including in school systems to address legacy of racism and assimilation.	TRC Report; RCAP; Stolen Sisters; CEDAW Report; Phoenix Sinclair Inquiry.
Social Services	Administration of existing social services should be improved to include culturally appropriate education, youth programming, counselling, violence and drug addiction recovery programs.	Committee on Violence Against Indigenous Women; Phoenix Sinclair Inquiry; RCAP; Stolen Sisters; NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls; Intergovernmental Missing Women Working Group Report.
Child Welfare System	The Child Welfare System should reflect importance of family connections and must collaborate with community based organizations.	Bringing Our Children Home
Migration from Rural and Remote Communities to Urban Centres	Attention must be paid to the needs and issues related to transitioning from rural areas to urban centres and safe spaces should be made available.	Aboriginal Justice Inquiry; Missing Women's Inquiry in BC and Phoenix Sinclair Inquiry.
Government Leadership	Federal, provincial and territorial governments should acknowledge the validity of natural and spiritual laws and the need for self-determination /self-governance in areas such as family law, child protection, education and health.	TRC Report; RCAP; Missing Women Inquiry; Committee on Violence Against Indigenous Women.

## What we heard on immediate and systemic actions

### Overview

What we heard from the families of MMIWG, Elders, Youth and the MMIWG Coalition highlights the desire to work collaboratively to achieve tangible results.<sup>56</sup> But the desire to work together on concrete action is tempered by the reality that many promises have been made and not kept and by the recognition that a profound societal transformation will be required before success can be declared.

Many of the recommendations made by families of MMIWG, Elders, youth and the MMIWG Coalition are consistent with those made by many reports over many years. Despite apparent unanimity on the need for action, it is important to note that calls to action have been made repeatedly with a number of important recommendations repeated in numerous reports. To a large degree, the issue is not an absence of recommendations; it is the lack of political will and results.

Given the material gap between aspiration and action, an important consideration in 'answering the call to

<sup>56</sup> See Appendix A: Questions for Families, MMIWG Coalition, One-On-One Interviews

action' is to identify an inclusive process for defining success and a credible entity for evaluating success. Taking the child welfare system as an example, success for a government entity might be a reduction in the number of Indigenous children in CFS by a targeted year. For families, Elders, and youth the objective may be much farther reaching. Success will be when Indigenous families are no longer being broken up and all children are returned home.

In the discussion which follows, we separately identify the recommendations from families of MMIWG, Elders, Youth and the MMIWG Coalition.

## **From Families**

### **More Supports Needed**

*"I am still today angry and I have nobody to talk to."*

Most, if not all of the families engaged have requested that more supports be made available. These supports include: attendants to accompany families to court, 24/7 culturally and spiritually diverse grievance counselling, addiction services and child minding. The supports identified also included the need for safe spaces for Indigenous women and men. Some families emphasized that it is important to include supports for Indigenous men and boys as they are also hurting and require healing. Families suggested a Northern conference or workshop on healing for both men and women.

Many families identified the need to make financial support available to help families with searches, funeral costs as well as costs associated with the care for the children of MMIWG. Families expressed frustration with the lack of financial assistance for searches. One family member referred to the "cost of finding a missing person" as extremely expensive. It was pointed out by several family members in the North that the costs associated with searches were particularly high for families whose loved ones have gone missing in Winnipeg or other areas. These families have to commute back and forth to complete searches or meet with investigators at a high personal cost - they often have to miss work and temporarily take their children out of school.

Some families preferred to be on their own while others expressed the desire to coordinate gatherings with families. One idea was to hold regular potlucks for the families in different regions in Manitoba.

There is a particular need for more supports for families in the North.

There are many gaps in communication in Northern Manitoba. Some people don't have telephones or fax machines, many people are not reachable. People are not getting information. With lack of information comes more self-isolation.

Families we spoke with indicated that in certain areas of the North, supports are limited to the families whose loved ones have been murdered. This is because the only services available are offered by Victim Services who only assist people whose family member has been (confirmed to be) murdered. As one family member in the North stated:

Back in 2004 when my daughter first went missing, [the Minister of Aboriginal and Northern Affairs] asked me what kind of services [I] required. I told him - family counselling- but nobody ever phoned me or even wrote me a letter.

It was also recommended that steps be taken to ensure that supports are coordinated and that families are fully aware of the range of services available. In some instances, supports are available but are not brought to families' attention. Coordination of information sharing among families of MMIWG was also suggested. Moreover, several indicated it was necessary for resources to be easily accessible by all.

Family members often stressed that supports were also needed for the community at large as everyone

suffers when a life is lost. This was especially apparent in smaller and more isolated communities.

### **Training People in Communities to Help One-Another**

Many of the family members identified the need to “train more people who are families who are directly affected.” Although certain family members were not ready to help others, some families stated they wanted to help other families in their healing journeys. They said that those who are directly affected “know best” how to support others. This was said to be particularly important for families in Northern and remote communities.

### **Education and Awareness**

Many families stressed the importance of education and raising awareness on MMIWG, particularly around racism and sexism. A poster campaign was suggested to shed light on some of the older cases that generally get little attention. Families felt that education and awareness should be directed at people of all races and backgrounds.

Some identified the need for education in schools on the issue of MMIWG and the importance of teaching children and youth how to protect themselves and be safe.

Families stated that there should be an annual Mothers Day feast, as well as walks, vigils, and memorials, that would honour missing and murdered women and raise awareness.

### **Prevention**

Families also emphasized the need to prevent violence and protect youth and women. This can be done via outreach to women on the street, empowering young people, and funding agencies that work with at-risk youth. One suggestion was the creation of workshops throughout Manitoba on self-esteem for young Indigenous women and men. It is also important to provide education and support to youth moving to Winnipeg and other urban areas from First Nation communities. Some families mentioned that one concrete way to improve safety is to provide 24 hour safe spaces (for example in the North and West End of Winnipeg).

### **Media**

Families identified a need to improve media portrayal of MMIWG and improve relationships between families and media. Some indicated there should be pressure on media to dismantle stereotypes about Indigenous women and girls. A Media Charter was suggested to facilitate this shift.

### **Policing agencies**

“It's so impersonal the way things are being dealt with.” <sup>57</sup>

Families say that work must be done to improve police accountability, and to improve communication between the families and the police and justice officials. One suggestion is to have open forums with police in order for them to hear directly from the families of MMIWG what they are going through. The families said it would be important for Elders to attend such gatherings. The importance of having more regular cultural sensitivity training for police and more Indigenous women on police forces also was emphasized.

After loved ones have gone missing, many families have had to wait for the police and community to respond. Empathetic 24 hour contact persons are needed for families to ask questions and receive information about their investigations. Families recommended a policy of immediate action by police on missing Indigenous women and girls, rather than a wait time.

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<sup>57</sup> Family member in The Pas.

“The 48 hours that RCMP has to wait is far too long.”

An amber alert or search and rescue system for MMIWG was suggested.<sup>58</sup> Additionally, in communications with police, a designated contact person or advocate for families is needed.

### **Searches and Investigations**

Families stressed the need for closure. They said more extensive searches are needed for women and girls including continuation of dragging the Red River and digging in the Brady landfill. They also expressed a desire for continued investigation of older, unsolved files.

The need for more communication from police about investigations was stressed repeatedly.

### **Cultural Reconnection**

Finally, families see the vulnerability of women who go missing or who are murdered as inextricably linked to Indigenous people's disconnection from their culture resulting from the infliction of colonial projects like residential schools. They believe there must be more opportunities for Indigenous people to learn about their culture, healthy relationships, and parenting approaches through an Indigenous lens. Families stated that there must be education for men and a return to the traditional roles..

*“Do you not think we had our own way? Do you really think we didn ’ t have beautiful ways of raising our children?”* <sup>59</sup>

Families also spoke about the importance of Indigenous languages in education.

### **Links to the Justice and CFS Systems**

A family member stated that “ *we are filling our jails and nobody is talking about the connection between justice and violence against Indigenous women and girls.*”

Another said that “ *there is no respect [by governments] for our culture and ways to deal with children and offenders in the justice system* ” . This is concerning as “ *a lot of children in my community end up in foster care.*”

### **Poverty**

Families spoke about the importance of ensuring Indigenous people across Manitoba had access to adequate housing and employment. One family member spoke about the direct links between having unemployed men in her First Nation community and the high rates of violence.

### **From Elders**

*“Action is required... something needs to be done.”*

### **Healing and Remembering**

Ceremonies were identified as an important action for healing. Elders acknowledged that the healing processes needs to engage everyone: men and women, and traditional approaches to healing are needed.

*“Our men also are suffering. The men also need teachings as to their identity. In our culture the men*

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<sup>58</sup> Currently, the Amber Alert is reserved for children and there is a 48 hour waiting period to investigate all other missing cases.

<sup>59</sup> Elder Campbell

*are the warriors. The ones who provide and protect women and children. That is their nature, that is their role. That is what they were taught from a very young age.”*<sup>60</sup>

Elders also stated that we must ensure that the stories of MMIWG are not lost.

## **Languages**

*“My language is my law and my life, it tells me how to get along with everyone and it tells me how to live.”*<sup>61</sup>

The Elders unanimously agreed that language programs are a necessary component of solving the issue as there is *“a direct relationship between language and identity.”*

*“We have our own laws and our own ways of raising children. But what do we do? We fall into CFS.”*<sup>62</sup>

*“How do we get out of this? By following the roles, laws and principles that our people lived with many years ago. We have to go back to our own systems.”* To do this, many Elders said *“we must revert back to our own languages, laws – our own way of life.”*

*“We may not revive the language over night but we must start and do something.”*<sup>63</sup>

*“Loss of language and our language is descriptive, it is like watching a movie, it is moving all the time; must go back to our language; how, it will be a long journey.”*<sup>64</sup>

## **Awareness**

Many elders stated that there needs to be more awareness raised about missing and murdered women, and the public needs to be engaged in searches and investigations.

## **Parenting programs**

One of the many repeated themes throughout the engagement was that of family breakdown as a result of colonial practices.

*“People are doing things, going out to ease the pain that they feel [...]. There is a domino effect that comes all the way own.”*<sup>65</sup>

The Elders recommended that parenting programs be taught and expanded upon to include traditional parenting teachings.

*“My understanding is that the child was always protected – child is in the middle, mother and grandmother, and then the men were on the outside because they were the protectors.”*

*Women need help to talk, so they raise their children in a good way, we need to teach them. We all have that wisdom given by our relatives, ancestors, they showed us the foundation of how we can raise good families; we are all aware of what happened but need to help families to strengthen them; we need to teach and include the principles of customary law when helping the families.”*<sup>66</sup>

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60 Elder Campbell

61 Elder Lathlin

62 Elder Lathlin

63 Elder Wayne Scott, March 16 2015

64 Elder Margaret Lavalley, March 16 2015

65 Elder Lathlin,

66 Elder Mary Maytwayashing, March 16 2015

## **Prevention**

More prevention and safety measures for youth are needed, and there is a need to bring awareness to schools.

## **Education and Cultural reconnection**

*“Our people are self-destructing ourselves.”*

As stated by Elder Dave Courchene Jr.,

*In our communities I ask the children who they are, not one can answer that as they are not taught in our institutions. I teach them who they are when they come here. I tell them to say I am Anishinaabe....I have found that we are not living and practicing that great law, we are struggling and fighting to be accepted by another people. I notice in this country is a lot of the youth people are becoming fed up.<sup>67</sup>*

One Elder said that in order “to get out of this problem” , Indigenous people must “ go back to our own systems.” He spoke of the importance of language: “my language is my law and it tells me how to get along with everyone and it tells me how to live.”

An Elder said, “men are sick because of the brain washing, loss of identity and language and [they need to be challenged to stand by the women].”

## **Addressing Racism**

One of the Elders said, “the one thing that people don't want to talk about is racism.” Another said, “legislation takes away our children through Bill C-31, it separates our families”

As indicated by another Elder, “everyone has their own little departments but we should be working together for the whole community.”

## **Poverty**

The connection between MMIWG, poverty and education were discussed.

*“Children are not learning because they are hungry.”*

## **From Youth**

### **Engaging Women and Men**

*“Our men need healing processes to deal with the anger.”*

Youth believe there needs to be more programs for young men so they can learn about their role in preventing violence against women- “there must be opportunities for men to come together to acknowledge their role in preventing violence against women.”

In reaching out to women, a campaign portraying strong women and girls is recommended.

## **Cultural Celebration**

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<sup>67</sup> Treaty Focus Group.

There must be opportunities for Indigenous people to celebrate their identity and culture. Opportunities to learn Indigenous languages should be part of this.

Youth recommended use of a poster campaign embodying the values in the seven teachings (respect, love, truth, honesty, wisdom, humility, and courage).

### **More 24/7 Safe Spaces**

*“Having a space where people can just hang out really matters.”*<sup>68</sup>

Many of the youth echoed the desire for more 24 hour safe spaces. They also linked this with the lack of resources for youth in care who are over the age of 18 years old. Youth suggested that more 1-800 numbers for tips and supports should be made available in all areas of Manitoba, including in remote First Nations.

A relationship-based strategy to all the work is important. It was suggested that, if community centres were treated as community spaces that were networked with other service providers and schools there could be 24 hour spaces for childcare.<sup>69</sup>

### **Supports for Addictions**

Youth recommended that addiction supports be in place for those requiring assistance.

### **Cultural reconnection**

Youth said that we should focus on “breaking stereotypes while promoting cultural integrity.” It was explained that language programming is an essential part of this.

### **Social Media**

Youth indicated that social media has an important role and can be used both positively and negatively. On the one hand, youth indicated we should be using social media to look for solutions. On the other hand, youth warned about the negative impact of social media on the self-esteem of young Indigenous girls and boys.

### **Links between systems**

Many of the youth spoke about the mistrust of the police. Others talked about the direct link between what is happening to Indigenous women and girls and the justice system : *“how can First Nation men protect our women when they are locked up?”*

They also spoke about the link between MMIWG and the child and family services system. Youth said that we should encourage more family visitations for kids in care and *“ensure constant family involvement even when in care to avoid runaways.”*

### **From the MMIWG Coalition**

The Families First team interviewed key individuals from service provider organizations in Winnipeg. Although certain common themes can be discerned, it is important to recognize that each organization has a unique role in delivering services.<sup>70</sup>

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68 Sjoberg

69 Sjoberg

70 Interviews were conducted with: Trudy Lavallee, Executive Director of Ikwe Widdjiitiwin; Leslie Spillett, Executive Director of Ka Ni Kanichihk; Nikketa Campbell, Program Manager at Wahbung Abinoonjiiag, Inc.; Kate Kehler, Executive

## Remembering and Honouring

Coalition members stated that it is important to remember the stories of missing and murdered Indigenous women so that future generations know what happened. As one member stated, “whoever writes the history, writes in their bias, so, we need to write our own history.”

Honouring the families is key. Coalition members stated that it is important to “acknowledge these deaths [...] it's about valuing every person in the community and the struggles they have had.”<sup>71</sup> It is necessary to make the stories publicly available no matter how tragic they are in order to give strength to the families of MMIWG.

Families need more supports to continue honouring their loved ones in a variety of ways, including vigils and feasts. Vigils have allowed people to show the city that the lives of oftentimes “invisible” people matter.

## Prevention and Safety

*“The most important thing is protecting women now. Making sure that no more women go missing or are murdered.”<sup>72</sup>*

Some coalition members indicated that prevention work is happening with youth, including mentorship and violence prevention programs, as well as community safety audits, and looking at communities through a crime prevention lens. In some areas of the city, residents are trained to identify areas of low lighting, or broken fences. Community safety committees, made of residents, have been created to address concerns and identify local solutions to community problems. According to Coalition members, it must be recognized that much more work in terms of community safety and prevention is needed.

A potential root cause of violence against Indigenous women was identified as racism, but the vulnerability of Indigenous women was also raised as a concern. There must be conversations with young women about dangerous predators, and safety information should be relayed in a number of forms. Coalition members indicated that the focus needs to be on identifying methods of reducing the likelihood of terrible tragedies happening to someone else.<sup>73</sup>

*“Because it's not just support for the MMIWG. We want to stop it. Not just perpetuate it forever and support the families. No. We don't want this to happen.”<sup>74</sup>*

There is also a need for more supports for women and young people when they come to Winnipeg from reserves or from the North.

*“Again, it's a known fact, many of these families are ill-prepared to survive in an urban environment. Reserve life is way different than city life.”<sup>75</sup>*

Coalition members indicated that Indigenous women are facing issues such as: poverty, lack of programming, and a lack of interventions at the street level.<sup>76</sup> Women moving from communities in Northern Manitoba to Winnipeg are very vulnerable as many aspects of daily living are foreign. When

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Director of the Social Planning Council of Winnipeg; Kate Sjoberg of the North Point Douglas Women's Shelter; Mary Scott, Co-Chair of the Institute for International Women's Rights; Jamil Mahmood of the Spence Neighbourhood Association; Damon Johnston of the Aboriginal Council of Winnipeg; Dianna Bussey, Director of the Salvation Army Correctional and Justice Services; and Elder Thelma Morrisseau.

71 Sjoberg

72 Mahmood

73 Bussey

74 Scott

75 Johnston

76 Johnston



informal support networks are not in place, women from the North can easily end up on the streets as there are very few programs available to assist them. Younger Indigenous women may be particularly vulnerable as they might lack the “street sense” or understanding of the dangers when they get to the city, and may get preyed upon and put in unsafe situations.<sup>77</sup> One coalition member drew the comparison between new immigrant services and those available to Indigenous people, and concluded that there were far fewer programs available to individuals transitioning from Northern Manitoba to Winnipeg.<sup>78</sup>

It was suggested that “with today's technology we could set up a system so when families are moving from First Nations to the city, we could be alerted. So organizations set up to support these individuals and families could meet them, and could immediately provide supports.”<sup>79</sup>

Another coalition member indicated that there should be a temporary intake referral system with a phone line and volunteers to act as a starting point for people to access services, including shelters and crisis prevention phone lines. The same coalition member also indicated that a cell phone application is being developed, designed for women in crisis, which would include information about local resources, food, emergency housing, supports, news, safety plans. This application could be personalized with information about shelters and safety services, or police and crisis phone numbers.<sup>80</sup>

*“We have to do whatever it takes to get people off the streets. To prevent this from happening.”*<sup>81</sup>

### **More Gentle and Quicker Responses Needed to Missing Persons Report**

Coalition members stated that police must respond to the reports of missing women and girls in a manner which is “gentle and quick”.

It was argued that there should be more efficient and quicker ways to distribute missing person notices. In the fall of 2014, a number of organizations in Winnipeg created a network for distributing all city police missing persons notices via their newsletters, Facebook, and other methods. This is helpful and can be reproduced elsewhere. Some coalition members suggested the institution of an Amber Alert as soon as an Indigenous woman or girl goes missing. Others suggested a television channel and billboards with information on missing women and girls.

There is also a need to make a community response plan alongside police. There are MMIWG tool-kits for families which need to be distributed and accessed widely, including in the North.

### **Policing and Justice**

*“We still see incredible racism from the police force, and an inability to acknowledge those problems.”*<sup>82</sup>

Coalition members indicated that it is important that police take decolonization training - training that is anti-oppression, anti-racist, and focuses on how to be an ally. One coalition member stated that “their minds have to be changed as to how they see an Aboriginal person.”<sup>83</sup>

There also must be relationship-building between Indigenous people and police, and an increase in the number of Indigenous civilians working for police services. There should be more accountability within the police system, and there is a need to hire more Indigenous police members.<sup>84</sup> Coalition members also identified that police, as well as front-line support workers, need to be trauma-informed, and should use

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77 Mahmood

78 Spillett

79 Johnston

80 Campbell

81 Mahmood

82 Sjoberg

83 Elder Campbell

84 Spillet

trauma-informed practices when working with families. Relationships with police and organizations that work with families and vulnerable women must be built as the organizations could then act as a liaison and help police understand families' needs while remembering that certain families may want direct communication with investigators.

*"Real [cultural awareness] training must take place and it must be repeated."* <sup>85</sup>

### **Links between MMIWG and Different 'Systems'**

*"Aboriginal people are overrepresented in gangs, (the) justice system and child welfare. We need to deconstruct historical forces."*

When thinking about concrete actions, it is important to have a comprehensive action plan which looks at the links between systems.<sup>86</sup> The Coalition discussed how two departments that engage Indigenous people: child welfare and the justice system, need systemic change. Multiple coalition members pointed to the need to have more Indigenous people working in these areas.<sup>87</sup>

*"This is not an isolated issue. It is a complicated, inter-related series of issues. They all are important and all have to be addressed."* <sup>88</sup>

The coalition indicated that the child welfare system needs to focus on supporting families, rather than apprehending children, as the current system operates "from a crisis approach with minimal to no prevention services."<sup>89</sup> There is also an issue with children and youth "ageing out" of Child and Family Services (CFS), with a lack of transition programming available. The coalition found that, although there are lists of children involved with CFS who are turning eighteen, many have little to no resources available to them, and often end up involved with the justice system.

*"The child welfare system as well as the justice system is a huge industry... built on the backs of Indigenous people across Canada. The dollars spent to keep children in care would be better spent supporting families with prevention programs."* <sup>90</sup>

Coalition members indicated that in the justice system as well there needs to be a shift toward restorative justice practices, rather than incarceration. A lot of money is spent on incarceration that can be reallocated to a type of justice that works better. The vast majority of women in the Remand Centre are Indigenous and the women's jail is full to capacity.<sup>91</sup> One coalition member stated that "studies have shown that as many as 44% of the MMIWG had a criminal history. If we had a more robust restorative justice program in Manitoba some of the issues may have been able to have been dealt with differently and more effectively." <sup>92</sup>

Residential schools, child welfare and murdered and missing women and girls are all tied together. Many of the children in and out of child welfare and the justice system move on to adult corrections. The pattern is clear to see. We have generations of adults in the correctional facilities across Canada who were once child welfare children and likely had family who attended residential school. Children, youth and adults have become institutionalized.<sup>93</sup>

### **Links between MMIWG and Residential Schools**

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85 Spillett

86 Spillett

87 Spillett and Sjoberg

88 Scott

89 Morrisseau

90 Morrisseau

91 Lavallee

92 Kehler

93 Morrisseau

Many coalition members indicated that there is a direct link between the lasting, inter-generational legacy of residential schools and the systemic issues which have led to the current MMIWG crisis. Many people are not aware of the history of their own families as they relate to residential schools, and are “seeing impacts, but have not made those links.”<sup>94</sup> Much of the “trauma, degradation and abuses”<sup>95</sup> residential school survivors experienced has not been properly dealt with, although the recently completed work of the Truth and Reconciliation Commission has made great strides to this effect. Many of the children “never experienced appropriate nurturing, love, care, respect, (or) a sense of value, and they had absolutely no voice.”<sup>96</sup> That began a cycle which often continues today.

“Those children grew up to be angry, sad and disconnected people striking out at the world and anyone and everyone in it. Unfortunately, the anger and violence is often mixed with addictions, isolation, being poor and without adequate education.”<sup>97</sup>

The impacts of the residential schools were also felt by those that did not attend. One coalition member spoke of the racism inherent in the residential school system as a “black cloud” that came into communities, touched all people and told them that “if you were Indian, you were worthless.”<sup>98</sup>

### Raising Awareness

*“It’s my belief that our greatest enemy is ignorance. Not truly knowing each other. Not truly working with each other. As long as we stay apart, and we build up barriers and put up walls, how can anything change?”*<sup>99</sup>

One of the things most frequently mentioned by the coalition was the need to ensure that more people are aware of the issue of MMIWG. It was recognized that the “We Care” campaign was successful, and using the Families First Foundation as a communication vehicle to get the word out will lead to increased awareness.<sup>100</sup> The coalition indicated that “the momentum has to include the non-indigenous voice”<sup>101</sup> as well, as “with reconciliation, you have to come together.”<sup>102</sup>

*“The human race is hungry for the truth of who we really are as human beings. I believe that the Aboriginal way of life has become of great interest to many non-Aboriginals. Especially women. I sit and talk about our way of life and way of being and they say “that is so beautiful. I want to learn that way.”*<sup>103</sup>

The representative from one organization indicated that, as a non-First Nation organization they “have strengths and weaknesses,” and also stated that “some people ask why we are involving ourselves.” That coalition member explained that “this is not a First Nation issue, it’s a Canadian issue.”<sup>104</sup>

*“I think we all have a responsibility to educate one another, and to teach our children about acceptance of people and other cultures. Every culture has something to contribute. People have value.”*<sup>105</sup>

It was also noted that raising awareness of MMIWG includes raising awareness of the systemic and historical issues that have enabled these tragedies to reach current levels. The inter-relatedness of the past, present and future must be recognized and acknowledged.

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94 Sjoberg

95 Morrisseau

96 Morrisseau

97 Morrisseau

98 Elder Campbell

99 Johnston

100 Scott

101 Scott

102 Scott

103 Elder Campbell

104 Kehler

105 Morrisseau

*“The true history of this country has to be taught in the schools. The general public needs to learn the story of residential schools and understand that seven generations have gone through the residential schools. The result of this has been genocide for the First People of Turtle Island. Today, we continue to witness the disparity and isolation for many survivors and their children and grandchildren.”*<sup>106</sup>

## **Addressing Racism and the Media**

*“There is a big issue with devaluing of Aboriginal women.”*

It is important to face the ongoing problem of racism in Manitoba. One coalition member explained that what is happening today is the “end result of the process of colonization.”<sup>107</sup> Another coalition member indicated that “to prevent women from being one of the missing or murdered, everyone needs to undergo decolonization training and anti-racism.”<sup>108</sup>

Media must be challenged when they say racist things or get the facts wrong. The coalition recommended that there be a Media Protocol or Charter created on how to talk about MMIWG and how to speak with families to avoid re-traumatization. A member of the coalition also noted that the media “swarms” over anything related to MMIWG, but does not include concrete stories reflecting the families' perspectives and experiences.<sup>109</sup>

*Unfortunately media has a tendency to label many of the women as “prostitutes, working girls” who lived “risky lifestyles.” This is like saying; well if they did not live a risky life style, they wouldn’t go missing or (get) murdered!! This is simply racism against people who are often marginalized, poor and suffer from historical trauma.*<sup>110</sup>

One coalition member suggested that visual media should be used by family members to record testimonials and to share their footage to allow people to get their stories out. Immediate actions should be solution-focused with communication strategies, while perhaps using the internet to allow people to see immediate results.<sup>111</sup>

*“The more (the non-Indigenous community) can be exposed to Indigenous culture, and beauty, they come away with respect. Some of this racial stereotyping can change.”*<sup>112</sup>

## **Community Forums**

Coalition members identified a need for more forums in communities, that meet on a more regular basis, to enable people to talk to each other, and share their vision for their communities.

One coalition member stated that the entire community should be brought forth to engage opportunities to network, and that universal inclusiveness should be the goal. People from various backgrounds, both corporate and community-based, from political and religious organizations, should join in one accord.<sup>113</sup>

## **More 24/7 Safe Space**

*“Having a space where people can just hang out really matters.”*<sup>114</sup>

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106 Morrisseau

107 Spillett

108 Sjoberg

109 Campbell

110 Morrisseau

111 Campbell

112 Scott

113 Campbell

114 Sjoberg

There is a pressing need for more 24/7 safe spaces for vulnerable youth and women. A relationship-based strategy is important: youth want to be somewhere where they know and trust the staff. It was suggested that, if community centres were treated as community spaces that were networked with other service providers and schools there could be 24 hour spaces for childcare.<sup>115</sup>

A Coalition member explained that if they are not in safe houses, these youth will be either on streets or trafficked, or “the kids in hotel rooms.” Another coalition member indicated that “many fall through the cracks in terms of not meeting the criteria for shelters... they are living risky lifestyles and are often subject to trafficking, prostitution, drugs and alcohol and homelessness.” The same coalition member indicated that “there is no safe program where they can live with ongoing supports.”<sup>116</sup>

Some organizations are currently working on 24 hour safe space initiatives, which is “necessary, as people are disappearing from our streets.”<sup>117</sup> It is recognized that this is not a long term solution, but creating spaces where women are not “left to be preyed on”<sup>118</sup> is key, and “the fact that they’re eating and sleeping, and can get off being on guard for 6 hours is success.”<sup>119</sup>

### **Access to Supports to Empower Indigenous Women**

*“We have a lot of confusion in our women today about their identity.”*<sup>120</sup>

A coalition member indicated that “the vulnerability of Aboriginal women is a sociological phenomenon,” and more support programs need to be in place that empower Aboriginal women.<sup>121</sup>

*“How do we stop all this abuse? It's by teaching the women how sacred the women are. They are empowered. They will never allow anyone to abuse them in any shape or manner. No woman deserves that.”*<sup>122</sup>

One organization that marked Domestic Violence month with marches found it important to make a space for people to say “I’m against domestic violence.” A representative of that organization indicated that she was “reminded how powerful it is for people to stand up and say it publicly. With people cheering people on.” That coalition member indicated that clear leaders emerged, and shared an example of a woman that regularly had bruises telling people that she didn’t actually fall down the stairs. These activities create a conversation where people may be able to learn something.<sup>123</sup>

*“What I say to them is that where you're at now is not who you really are. You are not that person being judged because of your addictions, or that abuse, or sexual exploitation. That is not who you are. Inside of you, you are a sacred person with a beautiful spirit. The outside world will forget who you are through judgement and criticism. You have to recognize that all of that is lies, and you have to find that truth. And the truth is, you are sacred.”*<sup>124</sup>

A member of the coalition noted that the only way Indigenous women can change is to be given opportunities to come to a place where they can get all the teachings of their grandmothers. To be able to spend time finding out who they are. To go through the ceremonies, to see themselves in the mirror and to be able to say “I am a strong Aboriginal woman. I know who I am. I respect who I am and my body is sacred. I will never allow anyone to hurt me because I don’t deserve that.”<sup>125</sup>

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115 Sjoberg

116 Lavalley

117 Mahmood

118 Mahmood

119 Bussey

120 Elder Campbell

121 Lavalley

122 Elder Campbell

123 Sjoberg

124 Elder Campbell

125 Elder Campbell

*“We need opportunities for our women to believe in who they are, and to believe that they have the power to be a beautiful, kind, gentle, caring mother, as they were birthed with, but which was removed from colonization and residential schools.”*<sup>126</sup>

According to some members of the coalition, historically the women held the majority of the power in the communities and nations, and men looked to the grandmothers for advice.<sup>127</sup> This system was stripped from Indigenous communities through colonization and the residential school systems. Speakers pointed out that it is important to recognize that “women and men have different realities.”<sup>128</sup>

### **Including Men in the Healing Process**

*“Our men need healing processes to deal with the anger.”*<sup>129</sup>

Coalition members indicated that men in the Indigenous community should be utilized more to provide leadership. It was suggested that a sub-committee of Indigenous men and leaders should assume the role of speaking “to Indigenous men that are beating up on women.”<sup>130</sup> The coalition indicated that men have to “make a stronger effort into starting groups of some kind where men can stand up and say to their brothers “stop raping women! Stop selling our children! This is not being human.”<sup>131</sup>

A coalition member stated that data indicates that up to 70% of the violence directed against Indigenous women and girls is perpetrated by male members of the Indigenous community.<sup>132</sup> That member also stated that:

*“We would be irresponsible if we were not encouraging governments to provide funding for these kinds of (healing) programs... Blaming gets us nowhere. We need to address fact, and we need to address the issues that are known to us, relative to the MMIWG. Otherwise nothing's going to change.”*<sup>133</sup>

The coalition found that healing programs, as well as education and training programs for Indigenous men are few, and thus the coalition found that “men are completely unsupported.”<sup>134</sup> It was stressed that the family dynamic can change dramatically when the father is employed, which may reduce occurrences of domestic violence.<sup>135</sup>

*“Our men also are suffering. The men also need teachings as to their identity. In our culture the men are the warriors. The ones who provide and protect women and children. That is their nature, that is their role. That is what they were taught from a very young age.”*<sup>136</sup>

### **Healing and Cultural Reconnection**

*“We would not be having this same conversation about MMIWG if Indigenous people still had their ceremonies, teachings and songs.”*<sup>137</sup>

As discussed, there has been a lot of trauma experienced by Indigenous people, and many unresolved issues. Addictions were described as rampant, along with the prevalence of missing and murdered

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126 Elder Campbell

127 Elder Campbell

128 Lavallee

129 Johnston

130 Scott

131 Elder Campbell

132 Johnston – citing the RCMP report

133 Johnston

134 Sjoberg

135 Sjoberg

136 Elder Campbell

137 Morrisseau

Indigenous women and girls. According to the coalition, both women and men have suffered a loss of cultural roles, the result of which has been that women have been left vulnerable and under-supported, while men have been left angry and unsupported.

*“The big thing missing is healing... Healing is happening, but it is under-invested. Addictions, mental health, trauma. There’s not like... Before you can get any good work done with people, you have to heal.”*<sup>138</sup>

The coalition made it clear that the “western ways” of healing are not adequate to address the issues facing the Indigenous community, and that Indigenous methods of healing should be utilized. This healing would take time.

*“No nation can heal overnight. How long does it take the human spirit to heal?”*<sup>139</sup>

Wait times for addiction treatment were identified as a major issue, as was the fact that treatment programs are mostly only available in urban centres. It was pointed out that people that are seeking treatment for their addictions are at their most vulnerable, and the current system does not adequately address this issue.

*“These are the holes. At the end of the day, when someone is trusting someone enough to reach out, and then there are these barriers. They have to really want to change.”*<sup>140</sup>

A coalition member indicated that perhaps we should be exploring the idea of mandating supports for Indigenous women and girls,<sup>141</sup> while another explained that there is a need for Indigenous people to reconnect to their culture. As part of this important cultural shift, that same coalition member believes that Manitoba should encourage and support Indigenous led school systems.<sup>142</sup> Another coalition member explained that “people are thirsty for an understanding of their own heritage.”<sup>143</sup> Much of the necessary healing should occur through cultural reconnection.

*“It is time for indigenous people to retrace the footprints of the ancestors and pick up the sacred bundles; revive and speak our languages; sing our sacred songs; revive the ceremonies and teachings that long sustained the people prior to contact with the Settler people. Women were honoured and respected for they are the life carriers. The connection to the earth and water was always there. The earth is our mother and as she brings forth life so do women.”*<sup>144</sup>

Many coalition members felt very strongly about the necessity of ceremonies, such as naming ceremonies, berry fasts, and moon ceremonies as it “provides grounding.”<sup>145</sup> It was indicated that the “grandmother's role was to teach the women through ceremony and teachings about who they really are” and that ceremonies which focus on women “bring her into a place of power, and to know her role in the community.”<sup>146</sup>

*“Our way is to see the spirit of woman. It's about her heart, spirit, wisdom she carries that and she will give it to her children. Spirituality and connection to earth mother, grandmother moon and the connection to time.”*<sup>147</sup>

Western methods of parenting and education were also identified as being inadequate for addressing the

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138 Mahmood

139 Elder Campbell

140 Bussey

141 Lavallee

142 Spillett

143 Sjoberg

144 Morrisseau

145 Morrisseau

146 Elder Campbell

147 Elder Campbell

needs of Indigenous people. When speaking about parenting programs one coalition member asked “Do you not think we had our own way? Do you really think we didn’t have beautiful ways of raising our children?” <sup>148</sup>

The coalition identified that much of the major issues surrounding MMIWG can be traced to cultural disconnection. Some of this can be addressed by creating space for Indigenous people to reconnect with the culture they have lost.

*“If you're an Indigenous person, no matter what darkness is inside of you, there's a spirit. There are times you might not recognize that because your mind is in a dark place, but inside you're still sacred no matter what.”* <sup>149</sup>

### **Coordinating existing supports and barriers to providing Additional Services**

One coalition member stated that she would “like to see more collaboration between partners that involves solutions-focused strategies to overcome barriers.” <sup>150</sup> That same coalition member indicated that she would “like to see universal activities that encourage all participants to join together in grassroots movements, (that are) not strictly culturally based, but also recognize all beliefs, and allow families to feel welcome.”

All coalition members indicated that they would like to provide more services, but all of them voiced similar concerns with respect to barriers their organizations face, such as a lack of funding. Members also indicated that they already have experienced staff, but face barriers of funding and capital requirements. <sup>151</sup> One coalition member indicated, with respect to capacity and having a small complement of staff, that their organization needs “to work where (they) think (they) are being the most effective.” <sup>152</sup> Another coalition member stated that “there is a lot of crisis that happens, and we’re trying to figure out how to respond to community crisis with some consistency, without drawing resources away from (other parts of) the organization.” <sup>153</sup>

One coalition member stated that she would “like to see more collaboration between partners that involves solutions-focused strategies to overcome barriers.” <sup>154</sup> It was indicated that, given the lack of government support for grassroots initiatives, partnerships are needed to discuss ways of overcoming barriers. That same coalition member indicated that she would “like to see universal activities that encourage all participants to join together in grassroots movements, (that are) not strictly culturally based, but also recognize all beliefs, and allow families to feel welcome.” It was stressed that engaging the issue of MMIWG should be universal, not political.

Another major barrier to the issue of MMIWG was identified as the current federal government. It was pointed out that “there is no desire to look at the issue of missing and murdered women and girls, (as) the government has stated the matter is a criminal matter and not a social issue.” <sup>155</sup>

There are also barriers in engaging in awareness campaigns. According to one coalition member, recent changes to municipal by-laws in Winnipeg have resulted in difficulties with organizing walks along roadways. A group must now be partnered with an organization that has existing liability insurance, that will off-set the costs associated with any promotional event. This increases the time involved in organizing a walk, and weakens the immediacy of the action, which is one of the goals of “taking to the streets.” <sup>156</sup>

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148 Elder Campbell

149 Elder Campbell

150 Campbell

151 Lavallee

152 Kehler

153 Sjoberg

154 Campbell

155 Morrisseau

156 Campbell



## Our Recommendations on Answering the Call to Action

The following recommendations are based on what we heard from the families of MMIWG, Elders, Youth and the MMIWG Coalition as well as existing recommendations.

1. Supports:
  - More supports should be made available to the families of MMIWG, including 24/7 culturally and spiritually diverse grievance counselling, child minding and addiction services.
  - Steps should be taken to ensure that information and supports are coordinated so families and the community at large are fully aware of the range of services available.
  - Financial supports should be made available to families for funeral costs, cost of child minding, caring for the children of MMIWG
  - Additional 24 hour safe spaces must be provided throughout Manitoba.
  - More supports and research is needed for people transitioning from rural and remote communities to urban centres such as Winnipeg.
  - Programs and social services should be created by and with Indigenous peoples that promote safe communities and healthy individuals, including culturally appropriate education, youth programming, counselling, violence and drug addiction recovery.
  - Conferences or workshops should be held on healing for both men, women, two-spirit and children in Southern and Northern Manitoba.
  - Regular and inclusive community forums should be held for community members to discuss community safety plans and share visions about safe communities.
2. Honouring Loved Ones
  - Measures should be taken to ensure the memory of loved ones are respected and honoured. This includes making funding available for gathering stories, annual feasts, walks, vigils and memorials.
  - Processes of honouring, healing and remembering should include ceremonies where appropriate.
3. Responses to Missing Persons Report
  - Missing persons notices should be distributed immediately for instance through social media and other methods.
  - Community response plans should be developed to assist families with searches throughout Manitoba.
  - The existing MMIWG tool kit should be updated and expanded upon to include additional information for areas outside of Winnipeg.
4. Cultural Reconnection
  - There should be more opportunities for Indigenous people to learn about their culture and healthy relationships.
  - Parenting programs should be taught and expanded upon to include traditional teachings.
  - Indigenous language programs should be created and made available throughout Manitoba.
5. Media:
  - The relationship between families of MMIWG and the media must be improved. The media should engage with families and assist them in a gently way to tell their stories and dismantle stereotypes.
  - Cultural sensitivity background information sheets should be created for the media to assist the families.

6. Interconnected Systems - Policing, Justice and CFS agencies
  - The accountability and effectiveness of the child welfare system should be improved with direct involvement of Indigenous people.
  - The inter-generational effects of racism and assimilation efforts should be acknowledged by all levels of governments.
  - Governments should recognize Indigenous teachings about families and children and make space for these teachings within the policies and frameworks of justice and CFS systems.
  - The issue of institutional apathy and racism should be addressed through additional cultural sensitivity and anti-racism training.
  - There should be better and more frequent information sharing and communication between families and different agencies (i.e. policing and CFS).
  - Improvements should be made in responsiveness, accountability and investigations of policing agencies.
  - Designated contact persons with grief training should be made available within the policing agencies to families on a 24/7 basis.
  - Older, unsolved investigations should be reopened.
7. Training, Employment & Housing
  - Training should be offered to family and community members who want to support others in their healing journeys.
  - Measures should be put in place so that Indigenous people have access to adequate housing and employment, particularly in Northern and remote communities.
8. Public Awareness & Education
  - A variety of public awareness campaigns should be created to: raise awareness on MMIWG, teach youth about safety measures, educate the public at large on root causes of the issue and dismantle stereotypes. These campaigns should be made available through a variety of methods.

### Part III: Guidelines for a Framework

“Dialogue is the foundation of repair.”<sup>157</sup>

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<sup>157</sup> Abbie Sachs, *The Strange Alchemy of Life and Law*. (Oxford: Oxford University Press, 2009) at 84.

## A comment on existing processes

In addition to acknowledging the existing research and initiatives on MMIWG, it is important to examine existing models to evaluate their strengths and weaknesses and analyze how each of them may relate to Families First. A total of ten inquiries, four Commissions, three roundtables, two advisory panels and one inquest were reviewed in detail to prepare for this section.<sup>158</sup>

Additional background information on existing processes can be found at Appendix F and a summary of selected processes can be found at Appendix E.

### Commissions

A Commission is usually made up of a panel of individuals who examine a particular issue. A Truth and Reconciliation Commission can be tasked with discovering and revealing past wrongdoings by a government (or maybe non-governmental bodies) in the hope of resolving conflict left over from the past. Most recently, the Truth and Reconciliation Commission of Canada released its Report relating to the events of the Indian Residential Schools (IRS) in Canada, including first-hand accounts from survivors, families, communities and others personally affected by the IRS experience.

Commissions are typically more informal and inclusive than inquiries. They can help to eliminate denial and reduce the need for legal representation as they bring together knowledge holders and stakeholders in a less adversarial manner. Commissions may offer more control on outcomes and processes and can examine systemic and individual considerations.

The success of a particular Commission is highly dependent upon its resources and its statutory mandate and authority. As compared to roundtables, it may be harder to enforce recommendations from Commissions unless stakeholders are committed to a successful outcome.

### Inquiries

An inquiry is an investigation conducted at the provincial, territorial or federal level into a matter of public concern.<sup>159</sup> It is generally established by Order in Council passed by either provincial, territorial or federal legislation which puts the limits on what an inquiry can and cannot do. Commissioners tend to be either sitting or retired judges. Commissioners have the power to compel witnesses to testify to produce documents. Overall, there are two types of inquiries: factual or case inquiries<sup>160</sup> and public policy focused

<sup>158</sup> These include: Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild; Report of the Royal Commission on Aboriginal Peoples; Report of the Aboriginal Justice Inquiry of Manitoba; Aboriginal Justice Implementation Commission Final Report; Truth and Reconciliation Commission; Kelowna Accord; Royal Commission on Bilingualism and BiCulturalism; Report of the Commission of Inquiry Into Certain Aspects of the Trial and Conviction of James Driskell; Northern Frontier Northern Homeland (Mackenzie Valley Pipeline Inquiry Report) aka Berger Inquiry Report; Independent Panel on Canada's Future Role in Afghanistan; Final Report – Building a Sustainable Future: The Legacy of Canada's National Roundtable on the Environment and the Economy; Manitoba Roundtable for Sustainable Development; Ipperwash Inquiry Report; Building on Values; The Future of HealthCare in Canada (Royal Commission on the Future of Health Care Report); Somalia Commission of Inquiry; Forsaken: The Report of the Missing Women Commission of Inquiry; The Legacy of Phoenix Sinclair Achieving the Best for All Our Children (Report of the Phoenix Sinclair Inquiry); Canada's Action Plan on Open Government 2011; Inquest Touching the Death of Ashley Smith: Jury Verdict and Recommendations.

<sup>159</sup> In Manitoba, inquiries are created by *The Manitoba Evidence Act*. Their mandate is to examine any matter within the jurisdiction of the Legislature connected with or affecting: good government of the province, the administration of justice or any matter that is of sufficient public importance to justify an inquiry. A recent example of a Manitoban inquiry is the Phoenix Sinclair inquiry which looked at the death of Phoenix Sinclair and the surrounding circumstances. Federal inquiries are under the *Inquiries Act*. Federal inquiries examine any matter connected with the good government of Canada or the conduct of any part of the public business. The Royal Commission on Aboriginal Peoples established in 1991 is an example of a federal inquiry.

<sup>160</sup> Factual inquiries aim to examine and report on specific incidents or series of events and intend to provide an independent, comprehensive and transparent account of what happened and why. These are primarily looking at the past

inquiries. Some inquiries combine both models such as the Aboriginal Justice Inquiry.<sup>161</sup>

As compared to an inquest, inquiries are less restricted to specific factors and more able to look at broader public policy issues.<sup>162</sup> Once, the hearings are completed, the Commissioner(s) prepare(s) a report which is submitted to the government who called for the inquiry. The final report contains recommendations to the Government in accordance with the Terms of Reference. The Government decides the course of action it will take in response to the recommendations. Many inquiries have resulted in recommendations for action, which have been accepted and implemented, and have served a valuable purpose.

Inquiries can be conducted in many ways, but “public” inquiries must be conducted in public. This is a positive aspect in terms of transparency. The public nature of an inquiry may also influence the ability for all stakeholders to be involved in some capacity. However, there are instances where it is deemed necessary to hold portions of an inquiry in private where public examination of the evidence may compromise a police investigation or where families do not want to be part of a public process. These efforts are often met by media demands for public disclosure.

Inquiries have been criticized by those who argue that the money spent might be better used on programs and immediate actions. Others have suggested that the adversarial nature of the inquiry process is not well suited to a solutions based discussion. A restrictive scope also may impair the effectiveness of inquiries. Compelling stakeholders to participate in an inquiry may make them defensive and can delay or hamper solutions. Inquiries may also be seen as too formalistic and as sometimes excluding the directly affected individual or groups from meaningful engagement.

## Roundtables

Roundtables can take many forms. In general, they are established to bring together a group of people or a team to have in depth discussions on an issue, share opinions, strategies or tactics, or to “brainstorm” . Roundtables are consent based and require the 'buy in' of the participants. This can foster better relationships between the various knowledge holders and stakeholders. Roundtables can serve to provide advice and guidance to government on a particular issue. Roundtables enable people to discuss issues and identify opportunities for improvement.

Roundtables often begin with discussions between a larger group of people. Once there is consensus on the issues, smaller groups gather to discuss solutions. Once consensus exists in the smaller groups, the larger group will meet to discuss the final report and recommendations. There are also more permanent roundtables, for instance the National Roundtable on Heritage Education.<sup>163</sup>

Government roundtables are sanctioned by the government. It is expected that the solutions presented will be acted upon by government. The roundtable process rarely involves a factual analysis of the past incidents or events. Rather, the focus is on moving forward and finding workable solutions. The facts are already agreed upon and are the basis for initiating the discussion. The roundtable process can allow different groups to discuss and be involved in an issue, and provide a mechanism for bringing those groups together. The emphasis on moving forward can be seen as an advantage of the roundtable process.

Roundtables may be of less value for those seeking to create a historical record or to remember an injustice that has taken place. A critical challenge for roundtables is inclusiveness particularly given their focus on “expert opinions” . Another challenge may emerge if certain participants are not truly committed to solution based discussions.

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and are generally more narrow focused. Public policy inquiries arise out of a tragedy or controversy with a view to seeing that contributing factors are fully assessed and systemic recommendations are identified.

161 The Aboriginal Justice Inquiry looked at the circumstances surrounding the JJ Harper case and murder of Helen Betty Osborne. It also looked at the relationship between Aboriginal people and the justice system.

162 For more details on inquests, please see appendix F.

163 This Roundtable was established in 2004 “as a forum for discussion on heritage conservation education and training in Canada”.

## Advisory panels

Advisory panels are established by governments and often consist of a panel of “experts” from academia, civil society, business and independent consultants who research and discuss a particular issue. They are meant to provide advice and guidance to federal and provincial governments on a particular issue for a limited amount of time. Canada's Action Plan on Open Government (2011) is an example.<sup>164</sup>

Advisory panels have the potential to be broader in scope and include systemic and individual considerations. They also can foster the creation of various actions and cooperation between government departments.<sup>165</sup> On the other hand, they can be politicized and focus on “expert opinions” rather than on the grassroots and affected knowledge holders and stakeholders.

## Lessons Learned

### Overview

Based on our review of the above processes, we have compiled the following 'lessons learned' which allows for a hybrid approach that picks from a number of models. Our lessons learned are guided by what we heard and built upon existing research, including the B.C. Civil Liberties Association Report

“Blueprint for Inquiry: Learning From the Failures of the Missing Women Commission of Inquiry” (2012).

Overall, we believe an effective process must involve

- early and ongoing meaningful engagement of all affected individuals and knowledge holders at every stage.
- clear Terms of References which have a broad enough scope to include systemic issues
- strong courageous leaders who are not afraid of advocating for the implementation of their recommendations
- flexibility in rules of evidence to ensure inclusion of meaningful evidence and involvement of proper spiritual and religious protocols
- must clearly set out the issue(s) it is aiming to address
- openness to a variety of methods for gathering evidence and different 'streams of actions'
- broad standing rules to include individuals and groups affected by the issue
- adequate secure funding for process and implementation
- a variety of accessible supports
- expectations must be meaningful and reasonable - not to be set too high as to disappoint
- consensus building
- clear implementation process

### 1- Initiating the process

The manner in which the process is initiated will influence the process. Ensuring that those affected are directly involved prior to or as soon as the process is initiated is key in creating a successful process. Early meaningful engagement can promote 'buy in' and collaboration.

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<sup>164</sup> The mandate of Canada's Action Plan on Open Government (2011) was to provide the Federal Government with advice and guidance on Open Government Activities. It was chaired by the Honourable Tony Clement and its final report included two foundational commitments, three activity streams to implement commitments with those streams, and 12 commitments in Action Plan.

<sup>165</sup> As an example see the Panel on Open Government, online: <<http://open.canada.ca/en/advisory-panel-open-government>>.

## 2- Establishing the Scope and Terms of Reference

Terms of references set the direction and objective of the Process. They should consider:

- the scope of the process
- the decision maker and their legal authorities (whether it may be an individual, commission or panel)
- the rules of evidence (how information is received and how information is analyzed or tested)
- the issue of standing (who can participate and what their rights are)
- legal representation
- funding and length of time

The scope of any process must be broad enough to capture systemic factors and causes. Limitations on the terms of references and a narrow interpretation of those terms of reference can lead to the exclusion of systemic considerations.<sup>166</sup> In the BC Women's Inquiry, the narrow scope of the terms of reference excluded many broader systemic issues from consideration.<sup>167</sup>

In establishing the scope of the process, it should be recognized that overly formalistic and adversarial processes are foreign to and tend to exclude Indigenous legal traditions, knowledge holders and other important stakeholders.

The scope of the process should ensure the Commissioners have enough flexibility to adequately complete their task at hand. As stated by Justice Sinclair, “commissioners should be able to do their work as they see fit recognizing timeframes and funding limitations.”

In Australia's Royal Commission on Aboriginal Deaths in Custody, the Commissioners were given the authority to inquire, among other things, on “social, cultural and legal factors which, in your judgement, appear to have a bearing on those deaths.” Commissioner Dodson explained how he interpreted those factors in one of his regional reports. He stated:

With regard to matters '**cultural**' I am referring to **a system of knowledge, ideas, beliefs and practices** that are independently shared and experienced by members of Aboriginal and non-Aboriginal society. It is important to recognize here that cultural traditions come from 'inside' the society or group (that is, they are meaningful only to that society or group) and these **beliefs and practices are reproduced and maintained over time, albeit within certain changes and continuities.**

With regard to matters '**legal**' I am referring to what is generally known as a '**body of rules**' **which are recognized by society as binding on all members of that society.** This 'body of rules' seeks to regulate social behaviour and establish principles that enable matters such as the adjudication of disputes and the punishment of offenders, to be dealt with by persons charged with the responsibility and authority to maintain order. [...] With regard to '**social**' matters I am generally referring to **the people and the institutions who comprise the group or society under discussion: that is, Aboriginal and non-Aboriginal Australians.** By 'social' I have taken the need to consider the structural bases of behaviour that constitute the interdependent world of social relationships, and social institutions.

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<sup>166</sup> During and subsequent to the BC Inquiry, the groups expressed disappointment in the limitations of the terms of reference.

<sup>167</sup> Bennett, Darcie, David Eby, Kasari Govende, Katrina Pacey, *Blueprint for an Inquiry: Learning from the Failures of the Missing Women Commission of Inquiry*, (2012, BC Civil Liberties Association, West Coast Women's Legal Education and Action Fund, Pivot Legal Society) online: Pivot Legal Society < <https://bccla.org/wp-content/uploads/2012/11/20121119-Report-Missing-Women-Inquiry.pdf> > [“Blueprint”] at p. 18

By placing the Terms of Reference into a considered context, and by addressing the matters which have been placed before my Commission throughout various conferences and meetings with Aboriginal and non-Aboriginal people in Western Australia, I find that I am required to also place **'economic' factors** within my task. **To not consider economic factors when Aboriginal people are arguably the most economically marginalized people in Australia today, would be to disallow a proper recognition of the underlying issues** that lead to deaths in custody for Aboriginal people, and which my findings seek to redress.

Hence, with regard to **'economic'**, I am fundamentally referring to the **way in which a society sustains itself**. I am using the term in the broadest possible sense within the Australian economy, and taking the view that economic interests concern making choices about the production and allocation of scarce resources, competition for resources (such as employment, housing, income, property ownership), and the maintenance of those resources. (emphasis added)

While this Commission was held in Australia on a particular issue, it can provide particular insight for lessons learned as it relates to Aboriginal people in Australia and the scope and magnitude of the issue were large.

### **Decision maker and their legal authorities**

Judges, Commissioners and Advisory Panel members who are chosen or appointed to lead a process can have significant impacts on its outcomes (both negative and positive). In some cases, inquiries may have commissioners who act more as investigators and advisors. For example, the Commission on Bilingualism which was chaired by André Laurendeau and Davidson Dunton followed this approach and the result was widespread and substantial changes to the use of French across Canada.

Another well known example is the appointment of Justice Thomas Berger, a BC Supreme Court Justice, to the Mackenzie Valley Pipeline Inquiry (known as the “Berger Inquiry”).

Justice Berger was appointed as Commissioner by the Federal government under Pierre Trudeau and was recommended by the Indian and Northern Affairs Minister Jean Chr tien.<sup>168</sup> As will be detailed in later sections, the Berger Inquiry set an early and high standard through its innovative approach to hearing community voices. The final report for the Berger Inquiry was concise, colourful and accessible in multiple indigenous languages, and provided to all who testified during the Inquiry.<sup>169</sup> It remains the most printed and sold of all inquiry reports.<sup>170</sup> Many observers would argue that the Berger Inquiry had a positive and enduring legacy due in large part to its focus on community engagement. As with the Berger Inquiry, government response must be driven by courage and commitment to follow through with implementation even if this costs money and requires legislative change.

### **Rules of evidence**

Rules of evidence outline the information that can be received and analyzed. It includes rules on the type of witness who is able to provide evidence.

When establishing the rules of evidence, the individuals affected by the process must be considered. Ideally, affected individuals should be engaged on the proposed rules of evidence. For example, in the case of MMIWG, families should be asked how they wish to tell their stories. The formal rules of

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<sup>168</sup> Stanton, Kim Pamela, “Truth Commissions and Public Inquiries: Addressing Historical Injustices in Established Democracies”, *Thesis in conformity with the requirements for the Doctor of Juridical Science*, University of Toronto, Faculty of Law (2010), [“Stanton”] at 137 and 148.

<sup>169</sup> *Ibid* at 183-185.

<sup>170</sup> *Ibid* at 175 & 182.



evidence strictly applied may unduly impair the voices of families from being heard.

It also is important to consider the authority the process will have to gather information. For example, Australia's Royal Commission on Aboriginal Deaths in Custody provided the Commissioners with the authority to subpoena<sup>171</sup> documents and records where appropriate.

Cultural, spiritual and religious considerations must be taken into account when setting out the rules of evidence. In certain cases ceremonies and other protocols may need to be followed. Where Indigenous people are involved, Indigenous forms of testimony should be explored.<sup>172</sup> As stated in the TRC Report,

a critical part of this process involves repairing damaged trust by making apologies, providing individual and collective reparations, and following through with concrete actions that demonstrate real societal change. Establishing respectful relationships also requires the revitalization of Indigenous law and legal traditions.”<sup>173</sup>

Consideration must be given to the fact that sharing stories during a formal process or hearing may lead to re-traumatization, loss of privacy, social alienation, and increased risk of violence.<sup>174</sup>

Many of the formal court processes follow adversarial models and require that a person testifying or telling their story be cross-examined and that the person be identified.

Even within court cases, in certain cases evidentiary rules may need to be loosened to encourage participation of those who are affected by the issue. For example, participants could be allowed to testify anonymously and without the possibility of cross-examination.

It is important that all forms of testimony are given weight, even if those sharing information have not been cross-examined or if the information provided has been offered by anonymous witnesses. Such evidence can be tested by alternative means. In the Berger Inquiry, “there was a concern that participation would be affected if witnesses were going to be cross-examined by counsel”.<sup>175</sup> For this reason, instead of classic cross-examination of a witness, representatives from pipeline companies were invited to make a presentation to the Inquiry if it appeared a witness were misinformed or if the companies thought there was a mistaken view of their proposals.<sup>176</sup>

Similarly, in the South African Truth and Reconciliation Commission, NGOs, community based organizations, and religious and civil organizations had trained staff take witness testimonies and the basic facts were then cross-checked and corroborated by investigators (through court records, media reports, etc).<sup>177</sup>

## Standing

The rules of standing speak to who may participate and the extent of their participation. When a process involves individuals and groups sharing their stories in a formal legal setting, the rules of standing will have to be considered. Some processes will only allow one representative witness from a group, as opposed to hearing from all members of that group. This is not ideal.

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171 A subpoena is legal writ used to summon a witness or the submission of evidence, including records of documents.

172 International Center for Transitional Justice, *Strengthening Indigenous Rights through Truth Commissions: A Practitioner's Resource*, (2012) online: International Centre for Transitional Justice < <https://ictj.org/sites/default/files/ICTJ-Truth-Seeking-Indigenous-Rights-2012-English.pdf> > [“ICTJ”] at 52.

173 TRC at p 16.

174 Blueprint, *supra* note 167 at 33.

175 Stanton, *supra* note 168 at 167.

176 *Ibid* at 167; see also Berger, Justice Thomas R., “Northern Frontier, Northern Homeland”, *Report of the Mackenzie Valley Pipeline Inquiry*, (April 1977), Vol 2, Appendix 1, at page 227

177 Blueprint, *supra* note 167 at p.49.

Some argue that a broad approach to standing raises budgetary and schedule issues.<sup>178</sup> However, there are a variety of mechanisms to ensure that important voices are not excluded.

For the Truth and Reconciliation Commission of Canada, the mandate allowed for any interested party to provide testimony about the Residential School system. Similarly, during the Berger Inquiry, Justice Berger stayed and listened until everyone that wanted to speak had been heard. He patiently gave access to people unrepresented by counsel, on their timeframe.<sup>179</sup> He would sit for 12 or more hours to hear often repetitive testimony, before adjourning and participating in a drum dance.<sup>180</sup> As stated by a reporter, “Tom Berger was happy with silence. For Aboriginal people, that is a gift. He brought those qualities to the hearings. And Dene people responded.”<sup>181</sup> In creating this process, Justice Berger

“...provided the opportunity to tell the country about that Dene history - a history previously denied by political institutions in the north - and the opportunity to talk about a different vision for the future. Just as important, he provided communities with the chance to communicate their shared past to each other.”<sup>182</sup>

Where the issue is so broad that it affects a wide variety of interested parties, regional representative offices could be considered as a means to remain within budget and time limits.<sup>183</sup>

### **Legal representation**

The right to participate in a process may have limited value if participants struggle in making their voices heard. If need is demonstrated, reasonable funding for legal representation should be available to families and participants throughout the Process.<sup>184</sup>

During the Missing Women's Commission of Inquiry in BC, ten participants and three Indigenous and women's coalitions were provided full participant standing. In addition, seven other Indigenous and women's coalitions were provided limited participant standing. Two independent co-counsel were provided standing to present issues related to “Aboriginal interests” and the remainder of the Indigenous and Women’s coalitions were denied funding for legal representation. This decision was criticized as creating “further unfairness” and introducing a “new form of discrimination”.

During Australia's Royal Commission on Aboriginal Deaths in Custody, in almost every case, the families were represented by local Aboriginal Legal Services. In the National Report, Commissioner Johnston noted:

“I cannot sufficiently stress the need when a death occurs in custody for full, open and searching inquiry in which the families feel that they are given all the available facts and given the power to participate.”

It is also important to note that lawyers can “tend to filter information according to whether or not it has legal relevance”.<sup>185</sup> The Commissioners of the Aboriginal Justice Inquiry recognized this tendency and excluded the participation of lawyers for portions of the inquiry. If lawyers and judges are involved, there

178 Hughes, Julia, “Instructive Past: Lessons from the Royal Commission on Aboriginal Peoples for the Canadian Truth and Reconciliation Commission on Indian Residential Schools” (2005) 27 *Canadian Journal of Law and Society*, 124 [“Hughes”] at 124-125.

179 *Ibid* at 169.

180 *Ibid* at 170.

181 “Interview with Paul Andrew, broadcaster”, *Braincells* (2012) online: <[http://www.braincells.net/ubc-inquiry/paul\\_andrew-00.html](http://www.braincells.net/ubc-inquiry/paul_andrew-00.html)>.

182 Peter Puxley, “A Model of Engagement: Reflections on the 25<sup>th</sup> Anniversary of the Berger Report” (August 2002) Canadian Policy Research Networks, online: <[www.cprn.org/doc.cfm?doc=41&I=en](http://www.cprn.org/doc.cfm?doc=41&I=en)> at 6.

183 *Ibid*.

184 *Ibid* at 3. In the BC Inquiry, two independent co-counsel were provided standing to present issues related to Aboriginal interests while many Aboriginal and Women's coalitions and groups were denied funding and were not able to participate in the inquiry.

should be ways to check against the stories being shaped by those hearing them,<sup>186</sup> to ensure that the messages of the families are not lost amidst legal details. The same goes for non-legal leaders on the project, as a message to any person is filtered through their professional and personal experiences.

### **Funding and length of time**

The sources of funding should be clearly established in the terms of reference to ensure continuity despite potentially changing political agendas. A change in government may have direct consequences on the implementation of the recommendations of a Report. While it represented best practices in engagement, the Kelowna Accord was not implemented due to challenges with funding, reliability of data, implementation of recommendations and political agendas. Similarly, the Spring 2012 budget announced the closing of the National Roundtable on the Environment and the Economy.

The funding necessary to support robust decision maker analysis also is required.

For example, Australia's Royal Commission on Aboriginal Deaths in Custody was assisted by various lawyers acting as 'counsel assisting' and a Secretary to the Commission. In addition, the Commission had 'field officers' who gathered information and conducted interviews with potential witnesses.<sup>187</sup>

A critique of many of the processes is that they are too lengthy. Establishing and adhering to reasonable time limits set out in the Terms of References may be a critical step in ensuring that the process achieves its objectives.

### **3- Engaging affected individuals and groups**

It has been established by many that “the most successful commissions consult widely, early, and often.”<sup>188</sup> Engagement is a two way street. Just as decision-making authorities should engage affected individuals, opportunities should be given for process participants to engage with decision making authorities/bodies.

One of the major criticisms of the BC Women's inquiry, was that it was said to have “excluded the voices of individuals and communities that it should have worked the hardest to include.”<sup>189</sup>

The importance of engagement has been recognized in many other jurisdictions. Justice Albie Sachs of the South Africa Constitutional Court said within the context of the South African Truth and Reconciliation Commission that “dialogue is the foundation of repair.”<sup>190</sup>

Engagement will usually involve the government and media. When involving government, it is important to consider who will retain jurisdiction or ownership of the Process. It is important to remember that once governments have been asked to fund a Process, it may be necessary to explicitly negotiate to retain grassroots ownership. In order for a process and its recommendations to be credible, it must be (and be perceived to be) independent from government and police.<sup>191</sup>

Media can be an important tool of public engagement. However a media strategy is an important early step to make full use of this valuable resource. It may be useful to identify a few media contact persons for those directly affected by the process. An effective media strategy is one that provides the access and

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185 Hughes, *supra* note 178 at 117.

186 With regards to truth commissions, Canadian negotiators have noted that the goal has been to “emphasize the focus on victims, and reduce the focus on the skill of legal counsel to shape the information gained.” Stanton, Kim Pamela, “Truth Commissions and Public Inquiries: Addressing Historical Injustices in Established Democracies”, Stanton, *supra* note 24.

187 [www.naa.gov.au](http://www.naa.gov.au).

188 Blueprint, *supra* note 167 at 29.

189 *Ibid* at 5.

190 Albie Sachs, *The Strange Alchemy of Life and Law*. (Oxford: Oxford University Press, 2009) at 84.

191 *Blueprint*, *supra* note 167 at 50.

background that is needed for the story to be told or for voices to be heard. Cultural sensitivity training is an option if it is identified as a need.

#### 4- Supports

It is important that all those directly affected by a process feel safe and supported. A network of psychological, spiritual, legal and culturally appropriate supports should be made available and easily accessible to everyone participating in the process. Preferably, organizers of the process should work in partnership with established community organizations to design and deliver the needed supports while recognizing that additional financial supports may be required for already overextended groups to assist.

Supports for those who are affected by the issue requires clarity about expectations.<sup>192</sup> The goals and purposes of each step should be made explicit to those involved. Seeking consent to share their stories is legally required and important in acknowledging full ownership of their stories. It is also another way to ensure 'buy in' of the process at every stage.

Oral consent as opposed to written consent can be effective as long as there are witnesses and the participants are given packages outlining what they are consenting to.<sup>193</sup> Participants must be advised how they may exercise or withdraw their consent.<sup>194</sup>

Depending upon the proceeding, another important element of support for certain individuals may be some type of legal amnesty. Whether participants in the process should be afforded legal amnesty in exchange for the full truth of their stories is a question that should be discussed.<sup>195</sup> Some vulnerable women may not want to tell their story if doing so could end in criminal charges.<sup>196</sup> It may also be that some information can only be gleaned from perpetrators, who will not want to further incriminate themselves. It will be important to discuss with organizers and families whether it is possible, or desirable to offer these people amnesty from civil and/or criminal prosecution if they tell their stories.

#### 5- Gathering evidence

A successful process may involve a variety of approaches to gathering evidence. For example, the Commission on the Future of Health Care in Canada received official submissions from organizations but also individuals. In addition to formal submissions, it also received informal submissions from individual Canadians, health care providers, and advocacy groups through various methods. Submissions were allowed in person, by email, phone calls (a toll-free public information line was created), and letters. There was also an 'open forum' at the end of the hearing for the general public to voice their concerns and ideas.

Australia's Royal Commission on Aboriginal Deaths in Custody relied on many sources of information,

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<sup>192</sup> *Ibid* at 46, 49.

<sup>193</sup> Ball, Jessica, Pauline Janyst, "Enacting Research Ethics in Partnerships with Indigenous Communities in Canada: Do it in a Good Way"(2012) 3 *Journal of Empirical Research on Human Research Ethics: An International Journal* 42 at 45 ["Ball"].

<sup>194</sup> *Ibid* at 49.

<sup>195</sup> *Ibid* at 40.

<sup>196</sup> An example could involve sexually exploited women doing sex work.

including documents<sup>197</sup>, interviews<sup>198</sup>, direct contact with families<sup>199</sup>, informal meetings<sup>200</sup>, public meetings and conferences<sup>201</sup>, general submissions and responses to the Underlying Issues Paper<sup>202</sup>, questions put to Government<sup>203</sup> and other sources<sup>204</sup>. The Commission also relied on research conducted by the Aboriginal Issues Units<sup>205</sup>, the Criminology Research Unit<sup>206</sup> and other sources.<sup>207</sup>

Over four hundred briefs were submitted by individuals and groups during the Berger Inquiry.<sup>208</sup> This was what Justice Berger called the “travelling teach-in”<sup>209</sup> portion of the Inquiry, encouraging social accountability amongst non-Indigenous and Indigenous Canadians. Throughout the entire process, Berger collected approximately half of the evidence from corporate applicants, and about half from Indigenous groups, public interest groups, and Commission counsel.<sup>210</sup>

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- 197 At the commencement of the Commission, subpoenas were issued to State and Territory Governments for documents relevant to the circumstances of individual deaths. This meant that as a starting point large numbers of files from a number of government departments were gathered. The files subpoenaed in the first instance were those directly related to the deaths Coroners files including exhibits, police department files, prisons department files and health department files. From this information, more detailed investigations followed. Files held by Aboriginal legal and health services, employers records, educational histories, welfare records, and family histories were gathered.
- 198 This task was largely assumed by Commission staff and in some instances required an enormous amount of work. For example, if someone died in a prison where there were several other inmates, each person might have to be located and interviewed. It was these files, statements and records of interview that made up the bulk of exhibits tendered at hearings into individual deaths.
- 199 This was an important part of the preliminary preparation so the Commission could hear their particular concerns and desires relating to investigations of the deaths. This was also important because records maintained by police, prisons and welfare departments often paint an unfavourable picture of the individual. The National Report noted: “Cultural stereotyping among those compiling the information contributes to images of lawlessness and welfare dependence. Aboriginal perceptions were a necessary complement to the contents of files.” In addition, it states: “In some circumstances, rather than call relatives as witnesses to hearings, transcripts of interviews were tendered before Commissioners. The time between the death and the commencement of Commission inquiries often made recalling events a difficult task, with many of the deaths occurring many years before and people's memories fading. Many found it difficult to discuss the deaths of close family members. Some of the deaths had been the subject of recent police investigations and coronial inquiries, and another inquiry was sometimes not welcomed.”
- 200 Although most of the information presented before the Commission was in the form of exhibits, submissions, research papers, responses to discussion papers, and oral testimony, there were other forums. Many less formal meetings with groups or individuals such as police officers, Aboriginal people, and public servants contributed to the body of knowledge of all Commissioners.
- 201 Many of the Commission hearings were conducted in the communities where the deaths had occurred. In some circumstances, being at the community presented an opportunity to have public and private meetings with Aboriginal people to discuss matters of relevance to the underlying issues. As part of his inquiries in the Northern Territory, Commissioner Johnston convened a number of conferences on a variety of topics. In advance of such conferences discussion papers were prepared by Counsel Assisting identifying issues which needed to be addressed and providing reading material relevant to those issues. Other Commissioners held similar conferences.
- 202 The Commission received a significant number of general submissions on a range of topics. At a meeting of Commissioners in July 1989, it was resolved that a process would be commenced with the objective of generating further public response to submissions received on the underlying issues. A document drawing together the topics which had been identified by investigations, reports and submissions received up to that time was prepared by Counsel Assisting and circulated widely. Simultaneously, invitations were sent to parties given leave to appear and governments throughout the country asking them to list those matters which they believed to be underlying the deaths. Responses to that preliminary document were considered and a further document prepared. In October 1989, a paper titled 'Underlying Issues' which set out the Commissioners' preliminary thoughts on the possible range of underlying issues was circulated to some 2,000 people and organizations. In February 1990 another version with minor changes was circulated. The paper, which invited people to make submissions on the topics listed, warned that if people wanted submissions to be kept confidential, they should state so in the submission. The reason for this was that since the commencement of the Commission, it has been a policy to encourage a wide-ranging exchange of opinions between interested parties. Copies of responses to the underlying issues paper were regularly provided to parties given leave to appear. In addition to this method of actively seeking out submissions, notices regularly appeared in newspapers, both regional and local, prior to the commencement of hearings into individual deaths inviting public attendance and submissions. Hearings were closed to the public only in the most exceptional circumstances. Notices requesting submissions also regularly appeared in

Anyone actively engaged with individuals (particularly with vulnerable groups) should be trained as or have access to community leaders, trauma experts, survivor/victim groups, activists, and scholars.<sup>211</sup> It is important to ensure that the resources of existing organizations are used to facilitate training, provide supports, and to encourage participation.

The most engaging and successful processes also accommodate persons with disabilities, those who do not speak English, and other persons requiring accommodation.

*Accommodation also means meeting people where they feel most comfortable.*

Processes should be accessible to a wide variety of individuals, particularly those most affected by the issue. In certain cases, a physical presence may be needed in different regions. For example, the Australia's Royal Commission on Aboriginal Deaths in Custody, was organized into regions and had offices in Adelaide, Brisbane, Broome, Canberra, Darwin and Perth and sub-officers in Melbourne, Alice Springs and Hobart.

During the Berger Inquiry, hearings were held in major centres, but also in every community in the Western Arctic.<sup>212</sup> Justice Berger consulted in log cabins, village halls, beside rivers, and in hunting and

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national newspapers.

203 Another method of investigation used by the Commission outside of formal hearings was the drafting of a series of detailed questions to various State and Commonwealth Government departments. This was done subsequent to receipt of submissions and responses to the underlying issues paper to fine tune the contribution that could be made by various departments. Given the range of topics under investigation by the Commission and the plethora of agencies that impact on the lives of Aboriginal people, it was a most useful exercise. In some cases, subsequent to receipt of the responses, conferences were held with senior departmental officers to discuss and expand on some of the answers given. This was seen as a way for the Commission to keep abreast of government policy and programs throughout Australia, and by putting similar questions to different State Governments, enabling comparisons to be made.

204 In addition to the materials referred to above, the Commission used pre-existing information on the subject matters under inquiry, including books, government reports and published works.

205 The Aboriginal Issues Units (AIUs) were established following a resolution made by all Commissioners in March of 1989. It was contemplated that the units would complement the work being done by other staff of the Commission but exercise professional autonomy and integrity. The AIUs worked under the same constraints of time, task, and geography that came to typify the workload of the Commission throughout the country, but, given the demographic factors that characterize the Aboriginal and Torres Strait Islander population, their task was particularly onerous. The AIUs were established to ensure that each Commissioner hears and understands the views of Aboriginals and Aboriginal Communities and Organizations in his region about the reasons why so many Aboriginals are in custody and die in custody and their views as to how the situation can be changed. Among other things, the job of the AIUs was to identify what Aboriginals see as the issues and the solutions, to ensure that those perceptions are conveyed to and understood by the Commissioner and in appropriate cases to encourage Aboriginal Communities, Organizations or individuals to prepare their own submission(s).

206 According to Commissioner's Dobson's Regional Report, the Criminology Research Unit "assisted with a study of arrest and bail patterns in 1987 and 1990 at Kalgoorlie Police Station. The Unit analyzed the initial data collected for the 1987 study period and designed a data collection form for the 1990 study period and analyzed the results. Their findings were presented in Criminology Research Unit Research Paper No. 18 by D. McDonald: 'Arrests, Custody and Bail, Kalgoorlie, 1987 and 1990'. The Unit has also produced a report based on data collected about each of the Western Australian cases."

207 The Commission engaged consultants on a range of subject matters to supplement the information and research resources. This research was carried out under the direction of individual Commissioners and was coordinated nationally to avoid duplication of effort.

208 Berger Inquiry at 170.

209 *Ibid* at 170.

210 *Ibid* at 199.

211 International Centre for Transitional Justice, Truth Commissions and Gender: Principles, Policies, and Procedure, (2006) online: <[https://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English\\_0.pdf](https://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf)> ["Gender"] at 12.

212 *Stanton*, *supra* note 168 at 166.

fishing camps.<sup>213</sup> Community members “crowded into community halls and school gymnasiums and in Slavey, Dogrib, Chipewyan, Loucheux, Hareskin, Inuktitut, English and sometimes even French they put their fears and hopes on record”.<sup>214</sup> The formal hearings and the community hearings were considered two “equally important parts of the same process.”<sup>215</sup>

Accommodation also requires the Process to involve a variety of Indigenous spiritual and cultural ceremonies where appropriate and to proactively ask knowledge holders and stakeholders whether they require accommodations and if so, what types.

Benchmarks should be established to assess whether any group has been underrepresented in information-gathering. If under-representation is identified, this can be addressed before the process is complete.<sup>216</sup>

## **6- Openness to Flexibility and Different Streams of Action**

Planning for the creation and execution of a Process requires openness to flexibility and change. For example, Australia's Royal Commission on Aboriginal Deaths in Custody originally only had one Commissioner appointed. However due to the number of individual deaths and the volume of work required, four more Commissioners were appointed by the government. The activities of all these Commissioners led to the success of this Commission.

The Commissioners of Australia's Commission also had to remain flexible with timelines – particularly with the timelines of the individual inquiries. Hearings where the facts were not in dispute did not take very long, but others were “long and intense, running into weeks in some cases and months in one case.”

Achieving the desired outcomes may require building upon various streams of actions. For example, the Federal Government created an Open Government Partnership (OGP) during the Advisory Panel on Open Government which outlined its commitment to various principles. Various streams of actions were created to implement each of these principles. Moreover, each of the streams of actions had sub-streams which created further commitments. The success of this approach highlights the importance of flexible and making a wide range of options available to participants.

A desired outcome can also result from a process involving multiple stages. For example, the process for the Kelowna Accord was initially a gathering of 147 people representing governments, organizations and institutions which recommended a way forward based on consensus. Before moving onto the next step, a report was created and changes were implemented immediately at the government level. The next meetings considered six priority areas arising from the first meeting. Approximately 750 participants were invited to sessions which involved roundtable discussions and breakout sessions based on themes. Discussion papers were prepared prior to the sessions. While the Kelowna Accord ultimately foundered for reasons discussed elsewhere, its multiple roundtable process offers a useful example for consideration.

## **7- Building Consensus**

Consensus is key to a successful process. A consensus process is one in which participants aim to reach agreement on actions and outcomes to resolve issues of importance to the parties.<sup>217</sup> Participants work together to build consensus for a process and form partnerships based on respect.

Consensus seeking encourages discourse and understanding among the parties, and creates a forum in which the importance of reconciling competing interests is both understood and addressed. It brings together all sectors, non-governmental stakeholders and governmental authorities, to work together in a cooperative forum. Most importantly, it facilitates the achievement of two primary objectives: a shared

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<sup>213</sup> *Ibid.*

<sup>214</sup> *Ibid* at 170.

<sup>215</sup> *Ibid* at 166.

<sup>216</sup> Gender, *supra* note 211 at 18.

<sup>217</sup> See for example, <[www.glennsigurdson.com/cse-group-2/sustainability-lenses/](http://www.glennsigurdson.com/cse-group-2/sustainability-lenses/)>.

commitment to the outcome achieved through negotiations and the development of a long term working relationship.

The late Anishinaabe knowledge keeper, Peter O' Chiese explained that "seven twice is eight" meaning that "seven perspectives are blended, seven perspectives working in harmony together to truly define the problem, truly define the action that is needed makes for an eighth understanding."<sup>218</sup> A recent Report by the National Collaborating Centre for Determinants of Health offers a Case Study of the Government of Nunavut's process to develop their plan for a reduction of poverty. The poverty reduction plan was created through the engagement of the government, Inuit organizations, other organizations and individuals. Legislation on poverty reduction in Nunavut was also created as a result.<sup>219</sup> In this instance, consensus was framed in terms of "partnerships" and territorial government and knowledge holders of Inuit Qaujimajatuqangit (IQ)<sup>220</sup> worked together to solve the issues.<sup>221</sup>

## 8- Clear expected outcomes

When creating a process, it is important to set out clear expected outcomes from the beginning. Engagement of affected individuals in setting out expected outcomes is preferable. Generally speaking, existing processes can offer opportunities for:

- those affected to have their voices heard and perspectives honoured
- healing of individuals and societies
- the creation of support networks for those commonly affected by an issue
- the validation of someone's experience
- compensation or reconciliation of those who have been negatively affected by an issue
- systemic reform and creative solutions to issues

## 9- Implementation Process

Proposing an implementation process is essential for its effectiveness. Those who are involved in the process and affected by the issue should be involved in creating the implementation plan. Implementation committees can be proposed to monitor results and recommendations to ensure accountability. For example following the Aboriginal Justice Inquiry, an Aboriginal Justice Implementation Commission was created to review the recommendations of the AJI and to advise the government on the recommended methods of implementing those recommendations for which the Province of Manitoba was responsible and accountable.

The process of the AJI Commission was to review reports, consult with experts and report on the progress of recommendations and implementation of the AJI. Many of the recommendations have been implemented as a result, but not all. Concrete targets and clear measures of success are necessary for implementation. Establishing targets and indicators should not be left to governments. Effective processes will engage those affected by the process to identify measures of 'success'.

## 10- Transparency and memory

An important part of the monitoring and implementation is the availability and accessibility of information. The terms of references and submissions for the process should be made available and accessible to the

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218 Canada, Royal Commission on Aboriginal Peoples, *The Report of the Royal Commission on Aboriginal Peoples*, vol. 2 (Ottawa: Public Works and Government Services Canada, 1996) at 135.

219 National Collaborating Centre for Determinants of Health, *Fostering Health Through Healing: Engaging the Community to Create a Poverty Reduction Strategy in Nunavut*, (2014) online: National Collaborating Centre for Determinants of Health <nccd.ca/images/uploads/Nunavut\_case\_study\_EN\_web1.pdf>.

220 IQ refers to "a body of Inuit beliefs, unique cultural insights, and Indigenous knowledge that includes concepts of collaboration, consensus, acquiring skills and knowledge, serving others, environmental stewardship and being resourceful." *Ibid* at 3.

221 *Ibid* at 11.



public during and following the end of the formal process. In certain cases such as the Somalia Inquiry and the Kelowna Accord, terms of references are not easily accessible online.

## **Our Recommendations on Guidelines for Framework**

Based on the lessons learned from existing processes, the Families First process must:

1. Involve early and ongoing meaningful engagement of all affected individuals and knowledge holders at every stage
2. Have clear Terms of References which have a broad enough scope to include systemic issues
3. Involve strong courageous leaders who are not afraid of advocating for the implementation of their recommendations
4. Have flexibility in rules of evidence to ensure inclusion of meaningful evidence and involvement of proper spiritual and religious protocols
5. Clearly set out the issues it is aiming to address
6. Be open to a variety of methods for gathering evidence and different 'streams of actions'
7. Have broad standing rules to include individuals and groups affected by the issue
8. Give equal weight to natural, spiritual laws and Canadian laws
9. Have adequate and secure funding for process and implementation
10. Have a variety of culturally appropriate and accessible supports
11. Ensure expectations are meaningful and reasonable
12. Be based on consensus building
13. Have a clear implementation process.

## Part IV: Creating “our own process”

“It's about time we do it our own way.”

**Listening and Understanding**

Families are grieving and need to be supported in their healing journeys.

Many of the existing plans for action addressing MMIWG have been developed without the direct involvement of those who are most affected by the issue.

Within the context of an environmental hearing, Elder D'Arcy Linklater explains why listening and understanding is necessary:

So in order to understand [...] **the art of listening, we have to understand also the art of nesohkumakewin to try and understand each other, to try and understand who we are, especially with respect to our people.** You have to understand also what we have been through as First Nations people in this country with respect to extinguishment, we nearly lost our ways, our language. But the Creator gave us **blood history, through those customary laws and customary law principles we get reminded, we never lose anything because of blood history, and it is always there.** And we must use what was given to us and apply it to things that make our lives difficult. And that is the purpose of that, why we are here, try and **understand the art of listening and also the art of understanding** [...]. So it is important to try and understand our people and our laws. It is important also to governments and regulators to try and understand us, who we are and where we come from. (emphasis added)<sup>222</sup>

Listening and understanding must “come from a good place within us.”<sup>223</sup> This includes the positive listening and understanding which is non-judgemental and is based in acceptance and inclusiveness.

The principle of listening and understanding has guided us throughout the preparation of this Report. It has led us to propose the Families First Leaders based on the deep seated desire of community members and affected persons to create their own process. It is our hope that it will also guide the Commissioners responsible for implementing Families First.

## What we heard on process

### From Families

From the families' perspective, one of the main focuses of the proposed approach should be on achieving tangible outcomes including the provision of adequate supports to families.

Generally, the families all felt that the process should focus on the grassroots. As one family member said, “each province should take care of its own, clean up its own backyard.”

### Hopes for the process

Some of the hopes identified by the families were that the process will

- honour their loved ones as persons and achieve justice
- be culturally and religiously diverse
- help the families in their healing journeys
- help them realize they are strong enough to tell their own stories
- validate the feelings of anger, frustration and sadness of the families
- involve multiple knowledge holders and stakeholders: families, province, city, police, RCMP and corporate Canada
- prevent future crimes
- increase awareness of both the tragedy and its root causes
- ensure the voices of the families heard

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<sup>222</sup> Elder D'Arcy Linklater, Keeyask Hearing.

<sup>223</sup> Elder Wally Swain

- unite Indigenous and non-Indigenous communities and tackle racist stereotypes
- identify clear roles and responsibilities for each level of government to address the issue of MMIWG

## Scope

The families indicated that the stories and issues to be discussed in the Process should include:

- concrete actions to improve supports for families and communities
- the root causes of sexual exploitation and violence against women and girls
- ways to build self-esteem and empower Indigenous women and men
- statistics on police investigations, sexism and accountability of police
- ways to improve the relationship and communications with policing agencies
- measures to protect the most vulnerable children, women and girls in society
- the connection between different systems such justice, child and family services and the education system
- the impact of gendered violence, poverty, exclusion, racism and discrimination

Families stated that the process should be taken to the communities where families' feel most comfortable and safe. They also stressed the importance that Families First keep the families fully informed about the process throughout.

The families were asked what a process addressing MMIWG should focus on achieving and accomplishing. Their responses varied significantly depending on where each person was in their healing journey and whether their loved one was murdered or missing. Many of the families indicated that the Process should focus on tangible actions.<sup>224</sup>

Generally speaking, families wanted to prevent future crimes and honour their loved ones who are missing or have been murdered. Most of the families said that a process should be created in order for the families to share their stories and for people to listen. As one family member said, “this should be broader so that a lot of people understand what we go through.” A family member stressed that “we must honour each family individually” and hold ceremonies for each and every one of them.

Some of the families said that we should aim to accomplish positive results for missing and murdered Indigenous men and boys as well.

## Values and key principles

Some of the values and key principles identified by the families included:

- focus on the grassroots
- healing
- honouring
- sharing (information and supports)
- respect
- love
- empowerment
- inclusiveness
- listening

They told us that an approach committed to listening should respect differences of cultural, spiritual and religious beliefs and families should be met where they feel most comfortable.

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<sup>224</sup> The 'tangible actions' will be outlined in the next section.

Families emphasized that they should be kept fully informed throughout the process.

All engaged expressed that the recommended approach must honour the loved ones and help families in their healing journeys.

## **Concerns**

The concerns identified included that:

- the process will ignore the root causes of the issues
- the recommendations will not be implemented
- the process will be too lengthy and costly and that immediate action will not take place
- a process will put the lives of the families under a microscope
- the process will exclude the families
- families in the North will be left out
- Indigenous men and boys will be left out
- the process will cause further division within Indigenous communities

Many worried about the time and length of formal processes and whether certain families would be excluded from meaningful participation. Others expressed concern that families would be put under a microscope and viewed in a negative light. Many families were concerned that the recommendations of the proposed process would not be implemented.

While formal processes (such as national and provincial inquiries, roundtables) were generally well understood, families feared that they would be too costly and lengthy and would not result in tangible benefits. One family member said

I'm divided on [the issue of roundtable and inquiries]. I feel like it's an either or situation, and I'm afraid if we do the roundtable, then the federal or provincial government will say, we did this. We need to have action behind the discussion.

## **Leaders**

Most of the family members engaged agreed that a panel should be leading the process rather than a single individual. This could include: a grandmother, an Elder, Indigenous language speakers and a youth representative. They stressed the importance of having a mixture of Women, Men, Elders and Youth. They also believed it was important to have North and South representation on the Panel. Families were divided on the question of whether a representative family member of a MMIWG should be part of the Panel.

Families believed that the process should involve multiple knowledge holders and stakeholders including the families, Elders, service providers, the province, city, policy and corporate Canada. They highlighted the critical nature of early, ongoing and widespread engagement, the importance of monitoring and implementation and the value of forming partnerships based on consensus and respect.

## **From Elders**

### **Root of the Issue and Scope of Process**

The Elders were clear that the issue of MMIWG is a result of many interconnected systems including: justice, child welfare and poverty. A few of the Elders said that “the residential school effects still impact people today.” They also spoke about the direct relationship between what is happening today and the loss of cultural identity. Most of the Elders indicated that the process should address ways to discuss traditional roles of both women and men as “we cannot be balanced without the men.”

The Elders all emphasized the importance of healing. Indigenous knowledge and traditions tell us that this issue must be addressed in a holistic manner. The Elders stressed the need for “our own traditional therapies [and traditional medicines].” They agreed the process should be based in the laws of Indigenous people and could include ceremonies to help support and heal.

## Hopes

The Elders were hopeful that the Process would:

- expose the truth about what is happening to Indigenous women and girls and their families
- address the hurt in Indigenous communities
- help and acknowledge the “forgotten people” in Indigenous and non-Indigenous communities
- achieve concrete actions to address MMIWG
- be inclusive of all including both Christian and Indigenous traditional people and ways
- address the issue despite governments not wanting to be involved
- achieve physical, emotional, spiritual and cultural healing
- be an opportunity to exercise “the art of listening” and address reconciliation

## Guiding Principles

The Elders indicated that the seven teachings should guide the Process- respect, love, truth, honesty, wisdom, humility and courage.

Other key principles that should be included and have a direct relationship to the seven teachings include:

- balance
- listening, hearing and understanding
- responsibility
- inclusion of all

As stated by Elder Dennis White Bird, “this is an opportunity for us to rebuild – our families and our communities.”

“The Indigenous ways have always been to protect our land, protect our children, protect our women. The earth is our mother, the sun is our father, the moon is our grandmother. We are all related. That’s the most powerful teaching we can teach.”<sup>225</sup>

The Elders acknowledge that Families First “started off right” by going to those who are directly affected and suffering from the issue of MMIWG. Families were asked to identify how they wanted to be involved in the recommended Process. Specifically, the families were asked for recommendations on how they could share their stories while feeling safe, supported and empowered. Some of their suggestions included:

- families must be fully informed about the process throughout
- differences of cultural, spiritual and religious beliefs must always be respected. Families must also be respected no matter where they may be in their healing journeys
- the Process should be taken to the families’ communities which is where they feel most comfortable
- engagement sessions should start with an icebreaker and should involve food to make people feel more comfortable
- contact with the families should be done with existing service providers with whom families are already in contact

## **Involvement of Elders**

The Elders would like to be involved in the process. They indicate “we have been given a role and responsibility to speak on this issue.”

### **Concerns**

The elders expressed concern that:

- lawyers and judges would benefit and questions would remain unanswered
- the process would forget about the people directly affected
- the federal government will continue to do nothing about the issue
- it will become a 'blame game'
- the process will be too formal and exclude those who are directly affected

One of the Elders stated that “the truth will not come out in an inquiry...because they don't want certain information to get out in the general public...we need to tell it how it is.” Another Elder stated that national level inquiries or roundtables are too political and “we need to solve [this] ourselves.”

Another Elder said he would like to see a roundtable as that would encourage discussion and recommendations to address the issue. However, all the Elders agreed that “a one day roundtable is not enough.”

“There are recommendations from the Aboriginal Justice Inquiry that have not been implemented. Those need to happen. That inquiry happened for a reason and a lot of good work was done... If we're not paying attention to that, it's a mistake. And then the work out of the TRC. Recommendations are on the table, we just have to make it happen.”<sup>226</sup>

## **From Youth**

### **Concerns**

Youth were very concerned about family members and their communities. Youth indicated that the process should cover the links between Indigenous women and girls with government, police, poverty, child and family services and employment. They said that the process should speak to the issue that “girls have no income [and] live in poverty and end up in risky situations like escorting.” Another youth stated that “this is a continuation of genocide, sixties scoop, residential school, to take away First Nation women.”

### **Scope**

The youth agreed that whatever the process may be, there “needs to have resources for affected families to participate.” And “families should be involved at all levels but only based on their comfort levels.”

Youth indicated that the process should be cyclical and engage Elders, adults, youth and children equally. The fact it is cyclical in nature means that it should constantly be reevaluated and recommendations should not be ignored. Two youth believed that we should evaluate whether the process recommendations are being implemented at least once a year.

## **From the MMIWG Coalition**

226 Sjoberg

## Scope

MMIWG Coalition members stated that it is important to remember the stories of missing and murdered Indigenous women so that future generations know what happened. As one member stated, “whoever writes the history, writes in their bias, so, we need to write our own history.”

*“This is not a criminal issue, it is societal. An inquiry needs to look at it through that lens.”*<sup>227</sup>

A MMIWG Coalition member expressed frustration that the question of whether or not to have an inquiry or roundtable is “dividing our people.” Overall, Coalition members agreed with the findings of the Truth and Reconciliation Commission in its call for a national inquiry into MMIWG.<sup>228</sup>

The coalition's stated reasons for this call were: to allow families to find out what happened to their loved ones; to address the societal issues and root causes that have enabled Indigenous women and girls to become missing or to be murdered; to help foster reconciliation; and, to prevent these terrible tragedies from continuing. One coalition member, when asked about what should be the immediate actions taken with respect to MMIWG, stated that:

*My first thought in regards to this question is to say absolutely an inquiry must be done. Everyday women and girls continue to go missing or are murdered. The violence against Indigenous women and girls must stop. The women and girls who are murdered and missing are someone's daughter, mother, wife, sister, grandmother.*<sup>229</sup>

The coalition indicated that there must be a commitment from the federal, provincial and municipal governments to support an inquiry into missing and murdered girls, and to make a commitment to act on the findings and recommendations from such an inquiry. A coalition member stated that “(a)ll three levels of government have had a role in entrenching inequality, and making it worse. All three levels of government have the ability to reverse those decisions and to build something better.”

Members of the coalition stated that the inquiry must have a broad mandate to focus on child welfare, justice, education and health, with directives given to the various systems to provide information to the inquiry.<sup>230</sup> Members also indicated that Indigenous people need to be involved at all levels, from leadership to staffing, and that pipe ceremonies should be held prior to the start of, and periodically throughout an inquiry, to guide the process.<sup>231</sup>

Coalition members also indicated that, in the lead up to coming provincial and federal elections, AMC should strategically develop questions that can be posed to all candidates, to ensure that the call for a national inquiry into MMIWG is included in the candidate's platforms on social justice issues.<sup>232</sup>

The MMIWG Coalition flagged the trauma of families lost in complicated systems during the most difficult time of their lives. They underlined the importance of a push for action aimed at both immediate and systemic change. The MMIWG Coalition underscored the importance of listening and understanding the families. As stated by one individual, the families,

*“...know what they need. Our young people know what they need. We need to have them in the centre and tell us what they want to see. Its then our job to follow up on that.”*

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227 Kehler

228 Morrisseau, Campbell

229 Morrisseau

230 Morrisseau

231 Morrisseau

232 Johnston, Scott



## Families First Process

### Our Own Process

*“We should come up with our own ways based on what the families want.”*

Families, Elders, youth and the MMIWG Coalition expressed a desire to move past the debate about whether or not to have an inquiry, roundtable or other formal process. Many expressed a desire to create **“our own process”** based on what the families want and grounded in Indigenous knowledge and traditions. It was also important for those engaged to include “different streams of action.”

One of the family members said “in Manitoba, we need to approach it in a more inclusive and connected way”. Another said, “the process would be inclusive of all levels of governments and inclusive of all people affected. Too often we are involuntarily included to the point where we have no say.”

*“We're all Manitobans, and we're all there for each other because we care for each other, we take care of our own.”*

Generally, the families all felt that the process should focus on the grassroots. As one family member said, “each province should take care of its own, clean up its own backyard.”

The vast majority agreed that *“our people should be writing the history, not having it written for them.”*

### Families First

*“We are being very cautious of what we are putting down on paper; if creating a law, then it must be understood by our people when reading it.”*<sup>233</sup>

The Families First process focuses on Manitoba. It is an evolving, inclusive process which is guided first and foremost by the families of MMIWG as well as Elders, Grandmothers, youth and the MMIWG Coalition of service providers. Families First aims to be inclusive of all families, communities, governments, non-governmental organizations and businesses.

*“Because it's not just support for the MMIWG. We want to stop it. Not just perpetuate it forever and support the families. No. We don't want this to happen.”*<sup>234</sup>

Families First seeks to

- address the gaps of knowledge which have been created as families of MMIWG, Elders, youth and service providers have been largely excluded from the mainstream dialogue on solution making
- address the historic distrust between Indigenous and non-Indigenous people and focus on achieving healthy sustainable long term relationships building on what Indigenous people have always known and what has been reported in the TRC Report on Indian Residential Schools
- identify and achieve both immediate and long term solutions to address the social, cultural, political and economic issues relating to MMIWG by including those who are affected by the issue at all steps of the process
- educate the broader public on underlying historical and systemic issues contributing to violence against Indigenous women and girls
- give equal weight to natural, spiritual laws and Canadian laws

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233 Elder Mary Maytwayashing, July 2, 2015.

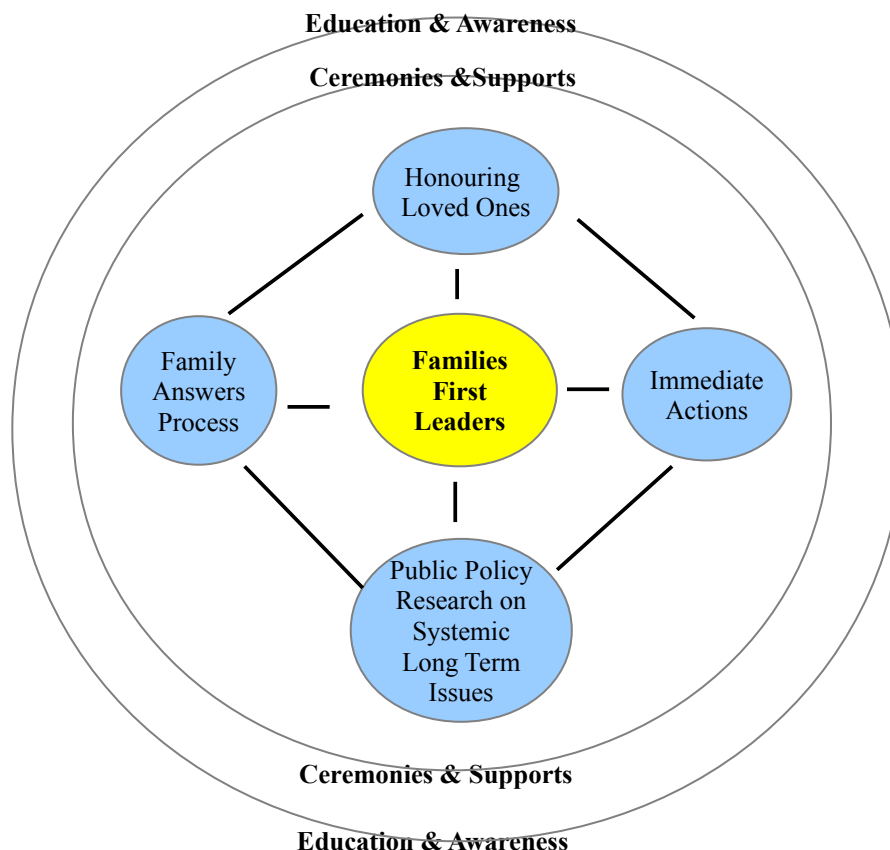
234 Scott

- honour loved ones and support families to feel strong enough to tell their own stories where they feel most comfortable
- support families and communities in individual and collective healing journeys
- validate the feelings of anger, frustration and sadness of the families
- prevent more MMIWG

The Families First model could be replicated in other Canadian jurisdictions. Should other provinces and territories implement a process to address the issue of MMIWG, information should be shared among the jurisdictions to ensure collaboration and avoid duplication where possible.

Given the importance and magnitude of the issue of MMIWG, the cost and length of time needed to complete the Families First process will be significant. In order to address the families' concerns that the process will be too lengthy and costly, a number of immediate actions and accountability measures are proposed. The Families First process includes four main areas of work:

- Honouring Loved Ones
- Immediate Actions
- Public Policy Research on Systemic Long Term Issues
- Family Answers Process



The diagram above was designed to closely resemble the medicine wheel which is used as a metaphor for many traditional teachings. It can represent the interconnection of all life; the four seasons; the four parts of a person (physical, mental, emotion and spiritual); the four kingdoms (animal, mineral, plant and human); the four sacred medicines (sweetgrass, tobacco, cedar and sage) and the four directions.

Given what we heard on the importance of languages, each of the four areas of work should be named in the language of the Nation associated with each direction:

- Honouring Loved Ones - North

- Immediate Actions - East
- Public Policy Research on Systemic Long Term Issues - South
- Family Answers Process - West

Further engagement will be needed on how to include the language groups (Dene, Ojibway, Dakota, Cree & Oji-Cree).

## Considerations for Families First Terms of Reference

### Overview of Families First Leaders

*“There are leaders - of the community, medicine, justice and different forms of leadership; it is whoever has that knowledge; say [you’re] a good hunter, so you lead, take the young and teach them [...].”*<sup>235</sup>

Given the desire to create 'our own process', the 'Families First Leaders' are proposed as the decision makers of the Families First Process. According to the Elders, it was important to include the word 'leader' and 'fire' in the work of Families First. The Elders stressed the need to include these words into the Report in the Treaty languages of Manitoba. According to Elder Florence Paynter, the word for 'male leader' in Anishinaabemowin is Ogijida and 'female leaders' are Ogijidaikwe. In Cree, the word for leader (singular) is Okectota' Iskweo and leaders (plural) is Okectota Iskwiwuk. According to Elder Henry Skywater, the word for leader in the Dakota language is Itania. He explains the importance of including this word as this means “leaders [who] stands up and are not [...] afraid to do something about it. [...].

The Elders agreed that it is important to have “brave leadership” in charge of the process.

*“[W]e need true leadership to see the difference.”*

Based on what we have heard and read, it is recommended that the Families First Leaders be made up of a total of 8 individuals. The Leaders should include representation from:

- male and female
- North and South
- Youth
- Elders
- Grandmothers
- Technicians such as lawyers, researchers, academics, knowledge holders

*“We must have balance.”*<sup>236</sup>

All members of the Families First Leaders should have a good understanding of the Indigenous cultures and teachings. Proactive steps should be undertaken in the event that an individual appointed does not have a good basic understanding of this knowledge.

It is recommended that an engagement process be undertaken immediately to determine how the members of the Commissioner should be appointed. Notionally, political organizations including the Assembly of Manitoba Chiefs, Southern Chiefs Organization, Manitoba Keewatinowi Okimakanak (MKO) and the Manitoba Metis Federation could work together to identify Leaders however other options should be explored.

As the Families First process involves 4 main streams of action, two leaders would be responsible for each of the areas of work.

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<sup>235</sup> Elder Wally Swain

<sup>236</sup> Elder Wally Swain

Leaders should be provided with the opportunity to meet on a regular basis to share information amongst one another. It is recommended that meetings be held with the entire Commission at minimum four times per year. It is likely that the Families First Leaders will have to meet on a more regular basis at the outset of the Process. Reports should be written to summarize the shared learnings from the meetings with the Leaders. With permission and where appropriate, reports should be made public in multiple easily accessible formats.

The Leaders should operate on a consensus basis. The Chair position should be shared between a female and male Elder. It is recommended that each of the Leaders have their turn to chair. One option would be that the Female and Male Elder Chairs change at the beginning of each season.

### **Families First Leaders Mandate**

Families First Leaders should be given the authority to take account of social, cultural, economic and legal factors which appear to have a bearing on the issue of missing and murdered indigenous women and girls.<sup>237</sup>

### **Families First Leaders Guiding Principles**

*“Maybe our leaders will not listen but need to create our own laws; what are rules on customary laws as each has its own rules; even how you treat mother earth, they all have teachings, sacred rules and laws.”<sup>238</sup>*

Families First must reflect the identities of those who are affected by MMIWG. The diverse values, protocols and perspectives of affected Indigenous peoples must be accommodated.

*The Families First Process is grounded in the seven teachings:  
respect, love, truth, honesty, wisdom, humility and courage.*

Leaders should work together to establish consensus on how best to put these guiding principles into practice.

Directly related to these seven teachings is the principle of inclusion - no one should be excluded and no one should exclude themselves from Families First. Inclusiveness involves all families, communities, governments, non-governmental organizations and businesses. It is necessary to

- make everyone feel safe and welcome before, during and after the Process
- listen and understand each other “in our own languages”
- attribute equal weight to Indigenous and Canadian values
- involve women, men and two-spirit as they each have particular knowledge, experience, strengths and responsibilities
- respecting all religious and spiritual beliefs

Families First recognizes that:

- truth and justice are intertwined concepts<sup>239</sup>
- telling the truth and hearing the truth takes time
- different forms of truth telling must be accommodated

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237 Note that for Australia's Royal Commission on Aboriginal Deaths in Custody, the Commissioners were directed to inquire into “any subsequent action taken in respect of each of those deaths including, but without limiting the generality of the foregoing, the conduct of coronial, police and other inquiries and any other things that were not done but ought to have been done”. In addition, they were given the authority to “take account of social, cultural and legal factors which, in your judgement, appear to have a bearing on those deaths.”

238 Joe Hyslop March 16 2015

239 In Anishinaabemowin, the word “*debwewin*” involves both truth and justice.

- each person's story is their own. Those stories can be shared but neither is more important than the other
- truth is not about blame but rather about taking responsibility and being accountable

## Legal Authority

Equal weight should be given to natural, spiritual laws and Canadian laws. Additional work is needed with the direction and guidance of Elders to create a natural and spiritual law framework for Families First.

*[...] the values and natural laws have been pushed aside and forgotten, not completely but not spoken of enough and perhaps if we look at those natural things given to us by creator, our traditions and customs of the past must be looked at but to know who we are to go into the future - 7 generations [...]*

## Families First Leaders Authorities

Leaders should be given sufficient authority to determine:

- how best to accomplish their mandate
- what is most appropriate given their schedules
- what types of legal authorities will be required to accomplish their work, for example - will subpoena powers for gathering evidence be needed

While the process should be led by the Families First Leaders, the responsibility of accomplishing the work must be shared. Federal, provincial, municipal, First Nation and Metis governments may be involved in the process in a number of ways:

- actively participate in the Family Answer Process as requested by Families First Leaders
- provide ongoing stable financial assistance for the process
- collaborate on the implementation of the immediate actions
- undertake any necessary legislative actions to assist with the process (i.e. If they are going to use subpoena's they need the legal authority)

## Gathering evidence

The process must involve various approaches to gathering evidence including: by person, regular mail, e-mail and by phone. Various forms and locations for gathering evidence must also be considered:

- larger and smaller forums
- Northern and Southern forums
- one on one engagement sessions
- engagement sessions in homes
- engagement sessions in communities centres, schools and churches etc

Various engagement formats and methods should be available to the participants. Such as:

- in schools, women's shelters, non-governmental organizations, band council offices, community halls, conference centres, hotels <sup>240</sup>
- televised Forums with open line call in <sup>241</sup>
- by phone <sup>242</sup>

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240 RCAP consisted of three teams to cover the largest possible number of locations. They visited many types of locations in northern and remote communities and urban centres.

241 The Royal Commission on the Future conducted six CPAC Televised Forums with Health policy experts participating in moderated discussions of issues. RCAP also had toll-free telephone lines where Canadians could make their views known in one of five languages : Inuktitut, Cree, Ojibwa, French, and English.

242 The Royal Commission on the Future of Health Care in Canada allowed for submissions by phone.

- media/ social media
- Regional Forums
- dialogue sessions with various “experts”

There should be a mix of larger and smaller group meetings. Larger group meetings should be held in culturally appropriate ways. Sub streams of engagement may be required.

### **Administrative considerations**

The Families First Leaders should have offices in both Southern and Northern Manitoba. It should be adequately staffed with at least four members, including but not limited to a lawyer and a public liaison expert.

A website for Families First should be created, including accessible and up-to date information. It should also include a virtual library with background information on issues relating to MMIWG.<sup>243</sup>

### **Budget**

The Families First Process will require a significant annual budget. The funding provided should be sufficient and sustainable enough for Leaders to adequately perform their required tasks. Further discussions are needed to determine an appropriate budget.

### **Creating different streams of action**

As the issue of MMIWG is complex, Families First will require a number of “streams of action” to achieve its goals. As demonstrated by the diagram below, there are four main streams of action:

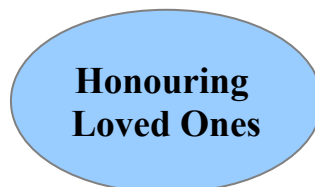
- Honouring Loved Ones
- Immediate Actions
- Research on Systemic Public Policy Issues
- Family Answer Process

One female and male Elder (along with two technicians) should be responsible for each of the four main areas of work. Each of the four areas of work form equal parts of the circle which come together as they are all related.

Ceremonies and supports are also an essential part of the Families First Process. The two youth representatives take the lead on education and awareness initiatives. Each of the streams of action are described below.

#### **1. Honouring Loved Ones**

“We should be bringing families together to remember and honour the legacy.”



The families expressed hope that the recommended process would honour their loved ones individually.

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<sup>243</sup> The Advisory Panel on Open Government had a “virtual library” which was designed as an online searchable repository of published government of Canada documents of all kinds.

While honouring loved ones can involve multiple aspects, the central goal is to empower families to tell their own stories and determine how they would like to honour their loved ones.

According to Justice Sinclair

from experience with TRC, though there is a great deal of difficulty that is inherent in people coming forward and publicly talking about what they have experienced or learned as a result of hearing of what has happened to their relatives, there is still an inherent healing process that becomes engaged by that community participation because in my experience survivors who hear other survivors speak benefit from that and their ability to collectively share in the circles we created helped them to move forward.<sup>244</sup>

Leaders responsible for honouring loved ones should make all efforts to contact the families of Manitoba MMIWG. It was recommended by family members that where possible, contact should be made with families through existing service providers.

“Every family deserves to have their own case to be heard, because every family member lost their loved one who was dear to them.”

It is important to acknowledge experience and include all who feel called to share their stories. The experience of MMIWG is not limited to the experience of those who are missing or have been murdered. It is the experience of:

- all women who might be subject to violence
- families who have been affected (in the past, present or in the future), including families of missing and murdered boys, men and two-spirited individuals
- communities who have responsibility to protect women, families and individuals
- children
- partners
- those who feel helpless and
- those who want to help.

Various formats should be available for individuals and families to tell their stories. Those who are directed by the Leaders to listen and record the stories must make all efforts to meet with families where they feel most comfortable. Options should be made available to families to share their stories individually or in a group setting with others. Opportunities for sharing and healing circles must be made available to the families of MMIWG.

As stated by a Coalition member, “we should let them know we care for them, we love them, that they are safe.” Stories must be shared and validated with families before they are shared publicly.

Every experience is unique to the individual or collective (including families) that experience it. According to a MMIWG Coalition member, “we must give the families a sense of closure.” A variety of supports are required for families telling their stories to avoid re-traumatization.

Translators must be made available.

With permission and when appropriate, the stories and information should be preserved and shared and made available for current and future generations. An existing option for the Leaders to explore is keeping the information at the National Research Centre for Truth and Reconciliation. Alternatively, the Commission could propose a different way of archiving the information. Given the importance and magnitude of this issue, we believe it would be worthy of its own research centre with significant collaboration where appropriate with the National Research Centre for Truth and Reconciliation.

It is important to note that families and other affected individuals may also want to honour their loved

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<sup>244</sup> Inquiring Minds, February 11 2015

ones in different ways. For example, some families may chose to focus on feasts, walks and vigils rather than sharing their stories. Leaders should be flexible and open to receiving this information.

## 2. Immediate Actions

“I would like to see families' suggestions and recommendations become a reality.”



Leaders in charge of the immediate actions would assist in:

- identifying core immediate actions
- liaising with appropriate agencies to get a commitment to action
- following up and reporting back on progress
- seeking feedback from the families and others on the progress towards immediate action
- raising public awareness on immediate actions needed and continue to push for action.

As previously stated, families expressed concerns that the process would be too lengthy and costly and indicated that immediate action is needed. Based on what we have heard and past processes and initiatives, many of the immediate actions have already been identified. It must be remembered that the need for immediate actions does not exclude the need for systemic solution making.

The purpose of this review is not to blame particular governments or institutions for actions or inactions. Rather, the main focus is to present concrete action items while recognizing the important work that has already been done.

The following examples of immediate actions can be used by the Families First Leaders as a basis upon which to build.

### A. More Supports Needed for All

In engaging with families, it quickly became evident that additional supports are needed for all. Many different types of supports are needed : financial, emotional, spiritual, and religious. Supports must be available throughout Manitoba, including in remote communities.

There is also a need for coordinating existing supports. The Families First Foundation which is described later in the Report may be able to assist in the coordination of supports.

### B. Policing and Justice

Based on what we heard, it is clear that more frequent, 'gentle and quicker' communication and responses are needed by policing and justice agencies.

It is also clear that more information is needed about the roles and responsibilities of Policing agencies. During our engagement with families we heard many questions and doubts about the (in)actions of policing agencies. Better communication about these roles and responsibilities are needed to improve the relationship between the policing agencies and families of MMIWG.

“We need more legislation that holds RCMP and governments accountable.”

It is recommended that Families First Leaders explore the option of **enshrining in legislation a statutory**



**obligation to keep families informed.** This requirement would build upon the existing statutory obligations of policing agencies under *The Police Services Act* and the *Royal Canadian Mounted Police Act*. Under *The Police Services Act*, these statutory obligations include that the police chief is responsible for “the enforcement of law, the prevention of crime and the preservation of the public peace in the municipality.”<sup>245</sup> A police officer's duties include: “preserving the public peace”, “preventing crime and offences against the laws in force in the municipality”, “assisting victims of crime” and “apprehending criminals and others who may lawfully be taken into custody.”<sup>246</sup>

According to the *Royal Canadian Mounted Police Act*, an RCMP officer's duties include performing all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody.<sup>247</sup>

### **C. Coordinating existing research**

As one of their first tasks, the Families First Leaders in charge of immediate actions should begin by doing a 'state of affairs' of existing research to determine knowledge gaps. Assistance will likely be needed to cross reference data and research. This work should be coordinated with the research on systemic public policy issues.

### **D. Media and Cultural sensitivity**

A cultural sensitivity background information sheet should be prepared which outlines how families would like to be treated by the media. This information sheet could set the standard for all media and it could be published.

### **E. Language Programs**

As previously mentioned, the Elders unanimously agreed that language programs are a necessary component of solving the issue as there is “a direct relationship between language and identity.” Language programs for Cree, Anishinaabe, Oji-Cree, Dakota and Dene individuals should be created throughout Manitoba.

### **F. 24 Hours Safe Spaces Needed**

24 hour safe spaces should be created for at-risk youth throughout Manitoba.

### **G. Identifying responsible governments**

*“The process should identify what roles and responsibilities each government would have.”*<sup>248</sup>

As stated by Justice Sinclair, “an apology without a change in behaviour is meaningless and all levels of government need to admit their responsibility.”

Based on our review of recommendations relating to the issue of MMIWG, there are many governmental agencies responsible for implementing the proposed actions including: municipal, provincial and federal governments, Winnipeg Police Service and the RCMP. Some concerns and recommendations could be brought to existing municipal boards and committees such as the Winnipeg Police Board<sup>249</sup> and to the City

<sup>245</sup> Section 22(1) of *The Police Services Act*.

<sup>246</sup> *Ibid* at s 25.

<sup>247</sup> Section 18 of the *Royal Canadian Mounted Police Act*.

<sup>248</sup> Family, The Pas

<sup>249</sup> The Winnipeg Police Board is an oversight Board that includes city councillors, citizens, and provincial government representatives. Its mandate is to act as liaison between the community and the Winnipeg Police Service.

of Winnipeg Standing Committee on Protection and Community Services<sup>250</sup> and the Mayor's Indigenous Advisory Circle.<sup>251</sup>

Leaders responsible for immediate actions should coordinate research into identifying:

- who is responsible for each of the recommendations
- why has the recommendation not been implemented
- what is the cost of doing nothing
- compelling reasons for the responsible government or agency to implement the recommendation

These efforts should be made public and easily accessible to the families and all interested parties.

The approach may bring concrete immediate action, particularly given the apparent political will of the new mayor who has stated that he is “focused on what the city can do.”<sup>252</sup>

### 3. Public Policy Research on Systemic Long Term Issues

Residential schools, child welfare and missing and murdered women and girls are all tied together. Many of the children in and out of child welfare and the justice system move on to adult corrections. The pattern is clear to see. We have generations of adults in the correctional facilities across Canada who were once child welfare children and likely had family who attended residential school. Children, youth and adults have become institutionalized.<sup>253</sup>



Opponents of a public inquiry indicate that there exists sufficient information and research. They believe it is unlikely any new information could possibly be revealed through an inquiry. Yet families, Elders, youth, service providers, academics and the community at large continue to have questions which remain unanswered.

*“This is not an isolated issue. It is a complicated, inter-related series of issues. They all are important and all have to be addressed.”*<sup>254</sup>

*“We're not going to know until there is a complete investigation.”*<sup>255</sup>

Based on what we have heard, the following research topics could be explored:

#### A. Basic facts

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<sup>250</sup> This Committee includes five City councillors and is chaired by Councillor Browaty.

<sup>251</sup> On June 22 2015, the Mayor announced the establishment of MIAC which is meant to advise on policies the City of Winnipeg can implement to continue to build awareness, bridges and understanding between the Aboriginal and non-Aboriginal community.

<sup>252</sup> Sheldon Birnie, “Here’s How Winnipeg’s Mayoral Candidates Feel About Aboriginal Issues” *Vice* (September 10 2014) online: Vice Media < [http://www.vice.com/en\\_ca/read/heres-how-winnipegs-mayoral-candidates-feel-about-aboriginal-issues-204](http://www.vice.com/en_ca/read/heres-how-winnipegs-mayoral-candidates-feel-about-aboriginal-issues-204) >.

<sup>253</sup> Morrisseau

<sup>254</sup> Scott

<sup>255</sup> Elder Wally Swain

- Why are the numbers growing?
- Who are doing these crimes?
- Who are the women and girls? Are they really all living “dangerous lifestyles” ?
- What about Indigenous men, boys, two-spirited and transgendered people?

#### B. Why is there so much lateral violence?

#### C. Root causes of sexual exploitation

- potential links to international sex trade should be studied
- links between sexual exploitation and involvement with street gangs

#### D. Interrelated factors

When thinking about concrete actions, it is important to have a comprehensive action plan which looks at the links between systems.<sup>256</sup>

- What are the links between poverty and MMIWG?
- What are the links between child welfare and MMIWG?<sup>257</sup>
- What are the links between the justice system and MMIWG?<sup>258</sup>
- What are the impacts of historical disruptions to culture and to the roles and value of men and women?
- What is the connection between Indian residential schools, its legacy and MMIWG?<sup>259</sup>
- What is the relationship between policing authorities and Aboriginal people?
- What is the relationship between loss of the Band Constable Program and safety in First Nations?
- What is the impact of movement between communities and from remote and rural communities to urban centres?

*“Those children grew up to be angry, sad and disconnected people striking out at the world and anyone and everyone in it. Unfortunately, the anger and violence is often mixed with addictions, isolation, being poor and without adequate education.”*<sup>260</sup>

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256 Spillett

257 The coalition indicated that the child welfare system needs to focus on supporting families, rather than apprehending children, as the current system operates “from a crisis approach with minimal to no prevention services.” There is also an issue with children and youth “aging out” of Child and Family Services (CFS), with a lack of transition programming available. The coalition found that, although there are lists of children involved with CFS who are turning eighteen, many have little to no resources available to them, and often end up involved with the justice system.

*“The child welfare system as well as the justice system is a huge industry... built on the backs of Indigenous people across Canada. The dollars spent to keep children in care would be better spent supporting families with prevention programs.”*

258 *“Aboriginal people are overrepresented in gangs, (the) justice system and child welfare. We need to deconstruct historical forces.” Coalition members indicated that in the justice system as well there needs to be a shift toward restorative justice practices, rather than incarceration. A lot of money is spent on incarceration that can be reallocated to a type of justice that works better. The vast majority of women in the Remand Centre are Indigenous and the women's jail is full to capacity. One coalition member stated that “studies have shown that as many as 44% of the MMIWG had a criminal history. If we had a more robust restorative justice program in Manitoba some of the issues may have been able to have been dealt with differently and more effectively.”*

259 Many coalition members indicated that there is a direct link between the lasting, inter-generational legacy of residential schools and the systemic issues which have led to the current MMIWG crisis. Many people are not aware of the history of their own families as they relate to residential schools, and are “seeing impacts, but have not made those links.” : Sjoberg. Much of the “trauma, degradation and abuses” residential school survivors experienced has not been properly dealt with, although the recently completed work of the Truth and Reconciliation Commission has made great strides to this effect. Many of the children “never experienced appropriate nurturing, love, care, respect, (or) a sense of value, and they had absolutely no voice. : Morrisseau

260 Morrisseau

#### **E. Other jurisdictions**

- Are the experiences of indigenous women and girls in other countries similar? (Australia, USA etc)

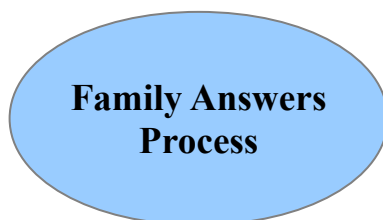
#### **F. Impact of the current justice system and laws**

- What is the rate of people getting caught?
- More people been prosecuted?
- More cases been solved?

Further engagement may be required to identify potential other areas requiring systemic solutions. Short summaries of the public policy research should be completed in plain language and made publicly available and accessible in a variety of methods.

### **4) Family Answers Process**

“[We need to be] honouring each family individually, not just all at once.”  
“We must give each family a sense of closure.”<sup>261</sup>



Families have a lot of questions about their individual cases and investigations. The vast majority of those engaged agreed that each of the families deserve to have their individual stories told, their loved ones honoured and their questions answered. There is much information sharing and collaboration to be done between this stream of action and the process of honouring loved ones.

Many of the family members referred to the policing agencies keeping information confidential. As demonstrated by one of the family members - “Why do they [the investigators] keep everything such a secret.” The Family Answer Process would provide an opportunity for listening and understanding between families of MMIWG and policing agencies.

“We want more open conversations so that investigators, RCMP and police can better understand what families are going through.”

Two leaders would be responsible for the Family Answer Process. This Process will have varying levels of formality and will provide an opportunity for:

- families to receive answers to their questions
- better understanding of perspectives and responsibilities
- improving relationships
- more accountability
- closure for the families

A spectrum of methods will be available for the Family Answer Process. For example:

- Face to face conversation between families and agencies (policing, CFS etc) with written follow-up
- Written process with follow up face-to-face process if required
- Question process which may be conducted in ceremony

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<sup>261</sup> MMIWG Coalition member.

- Legal court process

In order to encourage open and honest sharing of information as well as willingness to participate in the Process - Leaders should turn their minds to immunity for agencies, departments and individuals sharing information during the inquiries.

While the process of inquiring into each of the cases of missing and murdered indigenous women and girls seems onerous, Australia's Royal Commission on Aboriginal Deaths in Custody offers an important learning opportunity. In that case, inquiries were conducted into every one of the individual deaths in a "rigorous way." Inquiries into individual deaths were conducted under quasi-judicial conditions, with formal hearings at which interested parties (the family of the deceased, the State Government concerned, the Police and/or Prison Officers Union and individuals who may have been associated in some way with the death) were represented.<sup>262</sup>

A variety of options should be presented to the families on the locations of the Family Answer Process. In Australia's Royal Commission, outside of capital cities, hearings were never held in local court rooms. Where possible, Family Answer Processes should be conducted in the family's home community or in another appropriate location based on consensus and preference of the family.<sup>263</sup>

Families who wish to be represented by legal counsel should be provided with legal assistance.

The Families First Leaders should consider how to determine which of the families should have the opportunity to have the individual case inquired into first. One approach could be to start with the cold cases.

## Ceremonies & Supports

### A Variety of Supports Needed

"I still have a hard time living with the pain [...] every day I wonder where she is and where her body is [...] not knowing hurts the most."

"We should let [families] know that we care for them, that they are safe."<sup>264</sup>

Recognizing the diversity of families, a wide variety of spiritual, religious, psychological, social and financial supports are needed. Families have identified a need for a variety of avenues for support, meaning that one-on-one supports are equally as important and needed as peer support groups. Support networks must be made available to families across Manitoba - in remote, rural and urban areas. An important distinction in identifying the required supports is to consider that families of missing women and girls have separate needs and require different supports than the families of murdered women and girls. Families have stated that the process should recognize that each family is at different places in their healing journeys.

*"Counselling will be needed in this process, based on who we are" and "we have to respect where the person is at."*<sup>265</sup>

The trauma families and communities are experiencing relating to MMIWG is both historical and current.

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<sup>262</sup> National Report

<sup>263</sup> In Australia's Royal Commission... generally inquiries were held in the town where the death occurred. This meant the hearings were held in locations all over the State from Halls Creek and Broome in the north to Wiluna and Kalgoorlie in the east.

<sup>264</sup> MMIWG Coalition member.

<sup>265</sup> Engagement with the families.

*"It's not that we are crazy, its that we are traumatized - our loss of language, our families are being separated and our community is divided."* <sup>266</sup>

The act of telling and re-telling stories can be re-traumatizing. The loss of privacy inherent in story telling may also be traumatizing. Families First must strive to "meet people where they are most comfortable" by offering a wide variety of supports. It is necessary to create safe and supportive environments for families and other community members who participate in Families First. As stated by Elder Wally Swain, "things must be done in a gentle way."

*"We must consider mental health concerns and trauma"* <sup>267</sup>

As some of the supports are already being provided by non-governmental and governmental organizations and institutions, additional funding is required to expand their scope and breadth of activities.

Some of the families indicated they wanted to be provided with training opportunities to be able to provide supports to others. "Train people in the community to do work - those who are directly affected." "Each of us have our own gifts and roles and responsibilities within our communities."

A "dedicated family liaison" staff person should be chosen who can follow up with the families at all points of the process. <sup>268</sup> This person should be trained to assist families from the moment their loved one goes missing. The persons would be available for both information gathering and information dissemination, <sup>269</sup> and their contact information would be easily accessible. They would also be available to help the families and communities answer questions.

An important part of this work could be done through the creation of Healing Centres for families of MMIWG in both rural and urban areas. Families should be provided with the opportunity to be trained and employed in these centres if they wish. Some of the family members have indicated they are at a place in their healing journey where they feel as though they are ready to help others. Families are well positioned to understand the situation and needs of the other families given their personal experiences.

Training manuals should be prepared in collaboration with AMC, SCO and MKO for all those directly involved in working with families throughout the process. Consideration should be given to training for "statement takers" who would be going to meet with families in their homes and communities. <sup>270</sup>

There are benefits to hiring staff from the affected communities, including that trust will already be developed between staff and participants. Also, staff directly in the communities may lessen language barriers. As pointed out by Keely Ten Fingers "[o]ur traditional language captures emotions, relationships, our spirituality and worldview, which cannot be captured and conveyed in any other language." <sup>271</sup>

### **Financial Supports are also needed**

As stated by one family member and echoed by many, "the cost of finding a missing person [is high]." The families indicated they would like a fund to be created for the families of MMIWG for:

- children of MMIWG

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<sup>266</sup> Elder Lathlin

<sup>267</sup> MMIWG Coalition member

<sup>268</sup> Pearce, *supra* note 18 at 419.

<sup>269</sup> Gender, *supra* note 211 at 21.

<sup>270</sup> Recommendation 19 of Blueprint, *supra* note 167 at p 9, found that created approaches to collecting evidence should be explored such as trained statement-takers to ensure that witnesses are able to share their information completely.

<sup>271</sup> Ten Fingers, Keely, "Rejecting, Revitalizing, and Reclaiming: First Nations Work to Set the Direction of Research and Policy Development" (2005) 96 Canadian Journal of Public Health 60 at 62.

- funeral costs and ways to honour loved ones
- travel costs for families
- posters, food and gas for those assisting with searches
- families of missing women and girls who are searching for their loved ones
- honorariums and gift certificates for community members who help the families in various ways (whether it be through child minding or providing food). As stated by a member of the MMIWG Coalition, “volunteerism is good, but people need to eat too.”

## **Families First Foundation**

It is anticipated that there will be significant collaboration between the Families First Leaders and the Families First Foundation.

The Families First Foundation was established in May 2015.<sup>272</sup> It is informed by engagement with families, Elders, Youth and the MMIWG Coalition. While AMC was crucial to the establishment of the Foundation, it has been created as a separate legal entity with a Board of Directors.

The Board of Directors of the Foundation is comprised of:

- two nominees from the Assembly of Manitoba Chiefs First Nations Women's Committee, with one representing Northern Manitoba and one representing Southern Manitoba
- one female Elder
- one male Elder
- three nominees representing families of missing and murdered Indigenous women and girls and
- two nominees from the MMIWG Coalition

The purpose of the Foundation is:

- To educate the public on the needs of families of missing and murdered indigenous women and girls
- To provide and coordinate the delivery of religious, spiritual, emotional, cultural, and financial support to families of missing and murdered indigenous women and girls
- To provide and coordinate the delivery of translation services, media liaison services, and independent legal advice to families of missing and murdered indigenous women and girls
- To provide and coordinate the delivery of community-based mentorship, counselling services, and child-minding services to families of missing and murdered indigenous women and girls
- To provide communication services for the delivery of information to and from families of missing and murdered indigenous women and girls and
- To undertake activities ancillary and incidental to the above-mentioned purposes in a manner that the law regards as charitable.

A website for the Families First Foundation has already been created.<sup>273</sup>

## **Ceremonies**

Ceremonies and supports are an integral part of the Families First Process. Ceremonies were described by many as an integral part of the healing process.

*“We would not be having this same conversation about MMIWG if Indigenous people still had their ceremonies, teachings and songs.”*<sup>274</sup>

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<sup>272</sup> See Appendix I: Articles of Incorporation of Families First Foundation.

<sup>273</sup> [www.familiesfirstfoundation.ca](http://www.familiesfirstfoundation.ca)

<sup>274</sup> Morrisseau

The coalition identified that much of the major issues surrounding MMIWG can be traced to cultural disconnection. Some of this can be addressed by creating space for Indigenous people to reconnect with the culture they have lost.

*“songs and prayers [...] give us a sense of where we come from.”* <sup>275</sup>

As discussed, there has been a lot of trauma experienced by Indigenous people, and many unresolved issues. Addictions were described as rampant, along with the prevalence of missing and murdered Indigenous women and girls. According to the coalition, both women and men have suffered a loss of cultural roles, the result of which has been that women have been left vulnerable and under-supported, while men have been left angry and unsupported.

*“The big thing missing is healing... Healing is happening, but it is under-invested. Addictions, mental health, trauma. There's not like... Before you can get any good work done with people, you have to heal.”* <sup>276</sup>

The coalition made it clear that the “western ways” of healing are not adequate to address the issues facing the Indigenous community, and that Indigenous methods of healing should be utilized. This healing will take time.

*“No nation can heal overnight. How long does it take the human spirit to heal?”* <sup>277</sup>

Another coalition member explained that “people are thirsty for an understanding of their own heritage.” <sup>278</sup> They indicated that much of the necessary healing should occur through cultural reconnection.

*It is time for indigenous people to retrace the footprints of the ancestors and pick up the sacred bundles; revive and speak our languages; sing our sacred songs; revive the ceremonies and teachings that long sustained the people prior to contact with the Settler people. Women were honoured and respected for they are the life carriers. The connection to the earth and water was always there. The earth is our mother and as she brings forth life so do women.* <sup>279</sup>

Many coalition members felt very strongly about the necessity of ceremonies, such as naming ceremonies, berry fasts, and moon ceremonies as it “provides grounding.” <sup>280</sup> It was indicated that the “grandmother's role was to teach the women through ceremony and teachings about who they really are” and that ceremonies which focus on women “bring her into a place of power, and to know her role in the community.” <sup>281</sup>

*“Our way is to see the spirit of woman. It's about her heart, spirit, wisdom she carries that and she will give it to her children. Spirituality and connection to earth mother, grandmother moon and the connection to time.”* <sup>282</sup>

*“If you're an Indigenous person, no matter what darkness is inside of you, there's a spirit. There are times you might not recognize that because your mind is in a dark place, but inside you're still sacred no matter what.”* <sup>283</sup>

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275 Elder Harry Bone, March 16 2015

276 Mahmood

277 Elder Campbell

278 Sjoberg

279 Morrisseau

280 Morrisseau

281 Elder Campbell

282 Elder Campbell

283 Elder Campbell



## Education and Awareness

*“Tradition is altered by the very fact of trying to understand it.”*

*“It's my belief that our greatest enemy is ignorance. Not truly knowing each other. Not truly working with each other. As long as we stay apart, and we build up barriers and put up walls, how can anything change?”* <sup>284</sup>

All the individuals and groups engaged identified the need to focus on the positive. The Families First Process involves education and awareness which should be led by the two youth representatives on the Families First Leaders. The youth representatives should be paired with technicians to assist.

One of the things most frequently mentioned by the coalition was the need to ensure that more people are aware of the issue of MMIWG. It was recognized that the “We Care” campaign was successful in raising awareness and more similar efforts are needed.

The Families First Foundation may be used as a communication vehicle to get the word out and will lead to increased awareness.<sup>285</sup> The coalition indicated that “the momentum has to include the non-Indigenous voice” <sup>286</sup> as well, as “with reconciliation, you have to come together.” <sup>287</sup>

As stated by one youth, “there must be opportunities for Indigenous people to celebrate their identity and culture, and to not only reflect on the challenges Indigenous people face, but focus on the good.”

It is necessary to engage the broader audience in the education and awareness efforts. The representative from one organization indicated that, as a non-First Nation organization they “have strengths and weaknesses,” and also stated that “some people ask why we are involving ourselves.” That coalition member explained that “this is not a First Nation issue, it's a Canadian issue.” <sup>288</sup>

*“The most important thing is protecting women now. Making sure that no more women go missing or are murdered.”* <sup>289</sup>

Some coalition members indicated that some prevention work is happening with youth, including mentorship and violence prevention programs, as well as community safety audits, and looking at communities through a crime prevention lens. In some areas of the city residents are trained to identify areas of low lighting, or broken fences, as well as to recognize places where condoms or needles are present so these may be addressed. Community safety committees, made of residents, have been created to address concerns, while looking for local solutions to community problems.

There are also barriers in engaging in awareness campaigns. According to one coalition member, recent changes to municipal by-laws in Winnipeg have resulted in difficulties with organizing walks along roadways. A group must now be partnered with an organization that has existing liability insurance, that will off-set the costs associated with any promotional event. This increases the time involved in organizing a walk, and weakens the immediacy of the action, which is one of the goals of “taking to the streets.” <sup>290</sup>

Public Awareness and education could be conducted on:

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284 Johnston

285 Scott

286 Scott

287 Scott

288 Kehler

289 Mahmood

290 Campbell

#### a) History of Indigenous people in Canada

- “The history that says that we are savages is not so. That has to be addressed also in this process – the way Indigenous people are portrayed.” <sup>291</sup>
- “The true history of this country has to be taught in the schools. The general public needs to learn the story of residential schools and understand that seven generations have gone through the residential schools. The result of this has been genocide for the First People of Turtle Island. Today, we continue to witness the disparity and isolation for many survivors and their children and grandchildren.” <sup>292</sup>

#### b) Cultural and spiritual knowledge

- “[W]e already have a way of doing something – you have a clan and its part of your sovereignty; the clan mothers are law of this land, then treaties then Canadian law.... When we relearn who we are under the clan system, you will see the difference; the first principle of respect (yourself, others, all of creation, where life comes from – the East) and why are we not teaching kids that; let's reverse what RS did to us; push the English language away; speak our language for 1 day, a week; I struggle with the language, but try to speak it; get shy too but I do try and learning the good words.” <sup>293</sup>

#### c) Traditional roles of women and men

- “There is a big issue with devaluing of Aboriginal women.”
- “Our men are sick because of the brainwashing, loss of identity and language – colonizers have no respect for anything – that is not how we are as Aboriginal peoples.”
- “It is a lot of our men who are hurting our women; there is something wrong with doing that and I know there are other cultures hurting their women too.” <sup>294</sup>
- “There is a lot of abuse at the local community level, leads to wife abuse, prostitution; drug abusers is a symptom of something else; I too had struggles and abuses; important things to be done.” <sup>295</sup>

#### d) Safety issues

- “We need to teach our daughters personal safety before things happen.” <sup>296</sup>
- “We need to teach them to watch out for one another.”

#### e) Information on how to transition from rural and remote communities to urban centres

- “We need to prepare our kids for when they leave our communities... when they leave our communities, we have to give advice to our youth to make sure they are safe.” “One thing that I recall is that I wasn't prepared to leave my community.”

#### f) Anti-racism

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291 Elder Lathlin.

292 Morrisseau

293 Elder Peter Atkinson, March 16 2015

294 Elder Mary Maytwayashing, March 16 2015

295 Elder Wayne Scott, March 16, 2015

296 Family member from The Pas.

- *“The more (the non-Indigenous community) can be exposed to Indigenous culture, and beauty, they come away with respect. Some of this racial stereotyping can change.”* <sup>297</sup>
- *“To prevent women from being one of the missing or murdered, everyone needs to undergo decolonization training and anti-racism.”* <sup>298</sup>
- *“We should talk openly about stereotypes to civil society as a whole.”*

#### g) Positive news reporting and media

- *“Unfortunately media has a tendency to label many of the women as “prostitutes, working girls” who lived “risky lifestyles.” This is like saying; well if they did not live a risky life style, they wouldn’t go missing or (get) murdered!! This is simply racism against people who are often marginalized, poor and suffer from historical trauma.”* <sup>299</sup>

#### Methods

- Open community forums throughout Manitoba, that meet on a more regular basis, to enable people to talk to each other, and share their vision for their communities
- Talks in schools, community organizations etc. hosted by youth

*“I think we all have a responsibility to educate one another, and to teach our children about acceptance of people and other cultures. Every culture has something to contribute. People have value.”* <sup>300</sup>

It will be important for the Leaders to identify potential areas of collaboration with other awareness campaigns such as the one launched by Manitoba's Action Group on Exploited and Vulnerable Women.

### Moving Forward

*“We must shine a light in the shadows and ensure the focus is not lost.”*

Based on what we know, the Families First process marks the first time a process addressing such a complex issue is created based on the direction of those who are affected. The voices of families of MMIWG, Elders, youth and the MMIWG Coalition is reflected throughout the proposed framework.

The Families First process is a made-in-Manitoba approach to addressing the issue of missing and murdered Indigenous women and girls both on an individual and systemic basis. It seeks to address the concerns that any process for action would be too lengthy and costly by proposing both immediate and systemic long term actions.

### Implementation strategy

A clear implementation strategy is needed to move forward on the Families First process. Additional engagement is required to continue to define the process as well as collaborate and coordinate with existing efforts at the local and national levels. <sup>301</sup>

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<sup>297</sup> Scott

<sup>298</sup> Sjoberg

<sup>299</sup> Morrisseau

<sup>300</sup> Morrisseau

<sup>301</sup> The Province of Manitoba has recently agreed to host the second national roundtable on MMIWG. Engagement is needed with the province to determine if and how potential collaboration can be made with the Families First process. The Province should be reminded of the AFN Resolution no. 37/2014 which recognizes that a one day roundtable is not

Significant engagement will be required to continue defining the Families First Process and its implementation plan. The table below proposes some preliminary considerations for an implementation plan to move forward.

*“Research is a relationship based on respect, and it takes time to build trust.”*

Who	What	When	Notes
Assembly of Manitoba Chiefs	Engage families, Elders, MMIWG Coalition and Youth on 1) proposed Process and Terms of Reference Engagement and 2) the indicators of a successful process.	July 2015-September 2015	There is no precedent in Manitoba or in Canada for creating a process like the one proposed. Models from other jurisdictions - notably the Royal Commission on Australian Deaths in Custody model- create Orders in Council to implement the process. This Australian Commission also serves as a model for regional processes to be linked at the national level. Alternatives should be explored for Families First to be replicated in other Canadian jurisdictions and linked at the national level.
AMC Elders Council and other Elders as recommended	Discuss potential natural and spiritual law considerations for the Family First Terms of Reference	August 2015 onwards	
Assembly of Manitoba Chiefs	Engage legal counsel to conduct research and engage with key knowledge holders on setting out a legal mechanism within which the proposed process can operate.	August 2015-January 2016	
Assembly of Manitoba Chiefs	Engage broadly on Proposed Process including with: <ul style="list-style-type: none"> <li>• additional families of MMIWG</li> <li>• families of missing and murdered indigenous men, boys, transgendered and two-spirited individuals</li> <li>• additional Elders</li> <li>• additional service providers</li> <li>• interested academia</li> <li>• senior levels of government</li> <li>• Policing agencies - RCMP</li> </ul>	August 2015 onwards	

enough. It also says that “any process including a national roundtable or inquiry must listen and hear the voices of the families of MMNIWG, adequately support the families and communities in their healing journey, and honour the MMIW. : <http://globalnews.ca/news/2114030/manitoba-offers-to-host-roundtable-on-missing-murdered-women/>

	<ul style="list-style-type: none"> <li>and Winnipeg Police Service</li> <li>• First Nation, Metis, Municipal, Provincial and Federal governments</li> <li>• Corporate Canada</li> <li>• other interested individuals and groups</li> </ul>		
Assembly of Manitoba Chiefs	Identify budget and funding resources	August 2015 onwards	
The Assembly of Manitoba Chiefs, Southern Chiefs Organization and Manitoba Keewatinowi Okimakanak	Organize broad engagement on identification of Families First Leaders	August 2015-January 2016	
Assembly of Manitoba Chiefs and the MMIWG Coalition	Identify an Implementation Committee tasked with monitoring the actions and results of the Families First Leaders and Process.	August 2015 onwards	
Dr. John Loxley and Marina Puzyreva of the Manitoba Research Alliance	Phase Two of the Cost of Doing Nothing Research, including interviews with families	August 2015 onwards	
Assembly of Manitoba Chiefs	Announcement of Families First Leaders	February 2016	
Families First Leaders	Identify implementation strategy and required actions to complete proposed work		

Families First provides a means of moving forward so that history does not repeat itself. It is a necessary step in the process of healing and reconciliation.

# **APPENDIX A: QUESTIONS FOR FAMILIES, MMIWG COALITION, ONE- ON-ONE INTERVIEWS**

## **QUESTIONS FOR THE FAMILIES**

### **Process**

1. What are your hopes and concerns for any process aimed at addressing the issue of missing and murdered Indigenous women and girls? *[Goals]*
2. What should the process focus on achieving or accomplishing? *[Objectives]*
3. What should the process cover? What stories or experiences need to be told through the process? *[Scope]*
4. What values or key principles should guide how the process is conducted or undertaken? *[Values/Guiding Principles]*
5. How should families be involved? What is the best way (safe, supportive, empowered, & comfortable) for families to share their stories or experiences? *[Engagement]*
6. Who else should be involved in this process, how and when? For example, governments, policing agencies, frontline service organizations, and non-governmental organizations? *[Engagement]*
7. What do you think about existing formal processes such as a national and/or provincial inquiry and the proposed National Roundtable on MMIWG? What is your understanding of this? Do you have any questions about these? What do you expect or want to see happen in these type of processes?
8. Is there an alternative process that you would prefer? What would this look like? How should this process honour your loved ones? What could be the role of our own Indigenous cultures and ways in this process?

### **Actions**

9. What are your concerns and hopes for any action on this issue?
10. (a) What actions do you want to see on the issue of MMIWG?  
(b) Which of these should be priority and why?
11. Is there anything else that you would like to say about a preferred process or actions regarding the issue of MMIWG?

## **QUESTIONS FOR MMIWG COALITION**

### **Process**

1. What are your hopes and concerns for a process to address MMIWG?
2. What should the process focus on accomplishing or achieving?
3. What should the process cover? What stories or experiences need to be told through the process?
4. How should families be involved? What is the best way (safe, supportive, empowering, and comfortable) for families to share their stories or experiences?
5. Who else should be involved in this process, how and when? For example, NGOs, community organizations, policing agencies, etc?
6. What do you think about a national and/or provincial inquiry? What is your understanding of this? What would you like to see in this process?
7. What do you think about the proposed National Roundtable? What is your understanding of this? What would you like to see in this process?
8. What process do you prefer?
9. Values and key principles?

### **Actions**

10. What actions need to be taken on the issue of MMIWG?

## **QUESTIONS FOR ONE-ON-ONE INTERVIEWS WITH MMIWG COALITION MEMBERS**

1. What, in your view, should be immediate actions with respect to MMIWG?
2. What action is your organization taking regarding MMIWG?
3. What additional actions would your organization like to undertake with respect to MMIWG? What barriers are you or your organization facing in being able to take those actions?
4. What additional actions would you like to see other organizations undertake?
5. Is there anything else you would like to tell me with respect to this issue?



# **APPENDIX B: ACKNOWLEDGING PAST RESEARCH AND INITIATIVES**

## **INTRODUCTION**

The following provides a brief overview of past research and initiatives on MMIWG. While we attempt to summarize the many historic and ongoing initiatives, we acknowledge that our efforts may inadvertently exclude a number of important activities.

### **Grassroots Initiatives**

Across Canada, individuals and communities have organized at the grassroots to call for action, to look for loved ones and to honour the memory of MMIWG.

Many persons and organizations have mobilized to demand government action. On August 25, 2014 a group of concerned individuals camped in Winnipeg's Memorial Park calling on national leaders for an inquiry into MMIWG. On several occasions, peaceful protestors have blocked traffic on busy Winnipeg intersections in an effort to raise awareness and call for an inquiry into MMIWG.<sup>1</sup>

Individuals have also found creative ways to search for their loved ones who are missing or whose remains have not been found, and also come together to honour the MMIWG. In Winnipeg, a volunteer-based initiative named "Drag the Red" emerged after 15 year old Tina Fontaine's body was found in the Red River. Many have taken to social media to share pictures and stories of their loved ones to help find those who are missing and honour those who have been murdered. A hand-drawn map purportedly showing where the remains of Tamra Keepness might be found was posted anonymously on Reddit in November 2014 and is now getting the attention of Regina Police.<sup>2</sup>

Individuals at the grassroots level have also come together to honour the MMIWG. One such example is "The Walking with Our Sisters" travelling art installation which includes hundreds of beaded vamps, representing the unfinished lives of the Indigenous women and girls who are missing or who have been murdered.<sup>3</sup>

### **Community Organizations**

Many non-governmental and not-for-profit organizations have been doing valuable work on a daily basis with individuals at the grassroots. The following is a very brief overview of some of the organizations involved in this important work, and only lists some of the programs offered by each.

#### **Ka Ni Kanichihk**

Ka Ni Kanichihk is a community-based organization that provides culturally-based education,

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<sup>1</sup> See: Megan Roberts, "Protestors block traffic on Portage to raise awareness over murdered, missing indigenous women" (September 2 2014) CTV News.

<sup>2</sup> "Tamra Keepness map on Reddit gets attention of Regina Police:" CBC News (November 3 2014).

<sup>3</sup> "Walking with our Sisters Installation 'more than beautiful artwork'" (October 10 2014) CBC News.

leadership and community development, healing and wellness programs and services rooted in the restoration and reclamation of Indigenous cultures. In 2012, Ka Ni Kanichichk Inc prepared a toolkit for the families of MMIWG. The toolkit includes:

- a 24 hour and 48 hour checklist designed to support families who become aware a relative or friend is missing;
- a checklist for hospitals and rehabilitation centres;
- a sample community log;
- a sample family and friend contact list;
- prevention and safety tips for families;
- guides for self care and for working with social media, media and the police; and,
- a Medicine Bear Resource Guide with emergency contacts, a description and contact information for community organizations in Manitoba.

### Ma Mawi Wi Chi Itata Centre, Inc.

Ma Mawi Wi Chi Itata Centre Inc. has a wide range of programs and services that are aimed at empowering individuals and families to better care for themselves and each other. They provide culturally-relevant preventive support programs and services for Aboriginal families. Ma Mawi responds to identified needs through: a community drop-in program, home-based crisis intervention, a parent support program, and the Spirit of Peace program which helps families heal from the effects of violence.<sup>4</sup>

### Ndinawewaaganag Endaawaad Inc. (Ndinawe)

Ndinawe offers accessible 24-hour safe-houses, supports and basic necessities for children and youth that are at risk of being abused and exploited, as well as a variety of community based programming and resources for youth ages 11-25.<sup>5</sup>

### The Native Women's Transition Centre

The Native Women's Transition Centre provides temporary residence for Aboriginal women and their children, as well as support groups for skills development and independent living, counselling, child care services and women's sharing circles.<sup>6</sup>

### Aboriginal Health and Wellness Centre of Winnipeg, Inc.

The Aboriginal Health and Wellness Centre is a community and culturally-based centre providing holistic services to the Indigenous community of Winnipeg. Some of the Centre's programs include: Head Start, Fetal Alcohol Syndrome Effects/Education Program, Abinotci Mino-Ayawin (children's healing), Men's Healing Wellness Program, Indian Residential School-Alternative Dispute Resolution, and access to Traditional Healers, Physicians and Nurses.<sup>7</sup>

### Wahbung Abinoonjiiag, Inc.

Wahbung Abinoonjiiag was established to empower children and their families to break the cycle of

4 Online: [www.mamawi.com](http://www.mamawi.com)

5 Online: [www.ndinawe.ca](http://www.ndinawe.ca)

6 Online: [www.nativewomens.mb.ca](http://www.nativewomens.mb.ca)

7 Online: [www.ahwc.ca](http://www.ahwc.ca)

violence, by providing opportunities for holistic healing through culturally-appropriate teachings and activities in a safe and nurturing environment. At Wahbung there is a women's circle, a parenting program, moms and tots playgroups, a girls mentorship group, a co-ed junior youth group, as well as counselling and cultural services, and domestic violence prevention workshops.<sup>8</sup>

### North Point Douglas Women's Centre

The North Point Douglas Women's Centre offers a drop-in centre, counselling services, safety programming, The Red Road to Healing which is a program, guided by traditional teachings, for women who have experienced domestic violence and are ready to move forward on their healing journey, and the Community Oven which is a way of engaging the community in various conversations.<sup>9</sup>

### Spence Neighbourhood Association

The Spence Neighbourhood Association runs a number of community-based programs, such as a youth drop-in centre, the Holistic Housing program which seeks to assist individuals in finding housing, maintaining it and becoming a part of the community, and a Skills Bank program which seeks to connect people with jobs or training opportunities.<sup>10</sup>

## **Provincial Indigenous Organizations**

### Assembly of Manitoba Chiefs (AMC), Southern Chiefs Organization (SCO ) and Manitoba Keewatinowi Okimakanak (MKO)

The AMC is a non-governmental organization advocating on issues commonly affecting all Manitoba First Nations. The AMC has responded to the MMIWG crisis in a number of ways. It has brought forward a number of resolutions supporting MMIWG and their families and has met with police agencies to follow up on specific investigations and to seek systemic solutions.

In 2012, the AMC Secretariat was involved in a number of community mobilization efforts responding to the murders of Lorna Blacksmith, Tanya J Nepinak and Carolyn Sinclair. In June 2012, following the sentencing of an accused for the murders of Ms. Sinclair (25 years old) and Ms. Blacksmith (18 years old), AMC Grand Chief Derek Nepinak, SCO Grand Chief Morris Swan Shannaccappo and MKO Grand Chief David Harper signed a letter to Manitoba Deputy Premier and Minister of Aboriginal and Northern Affairs Eric Robinson and another letter to Prime Minister Stephen Harper calling for a provincial and national inquiry into MMIWG. These requests were both subsequently denied.

The AMC played a central role in the development of a coalition of individuals and community service organizations focused on developing an action plan on MMIWG. The Coalition met a number of times and developed a Technical Working Group to develop a Terms of Reference, a work plan and research.

In November 2012, the AMC, SCO and MKO co-hosted the Sounding Our Voices National Aboriginal Women's Summit (NAWS) III Shadow Event in Winnipeg, Manitoba. This event was planned with the MMIWG Coalition. Its purpose was to identify key actions on the issue of MMIWG.

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8 Online: [www.wahbung.org](http://www.wahbung.org)

9 Online: [www.northpointdouglaswomenscentre.org](http://www.northpointdouglaswomenscentre.org)

10 Online: [www.spenceneighbourhood.org](http://www.spenceneighbourhood.org)

In October 2013, the AMC submitted a report to the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW). In its report, AMC pointed out that it had been five years since CEDAW's period review and the Government of Canada continued to dismiss calls for a national public inquiry into MMIWG. AMC's position in this report is that "substantive measures are needed" as the "disadvantaged conditions of our Indigenous women and girls have not been adequately or concertedly addressed by governments in Canada."<sup>11</sup>

## **Federal Institutions**

The issue of MMIWG is not new to the Government of Canada.

In 2009, provincial and territorial Aboriginal Affairs Ministers and the leaders of five National Organizations<sup>12</sup> established an Aboriginal Affairs Working Group to develop recommendations and identify actions to improve education and economic development for, and to reduce violence against Aboriginal women and girls.<sup>13</sup>

In 2010, the Standing Committee on the Status of Women passed a motion to undertake a study on violence against Indigenous women. Following consultation with more than 150 witnesses across Canada, the Report, which outlines a number of root causes of violence against Indigenous women, was released in 2011.<sup>14</sup>

In 2014, the Canadian House of Commons unanimously passed a Motion recognizing that a number of Indigenous women and girls have gone missing or have been murdered and that the federal government has a responsibility to provide justice for the victims and healing to the families.

As a result, the Special Committee on Violence Against Indigenous Women was appointed to propose solutions to address the root causes of violence against Indigenous women. Through the assistance of NWAC, the Committee was able to hold consultations and produced a report entitled - "Invisible Women: A Call to Action; Report of the Special Committee on Violence Against Indigenous Women"- which recommended a national inquiry. The Report was criticized by NWAC for seemingly placing "the onus and blame on Aboriginal people alone".<sup>15</sup>

Despite this Report, the Federal Government continues to reject the need for an inquiry. Instead, it announced it would devote more funds to alleviate poverty among Indigenous populations. It has released a five year Action Plan focusing on three pillars: Preventing Violence, Supporting Aboriginal Victims, Protecting Aboriginal Women and Girls. The Plan acknowledges that "this is a serious issue that requires coordination and multi-faceted action."<sup>16</sup>

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11 Assembly of Manitoba Chiefs, "Written Submission on Missing and Murdered Indigenous Women and Girls" (October 15 2013).

12 Assembly of First Nations (AFN), the Congress of Aboriginal Peoples (CAP), the Inuit Tapiriit Kanatami (ITK), the Metis National Council (MNC) and the Native Women's Association of Canada (NWAC).

13 Aboriginal Affairs Working Group "A Framework for Action in Education, Economic Development and Violence Against Aboriginal Women and Girls" (2010).

14 Standing Committee on the Status of Women, "Interim Report: Call into the Night: An overview of violence against Aboriginal Women" (March 2011) 40th Parliament, 3rd Session. Also see: Standing Committee on the Status of Women "Ending Violence Against Aboriginal Women and Girls: Empowerment – a New Beginning" (2011).

15 NWAC, "More than Invisible, Invisible to Real Action: NWAC's Response to the Special Committee on Violence Against Indigenous Women" March 2014.

16 "Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls" (2014). The Plan focuses on the following three pillars: Preventing Violence, Supporting Aboriginal Victims and Protecting Aboriginal

Most recently, Senator Serge Joyal wrote a legal brief calling for a legal proceeding in a Federal Court initiated by “a victim(s) and/or concerned party to obtain a declaration ordering the Canadian Government to establish a National Inquiry to investigate the plight of missing and murdered aboriginal women”.<sup>17</sup> Senator Joyal’s legal arguments are rooted in the Charter and in international human rights.

## RCMP

The RCMP issued a report in 2014 entitled “Missing and Murdered Aboriginal Women: A National Operational Overview”. After reviewing 1,181 police-reported incidents of homicides and unresolved investigations, the RCMP concluded that there is a disproportionate number of Indigenous women and girls who are murdered, sexually exploited, and who have been missing for more than 30 days.<sup>18</sup>

In 2015 the RCMP released an “Update to the National Operational Overview” which provided updated statistics and analysis on cases of missing and murdered Aboriginal women that occurred since the 2014 report. The report indicated that Aboriginal women continued to be over-represented among Canada’s murdered and missing women.<sup>19</sup>

## Canadian Association of Chiefs of Police (CACP)

On September 30, 2014 the CACP and the Native Women’s Association of Canada (NWAC) agreed to partner to create an action plan on MMIWG.

## Native Women's Association of Canada (NWAC)

NWAC launched its Sisters In Spirit Campaign in 2004. In 2005, it secured funding for a five year research, education and policy initiative supported by Status of Women Canada aimed at addressing the root causes and circumstances of MMIWG. In 2009, as part of its research, NWAC released a Report entitled “Voices of Our Sisters in Spirit: A Report to Families and Communities”. NWAC released another report addressing the issue of MMIWG in 2010.<sup>20</sup>

NWAC has since released a number of other Reports including a literature review on “Sexual Exploitation and Trafficking of Aboriginal Women and Girls” which includes a number of recommendations and information from key informant interviews. The Sisters in Spirit Initiative has also organized vigils in honour of MMIWG in a number of Canadian cities from coast-to-coast.

Since 2007, NWAC has hosted a series of National Aboriginal Women’s Summit (NAWS) addressing the issue of MMIWG.<sup>21</sup> The most recent NAWS was held in Nova Scotia in October 2014.

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Women and Girls.

17 Senator Serge Joyal, “Missing and Murdered Aboriginal Women in Canada: What to Do?” (2014) at p 7.

18 Canada, Royal Canadian Mounted Police, Missing and Murdered Aboriginal Women: A National Operational Overview, (2014) online: <<http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.htm>> [“Operational Overview”].

19 Canada, Royal Canadian Mounted Police, Missing and Murdered Aboriginal Women: 2015 Update to the National Operational Overview (2015) online: <<http://www.rcmp-grc.gc.ca/pubs/abo-aut/mmaw-fada-eng.htm>> [“2015 Update”].

20 The Report examines three fundamental questions: What are the circumstances, root causes and trends leading to violence against Indigenous women in Canada? How many Indigenous women and girls have gone missing or have been found murdered in Canada? And, why has this violence led to such disturbingly high numbers of missing and murdered Indigenous women and girls in Canada without connection by police or justice authorities?: NWAC, “Sisters in Spirit 2010 Research Findings”

21 In June 2007, the first National Aboriginal Women's Summit (NAWS I) was held in Corner Brook, NL to call for action on MMIWG. It was co-hosted by the Premier of Newfoundland and Labrador with the NWAC President

## Assembly of First Nations (AFN)

In 2012, the AFN created a “Coordinated and Urgent Action to End Violence Against Indigenous Women & Girls – Towards a Nation Action Plan”.

## The Truth and Reconciliation Commission of Canada (TRC)

In 2015, following more than six years of testimonials from residential school survivors in Canada, the TRC released the Executive Summary of its final report “Honouring the Truth, Reconciling for the Future.” In that report the commission indicated that:

the available information suggests a devastating link between the large numbers of missing and murdered Aboriginal women and the many harmful background factors in their lives. These include: over-representation of Aboriginal children in child-welfare care; domestic and sexual violence; racism, poverty, and poor educational and health opportunities in Aboriginal communities; discriminatory practices against women related to band membership and Indian status; and inadequate supports for Aboriginal people in cities. This complex interplay of factors - many of which are part of the legacy of residential schools - needs to be examined, as does the lack of success of police forces in solving these crimes against Aboriginal women.

The commission called upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry’s mandate would include:

- Investigation into missing and murdered Aboriginal women and girls; and
- Links to the inter-generational legacy of residential schools.<sup>22</sup>

## International

A wide range of international organizations and bodies are calling on the Canadian government for urgent action given the scale and scope of ongoing violence against Indigenous women and girls.

### Amnesty International

Amnesty International has been vocal in its call to Canada for action on MMIWG. In 2004, it released “A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada”. In 2009, Amnesty International published a report entitled “No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women in Canada”.

More recently, in February 2014, Amnesty International released another report urging Canada to make clear commitments to Indigenous women and girls to address the tragedy. The Report begins by stating that the “scale and severity of violence faced by Indigenous women and girls in Canada – First Nations,

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Jacobs. In July 2008, NWAC and the Government of the Northwest Territories (GNWT) co-hosted the second National Aboriginal Women’s Summit (NAWS II) in Yellowknife. NAWS II was co-hosted by Premier Floyd Roland of the NWT and NWAC President Jacobs. Held in Manitoba in 2012, NAWS III focused on honouring murdered and missing Aboriginal women. In October 2014, NWAS IV was held in the Yukon under the theme : “Promoting Equity, Empowerment and Leadership of Aboriginal Women – focused on action, solutions, and moving forward collectively.”

22 Truth and Reconciliation Commission of Canada, “Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada” online:

<[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec\\_Summary\\_2015\\_05\\_31\\_web\\_o.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf)>.

Inuit and Métis – constitutes a national human rights crisis.”<sup>23</sup>

## Human Rights Watch

In February 2013, Human Rights Watch published a report which presented qualitative data about police abuse in 10 towns in northern British Columbia.<sup>24</sup> The report recommends the establishment of an inclusive national public commission of inquiry into the murders and disappearances of Indigenous women and girls.

## United Nations Treaty Monitoring Bodies

Many international conventions and implementation committees have called on the Canadian government to combat high violence against Indigenous women and girls.<sup>25</sup>

## Provincial and Territorial Responses

### Yukon Territory

In 2010, the Yukon Aboriginal Women's Council created a Yukon Sisters in Spirit Initiative as part of the Yukon Aboriginal Women's Summit Implementation Projects. The Yukon Sisters in Spirit Initiative is closely linked to NWAC's initiative and was designed to include the voices of the MMIWG's families and communities. In 2012, the Yukon Sisters in Spirit Initiative focused on healing for the families of MMIWG.

### British Columbia

Over the years, many government and non-governmental organizations in BC have conducted research and published reports on the issue of MMIWG.<sup>26</sup>

In 2005, the Pacific Association of First Nations Women, Ending Violence Association of BC and the BC Women's Hospital & Health Centre prepared a Report entitled “Researched to Death: B.C. Aboriginal Women and Violence”.

In 2006, the Lheidli T'enneh First Nation, Carrier Sekani Families Services, Carrier Sekani Tribal

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23 Amnesty International, “Violence Against Indigenous Women and Girls in Canada” at p 2.

24 Human Rights Watch, “Those who Take us Away: Abusive Policing and Failures in Protecting of Indigenous Women and Girls in Northern British Colombia, Canada”

25 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Committee against Torture, June 2012 at para 20 ; Convention on the Rights of the Child – Committee on the Rights of the Child , October 2012 at para 46; Convention on the Elimination of All Forms of Discrimination-Committee on Economic, Social, and Cultural Rights, May 2006 at para 29 ; Committee on Economic, Social and Cultural Rights May 2006 at paras 11 (d), 15, 26; Convention on the Elimination of All Forms of Discrimination against Women – Committee on the Elimination of Discrimination against Women, November 2008; Report of the Special Rapporteur on the Rights of Indigenous People, James Anaya – July 2014 at paras 35 and 89; Human Rights Council, Report of the Working Group on the Universal Periodic Review , June 2009 at para 49; International Convention on the Elimination of all Forms of Racial Discrimination – Committee on the Elimination of Racial Discrimination, May 2007.

26 AMR Planning and Consulting “We are courageous and we are healing ourselves: Collaboration to End Violence: National Aboriginal Women's Forum” (2011). Also in 2011, the Community Coordination for Women's Safety and the Ending Violence Association of BC released “Increasing Safety for Aboriginal Women: Key Themes and Resources”.

Council, Prince George Native Friendship Centre, and Prince George Nechako Aboriginal Employment & Training Association hosted a Highway of Tears Symposium and released a report with recommendations.<sup>27</sup>

In 2011, the B.C. Ministry of Aboriginal Relations and Reconciliation (BC MARR) and the Native Women's Association of Canada co-hosted the “Collaboration to End Violence National Aboriginal Women's Forum” and subsequently released a Report.

In 2011, the BC Lieutenant Governor in Council called the Missing Women Commission of Inquiry. The Terms of Reference of this Inquiry stated that the Commission was to inquire into the women reported missing from the Downtown Eastside of the city of Vancouver as well as make findings and recommendations on the issue. It should be noted that fifteen organizations issued a letter to Commissioner Wally Oppal confirming that they would not be participating in the Second Phase of the BC Inquiry due to concerns about “discrimination and the conduct of the Commission to date.”<sup>28</sup>

On September 17, 2014 the Alberta chiefs joined their voices to the call for a national inquiry into MMIWG. Their Resolution was unanimously supported by all 48 Alberta Chiefs at their Assembly of Treaty Chiefs.

## Saskatchewan

In 2007, a number of organizations and government departments in Saskatchewan released the “Final Report of the Provincial Partnership Committee on Missing Persons”.

## Ontario

In 2007, the Ontario Native Women's Association released a “Strategic Framework to End Violence Against Aboriginal Women”.

In 2009, a Summit was held in Hamilton, Ontario on Ending Violence Against Aboriginal Women. A Report was later produced entitled “Final Report: Strengthening the Circle to End Violence Against Aboriginal Women”.

## Québec

Quebec Native Women Inc (QNW) has been very vocal on the issue of MMIWG and has called for a national inquiry.<sup>29</sup> In its Press Release, QNW indicate that although the official count of MMIWG in Canada has continued to rise, the federal government firmly refuses to establish a national public inquiry. The Press Release also indicates that there is a “great lack of information pertaining to missing and murdered Indigenous women in the province of Québec” and that QNW is conducting its own study “with the hopes of achieving both a tally of cases in Quebec, and a portrait of the risk factors and vulnerabilities.”<sup>30</sup>

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27 “Highway of Tears Symposium Recommendations Report: A collective voice for the victims who have been silenced” (2006).

28 [http://www.ubcic.bc.ca/News\\_Releases/UBCICNews04101201.html#axzz3JXiO1Vji](http://www.ubcic.bc.ca/News_Releases/UBCICNews04101201.html#axzz3JXiO1Vji); For more information see: BC Civil Liberties Association, “Blueprint for an Inquiry: Learning from the Failures of the Missing Women Commission of Inquiry” (2012).

29 See their Press Release from May 7 2014.

30 “A call for national inquiry on the 1186 reported cases of missing and murdered Aboriginal women” (2014): [http://www.faq-qnw.org/press\\_media/press\\_release/call-national-inquiry-11](http://www.faq-qnw.org/press_media/press_release/call-national-inquiry-11)



## Nova Scotia

The grassroots community in Halifax, Nova Scotia gathered at the beginning of October 2014 to make a 10 foot dream catcher made up of 1,187 small dream catchers to hang off one large dream catcher, each dream catcher representing one of the Indigenous women currently missing in Canada.

## **Manitoba: A Leader on the Issue of MMIWG**

As a result of the push from the grassroots and Indigenous leadership, Manitoba has become a leader on the issue of MMIWG. A brief overview of some of the initiatives funded by the Manitoba provincial government is provided.

### Helen Betty Osborne Foundation

In December 2000, the Helen Betty Osborne Memorial Foundation was established through legislation entitled *The Helen Betty Osborne Memorial Foundation Act*. The Foundation provides financial assistance to Indigenous persons enrolled in post-secondary studies in Manitoba. It also recognizes deserving students who are making a difference in eliminating barriers of racism, sexism and indifference in our society.<sup>31</sup>

### Manitoba Aboriginal and Northern Affairs

Manitoba's Aboriginal and Northern Affairs Minister, Eric Robinson has been very active on the issue of MMIWG. Since 2010, Minister Eric Robinson has worked closely with Nahanni Fontaine, the Special Advisor on Aboriginal Women's Issues to assist the families of MMIWG. As a direct result the following programs are funded by the province and available to the families of MMIWG:

### Wiping Away the Tears

"Wiping away the Tears," is an annual meeting where families of MMIWG gather to support each other in their healing journeys. It is based on a traditional ceremony of "wiping and letting go."

### Manitoba Action Group on Exploited and Vulnerable Women

The Manitoba Action Group on Exploited and Vulnerable Women was created in 2009 to provide strategic advice to the province on the development of new policies aimed at reducing the crisis of abused and exploited women in Manitoba.<sup>32</sup> In 2011, the organization launched a public awareness campaign aimed at helping the public empathize with families of missing and murdered women and girls, in partnership with Crime Stoppers and families of MMIWG.

### Tracia's Trust: Manitoba's Sexual Exploitation Strategy

The first phase of Manitoba's sexual exploitation efforts focused on prevention, and specifically on Tracia's Trust, which is named in honour of the memory of Tracia Owen, who died in 2005 at age 14 in

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<sup>31</sup> See <[www.helenbetty.ca/home/organization](http://www.helenbetty.ca/home/organization)>.

<sup>32</sup> "Manitoba action group on exploited and vulnerable women launches public awareness campaign" (2011): <http://news.gov.mb.ca/news/index.html?item=11056>

Winnipeg. She had been repeatedly sexually exploited. Tracia's Trust is based on the need to build upon phase one by:

- implementing more prevention initiatives;
- developing a fuller continuum of services for victims;
- increasing public awareness; and
- making offenders more accountable.

The second phase of Manitoba's strategy to address the issue of sexual exploitation focused on intervention and was expanded beyond the scope of Tracia's Trust to include the full spectrum of ages, including children, youth and adults, and the five most common forms of sexual exploitation:

- prostitution;
- sex trafficking;
- child pornography;
- internet luring; and
- child sex tourism.

Phase three of Manitoba's strategy includes a multi-year plan which involves many new components with a greater focus on human trafficking, offender accountability and protection for victims. This multi-sector strategy currently invests over \$10 million annually for initiatives to prevent and intervene with the sexual exploitation of children, youth and adults in Manitoba. The continued development and implementation of the strategy is ongoing and several additional initiatives have been launched including:

- The designation of two specialized Crown attorneys to coordinate and prosecute cases of sexual exploitation/sex trafficking;
- The broadening of the Criminal Property Forfeiture unit's mandate to consider seeking forfeiture of property where exploitation occurs;
- The expansion of The Victims' Bill of Rights to give victims of trafficking offences the right to case information including negotiations, and the right to present victim impact statements;
- The expansion of the Prosecution policy as it applies to children exploited through prostitution. The policy was expanded to consider human trafficking charges to ensure that offenders be dealt with severely by the courts;
- The extension of social services and health care to ensure emergency or primary care to persons who are trafficked and are in Canada, but outside of immigration and domestic laws;
- Continued training and awareness on sexual exploitation and human trafficking including:
  - stakeholder awareness presentations across the province;
  - updates in the Sexually Exploited Youth training to include human trafficking;
  - work underway to identify specialists within the Authorities; and
  - revisions to the Child and Family Services Standards.
- The Commit to Kids child abuse prevention program (offered through the Canadian Centre for Child Protection) for child serving organizations has been expanded to Residential Care and Foster Care programs within Manitoba;
- The StreetReach programs in Winnipeg and Thompson provide a rapid coordinated response by child welfare, police, and community outreach agencies to high-risk child victims who are the most at risk of sexual exploitation;
- The establishment of a six-bed rural healing lodge for sexually exploited youth that utilizes a blend of Aboriginal traditional healing approaches and clinical therapeutic services;
- The establishment of placement resources for sexually exploited children who are ageing out of care;

- Eight residential care beds through the Transition, Education and Resources for Females (TERF) program and three specialized foster care beds through Ka Ni Kanichihk;
- The mobilization of 12 multi-sector regional teams around the province to address sexual exploitation locally and the hosting of an annual community forum in Winnipeg with 300 to 400 stakeholders in attendance each year;
- Province-wide public awareness initiatives, such as stopsexwithkids.ca and mandatory reporting of child pornography; and
- The establishment of working partnerships with the business sector, such as the Manitoba Hotel Association, to train their workers on how to spot and report suspected exploitation.

Manitoba has also established policies to address the issue of child sexual exploitation, such as:

- identification of the issue as a form of child abuse and the establishment of Child and Family Services standards to inform the work of Child and Family Services agencies with respect to this matter;
- the utilization of experiential workers (those with lived experience); and,
- capacity building with Aboriginal organizations and the guiding principle that programs and services should be culturally appropriate, include a holistic perspective, and be lead by Aboriginal leaders and communities in their development.

## Other

Other projects supported by the province include:

- In 2014 a Memorial Quilt project was initiated between the province and the Winnipeg Art Gallery wherein family members designed their own patches that were made into a quilt which was then displayed at the Winnipeg Art Gallery to honour victims and help their families heal;
- A monument honouring Manitoba's Missing and Murdered Indigenous Women and Girls was funded by the province and unveiled at The Forks on August 12, 2014;
- Provincial funding is provided for:
  - the Aurora Family Therapy Centre's 'Unresolved Loss' program which enhances supports and long-term counselling for the families of missing persons;
  - Ka Ni Kanichihk to expand and enhance the work of the Medicine Bear Project, specifically to increase partnerships and resources in rural and northern communities;
  - Eyaa-Keen's Ni Mino Biimatiziiwin Project (My Good Life) to address the grief and loss experienced by families of MMAWG.
- The hiring of a Family Liaison Contact Worker by Victim Services to provide support to families of missing persons on behalf of Project Devote;
- Victim Services also coordinates an inter-agency working group of the agencies/individuals dedicated to the issue of missing persons, specifically MMIWG, to ensure that all involved are aware of the current services provided by each agency and to create a link between them so that the affected families, along with the agencies will have an easier time navigating the system and accessing services;
- In 2012 Manitoba Justice and partnering law enforcement agencies announced that Facebook would be added as a method of public broadcast in Amber Alert situations for faster notification of missing children;
- Effective May 29, 2013, *The Missing Persons Act* was proclaimed in Manitoba. This legislation gives police tools to enable them to access critical personal information, such as cell phone records, bank information and closed circuit surveillance footage, to assist police in more

quickly locating a missing person. It includes provisions for accessing information about a third party who may be in the company of a missing minor or vulnerable person.

### Project Devote -The Manitoba Integrated Task Force for Missing and Murdered Women

Project Devote began on May 27, 2011 and was established by the RCMP and Winnipeg Police Service following the findings of a task force the purpose of which was identifying possible linkages between homicides involving victims who were women or incidents of missing women where foul play is suspected, with a view of identifying potential suspect(s) and determining appropriate avenues for follow up investigations.<sup>33</sup>

Project Devote is a two-pronged approach aimed at addressing unsolved homicides and missing person cases involving “exploited and at risk persons,” and is based out of the RCMP “D” Division Headquarters. It consists of RCMP and WPS police officers and RCMP civilian analysts. The focus of Project Devote is investigative, based on the review and recommendations made by the Task Force. In addition to the investigations, a proactive team was established to further enhance the on-going efforts of dealing with exploited and at risk persons.<sup>34</sup>

In July 2012, Project Devote provided detailed briefings to victims’ families following the arrest of a person charged with second degree murder in connection with the deaths of three Aboriginal women in Winnipeg. Subsequent briefings were held with Aboriginal leaders prior to a news conference, at which time information was made available to the public regarding Project Devote’s investigative mandate.

Five criteria are considered before a case becomes a part of Project Devote:

- substance abuse;
- transient lifestyle;
- hitchhiking;
- mental health issues; and
- involvement in the sex trade.

### Manitoba Participation in the Aboriginal Affairs Working Group (AAWG)

The AAWG is composed of Ministers of Aboriginal Affairs from all provinces and territories and the Leaders from the five National Aboriginal Organizations (Assembly of First Nations, Congress of Aboriginal Peoples, Inuit Tapiriit Kanatami, Métis National Council, and Native Women's Association of Canada). They continue to call on the federal government to join the AAWG as a partner to advance these priorities.

The AAWG is intended to coordinate government actions that address challenges and opportunities of First Nations regardless of status or residency, Inuit and Métis Peoples. It brings federal and provincial governments together on three priority areas:

- closing the graduation gap;
- closing the income gap; and,
- ending violence against Aboriginal women and girls.<sup>35</sup>

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33 “Next phase for Manitoba Integrated Task Force for Missing and Murdered Women” (2011): <http://www.rcmp-grc.gc.ca/mb/news-nouvelles/2011/2011-05-27-devote-eng.htm>

34 “Next phase for Manitoba Integrated Task Force for Missing and Murdered Women” (2011): <http://www.rcmp-grc.gc.ca/mb/news-nouvelles/2011/2011-05-27-devote-eng.htm>

35 “Working together to improve opportunities for Aboriginal Peoples across Canada” (2013)

## **Winnipeg**

On September 23, 2014 the City of Winnipeg and the Province of Manitoba announced a combined support of \$300,000 to expand access to a drop-in centre at Ndinawemaaganag Endaawaad Inc.

On September 24, 2014, Winnipeg City Council adopted a motion moved by Councillors Vandal and Gerbasi calling for a national inquiry or national roundtable.<sup>36</sup> Councillor Vandal said “A national inquiry will offer an honest, difficult dialogue. It will give a voice to those that are now voiceless.”<sup>37</sup> The Resolution also called on the Winnipeg Police Board to task the Winnipeg Police Service to do all things necessary to provide a proactive approach to prevent, investigate and solve the plight of missing and murdered Indigenous women in Winnipeg.” It further committed the City of Winnipeg to fund Ndinawe annually for \$150,000 to ensure its long term viability.

Winnipeg mayor Brian Bowman has stated the following:

We have to recognize that this is not just a criminal matter. This is a sociological issue. We need to provide supports for law enforcement to protect our most vulnerable in our community. We need to look at where the supports within the community are that can allow a place of sanctuary and support for those affected by violence and other crimes.

A disproportionate number of those people are aboriginal women and girls... Statistically, they are more vulnerable. We need to work with the federal and provincial governments, and community groups like Ka ni Kanichik to address the problem in a meaningful way.<sup>38</sup>

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[http://www.gov.mb.ca/ana/news/news\\_releases/april17.html](http://www.gov.mb.ca/ana/news/news_releases/april17.html)

36 At p 8:<http://www.winnipeg.ca/clkdms/ViewDoc.asp?DocId=13884&SectionId=&InitUrl=>

37 Aldo Santin, “City backs inquiry after impassioned debate” (2014):

<http://www.winnipegfreepress.com/local/city-backs-inquiry-after-impassioned-debate-277037771.html>

38 Sheldon Birnie, “Here’s How Winnipeg’s Mayoral Candidates Feel about Aboriginal Issues” (September 10 2014)

## APPENDIX C: WHO IS CALLING FOR WHAT?

NAME	REPRESENTING	CALLS FOR INQUIRY	CALLS FOR ALTERNATIVE
<b>National Indigenous Organizations</b>			
Native Women's Association of Canada	Aggregate of thirteen Native women's organizations from across Canada.	Yes (October, 2014)	Co-Chairing Roundtable February 2015
Assembly of First Nations	More than 900,000 people living in 634 First Nation communities, and in cities and towns across the country.	Yes (September, 2014)	Roundtable February 2015
Congress of Aboriginal Peoples	Off-Reserve, Non-Status, and Status Indians, Métis and Southern Inuit Aboriginal Peoples living in urban, rural remote and isolated areas throughout Canada.	Yes (March, 2014)	Roundtable February 2015
Metis National Council	Métis Nation (389,780 Métis people in Canada, according to 2006 census).	Yes (October, 2014)	Roundtable February 2015
Inuit Tapiriit Kanatami	55,000 Inuit living in 53 communities.	Yes (August, 2014)	Roundtable February 2015
Les Femmes Michif Optimemiskwak/Women of the Métis Nation	Represents the interests of Métis Women and provides them a voice at the local, provincial, national and international level.		Roundtable February 2015
<b>Other Indigenous Organizations and Individuals</b>			
Assembly of Treaty Chiefs	Treaty 6, Treaty 7 and Treaty 8 communities.	Yes (2014)	
NWT Native Women's Association	Native women in the Northwest Territories.	Yes (October, 2012)	
Yukon Aboriginal Women's Council	Aboriginal women in the Yukon.	Yes (May, 2014)	
Pauktuutit Inuit Women of Canada	Inuit women and children.	Wary (August, 2014)	Roundtable February 2015
Idle No More		Yes (March, 2014)	
Beverley Jacobs (former president of NWAC)		Yes (September, 2014)	
Union of BC Indian Chiefs	Aboriginal Chiefs in BC.	Yes (August, 2014)	
Maryanne Pierce (academic – created database of MMIWG)		Wary (January, 2014)	
Union of Ontario Indians	Aboriginal peoples of Ontario.	Yes (August, 2014)	
<b>National Organizations</b>			
Canadian Association of Chiefs of Police	1074 members. "Through its member police chiefs and other senior police executives the CACP represents in excess of 90% of the police community in Canada."	No (September, 2014)	"Committed to concrete action regardless of what process is determined."
Canadian Labour Congress	3.3 million unionized workers across Canada.	Yes (August, 2014)	
Canadian Human Rights Commission		Yes (2013)	
Canadian Association of Statutory Human Rights Agencies	Federal, provincial and territorial human rights commissions.	Yes (March, 2013)	
Canadian Bar Association	Approximately 37,000 lawyers, judges, notaries, law teachers, and law students from across Canada.	Yes (March, 2014)	
<b>International Organizations</b>			
Amnesty International		Yes (October, 2014)	
UN Rapporteur on UNDRIP		Yes (May, 2014)	
Human Rights Watch		Yes (March, 2014)	
<b>Municipal Governments</b>			

City of Winnipeg		Yes (September, 2014)	
City of Toronto		Yes (August, 2014)	
Brian Bowman		Yes (September, 2014)	
<b>Provincial and Territorial Governments</b>			
Premier of Manitoba		Yes (October, 2014)	
Premier of Alberta		No (September, 2014)	Roundtable
Premier of Saskatchewan		Yes (August, 2014)	
Premier of Ontario		Yes (August, 2014)	
Premier of Yukon		Yes (April, 2013)	
Premier of NWT		Yes (August, 2014)	
Premier of New Brunswick		Yes (April, 2013)	
Premiers and First Nations leaders		Yes	Roundtable
<b>Federal Government</b>			
Harper Government		No (August, 2014)	
Federal NDP		Yes (September, 2014)	
Federal Liberal		Yes (2014)	

# **APPENDIX D: OVERVIEW OF OTHER PROCESS RECOMMENDATIONS**

## **INTRODUCTION**

The following is a compilation of recommendations from reports of inquiries, committees, and non-governmental organizations, all of which address the issue of violence against Indigenous women. The overview was created as a way to take stock of what we know about missing and murdered Indigenous women and girls from existing processes. Further review is needed to determine which of the recommendations remain outstanding.

For ease of reference, recommendations are organized according to themes and headings. Each report in this overview presents a response to a specific issue. The scope of these reports is limited in terms of who they represent, who is consulted, and the restrictions of the process used. It is important to be aware of these limitations, and to understand that the recommendations may not truly reflect the community perspective. However, they do provide an agreeable starting point for further discussion.

The recommendations can be a strong persuasive tool for moving the issue of violence against Indigenous women forward, especially when dealing with government or the public at large.

The following reports are included:

### **Federal and Inter-Provincial Reports**

- Report of the Royal Commission on Aboriginal Peoples (1996)
- Canadian Intergovernmental Conference Secretariat, Missing Women Working Group: Report and Recommendations On Issues Related to the High Number of Murdered and Missing Women in Canada (2012)
- Invisible Women: A Call to Action – A Report on Missing and Murdered Indigenous Women in Canada by the House of Commons Special Committee on Violence Against Indigenous Women (2014)
- Honouring the Truth, Reconciling for the Future – Summary of the Final Report of the Truth and Reconciliation Committee Canada (2015)

### **Provincial Reports**

- Report of the Aboriginal Justice Inquiry of Manitoba (1991)
- Report of the Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild (Saskatchewan, 2004)
- Office of the Child's Advocate Report "Strengthening Our Youth: The Journey to Competence and Independence" (Manitoba, 2006)
- Report of the Ipperwash Inquiry (Ontario, 2007)
- Ombudsman's Report on Manitoba's Employment and Income Assistance Program (2010)
- Forsaken: Report of the Missing Women Commission of Inquiry (British Columbia 2012)



- Achieving the Best For All Our Children: Report of the Commission of Inquiry into the Circumstances Surrounding the Death of Phoenix Sinclair (Manitoba, 2014)

### Non-Governmental Organizations

- Amnesty International: Stolen Sisters –A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada (2004)
- Native Women's Association of Canada: Sexual Exploitation and Trafficking of Aboriginal Women and Girls (2014)
- Assembly of Manitoba Chiefs: Bringing Our Children Home Report and Recommendations (2014)
- Inter-American Commission on Human Rights: Missing And Murdered Indigenous Women in British Columbia, Canada (2014)

### Other

- United Nations Convention on the Elimination of All Forms of Discrimination Against Women: Report of the inquiry concerning Canada of the Committee of the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2015)

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- Changes to be Implemented by CFS Agencies
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- Recommendations for Manitoba's First Nations Leadership

**Government Leadership**

# HONOURING THE MEMORY OF MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

## Summary

Recommendations are aimed at supporting family members of victims and ensuring that the memory of victims is respected through efforts to raise public awareness of violence against women and steps to prevent further harm.

## Special Committee on Violence Against Indigenous Women

- That the federal government learn from the stories of the families of missing and murdered Aboriginal women and girls and work with the provinces, territories and municipalities to create a public awareness and prevention campaign focusing on violence against Aboriginal women and girls in Canada.<sup>1</sup>

## Missing Women Commission of Inquiry

- That Provincial Government establish a compensation fund for the children of the missing and murdered women.<sup>2</sup>
- That Provincial Government establish a healing fund for families of the missing and murdered women. These funds should be accessed through an application process pursuant to established guidelines.<sup>3</sup>
- That Provincial Government appoint two advisors, including one Aboriginal Elder, to consult with all affected parties regarding the structure and format of this facilitated reconciliation process and to consider mechanisms for funding it. These consultations and recommendations could be undertaken together with recommendation.<sup>4</sup>
- That Provincial Government appoint an independent advisor to serve as a champion for the implementation of the Commission's recommendations. This appointment should take effect within 12 weeks of release of the report.<sup>5</sup>
- That the independent advisor work collaboratively with representatives of Aboriginal communities, the DTES [Downtown East Side], and the victims' families in the implementation process.<sup>6</sup>
- That Provincial Government fund a collaborative action research project on the entry of young women into the sex trade, especially Aboriginal women who are often homeless during the transition from reserves or foster homes to urban centres, and to develop an action plan to facilitate and support exiting the survival sex trade.<sup>7</sup>

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1 Committee on Violence Against Indigenous Women 1.

2 Missing Women Inquiry 3.2.

3 Missing Women Inquiry 3.3.

4 Missing Women Inquiry 3.4.

5 Missing Women Inquiry 12.1.

6 Missing Women Inquiry 12.2.

7 Missing Women Inquiry 6.5.

## Amnesty International: Stolen Sisters Report

- All levels of government, including Indigenous governance structures, should:
  - publicly condemn the high rates of violence against Indigenous women - whether within Indigenous communities or society as a whole - and make public their plans to address the crisis.
  - undertake a review of outstanding recommendations from Canadian commissions, inquiries and inquests pertaining to the safety and welfare of Indigenous people with a view to ensuring their timely implementation.<sup>8</sup>

## TRC Report

- We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of appropriate memorial ceremonies and commemorative markers to honour the deceased children.<sup>9</sup>
- We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:
  - The Aboriginal community most affected shall lead the development of such strategies.
  - Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
  - Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.<sup>10</sup>
- We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
  - Amending the *Historic Sites and Monuments Act* to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
  - Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.
  - Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.<sup>11</sup>
- We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their

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<sup>8</sup> Stolen Sisters, Recommendation 1.

<sup>9</sup> TRC Report, 310.

<sup>10</sup> TRC Report, 312.

<sup>11</sup> TRC Report, 340.

families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.<sup>12</sup>

- We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.<sup>13</sup>
- We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.<sup>14</sup>

## **SAFETY AND SECURITY MEASURES**

### **Summary**

Recommendations are aimed at addressing the immediate need for protection of women and girls who face violence in their daily lives, whether they live on reserves or in urban areas. This includes shelters and counselling services, to be provided by aboriginal women wherever possible. Special attention has been given to the period of instability and vulnerability that comes with the transition from rural to urban life. Violence that accompanies sex work is also given special consideration. Most of the recommendations acknowledge the need for accessible safe places in both urban and rural settings.

### **A. Safety and Security for Women and Children**

#### **Special Committee on Violence Against Indigenous Women**

- That the federal government engage First Nation communities to examine how to improve supports for shelters and front-line services on reserve for victims of violence.<sup>15</sup>

#### **Missing Women Commission of Inquiry**

- That Provincial Government provide additional funding to Aboriginal women's organizations to provide more safe houses and counselling programs run for and by Aboriginal women and youth.<sup>16</sup>
- To develop and implement an enhanced public transit system to provide a safer travel option connecting the Northern communities, particularly along Highway 16.<sup>17</sup>

### **Amnesty International: Stolen Sisters**

- Federal and provincial governments, with the full participation of Indigenous women, should

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12 TRC Report, 340.

13 TRC Report, 340.

14 TRC Report, 340.

15 Committee on Violence Against Indigenous Women 8.

16 Missing Women Inquiry 6.4.

17 Missing Women Inquiry 2.

organize a high level intergovernmental and interdepartmental meeting to ensure proper coordination and information sharing on initiatives to address the safety and welfare of Indigenous women and girls.<sup>18</sup>

### Intergovernmental Missing Women Working Group Report

- The MWWG recommends that municipalities and First Nations, as appropriate, work with relevant community agencies and police to establish programs at key places where women rely heavily on hitchhiking, and incorporate strategies such as the shuttle bus transportation system recommended in the Highway of Tears Symposium Recommendation Report.<sup>19</sup>

## **B. Safety for Sex Workers**

### Special Committee on Violence Against Indigenous Women

- That the federal government continue to take appropriate action to reduce human trafficking and to reduce the violence and harm associated with prostitution.<sup>20</sup>

### Missing Women Commission of Inquiry

- To provide funding to existing centres that provide emergency services to women engaged in the sex trade to enable them to remain open 24 hours per day.<sup>21</sup>

### CEDAW Report

- That the federal government should pay special attention to Aboriginal women in prostitution in legislative reform to ensure women are not criminalized.<sup>22</sup>
- Develop support and exit programs targeted at Aboriginal women in prostitution.<sup>23</sup>
- Study trafficking of Aboriginal women and girls and ensure protection and assistance to Aboriginal victims of trafficking.<sup>24</sup>
- Increase trafficking prevention through cooperation with other governments.<sup>25</sup>

## **C. Domestic Violence and Violence On-Reserve**

### Missing Women Commission of Inquiry

- That Provincial Government provide additional funding to Aboriginal women's organizations to

18 Stolen Sisters, recommendation 5.

19 Canadian Intergovernmental Conference Secretariat, Coordinating Committee of Senior Officials (Criminal) Missing Women Working Group. *Report and Recommendations On Issues Related to the High Number of Murdered and Missing Women in Canada*. January 2012. [Intergovernmental Missing Women Working Group Report], recommendation #2. Available online at: <http://www.scics.gc.ca/cmfiles/831-016005-we11hop-1262012-7454.pdf>.

20 Committee on Violence Against Indigenous Women. 13.

21 Missing Women Inquiry 1.

22 CEDAW Report 49.

23 CEDAW Report 49.

24 CEDAW Report 49.

25 CEDAW Report 50.

create programs addressing violence on reserves, so that fewer women and youth are forced to escape to urban areas.<sup>26</sup>

### Royal Commission on Aboriginal Peoples

- Aboriginal leaders take a firm, public stance in support of the right to freedom from violence of all members in the community, but particularly of women, children, elders, persons with disabilities and others who may be vulnerable, as well as in support of a policy of zero tolerance of actions that violate the physical or emotional safety of Aboriginal persons.<sup>27</sup>

### Aboriginal Justice Inquiry

- Shelters and safe homes for abused women and children be established in Aboriginal communities and in urban centres. These shelters should be controlled by Aboriginal women who can provide culturally appropriate services.<sup>28</sup>

### Missing and Murdered Indigenous Women in British Columbia, Canada

- It is recommended that integral support services be provided to Indigenous women who want to remove themselves from an abusive situation.<sup>29</sup>

### CEDAW Report

- Provide sufficient funding for legal aid and make it available to Aboriginal women, particularly for family, child welfare, and violence matters.<sup>30</sup>
- Address all forms of violence against Aboriginal women.<sup>31</sup>

## **D. Urban Transition**

### Phoenix Sinclair Inquiry

- That supports for families transitioning from First Nation communities to urban centres be expanded and enhanced. To this end, Manitoba should collaborate with First Nations and other levels of government.<sup>32</sup>

### Missing Women Commission of Inquiry

- That Provincial Government fund a community consultation process led by Aboriginal organizations to develop and implement a pilot project designed to ensure the safety of vulnerable Aboriginal youth during the rural-urban transition.<sup>33</sup>

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26 Missing Women Inquiry 6.3.

27 RCAP 3.2.6.

28 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, "The Abuse of Women and Children," 3<sup>rd</sup> bullet from the top.

29 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 125.

30 CEDAW Report 49.

31 CEDAW Report 49.

32 Phoenix Sinclair Inquiry 52.

33 Missing Women Inquiry 6.2.



# POLICING AND JUSTICE

## Summary

Recommendations are aimed at improving the responsiveness and accountability of police. Many of the recommendations are directed at overcoming institutional apathy and racism. Other recommendations are intended to adopt best practices and more effective investigative procedures for dealing with violence against women and missing persons.

## A. Processes for Addressing Complaints

### Stonechild Inquiry

- That the Minister of Justice review and improve procedures established to deal with complaints from members of the public about inappropriate police conduct. Informational pamphlets should be provided in the waiting and interview rooms of all police stations in Saskatchewan explaining the complaint process. The forms should contain a section that can be removed from the pamphlet and used as a complaint form. It should contain directions as to where the form may be sent, either to a particular office in the Police Service, the Board of Police Commissioners, the Saskatchewan Police Commission, or to the Provincial Complaints Investigator charged with dealing with complaints against police.<sup>34</sup>
- That Municipal Police Services in larger centres should designate an Aboriginal peace officer with the rank of Sergeant, where possible, to act as a liaison person for First Nation persons and as an informal ombudsman to deal with complaints and concerns from Aboriginal and persons from minority communities.<sup>35</sup>
- That each Municipal Police Force provide to the Minister of Justice an annual report as to complaints about police officers in its service and the disposition of the complaints.<sup>36</sup>

### Ipperwash Inquiry

- Bill 103, the *Independent Police Review Act*, 2006 should be reviewed to ensure that internally generated complaints related to a police service are handled by the Independent Police Review Director, including complaints relating to racism and other culturally insensitive behaviour.<sup>37</sup>
- The Independent Police Review Director should determine the most appropriate policy to be followed by his or her office and police services in Ontario in handling complaints of misconduct involving racism and other culturally insensitive conduct, including the role, if any, for informal discipline. The Independent Police Review Director should consult with community and Aboriginal organizations when developing this policy.<sup>38</sup>

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<sup>34</sup> Stonechild 4.

<sup>35</sup> Stonechild 5.

<sup>36</sup> Stonechild 6.

<sup>37</sup> Ipperwash 67.

<sup>38</sup> Ipperwash 68.

- The Ministry of Community Safety and Correctional Services should issue a directive to all police services in Ontario, including the OPP, requiring police officers to report incidents of racism or other culturally insensitive behaviour by other officers to their supervisors.<sup>39</sup>
- The OPP should establish an internal process to ensure that racist and other culturally insensitive behaviour by police officers is dealt with publicly.<sup>40</sup>

### Missing Women Commission of Inquiry

- That the Police Complaint Commissioner, working with police forces across the Province, take steps to develop, promote and refine informal methods of police discipline, particularly in marginalized communities such as the Downtown East Side and with Aboriginal communities.<sup>41</sup>
- That Provincial Government engage with the RCMP in order to bring them into the provincial complaints process.<sup>42</sup>

### CEDAW Report

- Ensure the independence of oversight bodies to investigate police misconduct and abuse.<sup>43</sup>
- Ensure that Aboriginal women have effective access to existing complaint procedures to challenge police conduct.<sup>44</sup>
- Promote use of the *Canadian Human Rights Act* by Aboriginal women to challenge violence and discrimination.<sup>45</sup>

### TRC Report

- We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.<sup>46</sup>

## **B. Recruitment of Aboriginal Police Officers**

### Stonechild Inquiry

- That the Minister of Justice establish an advisory board composed of Police Service members charged with recruitment, representatives of the Aboriginal and non-Aboriginal communities and representatives from the private and public sectors who are knowledgeable about employee recruitment. The purpose of the board will be to recommend programs to encourage First Nations persons to enter Municipal Police Service.<sup>47</sup>

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39 Ipperwash 69.

40 Ipperwash 70.

41 Missing Women Inquiry 4.13.

42 Missing Women Inquiry 4.14.

43 CEDAW Report 48.

44 CEDAW Report 48.

45 CEDAW Report 51.

46 TRC Report, 212.

47 Stonechild 3.

## Missing Women Commission of Inquiry

- That additional steps need to be taken to ensure representation of vulnerable and marginalized members and Aboriginal peoples on police boards.<sup>48</sup>

## Aboriginal Justice Inquiry

- Police forces immediately institute employment equity programs to achieve Aboriginal representation equivalent to the Aboriginal proportion of the Manitoba population.<sup>49</sup>
- As soon as possible, Aboriginal police forces take over from the RCMP the responsibility for providing all police services in Aboriginal communities.<sup>50</sup>
- The Winnipeg Police Department be required to report publicly the progress of its employment equity program to the Minister of Justice.<sup>51</sup>
- A portion of the funding provided by the Province to the City of Winnipeg for police salaries be conditional on the Winnipeg Police Department's using that funding only for the hiring of Aboriginal police officers.<sup>52</sup>
- The assignment of Aboriginal police officers not be restricted to the core area or other Aboriginal areas of the city of Winnipeg.<sup>53</sup>
- *The Provincial Police Act* be amended to provide for the establishment of a provincial Aboriginal Police Commission with authority to prepare and enforce a wide range of regulations covering recruitment, training, equipment, procedures, supervision of, and support for, Aboriginal police forces in Manitoba.<sup>54</sup>
- *The Provincial Police Act* be amended to provide for the appointment of an Aboriginal Police Commissioner, to serve the Aboriginal Police Commission, with any such person being selected by Aboriginal organizations responsible for Aboriginal police forces.<sup>55</sup>
- An Aboriginal Justice Commission of Manitoba be established by legislation and by appropriate processes of the Aboriginal people of Manitoba, with a board of directors made up of equal numbers of Aboriginal and government representatives, and an independent chairperson. The commission should be provided with all necessary staff and resources.<sup>56</sup>

## CEDAW Report

- Increase the number of female police officers and Aboriginal police officers.<sup>57</sup>

## **C. Improvements to Officer Training**

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48 Missing Women Inquiry 11.3.

49 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Policing – “Employment Equity Programs.”

50 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Policing - “Police Forces in Manitoba”, first bullet.

51 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Policing - “Police Forces in Manitoba”, seventh bullet.

52 Ibid.

53 Ibid.

54 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Policing - “Aboriginal Policing”, first bullet.

55 Ibid.

56 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, A Strategy for Action, “Aboriginal Justice Commission.

57 CEDAW Report 47.

## Special Committee on Violence Against Indigenous Women

- That the federal government encourage Aboriginal organizations, the Canadian Police College and municipal, provincial and territorial governments to improve police officer training, including continuing education, to foster cultural understanding and sensitivity.<sup>58</sup>

## Stonechild Inquiry

- That municipal peace officers receive in-depth training in race relations. The training should include information about Aboriginal culture, history, societal and family structures. A refresher course should be provided every three years. It is important that course leaders include Aboriginal peace officers, including members of the RCMP.<sup>59</sup>
- That a review be undertaken of the courses that police candidates take in anger management and dispute resolution. Given the sometimes highly emotional and stressful conditions officers face in their work, it is important that the first responders be specially trained to react professionally and appropriately.<sup>60</sup>

## Ipperwash Inquiry

- The federal and provincial governments should increase capital and operational funding for First Nation police services in Ontario. This funding should be secured by renewable, five-year agreements between the federal, provincial, and First Nation governments.<sup>61</sup>
- The OPP should maintain its Native Awareness Training and related police/Aboriginal relations initiatives as a high priority and devote a commensurate level of resources and executive support to them.<sup>62</sup>

## Missing Women Commission of Inquiry

- That the Minister of Justice direct the Director of Police Services to undertake equality audits of police forces in British Columbia with a focus on police duty to protect marginalized and Aboriginal women from violence. These audits should be carried out by an external agency and with meaningful community involvement.<sup>63</sup>
- That Provincial Government set a provincial standard establishing that police officers have a general and binding duty to promote equality and to refrain from discriminatory policing.<sup>64</sup>
- That police officers be required to undergo mandatory and ongoing experiential and interactive training concerning vulnerable community members:
  - Active engagement in overcoming biases, rather than more passive sensitivity training

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58 Committee on Violence Against Indigenous Women 12.

59 Stonechild 7.

60 Stonechild 8.

61 Ipperwash 62.

62 Ipperwash 63.

63 Missing Women Inquiry 4.1.

64 Missing Women Inquiry 4.2.

(sometimes called anti-oppression training);

- More intensive and ongoing training in the history and current status of Aboriginal peoples in the province and in the specific community, particularly with respect to the ongoing effects of residential schools and the child welfare system;
- Training and resources to make prevention of violence against Aboriginal women a genuine priority;
- Training to ensure an understanding of violence against women in a range of settings including family violence, child sexual exploitation and violence against women in the sex trade;
- in particular, the scenarios used in police training should incorporate issues of cultural sensitivity and violence against women; and
- Training in recognizing the special needs of vulnerable individuals and how to meet those needs, including recognition of a higher standard of care owed by the police to these individuals.<sup>65</sup>

### Aboriginal Justice Inquiry

- Cross-cultural education components of all police training courses be reviewed and strengthened, and this process actively involve members of the Aboriginal community, resource persons and recognized experts.
  - All police officers be rotated through cross-cultural education programs, and periodic refresher programs be provided as part of the regular professional development programs of all police departments.
  - Any police recruits displaying racist attitudes be screened out of training, and police officers who display such conduct after joining the force be required to take further training or, if necessary, be formally disciplined or dismissed.<sup>66</sup>
- Federal, provincial and municipal governments, individually or in concert, with the assistance and involvement of Aboriginal people, establish formal cross-cultural educational programs for all those working in any part of the justice system who have even occasional contact with Aboriginal people.<sup>67</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Provide training for police on what constitutes domestic human trafficking for sexual exploitation so that they are more familiar with the characteristics and signs to watch for (including situations where the victims may not tell the truth because they fear for their life).<sup>68</sup>
- Provide gender and culture sensitivity training for officers for trafficked and prostituted women so that they can be seen as an advocate and protector rather than further traumatizing women

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65 Missing Women Inquiry 4.12.

66 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Policing, “Cross-Cultural Training.”

67 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, A Strategy for Action, “Cross-Cultural Issues.”

68 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls p. 65.

and girls through their intervention.<sup>69</sup>

### Intergovernmental Missing Women Working Group Report

- The MWWG recommends that jurisdictions encourage law enforcement training authorities to include in police training information about the multiple factors that are characteristic of individuals who commit serial sexual offences.<sup>70</sup>
- The MWWG recommends that jurisdictions encourage police training on missing persons investigations to incorporate specific information respecting Aboriginal people and particularly Aboriginal women, in order to enhance cultural sensitivity and mitigate any potential distrust on behalf of the families caused by past relationships.<sup>71</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- Police officers and public sector functionaries should receive mandatory and ongoing training in the causes and consequences of gender-based violence in general, and violence against Indigenous women in particular. This includes training on the police duty to protect Indigenous women from violence.<sup>72</sup>

### CEDAW Report

- Significantly strengthen awareness-raising on Aboriginal culture for justice system workers.<sup>73</sup>
- Take steps to repair relationships and improve communication between authorities and Aboriginal communities.<sup>74</sup>

## **D. Community Liaisons**

### Ipperwash Inquiry

- The OPP should develop active, ongoing monitoring strategies for its police/Aboriginal relations strategy and programs, including:
  - commissioning an independent, third-party evaluation of its Native Awareness Training and recruitment initiatives;
  - commissioning data collection studies to evaluate police decision-making and operations. These studies should be designed in partnership with First Nation organizations and the Ontario Provincial Police Association, if possible; and
  - working with First Nations organizations to develop a more formal monitoring and implementation program for the OPP police/Aboriginal programs.<sup>75</sup>

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69 Ibid.

70 Intergovernmental Missing Women Working Group Report, recommendation #11.

71 Intergovernmental Missing Women Working Group Report, recommendation #29.

72 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 124.

73 CEDAW Report 49.

74 CEDAW Report 50.

75 Ipperwash 64.

- The provincial government should develop a provincial police/Aboriginal relations strategy. This strategy should publicly confirm the commitment by the province to improving police/Aboriginal relations in Ontario. Elements of this strategy should include the following:
  - The Ministry of Community Safety and Correctional Services should work with the OPP and Aboriginal organizations to develop a provincial policy supporting the OPP police/Aboriginal relations programs.
  - The Ministry of Community Safety and Correctional Services should work with the OPP, Aboriginal organizations, other police services, and the Ontario Human Rights Commission to identify and circulate best practices in police/Aboriginal relations.
  - The Ministry of Community Safety and Correctional Services should develop a provincial research and data collection strategy to promote improved police/Aboriginal relations policy and programs and bias-free policing across Ontario.
  - The Ministry of Community Safety and Correctional Services should issue a guideline for police forces in Ontario promoting best practices in police/Aboriginal relations.
  - The Ministry of Natural Resources should develop and implement a dedicated MNR/Aboriginal relations strategy, consistent with the analysis and recommendations in this report.<sup>76</sup>

### Missing Women Commission of Inquiry

- That police forces work with local communities to develop communication strategies for the issuance of warnings that ensure the message is conveyed to community members who are most at risk of the specific threat.<sup>77</sup>
- That SisterWatch be evaluated to provide a basis for further refinements and with a view to establishing best practices for meaningful police-community partnerships; and that these best practices be shared with other police forces to encourage them to develop and maintain ongoing, collaborative community forums.<sup>78</sup>
- That the Provincial Government fund additional full-time Sex Trade Liaison Officer positions in the Lower Mainland.<sup>79</sup>
- That the VPD establish a position of Aboriginal Liaison Officer whose responsibilities would include assisting Aboriginal persons in their interactions with the Missing Persons Unit.<sup>80</sup>

### Amnesty International: Stolen Sisters

- Meetings with Indigenous women leaders and other community members should be organized to build understanding of the specific risks to Indigenous women in Canadian society and establish and strengthen relationships of trust between police and Indigenous communities.<sup>81</sup>

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<sup>76</sup> Ipperwash 65.

<sup>77</sup> Missing Women Inquiry 4.7,

<sup>78</sup> Missing Women Inquiry 5.1

<sup>79</sup> Missing Women Inquiry 5.4,

<sup>80</sup> Missing Women Inquiry 5.7

<sup>81</sup> Stolen Sisters, recommendation 4.

- All police departments should review issues of workload, staffing levels and job rotation to ensure officers have the opportunity to become familiar with and can develop relations of trust with the specific communities they are intended to serve and protect.<sup>82</sup>
- Police should work closely with Indigenous women's organizations and other frontline groups to identify and implement effective protocols for action on missing persons cases, with a view to developing standards for police response in keeping with the risks to Indigenous women and girls.<sup>83</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Police should engage in outreach programs to the sex-trafficked vulnerable and the victim's community to help build trust and dialogue to encourage Aboriginal women and girls to approach them when they are in need.<sup>84</sup>

### Intergovernmental Missing Women Working Group Report

- Jurisdictions [should] work with justice system partners such as local police, community justice services, Aboriginal court workers, and victims' services to support Aboriginal communities and organizations to assess safety risks to Aboriginal women and to develop local plans to respond to those risks.<sup>85</sup>
- In order to target police resources effectively, the MWWG recommends that jurisdictions support, where appropriate, police consideration of:
  - developing approaches to target high risk youth;
  - establishing collaborative approaches with relevant non-police agencies to assess the level of police intervention required in particular missing person cases, such as chronic run-away children.<sup>86</sup>
- The MWWG recommends that jurisdictions encourage police forces to work with Aboriginal organizations to develop and disseminate tools and information about the reporting process for missing women that reflects different literacy levels and is available in a range of languages/formats.<sup>87</sup>

### CEDAW Report

- Consider establishing a National Missing Persons Office and consider involving Aboriginal liaison officers.<sup>88</sup>
- Increase efforts to build trust between police and Aboriginal communities.<sup>89</sup>

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82 Ibid.

83 Stolen Sisters, recommendation 3.

84 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 66.

85 Intergovernmental Missing Women Working Group Report, recommendation #3.

86 Intergovernmental Missing Women Working Group Report, recommendation #24.

87 Intergovernmental Missing Women Working Group Report, recommendation #28.

88 CEDAW Report 47.

89 CEDAW Report 48.



## **E. Improved Standards for Police and Prosecutors**

### **Special Committee on Violence Against Indigenous Women**

- That the federal government continue strengthening the criminal justice system to ensure, among other things, that violent and repeat offenders serve appropriate sentences.<sup>90</sup>

### **Missing Women Commission of Inquiry**

- That Provincial Government develop and implement a Crown Vulnerable Women Assault Policy to provide guidance on the prosecution of crimes of violence against vulnerable women, including women engaged in the sex trade.<sup>91</sup>
- That Provincial Government direct the Director of Police Services to consult with the BC Association of Municipal Chiefs of Police, the RCMP and community representatives to recommend the wording of a statutory provision on the legal duty to warn and a protocol on how it should be interpreted and applied.<sup>92</sup>
- That all police forces in British Columbia consider developing and implementing guidelines on the model of the Vancouver Police Department's Sex Work Enforcement Guidelines in consultation with women engaged in the sex trade in their jurisdiction.<sup>93</sup>
- That the Minister of Justice consult with the judiciary, police and community representatives to develop a protocol providing the police with the discretion not to enforce a warrant in a circumstance where a sex trade worker is attempting to report a violent crime.<sup>94</sup>

### **Aboriginal Justice Inquiry**

- Police forces establish family abuse teams which include police officers and social workers trained in dealing with domestic disputes. Such teams should make extensive use of electronic record-keeping and community resources.<sup>95</sup>

### **Amnesty International: Stolen Sisters**

- As part of ongoing review and implementation of laws regarding the sex trade in Canada, give police clear instructions to ensure that the fundamental rights of women involved in the sex trade are protected in the course of all law enforcement activities.<sup>96</sup>
- All police officers should receive adequate training to ensure an understanding of violence against women in a range of settings including family violence, child sexual exploitation, and violence against women in the sex trade.<sup>97</sup>

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90 Committee on Violence Against Indigenous Women 2.

91 Missing Women Inquiry 4.4.

92 Missing Women Inquiry 4.6.

93 Missing Women Inquiry 5.8.

94 Missing Women Inquiry 5.11.

95 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Aboriginal Women, "The Abuse of Women and Children, at third bullet from top.

96 Stolen Sisters, Recommendation 3.

97 Stolen Sisters, Recommendation 4.

- Clear policies and practices should be established with respect to the timely provision of information, including autopsy results and coroners reports, to the families of missing and murdered persons.<sup>98</sup>
- Officers found to have failed to act on reports of missing women, or to have carried out biased or inadequate investigation of violence against women, should be subject to appropriate discipline.<sup>99</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- More explicit legislation, direction, and officer empowerment needs to be created to aid in the pursuit and successful prosecution of traffickers, pimps, and other purveyors of trafficked and sexually exploited women and girls.<sup>100</sup>

### Intergovernmental Missing Women Working Group Report

- The MWWG recommends that jurisdictions support justice agencies in developing plans for supporting those who have close contact with offensive material in cases involving missing and murdered women given the disturbing nature of these files.<sup>101</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- Canada should establish or strengthen accountability mechanisms – preferably through independent bodies – for officials handling investigations and prosecutions, and should provide legal aid and support services to families of MMIWG.<sup>102</sup>
- It is recommended that there be adequate oversight of officials responsible for responding to and investigating crimes of violence against women, and for ensuring that administrative, disciplinary and criminal measures are available to hold such officials accountable.<sup>103</sup>
- It is also recommended that indigenous women and their relatives who are seeking assistance from officials be provided with an available and effective procedure to file complaints in the case of noncompliance by such officials with their duties under the law, and information on how to initiate and pursue that procedure.<sup>104</sup>

### CEDAW Report

- Standardized, mandatory protocols for police agencies on how to respond to cases of missing and murdered Aboriginal women, including that: any person can report in any jurisdiction, police officers take seriously all reports, and the police regularly communicate with families of

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98 Stolen Sisters, recommendation 4.

99 Ibid.

100 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 66.

101 Intergovernmental Missing Women Working Group Report, recommendation #52.

102 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 124.

103 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 125.

104 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 125.

missing women.<sup>105</sup>

## **F. Prevention of Repeat Offences**

### **Intergovernmental Missing Women Working Group Report**

- The MWWG recommends that FPT Ministers Responsible for Justice, in cooperation with other partners, should continue to provide adequate levels of monitoring, social support, and intervention to sex offenders to interrupt patterns of serial predation.<sup>106</sup>
- The MWWG recommends that jurisdictions support the use of risk assessment and monitoring of serious offenders, and support the work of Corrections authorities to continue to work towards improving these approaches.<sup>107</sup>
- The MWWG recommends that jurisdictions provide support to justice institutions, including correctional facilities and forensic psychiatric institutions, to develop and implement research-based therapeutic interventions that have the potential to interrupt paraphilic fantasies and the escalation of violence in sexual offenders.<sup>108</sup>

### **TRC Report**

- We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.<sup>109</sup>
- We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.<sup>110</sup>

## **G. Addressing the Over-Representation of Indigenous People in the Criminal Justice System**

### **Missing And Murdered Indigenous Women in British Columbia, Canada**

- It is recommended that the social and economic marginalization of Indigenous women be tackled by addressing the disproportionate application of criminal law to Indigenous people.<sup>111</sup>

### **CEDAW Report**

- Work with Aboriginal women's representatives to create strategies for increasing access to justice for Aboriginal women, and to address the over-representation of Aboriginal women involved with the criminal justice system.<sup>112</sup>

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105 CEDAW Report 47- 48.

106 Intergovernmental Missing Women Working Group Report, recommendation #6.

107 Intergovernmental Missing Women Working Group Report, recommendation #10.

108 Intergovernmental Missing Women Working Group Report, recommendation #12.

109 TRC Report, 220.

110 TRC Report, 224.

111 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

112 CEDAW Report 49.

- Address conditions and practices that result in over-criminalization and over-incarceration of Aboriginal women and girls, especially those based on institutionalized stereotyping.<sup>113</sup>

### TRC Report

- We call upon federal, provincial, and territorial governments to commit to eliminating the over-representation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.<sup>114</sup>
- We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the over-representation of Aboriginal youth in custody over the next decade.<sup>115</sup>

## **H. Aboriginal Justice Systems**

### TRC Report

- We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.<sup>116</sup>
- In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.<sup>117</sup>

## **MISSING PERSONS INVESTIGATIONS**

### **Summary**

Generally, recommendations focus on creating standards for policing and investigations of cases relating to MMIWG particularly as it relates to in-take of missing person cases. The recommendations also point to the need for additional training for police personnel and increased information sharing and communication with the families and media.

### **A. Investigation Standards and Procedures**

#### Missing Women Commission of Inquiry

- That the provincial standards be developed by the Director of Police Services with the assistance of a committee consisting of representatives of the BC Association of Municipal Police Chiefs, the RCMP, representatives of community and Aboriginal groups, and

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<sup>113</sup> CEDAW Report 49.

<sup>114</sup> TRC Report, 219.

<sup>115</sup> TRC Report, 225.

<sup>116</sup> TRC Report, 228.

<sup>117</sup> TRC Report, 260.

representatives of families of the missing and murdered women.<sup>118</sup>

- That proposed provincial missing persons standards include at least 15 components:
  - Definition of “missing person”;
  - Criteria for the acceptance of reports;
  - Jurisdiction;
  - Missing Person Risk Assessment Tool;
  - Provincial Missing Person Reporting Form;
  - Standards related to interaction with family/reportees;
  - Initial steps – background information;
  - Supervisory responsibility/quality control;
  - Forensic evidence standards;
  - Coroners’ Liaison;
  - Monitoring outstanding missing person cases;
  - Automatic annual review of unsolved cases;
  - Closing missing person files;
  - Prevention and intervention; and
  - The role and authority of the BCPMPC.<sup>119</sup>
- That the provincial standards require a proactive missing persons process whereby police must take prevention and intervention measures including “safe and well” checks when an individual is found.<sup>120</sup>
- That best practice protocols be established for:
  - enhanced victimology analysis of missing persons;
  - investigative steps in missing person cases;
  - collaborative missing person investigations collection;
  - storage and analysis of missing persons data; and,
  - training specific to missing person investigations.<sup>121</sup>
- That the Provincial Government establish a provincial partnership committee on missing persons to facilitate the collaboration of key players in the ongoing development of best practice protocols for missing person cases. The committee should be chaired by a senior government official and include representatives of the missing and murdered women’s families, Aboriginal

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118 Missing Women Inquiry 7.1.

119 Missing Women Inquiry 7.2.

120 Missing Women Inquiry 7.3.

121 Missing Women Inquiry 7.4.

organizations, community groups, service providers, police, and Victim Services.<sup>122</sup>

- That the Provincial Government establish an agency independent of all police agencies with the purposes to include co-ordinating information, identifying patterns, establishing base rates, checking on police investigations, ensuring accountability for linked inter-jurisdictional series, and warning the public. It should provide oversight and analytic functions, but it should not be an investigating entity.<sup>123</sup>

### Amnesty International: Stolen Sisters

- Police forces should provide specialized staffing to review and coordinate responses to missing persons cases.<sup>124</sup>

### Intergovernmental Missing Women Working Group Report

- In order to increase the likelihood that disappearance of marginalized women will be reported in a timely fashion, the MWWG recommends that jurisdictions encourage police to develop specialized positions within police agencies so that:
  - Knowledgeable personnel are given clear responsibility for contact with families and the public in missing person reports; and
  - Identified police personnel can link with vulnerable communities to increase awareness about reporting missing persons, specifically to:
    - let people know that the reporting of a missing person is not limited to immediate family members; and,
    - reassure individuals who may be associated with criminal lifestyles that they can access police services and report a disappearance without fear of arrest.<sup>125</sup>
- The MWWG encourages the FPT Ministers Responsible for Justice to ensure that police in their respective jurisdictions create appropriate standards for missing person cases, including that:
  - A report is taken immediately when information comes to the attention of police, regardless of the length of time the person has been missing or the location where the person went missing; and,
  - A standardized specialized in-take form for recording a missing person report and a specialized investigative checklist is used.<sup>126</sup>
- The MWWG recommends that jurisdictions support and encourage police to develop, as recommended in the Saskatchewan Provincial Partnership Committee on Missing Persons:
  - A common assessment tool to help assess the priority of the investigation; and,
  - A practice of entering cases on CPIC as soon as possible after it is established that the

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122 Missing Women Inquiry 7.5.

123 Missing Women Inquiry 7.6.

124 Stolen Sisters, recommendation 2.

125 Intergovernmental Missing Women Working Group Report, recommendation #14.

126 Intergovernmental Missing Women Working Group Report, recommendation #18.

person is missing.<sup>127</sup>

- The MWWG recommends that jurisdictions:
  - review the police response to missing Aboriginal person cases to understand barriers (cultural and systemic) to reporting and investigation and determine how police responses could be improved; and,
  - Encourage police to consider the need to develop standardized police intake forms and appropriate assessment criteria based on the risk profile of Aboriginal women to ensure an appropriate and consistent police response.<sup>128</sup>
- The MWWG recommends that cases matching the profile of women particularly vulnerable to serial predators be flagged as priority cases when a missing persons report is received.<sup>129</sup>
- The MWWG recommends that jurisdictions consider the provision of targeted funding to police agencies to ensure that there are adequate resources for dealing with cold case files.<sup>130</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that data collection systems be developed that collect accurate information on MMIWG, by consistently capturing the race of victims. It is also recommended that the state respond appropriately when a missing person report is filed, particularly for an Indigenous woman.<sup>131</sup>

### CEDAW Report

- Missing and murdered women cases should be duly investigated and prosecuted.<sup>132</sup>
- Systematically collect data, disaggregated by ethnicity of victims and offenders, on all forms of violence against women. Include information on Aboriginal women engaged in prostitution, trafficked women, and missing and murdered women. Make such data collection mandatory for all police detachments.<sup>133</sup>

## **B. Information Sharing**

### Special Committee on Violence Against Indigenous Women

- That the federal government implement a national DNA-based missing person's index.<sup>134</sup>
- That the federal government engage Aboriginal communities and municipal, provincial, and territorial governments to examine options to improving procedures among police services to

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127 Intergovernmental Missing Women Working Group Report, recommendation #19.

128 Intergovernmental Missing Women Working Group Report, recommendation #27.

129 Intergovernmental Missing Women Working Group Report, recommendation #30.

130 Intergovernmental Missing Women Working Group Report, recommendation #39.

131 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 124.

132 CEDAW Report 47.

133 CEDAW Report 48.

134 Committee on Violence Against Indigenous Women 4 (See also Oppal 8.5).

facilitate multi-partite investigations.<sup>135</sup>

### Missing Women Commission of Inquiry

- That provincial authorities create and maintain a provincial missing person website aimed at educating the public about the missing persons process and engaging them in proactive approaches to prevention and investigation.<sup>136</sup>
- That provincial authorities establish a provincial 1-800 phone number for the taking of missing person reports and accessing case information.<sup>137</sup>
- That representatives of the media be invited to be members of the provincial partnership committee and that the committee should develop a protocol on issues related to the role of the media in missing person investigations.<sup>138</sup>
- That Provincial Government enact missing persons legislation to grant speedy access to personal information of missing persons without unduly infringing on privacy rights. I recommend the adoption of single purpose legislation, as in Alberta and Manitoba, with a provision for a comprehensive review of the operation of the Act after five years.<sup>139</sup>
- That Provincial Government take active steps to support the development of a National DNA Missing Persons Index and to assist in overcoming the impasse on outstanding concerns over its creation and operationalization.<sup>140</sup>

### Intergovernmental Missing Women Working Group Report

- The MWWG recommends that Ministers ask the Canadian Association of Chiefs of Police to consider a national strategy to ensure consistency in reporting mechanisms for reporting missing persons. This could be developed in conjunction with implementation of a national data base.<sup>141</sup>
- The MWWG recommends that Federal, Provincial and Territorial governments consider the need for legislation that would allow police access to personal information of persons reported missing.<sup>142</sup>
- The MWWG recommends that FPT Ministers Responsible for Justice support, as a priority, the work of the Multi-Provincial Strategy on Missing Persons & Unidentified Remains to establish a national missing person database containing both police missing person information and information on unidentified human remains. This database should be accessible to and searchable by both police and coroners or medical examiners, with designated sections accessible to the public by website.<sup>143</sup>

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135 Committee on Violence Against Indigenous Women 11.

136 Missing Women Inquiry 7.7.

137 Missing Women Inquiry 7.8.

138 Missing Women Inquiry 7.10.

139 Missing Women Inquiry 8.1.

140 Missing Women Inquiry 8.5 (See also SCVAIW 4).

141 Intergovernmental Missing Women Working Group Report, recommendation #13.

142 Intergovernmental Missing Women Working Group Report, recommendation #20

143 Intergovernmental Missing Women Working Group Report, recommendation #22.



## CEDAW Report

- Develop mechanisms to ensure coordination among law enforcement agencies.<sup>144</sup>

## TRC Report

- We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.<sup>145</sup>
- We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.<sup>146</sup>
- We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.<sup>147</sup>

## **C. Communication with Families and Media**

### **Families**

#### **Intergovernmental Missing Women Working Group Report**

- The MWWG supports the Saskatchewan Final Report of the Provincial Partnership Committee on Missing Persons in urging that police continually communicate with families of missing persons in order to provide ongoing updates to them on the status of the case.<sup>148</sup>
- The MWWG supports the recommendation made in the Saskatchewan Provincial Partnership Committee on Missing Persons Report that tools be created for use as an information resource for families of the missing and/or murdered, such as a simple checklist for families to follow that outlines actions they can or should take during investigation and prosecution of the case.<sup>149</sup>
- Building on recommendations in the Saskatchewan Report, the MWWG recommends that consideration be given to an expansion of the Victims Services mandate to include provision of support to families of missing persons, and that protocol be developed between police and victim services for engagement and support of the families once that need has been identified.<sup>150</sup>
- The MWWG recommends that jurisdictions encourage and support, as appropriate, police services to consider using an Aboriginal liaison officer to work with Aboriginal families, wherever possible, and police and Aboriginal organizations/agencies to develop and implement

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144 CEDAW Report 48.

145 TRC Report, 310.

146 TRC Report, 310.

147 TRC Report, 310.

148 Intergovernmental Missing Women Working Group Report, recommendation #15.

149 Intergovernmental Missing Women Working Group Report, recommendation #16.

150 Intergovernmental Missing Women Working Group Report, recommendation #17.

protocols for working together and with Aboriginal families and communities.<sup>151</sup>

- The MWWG recommends that Heads of Prosecution and the FPT Working Group on Victims participate in the development of and distribution of best practices for police, prosecutors and Victims Services respectively to use when dealing with victims' families, witnesses and the media in missing and murdered persons cases.<sup>152</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- Canada should give special judicial protection to family members, particularly by improving mechanisms to ensure that such parties have access to information about the development of the investigation and about their rights in legal proceedings. The state should guarantee that family members or other affected parties can obtain legal aid that is effective and with which these parties feel comfortable.<sup>153</sup>

## **Media**

### Intergovernmental Missing Women Working Group Report

- The MWWG recommends that jurisdictions support the recommendations of the Saskatchewan Provincial Partnership Committee on Missing Persons regarding linkage with the public and non-police agencies, that a media and public communications protocol should be established to disseminate information about missing persons and to request the public's help in locating a missing person.<sup>154</sup>
- The MWWG recommends that jurisdictions encourage police investigators involved in cases of missing or murdered women to design and implement effective media plans in order to ensure proactive and strategic use of media sources for educating and soliciting information from the public concerning details of the investigation.<sup>155</sup>

### CEDAW Report

- CEDAW recommends that the state take effective measures to ensure that the media promote respect for Aboriginal women, including through the development of best practices to improve the portrayal of Aboriginal women in the media.<sup>156</sup>

## **POVERTY**

### **Summary**

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151 Intergovernmental Missing Women Working Group Report, recommendation #44.

152 Intergovernmental Missing Women Working Group Report, recommendation #47.

153 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 124.

154 Intergovernmental Missing Women Working Group Report, recommendation #25.

155 Intergovernmental Missing Women Working Group Report, recommendation #45.

156 CEDAW Report 51.

These recommendations recognize that poverty is a major source of insecurity and disadvantage which contributes to the vulnerability of aboriginal women and girls. Special attention is given to the need for adequate shelter and employment opportunities.

## **A. Poverty Reduction Measures**

### **Special Committee on Violence Against Indigenous Women**

- That the federal government examine options to address poverty as a root cause of violence against Aboriginal women and girls by empowering Aboriginal people through economic development opportunities and jobs and skills training.<sup>157</sup>

### **Ombudsman's Report on Manitoba's Employment and Income Assistance Program**

- It is recommended that anyone be able to apply for EIA without the need for prerequisite activities such as job searches and that program policy on this subject be clarified for field staff.<sup>158</sup>
- It is recommended that for people who are permanently disabled and exempted from employment expectations, such as those in the Supported Living Program and those eligible for CPP disability benefits, long term disability benefits be paid in amounts sufficient to meet the cost of their basic necessities, which would include predictable recurring needs arising from their disabilities.<sup>159</sup>

### **Phoenix Sinclair Inquiry**

- That the Province closely examine the 2009 report, *The View From Here: Manitobans Call for a Poverty Reduction Plan*, with a view to implementing the outstanding recommendations, paying particular attention to the area of adult education.<sup>160</sup>

### **Amnesty International: Stolen Sisters Report**

- The federal government should commit to fully implementing outstanding recommendations of the Royal Commission on Aboriginal Peoples which address poverty and social marginalization of Indigenous people in Canada, as has repeatedly been urged by United Nations treaty bodies.<sup>161</sup>

### **Missing And Murdered Indigenous Women in British Columbia, Canada**

- It is recommended that the social and economic marginalization of Indigenous women be addressed by combating poverty.<sup>162</sup>

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<sup>157</sup> Committee on Violence Against Indigenous Women 7.

<sup>158</sup> Manitoba Ombudsman's Report, Recommendation 11.

<sup>159</sup> Manitoba Ombudsman's Report, Recommendation 30.

<sup>160</sup> Phoenix Sinclair Inquiry 50.

<sup>161</sup> Stolen Sisters, Recommendation 5.

<sup>162</sup> Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

## CEDAW Report

- Take comprehensive measures to improve living conditions on and off-reserve.<sup>163</sup>
- Collect data, disaggregated by sex and Aboriginal status, on socioeconomic conditions of Aboriginal communities.<sup>164</sup>
- Develop strategies to address poverty, food security, housing, education, employment, health services, and safe transport.<sup>165</sup>

## **B. Insufficient and Unsafe Housing**

### Phoenix Sinclair Inquiry

- That the Province take the lead to work in concert with the federal and municipal governments, First Nations, and the private sector to develop further strategies to increase availability of a variety of affordable housing, including incentives and supports for landlords, developers, and community-based housing associations.<sup>166</sup>
- That social assistance housing allowances be increased to at least 75% of the median market rate.<sup>167</sup>

### Ombudsman's Report on Manitoba's Employment and Income Assistance Program

- It is recommended that no Manitoba resident be denied the opportunity to apply for EIA benefits due to the lack of an address.<sup>168</sup>
- It is recommended that the department institute a formal, documented process for reviewing and making recommendations for periodically updating basic and shelter rates, income and asset exemptions, and other income assistance allowances in a logical and equitable manner. It is recommended that in that process, program staff be consulted.<sup>169</sup>

### Bringing Our Children Home Report and Recommendations

- That First Nations leadership adapt Housing Policies to meet family reunification needs first and to keep children in the community; and that [Manitoba's] Chiefs-in-Assembly support the expansion of the Eagle Urban Transition Centre to include supports for youth and families involved with Child Welfare and to establish an Eagle Urban Transition Centre in Northern Manitoba inclusive of all services.<sup>170</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Aboriginal women and girls need safe housing and safe spaces; homelessness and a lack of safe

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163 CEDAW Report 50.

164 CEDAW Report 50.

165 CEDAW Report 50.

166 Phoenix Sinclair Inquiry 49.

167 Phoenix Sinclair Inquiry 51.

168 Manitoba Ombudsman's Report, Recommendation 10.

169 Manitoba Ombudsman's Report, Recommendation 32.

170 Assembly of Manitoba Chiefs, "Bringing Our Children Home: Report and Recommendations," Recommendation 9.

places greatly increase the vulnerability of these women and girls. Immediate funding and long-term support are needed to provide for this housing shortage.<sup>171</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that the social and economic marginalization of Indigenous women be addressed by providing access to adequate housing.<sup>172</sup>

## **C. Unemployment and Underemployment**

### Royal Commission on Aboriginal Peoples

- The cost of affirmative action programs and services to address economic and social disadvantage affecting urban Aboriginal people be shared by the federal, provincial and territorial governments on the basis of a formula basis that reflects provincial/territorial fiscal capacity.<sup>173</sup>
- Federal, provincial and territorial governments commit themselves to providing the necessary funding, consistent with their jurisdictional responsibilities:
  - to implement and co-ordinate a comprehensive human resources development strategy;
  - to train 10,000 Aboriginal professionals over a 10-year period in health and social services, including medicine, nursing, mental health, psychology, social work, dentistry, nutrition, addictions, gerontology, public health, community development, planning, health administration, and other priority areas identified by Aboriginal people;
  - to support program development in educational institutions providing professional training, with preference given to Aboriginal institutions; and,
  - to ensure that student support through post-secondary educational assistance, scholarships, paid leave and other means is adequate to achieve the target.<sup>174</sup>

### Ombudsman's Report on Manitoba's Employment and Income Assistance Program

- It is recommended that the department develop a plan to provide intensive case management for people with multiple persistent barriers, to assess all barriers to employment and what supports are necessary to overcome those barriers. It is recommended that barriers should include social barriers, in addition to temporary disabilities or illness.<sup>175</sup>
- It is recommended that a comprehensive assessment tool be developed and used to assess each applicant to ensure that invisible barriers to employment are disclosed. It is recommended that staff receive training in the comprehensive assessment tool.<sup>176</sup>
- It is recommended that program policy around work expectations be revised to reflect the need

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171 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 66.

172 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

173 RCAP 4.7.4.

174 RCAP 3.3.14.

175 Manitoba Ombudsman's Report, Recommendation 25.

176 Manitoba Ombudsman's Report, Recommendation 26.

to assist participants in identifying and overcoming barriers to employment.<sup>177</sup>

- It is recommended that the program consider how to foster employment readiness for disability participants and sole support parents who are currently exempted from employment expectations, and address any barriers arising from disability or family responsibility, such as deficiencies in education or the lack of child care.<sup>178</sup>

### Amnesty International: Stolen Sisters

- In collaboration with Indigenous representatives and organizations, the federal government should take urgent action to address the chronic unemployment and poverty faced by Indigenous women and men both on and off reserve.<sup>179</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that the social and economic marginalization of Indigenous women be addressed by improving employment opportunities.<sup>180</sup>

## **GENDER INEQUALITY**

### **Summary**

Recommendations are aimed at addressing the unique economic and political disadvantages Aboriginal women face due to their gender and race. Most of the recommendations are intended to remove barriers to equal employment and political voice. Particular attention is paid to the need for research and greater involvement in politics, health and social services.

### **A. Employment and Opportunity Equity**

#### Royal Commission on Aboriginal Peoples

- Aboriginal governments and organizations provide for the full and fair participation of Aboriginal women in the governing bodies of all Aboriginal health and healing institutions.<sup>181</sup>
- The full and equal participation of women be ensured in decision-making bodies responsible for ensuring people's physical and emotional security, including justice committees and boards of directors of healing centres and lodges.<sup>182</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Implement a national action plan on addressing the systemic poverty of Aboriginal women and contributing factors; the national action plan should include skills development, training,

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177 Manitoba Ombudsman's Report, Recommendation 27.

178 Manitoba Ombudsman's Report, Recommendation 28.

179 Stolen Sisters, recommendation 5.

180 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

181 RCAP 4.2.2.

182 RCAP 3.2.8.

economic development, micro and macro lending for businesses, financial literacy training, child care, and family supports for Aboriginal women to engage in the economy.<sup>183</sup>

## **B. Research and Other Initiatives**

### **Royal Commission on Aboriginal Peoples**

- The government of Canada provides funding to Aboriginal women's organizations, including urban-based groups, to:
  - improve their research capacity and facilitate their participation in all stages of discussion leading to the design and development of self-government processes; and
  - enable them to participate fully in all aspects of nation building, including developing criteria for citizenship and related appeal processes.<sup>184</sup>
- The government of Canada provide funds to the national Aboriginal organizations, including national Aboriginal women's organizations, to permit them to prepare a comprehensive human resources development strategy in health and social services that:
  - facilitates and draws upon regional initiatives, integrates information from diverse sources, and is structured to incorporate regular updating;
  - builds an inventory of Aboriginal human resources currently available in health and social services, identifying where, in what field and at what level Aboriginal personnel are currently practising;
  - assesses current and future Aboriginal human resources needs and identifies the actions needed on the part of governments, educational institutions and others to address these needs;
  - assesses requirements for direct service personnel as well as for planners, researchers and administrators;
  - collates an inventory and available evaluative data on training and education options;
  - explores recruitment, training and retention issues;
  - examines the personal and professional supports required to encourage Aboriginal professionals to practise in Aboriginal communities;
  - develops proposals for a system to monitor the status of Aboriginal human resources; and
  - develops an analysis of how, to the maximum extent possible, Aboriginal human resources development can be brought under Aboriginal control.<sup>185</sup>

### **Aboriginal Justice Inquiry**

- The *Indian Act* be amended to provide for the equal division of property upon marriage

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183 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64.

184 RCAP 4.2.1.

185 RCAP 3.3.13.

breakdown.<sup>186</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Increase research focused on Aboriginal women and girls in Canada's domestic trafficking, and shed the pan-Aboriginal approach for more regionally and culturally specific research to address the varied needs of all Inuit, Métis, and First Nation women and girls accordingly.<sup>187</sup>
- Increase funding supports to Aboriginal communities and encourage partnerships between Aboriginal communities' leadership and relevant stakeholders on issues of sexual exploitation and human trafficking to help them develop local, relevant initiatives for the given needs of their communities on the issue of sexual exploitation and trafficking.<sup>188</sup>

### CEDAW Report

- Amend the *Indian Act* to eliminate its sexist components.<sup>189</sup>

## **ADDRESSING THE LEGACY OF RACISM AND ASSIMILATION MEASURES**

### **Summary**

Recommendations are aimed at acknowledging and ameliorating the inter-generational effects of racism and assimilation efforts. Particularly, the recommendations acknowledge the importance of self-determination and self-governance, especially in the area of family law. The need for education and health initiatives designed by and for Aboriginal people is also recognized.

### **A. Restoring Aboriginal Jurisdiction Over Family Law**

#### Royal Commission on Aboriginal Peoples

- Federal, provincial and territorial governments acknowledge the validity of Aboriginal customary law in areas of family law, such as marriage, divorce, child custody and adoption, and amend their legislation accordingly.<sup>190</sup>
- With a view to self-starting initiatives in the family law area or to self-government, Aboriginal nations or communities establish committees, with women as full participants, to study issues such as:
  - the interests of family members in family assets;
  - the division of family assets on marriage breakdown;
  - factors to be considered in relation to the best interests of the child, as the principle is applicable to Aboriginal custody and adoption;

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186 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Aboriginal Women, "The Abuse of Women and Children" at first bullet.

187 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64.

188 Ibid.

189 CEDAW Report 51.

190 RCAP 3.2.11.



- rights of inheritance pertaining to wills, estates or intestacy; and
- obligations of spousal and child support.<sup>191</sup>

## **B. Self-Government Initiatives**

### **Royal Commission on Aboriginal Peoples**

- Nation-based urban governance initiatives be pursued by nations when they have sufficient capacity to assume governance responsibility for the needs and interests of urban Aboriginal citizens.<sup>192</sup>

## **C. Aboriginal Health and Healing**

### **Missing Women Commission of Inquiry**

- That Provincial Government provide additional funding to Aboriginal women's organizations to provide more safe houses and counselling programs run for and by Aboriginal women and youth.<sup>193</sup>

### **Royal Commission on Aboriginal Peoples**

- Governments and organizations collaborate in carrying out a comprehensive action plan on Aboriginal health and social conditions, consisting of the following components:
  - development of a system of Aboriginal healing centres and healing lodges under Aboriginal control as the prime units of holistic and culture-based health and wellness services;
  - development of Aboriginal human resources compatible with the new system, its values and assumptions;
  - full and active support of mainstream health and social service authorities and providers in meeting the health and healing goals of Aboriginal people; and
  - implementation of an Aboriginal community infrastructure development program to address the most immediate health threats in Aboriginal communities, including the provision of clean water, basic sanitation facilities, and safe housing.<sup>194</sup>

### **CEDAW Report**

- Support Aboriginal culture and initiatives that foster pride and self-esteem in Aboriginal identity.<sup>195</sup>

### **TRC Report**

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<sup>191</sup> RCAP 3.2.13.

<sup>192</sup> RCAP 4.7.23, See also recommendations regarding self-government in family law at 3.2.11 and 3.2.13.

<sup>193</sup> Missing Women Inquiry 6.4.

<sup>194</sup> RCAP 3.3.5.

<sup>195</sup> CEDAW Report 50.

- We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law and constitutional law, and under the Treaties.<sup>196</sup>
- We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.<sup>197</sup>
- In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.<sup>198</sup>
- We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.<sup>199</sup>
- We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.<sup>200</sup>
- We call upon all levels of government to:
  - Increase the number of Aboriginal professionals working in the health-care field;
  - Ensure the retention of Aboriginal health-care providers in Aboriginal communities; and
  - Provide cultural competency training for all health-care professionals.<sup>201</sup>
- We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.<sup>202</sup>
- We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.<sup>203</sup>

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196 TRC Report, 207.

197 TRC Report, 208.

198 TRC Report, 210.

199 TRC Report, 210.

200 TRC Report, 210.

201 TRC Report, 211.

202 TRC Report, 211.

203 TRC Report, 221.

- We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
  - Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD;
  - Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD;
  - Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community; and,
  - Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.<sup>204</sup>
- We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.<sup>205</sup>

## **D. Research and Education on Legacy**

### **Royal Commission on Aboriginal Peoples**

- The federal government establish and fund a national urban Aboriginal cultural education program designed for Aboriginal and non-Aboriginal people in large urban centres across Canada, to be generally administered by friendship centres.<sup>206</sup>
- Aboriginal, federal, provincial and territorial governments acknowledge the essential role of Elders and the traditional knowledge that they have to contribute in rebuilding Aboriginal nations and reconstructing institutions to support Aboriginal self-determination and well-being. This acknowledgement should be expressed in practice by:
  - involving Elders in conceptualizing, planning and monitoring nation-building activities and institutional development;
  - ensuring that the knowledge of both male and female Elders, as appropriate, is engaged in such activities;
  - compensating Elders in a manner that conforms to cultural practices and recognizes their expertise and contribution;
  - supporting gatherings and networks of Elders to share knowledge and experience with each other and to explore applications of traditional knowledge to contemporary issues; and
  - modifying regulations in non-Aboriginal institutions that have the effect of excluding the participation of Elders on the basis of age.<sup>207</sup>

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204 TRC Report, 222.

205 TRC Report, 223.

206 RCAP 4.7.16

207 RCAP 4.3.1

## Amnesty International: Stolen Sisters

- The federal government should provide adequate, sustained, multi-year funding for initiatives to deal with the immediate and inter-generational impacts of both the physical and psychological abuse suffered at residential schools, including the loss of cultural identity.<sup>208</sup>
- The federal government should request the United Nations' Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people and Special Rapporteur on violence against women, its causes and consequences, to jointly study and document patterns of violence against Indigenous women, including in Canada.<sup>209</sup>

## CEDAW Report

- Conduct education campaigns in schools and the civil service on colonialism, its impact on Aboriginal communities, and racism.<sup>210</sup>

## TRC Report

- We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.<sup>211</sup>
- We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.<sup>212</sup>
- We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.<sup>213</sup>
- We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.<sup>214</sup>
- We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the

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208 Stolen Sisters, recommendation 5.

209 Stolen Sisters, recommendation 2.

210 CEDAW Report 50.

211 TRC Report, 254.

212 TRC Report, 254.

213 TRC Report, 271.

214 TRC Report, 276.

church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.<sup>215</sup>

- We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:
  - Community-controlled healing and reconciliation projects;
  - Community-controlled culture- and language-revitalization projects;
  - Community-controlled education and relationship-building projects; and
  - Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.<sup>216</sup>
- We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:
  - Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students;
  - Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms;
  - Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms; and
  - Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.<sup>217</sup>
- We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
  - Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools;
  - Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history;
  - Building student capacity for intercultural understanding, empathy, and mutual respect; and
  - Identifying teacher-training needs relating to the above.<sup>218</sup>
- We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on Aboriginal spiritual beliefs and practices developed in collaboration with

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215 TRC Report, 283.

216 TRC Report, 285.

217 TRC Report, 289.

218 TRC Report, 290.

Aboriginal Elders.<sup>219</sup>

- We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.<sup>220</sup>

## **SOCIAL SERVICES**

### **Summary**

Recommendations concerning the provision of programs and social services that promote safe communities and healthy individuals. These include education, youth programming, counselling, violence and drug addiction recovery. Many of the recommendations focus on improving the administration of existing services through secured funding, accessibility, greater aboriginal involvement and training. Many of the recommendations recognize that programs specific to Aboriginal peoples are needed. Special attention is given to the necessity for culturally appropriate education and youth programming that provide a supportive social network and instill a positive sense of identity.

### **A. Community Supports and Counselling**

#### **Special Committee on Violence Against Indigenous Women**

- That the federal government continue to support programming and legislation that allow Aboriginal communities to respond to violence.<sup>221</sup>
- That in implementing the public awareness strategy on substance abuse, the federal government target support to Aboriginal communities.<sup>222</sup>
- That the federal government examine opportunities to improve the incorporation of best practices into existing programs and services available to Aboriginal women and girls.<sup>223</sup>

#### **Phoenix Sinclair Inquiry**

- That the Authorities enhance availability of voluntary early intervention services by placing workers in schools, community centres, housing developments, and any other community facilities where they would be easily accessible.<sup>224</sup>
- That the capacity of community-based organizations be enhanced by provision of sustained long-term funding to allow for delivery of holistic services, with particular emphasis on support for Aboriginal-led organizations and programs that promote cultural identity within Aboriginal

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219 TRC Report, 290.

220 TRC Report, 293.

221 Committee on Violence Against Indigenous Women 6.

222 Committee on Violence Against Indigenous Women 14.

223 Committee on Violence Against Indigenous Women 15.

224 Phoenix Sinclair Inquiry 7.

communities.<sup>225</sup>

- The legislative framework for delivery of early childhood development programs should also provide for establishment of integrated service delivery centres to provide a range of services in addition to early childhood education, including public health, employment and income assistance, housing, child welfare, and adult education. These integrated service centres should be located in existing infrastructures such as schools or facilities that house community-based organizations.<sup>226</sup>
- That government funding to support integrated service delivery centres be allocated, following meaningful and inclusive consultation, by a committee that mirrors the committee described by s. 21(3) of *The Healthy Child Manitoba Act* and reflects Manitoba's various regions and cultural diversity, including representatives of the community and recognized experts.<sup>227</sup>

### Missing Women Commission of Inquiry

- That Provincial Government undertake a community consultation, needs assessment and feasibility study concerning the re-establishment of an independent society comparable to the former Vancouver Police Native Liaison Society.<sup>228</sup>
- That Provincial Government provide additional funding to Aboriginal women's organizations to provide more safe houses and counselling programs run for and by Aboriginal women and youth.<sup>229</sup>

### Royal Commission on Aboriginal Peoples

- Aboriginal cultural identity be supported and enhanced in urban areas by:
  - Aboriginal, municipal, territorial, provincial and federal governments initiating programs to increase opportunities to promote Aboriginal culture in urban communities, including means to increase access to Aboriginal elders;
  - municipal governments and institutions and Aboriginal elders co-operating to find ways of facilitating Aboriginal spiritual practices in the urban environment; and
  - all governments co-operating to set aside land in urban areas dedicated to Aboriginal cultural and spiritual needs.<sup>230</sup>
- The federal government be responsible for:
  - the costs associated with developing, implementing and operating Aboriginal self-government initiatives on and off a land base through program funding and fiscal arrangements;
  - programs, services and treaty entitlements for Aboriginal people living on reserves or extended Aboriginal territories;

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225 Phoenix Sinclair Inquiry 55.

226 Phoenix Sinclair Inquiry 60.

227 Phoenix Sinclair Inquiry 61.

228 Missing Women Inquiry 5.6.

229 Missing Women Inquiry 6.4.

230 RCAP 4.7.1.

- treaty entitlements or agreed upon social programs such as financial assistance for post-secondary education and uninsured health benefits for Indian people living off-reserve, to the extent that these exceed the programs or services provided to other residents by the province or territory in which they reside; and
- the cost of services for Métis people agreed to in treaty negotiations, once they have achieved self-government and a land base, including additional payments to Métis people living off their land base to cover benefits agreed to by treaty where those exceed benefits normally available to other provincial residents.<sup>231</sup>
- Provincial and territorial governments be responsible for:
  - providing and financing the programs and services that are available to residents in general, to all Aboriginal people residing in the province or territory, except those resident on-reserve, in Inuit communities or on extended Aboriginal territory;
  - and providing programs and services for Aboriginal people that are culturally appropriate where numbers warrant.<sup>232</sup>
- Federal, provincial and territorial governments ensure that existing and new Aboriginal service institutions have a stable and secure funding base by:
  - making contribution and grant agreements with Aboriginal service institutions for periods of at least five years; and
  - adjusting funding for existing and new Aboriginal and non-Aboriginal agencies to reflect actual services provided and caseloads.<sup>233</sup>
- Aboriginal people and organizations be directly involved in the design, development, delivery and evaluation of all services provided to Aboriginal clients by non-Aboriginal agencies.<sup>234</sup>
- Aboriginal leaders take a firm, public stance in support of the right to freedom from violence of all members in the community, but particularly of women, children, elders, persons with disabilities and others who may be vulnerable, as well as in support of a policy of zero tolerance of actions that violate the physical or emotional safety of Aboriginal persons.<sup>235</sup>

### Amnesty International: Stolen Sisters

- Federal, provincial and territorial governments should ensure adequate, sustained, multi-year funding to ensure the provision of culturally appropriate services such as shelters and counselling for Indigenous women and girls.<sup>236</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Increase funding for culturally relevant support services for women and girls to help them escape trafficking.<sup>237</sup>

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<sup>231</sup> RCAP 4.7.2.

<sup>232</sup> RCAP 4.7.3.

<sup>233</sup> RCAP 4.7.6.

<sup>234</sup> RCAP 4.7.7.

<sup>235</sup> RCAP 3.2.6.

<sup>236</sup> Stolen Sisters, recommendation 3.

<sup>237</sup> NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64.



- Implement long-term tracking of support programs to help measure effective services and success rates.<sup>238</sup>
- As much as is possible and practical, involve experiential survivors in the running of support programs and services. According to previous research, this is one of the best ways to make positive connections with women and girls currently being exploited, which reinforces their own commitment for and belief in changing their lives for the better.<sup>239</sup>
- Provide child care for participants in programs. Many of these women and young girls are attempting to raise children; without adequately providing for their child-care needs, they may be unable to attend or effectively engage with any support programs and services.<sup>240</sup>
- Programs and services must be flexible in their approach. This refers to the multiple obstacles women and girls face in trafficking, such as substance addictions that they acquire to cope with the exploitation. Programs which focus on only one trauma may fail to provide the support needed for these women.<sup>241</sup>
- Workers in this area should follow principles of understanding, compassion, and a non-judgemental attitude. Research shows these to be among the most influential characteristics for connecting with experiential women and girls and successfully supporting them through exiting programs.<sup>242</sup>

### Intergovernmental Missing Women Working Group Report

- As a priority Aboriginal organizations or organizations that work with high-risk Aboriginal populations be funded to support individual or group safety planning awareness and engagement, taking into account, in particular, the specific barriers women face, and their lack of protections on or off reserve.<sup>243</sup>

### Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that support services be provided to all family members of missing and murdered Indigenous women.<sup>244</sup>

### CEDAW Report

- Develop nation-wide consistent standards to harmonize the provision of victim services.<sup>245</sup>
- Significantly enhance the provision of culturally-appropriate violence prevention services.<sup>246</sup>
- Consider adopting a Victims' Bill of Rights aimed at increasing victim services.<sup>247</sup>

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238 Ibid.

239 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 66.

240 Ibid.

241 Ibid.

242 Ibid.

243 Intergovernmental Missing Women Working Group Report, recommendation #3.

244 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 125.

245 CEDAW Report 49.

246 CEDAW Report 49.

247 CEDAW Report 49.

- Provide adequate culturally-sensitive services to support families of missing and murdered women, as well as compensation and reparations.<sup>248</sup>

### TRC Report

- We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.<sup>249</sup>

## **B. Urban Transition**

### Phoenix Sinclair Inquiry

- That supports for families transitioning from First Nation communities to urban centres be expanded and enhanced. To this end, Manitoba should collaborate with First Nations and other levels of government.<sup>250</sup>

### Royal Commission on Aboriginal Peoples

- Aboriginal youth in urban areas need innovative programs to help them bridge the traditional and urban worlds and support their choices about where and how to live.<sup>251</sup>
- Aboriginal cultural identity be supported and enhanced in urban areas by:
  - Aboriginal, municipal, territorial, provincial and federal governments initiating programs to increase opportunities to promote Aboriginal culture in urban communities, including means to increase access to Aboriginal elders;
  - municipal governments and institutions and Aboriginal elders co-operating to find ways of facilitating Aboriginal spiritual practices in the urban environment; and
  - all governments co-operating to set aside land in urban areas dedicated to Aboriginal cultural and spiritual needs.<sup>252</sup>
- The urban citizens of Aboriginal nations be fully consulted and participate in decisions concerning urban governance initiatives pursued by nations.<sup>253</sup>
- Aboriginal nations ensure that their urban citizens' needs and interests are recognized and that mechanisms are instituted to ensure they are represented in the political structures and decision-making processes of the nation.<sup>254</sup>
- Federal, provincial, territorial and municipal governments give full support to Aboriginal nations when they develop and implement urban governance initiatives.<sup>255</sup>

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248 CEDAW Report 48.

249 TRC Report, 223.

250 Phoenix Sinclair Inquiry 52.

251 RCAP 4.4.8.

252 RCAP 4.7.1.

253 RCAP 4.7.24.

254 RCAP 4.7.25.

255 RCAP 4.7.26.

## **C. Aboriginal Involvement in Administering Social Services**

### **Phoenix Sinclair Inquiry**

- That workers be specifically trained on the multi-generational impacts of residential schools and on the role of poverty, poor housing, substance abuse and other social and economic factors in assessments of child neglect.<sup>256</sup>

### **Royal Commission on Aboriginal Peoples**

- Services to Aboriginal people in urban areas generally be delivered without regard to legal or treaty status.<sup>257</sup>
- In addition to cross-cultural training, non-Aboriginal individuals and organizations whose work or responsibilities directly affect urban Aboriginal women's lives receive comprehensive information and education on the situation of urban Aboriginal women.<sup>258</sup>
- Post-secondary educational institutions and professional associations collaborate with Aboriginal organizations to ensure that professionals already in the field have access to programs of continuing professional education that emphasize cultural issues associated with the provision of health and social services.<sup>259</sup>
- Post-secondary educational institutions involved in the training of health and social services professionals, and professional associations involved in regulating and licensing these professions, collaborate with Aboriginal organizations and governments to develop a more effective approach to training and licensing that recognizes the importance and legitimacy of Aboriginal knowledge and experience.<sup>260</sup>

## **D. Training for Service Providers**

### **Phoenix Sinclair Inquiry**

- That workers be specifically trained on the multi-generational impacts of residential schools and on the role of poverty, poor housing, substance abuse and other social and economic factors in assessments of child neglect.<sup>261</sup>

### **Royal Commission on Aboriginal Peoples**

- Staff of non-Aboriginal service agencies directly involved in Aboriginal service delivery be given cross-cultural training delivered by Aboriginal people and organizations and that government funding agreements reflect this obligation.<sup>262</sup>

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256 Phoenix Sinclair Inquiry 29.

257 RCAP 4.7.9.

258 RCAP 4.7.18.

259 RCAP 3.3.17.

260 RCAP 3.3.18.

261 Phoenix Sinclair Inquiry 29.

262 RCAP 4.7.8.

- In addition to cross-cultural training, non-Aboriginal individuals and organizations whose work or responsibilities directly affect urban Aboriginal women's lives receive comprehensive information and education on the situation of urban Aboriginal women.<sup>263</sup>
- Post-secondary educational institutions and professional associations collaborate with Aboriginal organizations to ensure that professionals already in the field have access to programs of continuing professional education that emphasize cultural issues associated with the provision of health and social services.<sup>264</sup>
- Post-secondary educational institutions involved in the training of health and social services professionals, and professional associations involved in regulating and licensing these professions, collaborate with Aboriginal organizations and governments to develop a more effective approach to training and licensing that recognizes the importance and legitimacy of Aboriginal knowledge and experience.<sup>265</sup>

## **E. Programming and Services for Youth**

### **Royal Commission on Aboriginal Peoples**

- Youth centres be established on reserves and in communities, including urban communities, where there is a significant Aboriginal population. Where cultural centres exist they should develop a specific youth component, including cultural and recreational programs.<sup>266</sup>
- Federal, provincial and territorial governments provide funding for community initiatives to establish Aboriginal youth camps that would:
  - pursue cultural activities linking youth with elders through the development of traditional skills and knowledge;
  - promote a healthy lifestyle (counselling, fitness and nutrition); and
  - encourage positive social interaction between Aboriginal youth of different nations and between Aboriginal and non-Aboriginal youth.<sup>267</sup>
- Key program areas for a Canada-wide Aboriginal youth policy be education, justice, health and healing, sports and recreation, and support programs for urban Aboriginal youth:
  - Education in the broadest sense must be a priority, with greater efforts to develop a culturally appropriate curriculum that reinforces the value of Aboriginal culture. Transformative education - which uses students' personal experiences as a springboard for deeper analysis and understanding of the world around them - should be considered in developing initiatives in education.
  - The justice and corrections system has a substantial impact on youth. New programs should be developed and existing programs modified to focus on reintegrating youth into the community through approaches that reflect Aboriginal culture.

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263 RCAP 4.7.18.

264 RCAP 3.3.17.

265 RCAP 3.3.18.

266 RCAP 4.4.1.

267 RCAP 4.4.2.

- Health and healing must reflect the needs of Aboriginal youth, particularly in the areas of counselling and support.
- Sports and recreation must be treated as an integral part of Aboriginal youth policy. Increased resources for facilities and programming are needed, as are trained people to co-ordinate sports and recreation programs for Aboriginal youth. Also, the sports community - athletes and fans - must be seen as a way to build and strengthen relationships among Aboriginal and non-Aboriginal people.<sup>268</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Greatly increased engagement with Aboriginal youth to get regionally and culturally relevant input for solutions to help prevent and exit sexual exploitation and trafficking; this can be done at any level of action (from federal to municipal, and within individual Aboriginal bands).<sup>269</sup>

### Office of the Child's Advocate, "Strengthening Our Youth"

- That the Department of Family Services and Housing develop a policy outlining responsibility for children in care who are reaching the age of majority and leaving care.<sup>270</sup>
- That the Department of Family Services and Housing develop a policy on youth leaving care. It should outline the responsibilities of Agencies and Authorities for services to youth leaving care including independent living preparation prior to leaving care and post care services up to the age of 21 years.<sup>271</sup>
- That the Department of Family Services and Housing extend the maximum age eligibility for Extended Care and Maintenance (ECM) from 21 to 25 years, to enable youth to achieve higher education and develop work skills.<sup>272</sup>
- That the Department of Family Services and Housing, along with the Manitoba Housing Authority, develop a number of housing units in the province solely for youth leaving care.
  - Housing units should include short-term transition and emergency housing options and long-term apartments; and
  - Housing units must be affordable and located in areas that are safe and in close proximity to transportation services.<sup>273</sup>
- That the Departments of Family Services and Housing, Education, Health and Healthy Living launch an exploratory research initiative on the health and mental health needs of street-involved youth.<sup>274</sup>
- That the Department of Family Services and Housing provide funding to Authorities to develop independent living programs for youth leaving care.<sup>275</sup>

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268 RCAP 4.4.8.

269 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64.

270 Strengthening Our Youth, recommendation #1.

271 Strengthening Our Youth, recommendation #3.

272 Strengthening Our Youth, recommendation #5.

273 Strengthening Our Youth, recommendation #16.

274 Strengthening Our Youth, recommendation #20.

275 Strengthening Our Youth, recommendation #32.

## **F. Education and Awareness Programs**

### **Special Committee on Violence Against Indigenous Women**

- That the federal government continue to support K-12 education on reserve as an important tool in combating the root causes of violence against Aboriginal women and girls.<sup>276</sup>

### **Phoenix Sinclair Inquiry**

- That the Healthy Child Committee of Cabinet consider and recommend for legislative action a framework for the delivery of early childhood development programs with the following characteristics:
  - voluntary but universally available;
  - offering a place where children regularly attend to learn with other children;
  - staffed by trained educators who follow a defined curriculum; and
  - involving parents.<sup>277</sup>
- That Aboriginal culture and history, including the history of colonization and the impact of residential schools, be integrated into the provincial curriculum, including early childhood education and extending through elementary and secondary school.<sup>278</sup>

### **Royal Commission on Aboriginal Peoples**

- Post-secondary educational institutions providing programs of study leading to professional certification in health or social services collaborate with Aboriginal organizations to examine how they can:
  - increase the number of Aboriginal students participating in and graduating from their programs;
  - provide support for students to promote completion of programs;
  - develop or expand specialized programs; and
  - modify the curriculum of programs leading to certification so as to increase the cultural appropriateness and effectiveness of training provided to Aboriginal and non-Aboriginal students who will be providing services to Aboriginal people.<sup>279</sup>

### **Bringing Our Children Home: Report and Recommendations**

- That the Grand Chief [of the Assembly of Manitoba Chiefs] meet with the University of Manitoba President to support the Indigenous Social Work program, according to initiatives being proposed by Michael Hart (University of Manitoba Professor, Canada Research Chair in

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276 Committee on Violence Against Indigenous Women 5.

277 Phoenix Sinclair Inquiry 59.

278 Phoenix Sinclair Inquiry 62.

279 RCAP 3.3.16.

Social Work and Indigenous Knowledge) and by the Aboriginal Social Workers organization; and that The Chiefs-in-Assembly support the establishment of the College of Aboriginal Social Workers to ensure the *Social Work Profession Act* reflects the First Nations perspective, beliefs, values and practices in the Code of Ethics adopted.<sup>280</sup>

### Amnesty International: Stolen Sisters

- All levels of government should work with Indigenous peoples to strengthen and expand public education programs, including within the formal school system, that acknowledge and address the history of dispossession and marginalization of Indigenous peoples and the present reality of racism in Canadian society.<sup>281</sup>

### NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls

- Implement a national strategy on awareness raising of the issues increasing vulnerability of Aboriginal women and girls to sexual exploitation and trafficking.<sup>282</sup>
- Schools should implement healthy relationships classes and/or components to classes that teach students about what are respectful and acceptable relationships and healthy touching, and what students can do if they think they are in unhealthy relationships or circumstances.<sup>283</sup>
- Schools need to be provided with the latest research on decreasing Aboriginal student drop-out rates and on creating culturally relevant pedagogy/curriculum to better meet the needs of Aboriginal students.<sup>284</sup>
- Schools need increased funding to implement these education-based initiatives both on and off reserve and in remote, rural, and in urban areas.<sup>285</sup>
- Schools should have active engagement strategies for Aboriginal students to encourage retention.<sup>286</sup>

### CEDAW Report

- There should be an increased focus on awareness campaigns to ensure that members of the Aboriginal community are aware of relevant procedures for reporting missing persons.<sup>287</sup>
- Conduct education campaigns in schools and the civil service on colonialism, its impact on Aboriginal communities, and racism.<sup>288</sup>

### TRC Report

- We call upon the federal government to develop with Aboriginal groups a joint strategy to

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280 Bringing Our Children Home, recommendation 7.

281 Stolen Sisters, recommendation 6.

282 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64.

283 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 64-5.

284 NWAC Report: Sexual Exploitation and Trafficking of Aboriginal Women and Girls, p. 65.

285 Ibid.

286 Ibid.

287 CEDAW Report 47.

288 CEDAW Report 50.

eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians.<sup>289</sup>

- We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.<sup>290</sup>
- We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.<sup>291</sup>
- We call upon the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
  - Providing sufficient funding to close identified educational achievement gaps within one generation.
  - Improving education attainment levels and success rates.
  - Developing culturally appropriate curricula.
  - Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
  - Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
  - Enabling parents to fully participate in the education of their children.
  - Respecting and honouring Treaty relationships.<sup>292</sup>
- We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.<sup>293</sup>
- We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.<sup>294</sup>
- We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.<sup>295</sup>
- We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.<sup>296</sup>

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289 TRC Report, 195.

290 TRC Report, 196.

291 TRC Report, 196.

292 TRC Report, 197.

293 TRC Report, 199.

294 TRC Report, 199.

295 TRC Report, 205.

296 TRC Report, 215.



- We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.<sup>297</sup>
- We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations.<sup>298</sup>
- We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including information about the Treaties and the history of residential schools.<sup>299</sup>

## THE CHILD WELFARE SYSTEM

### **Summary**

Recommendations are intended to improve the accountability and effectiveness of the child welfare system. Most of the recommendations are grounded in the understanding that the proportion of Aboriginal children in care is disproportionately high. Many of the recommendations come from Manitoba where the inadequacies of the child welfare system came to light after the tragic death of Phoenix Sinclair. Recommendations specifically aimed at child and family service agencies focus on the need to improve record keeping and information sharing. The ability to maintaining a manageable caseload is considered key for service workers. Recommendations aimed at the provincial government mainly deal with the necessity for legislative change and adequate funding, particularly the need for greater accountability and oversight.

### **A. Changes to be Implemented by the Province of Manitoba**

#### **Phoenix Sinclair Inquiry**

- That the Province and the four child welfare Authorities, who are responsible for the delivery of child welfare services, adhere to the following principles:
  - The key to supporting families and protecting children is offering early intervention through both universal and targeted services, to prevent the vulnerability that leads to contact with the child welfare system.
  - Child welfare services are provided on a continuum, focusing on protection in the face of an immediate threat to a child's safety but almost always working with a family enhancement approach to keep children safe at home.

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297 TRC Report, 215.

298 TRC Report, 351.

299 TRC Report, 362.

- Once a family comes to the attention of the child welfare system, the children's safety and well-being must be assessed; this means assessing both immediate and long-term risk of harm, including chronic neglect, and it requires face-to-face contact.
- Assessment tools must be used as an aid to, and not as a substitute for, the exercise of a worker's clinical judgment.
- Assessment tools must be used in a way that takes into account a family's cultural, social, and economic circumstances.
- After an assessment of the child's safety and well-being, and of the family's strengths and needs, the necessary and appropriate services, as determined by the assessment, must be available.
- When a child has been found to be in need of protection, the goal of the child welfare system is to prevent recurrence of maltreatment and resulting impairment. This should be done by child welfare agencies acting on their own or in partnership with community-based organizations and other government departments.
- The goal of the child welfare system is to keep as many children safe at home as is possible.<sup>300</sup>
- That the Province ensure that the family enhancement services required to support the differential response practice model are developed, coordinated, and made accessible, through partnerships and collaboration among the child welfare system and other departments, and community-based organizations.<sup>301</sup>
- That the *Child and Family Services Act*, *Personal Health Information Act*, *Freedom of Information and Protection of Privacy Act* and any other legislation as may be necessary be amended to allow service providers to share relevant information with each other and with parents (or caregivers) when necessary for the protection, safety, or best interests of a child.<sup>302</sup>
- That the Standing Committee issue annual reports of its work to the Minister for tabling in the legislature and for concurrent release to the public.<sup>303</sup>
- The Department must ensure that all agencies have access to its information system, either through direct connectivity, or where that is not possible, through alternative means such as telephone access to an agency that has that capability.<sup>304</sup>
- That the Authorities be funded to a level that supports the differential response approach, including:
  - Funding to allow agencies to meet the caseload ratio of 20 cases per worker for all family services workers;
  - Increasing the \$1,300 fund for family enhancement services to a reasonable level, especially for families who are particularly vulnerable, many of whom are Aboriginal;
  - Determination of the amount of necessary funding after meaningful consultation

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300 Phoenix Sinclair Inquiry 1.

301 Phoenix Sinclair Inquiry 2.

302 Phoenix Sinclair Inquiry 9.

303 Phoenix Sinclair Inquiry 11.

304 Phoenix Sinclair Inquiry 24.

between agencies and the Authorities, and between the Authorities and government, after agencies have reasonably assessed their needs.<sup>305</sup>

- Recommendations 36 to 48 concern the creation of the independent office of the Representative for Children and Youth, modelled after the office of the Representative for Children and Youth in British Columbia. The Representative would report to the legislature and provide oversight and recommendations to the province's child protection system.<sup>306</sup>
- That at the next meeting of the Council of the Federation (the Premiers of Canada's ten provinces and three territories), the Premier of Manitoba request placement on the agenda and the opportunity to speak to the unacceptably disproportionate number of Aboriginal children taken into care by child welfare authorities across Canada in comparison to non-Aboriginal children. Further, that if given the opportunity to speak to the matter, the Premier of Manitoba outline the severity and seriousness of the problem and the consequences for all of us, but particularly for Aboriginal children and families, if allowed to continue unabated; and that he explore whether collectively his colleagues are of a mind to take steps in search of a solution and a process for implementation of that solution over time.<sup>307</sup>
- That a legislated committee, functioning under the provisions of *The Healthy Child Manitoba Act* (in its present or amended form) be charged with:
  - coordinating the services provided for children and families, between community-based organizations and government departments; and
  - allocating government funding to those community-based organizations, following meaningful and inclusive consultation. It is understood that funding from the private sector and other levels of government will continue to play an important role, as it has done, in supporting these organizations;
  - and that the composition of this committee mirror the committee described by s. 21(3) of *The Healthy Child Manitoba Act*, which reflects Manitoba's various regions and cultural diversity and includes representatives of the community and recognized experts.<sup>308</sup>

### Aboriginal Justice Inquiry

- Child and family service agencies provide necessary support to Aboriginal mothers in jail and their children to ensure that the family is kept together.<sup>309</sup>
- Where children need to be taken into care following the incarceration of an Aboriginal mother, child and family service agencies make culturally appropriate foster arrangements for the children of such inmates.<sup>310</sup>

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305 Phoenix Sinclair Inquiry 25.

306 Phoenix Sinclair Inquiry 36 to 48.

307 Phoenix Sinclair Inquiry 53.

308 Phoenix Sinclair Inquiry 56.

309 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Aboriginal Women, "The Sentencing of Aboriginal Women", at 9<sup>th</sup> para from top.

310 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Aboriginal Women, "The Sentencing of Aboriginal Women", at 10<sup>th</sup> para from top.

- The provincial government establish the Office of Child Protector, responsible to the Legislature, as recommended in the Kimelman Report. This office's responsibilities would be, among other things:
  - To ensure that children involved with the child welfare system have their interests and rights protected.
  - To receive and investigate complaints about the manner of treatment of children by child welfare agencies.<sup>311</sup>
- Aboriginal and non-Aboriginal child and family service agencies be provided with sufficient resources to enable them to provide the communities they serve with the full range of direct service and preventive programs mandated by the *Child and Family Services Act*.<sup>312</sup>
- The federal and provincial governments provide resources to Aboriginal child and family service agencies for the purpose of developing policies, standards, protocols and procedures in various areas, but particularly for the purpose of developing computer systems that will permit them to communicate quickly and effectively with other agencies, to track cases and to share information.<sup>313</sup>
- The jurisdiction of the reserve-based Indian child and family service agencies be extended to include off-reserve band members. Indian agencies be provided with sufficient resources to ensure that this expanded mandate be effectively carried out.<sup>314</sup>

#### Office of the Child's Advocate, "Strengthening Our Youth"

- That the Department of Family Services and Housing increase funding to reduce the workload of Social Workers enabling them to increase time in direct service work with youth in care.<sup>315</sup>
- That Authorities and Agencies increase the number of specialized foster homes for youth over the age of 15 preparing for independent living.<sup>316</sup>

#### Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that information and assistance be provided to ensure that indigenous women have effective access to legal remedies in relation to custody matters.<sup>317</sup>

### **B. Changes to be Implemented by CFS Agencies**

#### Phoenix Sinclair Inquiry

- That agencies strive for greater transparency and information sharing with caregivers, which

311 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Child Welfare, "Aboriginal Peoples and the Child Welfare System in Manitoba".

312 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Child Welfare, "Manitoba's Child and Family Services Act" at para 1.

313 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Child Welfare, "Manitoba's Child and Family Services Act" at para 2.

314 Aboriginal Justice Inquiry, Vol. 1, Appendix 1, Child Welfare, "Manitoba's Child and Family Services Act" at para 5.

315 Strengthening Our Youth, recommendation #31.

316 Strengthening Our Youth, recommendation #33.

317 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

may require changes to legislation.<sup>318</sup>

- That all ongoing services to families should be delivered on the basis of 20 cases per worker.<sup>319</sup>
- That the Authorities and agencies explore ways to reduce administrative burdens on social workers through the better use of technology and administrative staff.<sup>320</sup>
- That each Authority designate staff who are available both during the day and after hours, to support the work of social workers by locating individuals through investigative means, and serving court documents as necessary.<sup>321</sup>
- That CFS supervisors, social workers, and family support workers be required to keep complete and accurate records of all involvement with children and families, including records of all services they deliver, copies of any communications related to their involvement, and notes related to all contacts.<sup>322</sup>
- That when an agency engages a consultant, such as a medical professional, in the course of delivering services to a family, it must obtain a written report from the consultant and retain it in the relevant file.<sup>323</sup>
- That All Nations Coordinated Response Network [ANCRN] and all designated intake agencies throughout the province ensure that records are made and retained with respect to every telephone call received by the agency, regardless of whether a file is already open.<sup>324</sup>
- That an appropriate policy be developed by the Authorities to govern the retention of records made by agency personnel.<sup>325</sup>
- That the Authorities each develop and implement a supervision policy including provisions that:
  - articulate that the primary function of supervision is to ensure compliance with best practice;
  - require that supervisors prepare written reports of supervision meetings with workers, with copies retained in the appropriate case file;
  - stipulate that before approving the transfer or closing of a file, the supervisor must document the reason for approving the decision;
  - require annual performance reviews to be conducted by a worker's direct supervisor using an objective set of articulated criteria, developed in consultation with agency staff.<sup>326</sup>
- That the Authorities each perform and publish annual composite reviews of the well-being of children who are receiving services from their agencies, or have received services within the

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318 Phoenix Sinclair Inquiry 6.

319 Phoenix Sinclair Inquiry 12.

320 Phoenix Sinclair Inquiry 13.

321 Phoenix Sinclair Inquiry 14.

322 Phoenix Sinclair Inquiry 15.

323 Phoenix Sinclair Inquiry 16.

324 Phoenix Sinclair Inquiry 17.

325 Phoenix Sinclair Inquiry 18.

326 Phoenix Sinclair Inquiry 19.

past 12 months, whether in or out of care.<sup>327</sup>

- That the new information management system be capable of:
  - interfacing with other government systems including Employment Insurance, Education, and Health;
  - keeping track of all children receiving protection services, as well all children in care;
  - using alert features to flag those known by the system to pose a significant risk to children; and,
  - efficient file recording, for example through the use of electronic dictation equipment and voice recognition, or direct entry using a computer, tablet, or other portable device.<sup>328</sup>

## **C. Changes to be Implemented by All Levels of Government**

### **Special Committee on Violence Against Indigenous Women**

- That the federal government support provincial, territorial and First Nation childcare agencies in their responsibility to ensure effective and accountable service delivery.<sup>329</sup>

### **Royal Commission on Aboriginal Peoples**

- Aboriginal, provincial, territorial and federal governments promptly reach agreements on the authority of Aboriginal nations and their communities for child welfare, and its relation to provincial, territorial and federal laws respecting child welfare.<sup>330</sup>
- Block funding be provided to child welfare agencies mandated by Aboriginal governments or communities to facilitate a shift in focus from alternative child care to family support.<sup>331</sup>
- Until community of interest governments are established in urban and non-reserve areas, voluntary agencies endorsed by substantial numbers of Aboriginal people resident in the areas be authorized under provincial or territorial law to act in the field of child welfare
  - where numbers warrant; and
  - with levels of funding comparable to those of agencies providing comparable services to the general population and sufficient to meet the service needs of Aboriginal people.<sup>332</sup>

### **CEDAW Report**

- Address disproportionate number of Aboriginal children involved in child welfare, “which impacts on Aboriginal women's vulnerability to violence as they are reluctant to seek help from

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327 Phoenix Sinclair Inquiry 20.

328 Phoenix Sinclair Inquiry 22.

329 Committee on Violence Against Indigenous Women 9.

330 RCAP 3.2.3.

331 RCAP 3.2.4.

332 RCAP 3.2.5.

authorities for fear that their children be taken away”.<sup>333</sup>

## TRC Report

- We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
  - Monitoring and assessing neglect investigations.
  - Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
  - Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
  - Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
  - Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.<sup>334</sup>
- We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.<sup>335</sup>
- We call upon all levels of government to fully implement Jordan’s Principle.<sup>336</sup>
- We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
  - Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
  - Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
  - Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.<sup>337</sup>
- We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.<sup>338</sup>

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333 CEDAW Report 50.

334 TRC Report, 187.

335 TRC Report, 188.

336 TRC Report, 190.

337 TRC Report, 191.

338 TRC Report, 192.

## **D. Recommendations for Manitoba's First Nations Leadership**

### **Bringing Our Children Home: Report and Recommendations**

- That the Chiefs-in-Assembly adopt the priority of Re-unification and Strengthening of Families as the first and prior choice for CFS with understanding child safety is paramount. ONLY once all alternatives have been exhausted would any removal from extended family and community be considered; and that the AMC Grand Chief and Chiefs in Assembly meet with Premier of Manitoba to:
  - Establish an immediate end to the CFS system as it currently functions.
  - Reorganize the Leadership Council with equitable decision making at the table, with 80% First Nations representation at the decision making table to reflect the proportion of First Nations children and families currently impacted by the system.
  - Establish a Youth Advisory Council within each of the existing Authorities to advise on policy change, system enhancements, and decision-making to ensure the needs of the youth are being met.
  - Change funding models to support a model of care focused on prevention, strengthening families and reunification rather than apprehension.<sup>339</sup>
- Establish an Office of the First Nations Family Advocate that will challenge the system to address unethical practices and decisions enforced upon families or decisions that contribute to negative impacts on the child's spiritual, emotional, mental, or physical well-being and safety.<sup>340</sup>
- That the Chiefs-in-Assembly mandate the Authorities and Agencies to develop new service delivery models, examining models such as Customary Care, Receiving Homes, and Family Healing Homes, to have children remain in the community with a focus on ensuring:
  - Culture and Identity;
  - Family Access;
  - Education;
  - Social Networks;
  - Connectivity; and,
  - Regular Visitations with parents, grandparents, extended family & siblings.<sup>341</sup>
- That the Assembly of Manitoba Chiefs examine legislation such as Ontario which recognizes "Customary Care" by First Nations in their *Child and Family Services Act* and Saskatchewan to see how it is working and how it is supporting communities to reclaim responsibility for the children, and prepare options for Leadership to pursue; and That the Assembly of Manitoba Chiefs, in partnership with the University of Manitoba Centre for Human Rights Research, evaluate the Legal Aid system in relation to the services provided for First Nations clients

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339 Bringing Our Children Home, Recommendation 1.

340 Bringing Our Children Home, Recommendation 2.

341 Bringing Our Children Home, Recommendation 6.



dealing with child welfare.<sup>342</sup>

- That the Assembly of Manitoba Chiefs engage the Elders, Grandmothers, and Youth to further define the First Nations Rights of the Child and determine the best methods to reach out to the children right now; and that the Chiefs-in-Assembly direct every organization, school, youth initiative, community program, as well as all services and supports provided to First Nations children, youth, and families to respect and uphold the First Nations Rights of the Child as determined by the Elders, Grandmothers and Youth.<sup>343</sup>

#### Short-Term:

- The Assembly of Manitoba Chiefs facilitate all existing resources to come together with the guidance and support of Elders and Grandmothers to plan, develop and implement collaborative supports that will help parents and children to meet their spiritual, emotional, physical, and mental needs, for example:
  - FAS Prevention and Support;
  - Mental Wellness Services and Support;
  - Family/Community Supports in the home so parents can focus on healing without losing their children;
  - Land-based education and family services; and,
  - Long-term programs for Indian Residential School survivors and Sixties Scoop survivors and inter-generational survivors that includes healing, coping, and re-connection with self, family, community, and culture.<sup>344</sup>

#### Medium Term:

- That the Assembly of Manitoba Chiefs work with the CFS Agencies to ensure all policies and practices reflect the importance of family connections. This will require collaborating among community based projects plus redirection of Enhancement funds to orient and support such collaboration.<sup>345</sup>

#### Long Term:

- That the Assembly of Manitoba Chiefs and First Nations Health and Social Secretariat of Manitoba work on establishing healing centre hubs, building on the Grandmother Turtle Lodge model, so that every community has ready access to cultural healing interventions.<sup>346</sup>

## **GOVERNMENT LEADERSHIP**

### **Summary**

Recommendations set out the need for government coordination, and the need for a nation-wide response to MMIWG.

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342 Bringing Our Children Home, Recommendation 10.

343 Bringing Our Children Home, Recommendation 3.

344 Bringing Our Children Home, Recommendation 8.

345 Ibid.

346 Ibid.

## Missing And Murdered Indigenous Women in British Columbia, Canada

- It is recommended that the federal and provincial governments coordinate in addressing MMIWG, and recognize their shared responsibility for the legal status and condition of Indigenous women, girls, and communities. Government initiatives should be undertaken in consultation with Indigenous women.<sup>347</sup>
- The creation of a national-level action plan or nation-wide inquiry into the issue of MMIWG is also recommended.<sup>348</sup>
- Finally, where the State has failed to exercise due diligence, it is recommended that steps be taken to provide reparations to families.<sup>349</sup>

## CEDAW Report

- Take measures to establish a National Public Inquiry, carried out based on the views of Aboriginal communities and organizations.<sup>350</sup>
- Based on the inquiry's findings, develop an integrated National Plan of Action. This should be made in consultation with representatives of Aboriginal communities and should be sufficiently resourced.<sup>351</sup>
- Establish a mechanism for monitoring and evaluation implementation of the Plan,<sup>352</sup> with sanctions where measures are not implemented.<sup>353</sup>

## TRC Report

- We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.<sup>354</sup>
- We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.<sup>355</sup>
- We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
  - Investigation into missing and murdered Aboriginal women and girls.

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347 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 123.

348 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 124.

349 Inter American Commission on Human Rights Report on Missing and Murdered Indigenous Women in British Columbia, Canada, p. 125.

350 CEDAW Report 51.

351 CEDAW Report 51.

352 CEDAW Report 51.

353 CEDAW Report 48.

354 TRC Report, 226.

355 TRC Report, 226.

- Links to the inter-generational legacy of residential schools.<sup>356</sup>

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<sup>356</sup> TRC Report, 227.

APPENDIX H:  
SUMMARY OF SELECTED PROCESSES

PROCESS	REPORT TITLE	CATALYST	PURPOSE	COMMISSIONERS	SUMMARY OF REPORT COMPOSITION	RECOMMENDATIONS	TIMEFRAME	COST	IMPLEMENTATION OF RECOMMENDATIONS	NOTES	PROCESS FORMAT
Inquiry	Commission of Inquiry Into Matters Relating to the Death of Neil Stonechild	Death of Neil Stonechild	Inquiry into the circumstances that resulted in the death of Neil Stonechild and the conduct of the investigation into that death, for the purpose of making findings and recommendations with respect to the administration of criminal justice in the Province of Saskatchewan.	Commissioner: Honourable Mr. Justice David Wright	380 pages and appendixes. Key findings include: (1) Stonechild was taken into custody; (2) He died of cold exposure in a field northwest of Saskatoon; (3) His body was found Nov 29, 1990; (4) Injuries, marks on body were likely caused by handcuffs; (5) Saskatoon police's preliminary investigation properly identified a number of suspicious circumstances; (6) Principal investigator carried out superficial and totally inadequate investigation, and dismissed important information; (7) chiefs and deputy chiefs rejected or ignored reports from Stonechild family and investigative reporters that questioned the investigation.	8 recommendations	Feb 19, 2003 – Order in Council created; Oct 24, 2004 – report released.	Unavailable	Police chief Clive Weighill indicates that every recommendation has been implemented.		
Inquiry	Report of the Royal Commission on Aboriginal Peoples	Canada's leaders were arguing about the place of Aboriginal people in the constitution. First Nations were blockading roads and rail lines in Ontario and BC. Armed conflict had occurred a year earlier at Kanesatake (Oka)	Investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit, Métis) and non-aboriginal persons, the specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today.	Co-Chairs: Rene Dussault, Georges Erasmus. Commissioners: Paul LAH Chartrand, J Peter Meekison, Viola Robinson, Mary Sillett, Bertha Wilson	5 volumes and over 3500 pages. Relevant portions include: (i) Volume 3 – Gathering Strength (examining current evidence of social dysfunction in the context of historical experience, and considering solutions that are not merely social); (ii) Volume 4 – Perspectives and Realities (particularly relevant are Chapter 2: Women's Perspectives, Chapter 4: The Search for Belonging, Perspectives of Youth, and Chapter 7: Urban Perspectives); (iii) Volume 5 – Renewal: A Twenty Year Commitment (particularly relevant is Chapter 2: Economic Disparities, Government Expenditures and the Cost of the Status Quo).	440 recommendations	Aug 1991 – Commission appointed by PM Brian Mulroney; Nov 1996 – Report released.	\$58 million	Government responded in Jan 1998 with "Gathering Strength: Canada's Aboriginal Action Plan".	Each of the five volumes presents the Commission's thoughts and recommendations on a range of interconnected issues. Chapters are devoted to major topics such as treaties, economic development, health, housing, Métis perspectives, and the North. Volume 5 draws all the recommendations together in an integrated agenda for change.	
Inquiry	Report of the Aboriginal Justice Inquiry of Manitoba	Death of JJ Harper and Helen Betty Osborne	Inquire into, and make findings about: the state of conditions with respect to aboriginal people in the justice system in Manitoba and produce a final report with conclusions, options and recommendations; to include consideration of all aspects of the cases of JJ Harper and Helen Betty Osborne and include additional recommendations deemed appropriate.	Commissioners: Honourable AC Hamilton and His Honour CM Sinclair	3 volumes. Of note is Volume 1, Chapter 13 entitled "Aboriginal Women".	247 recommendations	1989 – AJI created; 1991 - Report released.	Unavailable	Some have been implemented, but not all, and with varying degrees of success. Note the report of the Implementation Commission (below).		Commissioners appointed, able to hire staff, including experts, compel testimony, investigate, etc. Utilized round tables, formal hearings, expert evidence, attended conferences, hosted conferences, traveled to communities and held hearings locally.
Implementation Commission	Aboriginal Justice Implementation Commission Final Report	Aboriginal Justice Inquiry	To review the recommendations of the AJI Report and to advise the government on the recommended methods of implementing those recommendations for which the Province of Manitoba is responsible and accountable.	Four commissioners: Wendy Whitecloud and Paul Chartrand; and Elders Eva McKay and Doris Young	5 sections. Of note is section 3, Chapter 9 entitled "Violence Towards Women".	60 recommendations	Nov 1999 – AJIC created; June 2001 - Final report released.	Unclear	Many have been implemented, but not all	Discussion papers which were commissioned may be a starting point to consider some of the current issues.	Contracted for discussion papers on issues arising from AJI from experts. Reviewed reports, consulted experts and reported on progress and recommendations for implementation of AJI.
Truth and Reconciliation Commission	Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada	Indian Residential School settlement	Goals include promoting awareness and public education of Canadians about the Indian Residential School system and its impacts, as well as submitting to the Parties of the residential schools settlement a report with recommendations to the Federal government concerning the IRS system and experience.	Three commissioners: Chief Wilton Littlechild, Dr. Marie Wilson and Chair Honourable Justice Murray Sinclair	N/A	94 recommendations	6 year mandate ended June 2015 – final report yet to be released.	Unavailable	Ongoing.	Of note are the concerns for sustainability of information going forward, need for education, and requirements to both heal and report and stop abuse. See efforts at healing – commitment to both confidentiality to individuals and openness and transparency in terms of education and reporting.	Currently at 6200 statements, — 7 events across the country, research projects, and archiving of information. A ten-member Indian Residential Schools Survivor Committee serves an advisory body to the TRC. National Research Centre on Indian Residential Schools established at the University of Manitoba, housing the Truth and reconciliation commission archives.
Consultation Process / Roundtable	Kelowna Accord	Prime Minister Martin wanted to develop a better and more sustainable approach to pressing challenges	To bring participants together to determine themes, provide discussion papers, and to bring larger groups together to discuss solutions at theme-specific roundtables. Goal to develop strategy. Approach was open and inclusive and tried to reach a broad demographic.	N/A	N/A	Kelowna Accord Implementation Act	2004/2005 – initiated	Unavailable	No.		147 people representing governments/organizations/etc. and invitation to many. Recommendations to move forward, report, implement some changes at government level Next meeting considered 6 priority areas arising from first meeting. Invited 750 participants to 7 2-day sessions which involved round table discussion and breakout sessions on a theme. Prior to the sessions discussion papers by Aboriginal and other experts circulated. Next step was a policy retreat – cabinet and aboriginal organizations. Next step was first Ministers meeting to address each of the themes.

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Royal Commission	Royal Commission on Bilingualism and BiCulturalism	The commission was a response to the growing unrest among French Canadians in Québec, who called for the protection of their language and culture, and opportunities to participate fully in political and economic decision making.	The commission was charged with three main areas of inquiry: the extent of bilingualism in the federal government; the role of public and private organizations in promoting better cultural relations; and, the opportunities for Canadians to become bilingual in English and French.	Chairs: André Laurendeau and Davidson Dunton; Ten Commissioners representing Canada's cultural-linguistic composition	In addition to a preliminary report (1965), a final report in six books was published, separately titled: The Official Languages (1967); Education (1968); The Work World (Socioeconomic Status, the Federal Administration, the Private Sector, 1969); The Cultural Contribution of the Other Ethnic Groups (1969); The Federal Capital (1970); and, Voluntary Associations (1970).	Central to its numerous recommendations was the principle that "English and French be formally declared the official languages of the Parliament of Canada, of the federal courts, of the federal government, and of the federal administration."	1963-1970	Unavailable	Most of the Bilingual and BiCultural commission's hundreds of recommendations "were implemented with unusual alacrity," even some of those outside federal jurisdiction. For example, all nine of the predominantly Anglophone provinces reformed their minority language education programs and, with financial assistance from the federal government, dramatically increased instruction in French as a second language.		The process involved collecting survey data through a questionnaire administered to and interviews conducted with members of Parliament.
Inquiry	Report of the Commission of Inquiry into Certain Aspects of the Trial and Conviction of James Driskell	Wrongful Conviction of James Driskell	To inquire into the conduct of Crown Counsel who managed the trial; to inquire into whether the Winnipeg Police failed to disclose material information to the Crown before, during or after the trial; to advise on whether conduct of above should be referred to independent bodies for reiew; to consider the role of the RCMP Laboratory in the prosecution of James Driskell, and to review any systemic issues that may arise out of its role; to give advice about whether any aspect of this case should be further studied; to consider whether and in what way a determination or declaration of wrongful conviction can be made in cases like this.	Commissioner: Honourable Patrick J. Lesage, QC	343 page report. Conclusions made on the factual inquiry, and systemic inquiry.	Specific systemic recommendations were made with respect to police note-taking/disclosure, procedure for direct indictments, bench and bar meetings, homicide file review, post-conviction disclosure, unsavoury witnesses, post-conviction review process and Crown proceedings in s. 696 cases.	Dec 7, 2005 – inquiry initiated; Jan 2007 – report released.	Unavailable	Unable to find any specific outcomes.		Factual Inquiries (hearings related to the pre-trial and post-trial events surrounding the Harder murder), and a Systemic Inquiry (Crown stay of proceedings and forensic science issues).
Inquiry	Northern Frontier, Northern Homeland (Mackenzie Valley Pipeline Inquiry Report) – aka Berger Inquiry Report	The inquiry was preceded by litigation brought by indigenous peoples frustrated that a political solution was not forthcoming to the injustices they saw being perpetrated against them.	To examine the social, economic, and environmental impact of a gas pipeline in the Northwest Territories and the Yukon, and to recommend terms and conditions to impose if the pipeline were built. Instead of choosing to view his mandate narrowly and focus just on the direct effect of a pipeline, Berger looked at the larger picture of the ways in which such a project would directly and indirectly affect a way of life.	Commissioner: Justice Thomas R Berger, QC	Two volumes, volume one of which contained 12 chapters, and was under 300 pages. Berger's report was concise, colourful, and accessible. It was available in multiple indigenous languages, and a copy was provided to all who testified during the inquiry.	Principle recommendation was that there should be a moratorium on pipeline construction in order to address issues like land claims, which would take an estimated 10 years.	Mar 21, 1974 – inquiry initiated; 1977 – first volume of report released.	\$5.3 million	The project was delayed, and some efforts were done to address the concerns outlined by Berger before progressing with the plan again.	Berger, appointed by then-PM Pierre Trudeau's liberal government, on the advice of Minister Jean Chretien, created a process that allowed for full participation by marginalized individuals.	Funding was provided to applicants, and the Inquiry travelled to the participants. Berger reduced adversarial evidence-gathering techniques, and "sought to bring the Inquiry to the people". Preliminary hearings were conducted to gain input on scope and procedure. Formal hearings were conducted, and equal community hearings were held. Hearings in Southern Canada brought the issue to non-indigenous Canadians.
Independent Panel	Independent Panel on Canada's Future Role in Afghanistan	The Government had affirmed that Parliament would decide whether Canada would extend its military deployment in Afghanistan after February 2009. Reaching this decision required a realistic assessment of conditions in Afghanistan, along with a pragmatic assessment of Canada's engagement.	Panel's purpose was to inform the above issues, to encourage an informed and constructive public deliberation, and to recommend effective actions to the Government and Parliament.	Chair: Honourable John Manley, PC	94 page report.	5 recommendations	Oct 14 – Dec 12, 2007	Unavailable	Canada withdrew from Afghanistan after the formation of the panel.	Refer to: Canadian Policy Toward Afghanistan to 2011 and Beyond: Issues, Prospects, Options (Library of Parliament Background Paper).	While in Afghanistan, the Panel travelled across four provinces – Kabul, Balkh, Bamiyan and Kandahar. They held meetings in Kabul, Bamiyan, Mazar-e-Sharif, Kandahar Airfield, Panjwai, Zhari, and Kandahar City. They invited submissions from Canadians, and received more than 200. They consulted Canadian scholars, activists, government officials and military officers with first-hand knowledge of Afghanistan, its history and its people. They spoke with diplomats, cabinet members and senior public servants at the United Nations, and in London, Brussels and Washington.
National Round Table	Final Report = Building a Sustainable Future: The Legacy of Canada's National Round Table on the Environment and the Economy	Product of both national and international pressures on the sustainable development front.	NRTEE was formed to deliver groundbreaking policy research, reach out to inform and stimulate the thinking of Canadians, work to build public consensus on sustainability, and present policy options to government, to bring Canadians together to design and implement new sustainability tools, assess the options available, and make recommendations to the Prime Minister and Cabinet. Members were to engage in the NRTEE deliberations as independent thought leaders, and also return to their sector to promote consensus building in Canada.	7 chairs over 25 year history, numerous members and staff	Many reports and recommendations canvassed. Final 38-page report (Building a Sustainable Future) outlined the work of the roundtable.	Recommendations were provided over the nearly 25 years of the roundtable's work	Oct, 1988 – NRTEE created; Mar, 2013 – NRTEE closed.	Unavailable	In the spring Budget of 2012, the government announced the closing of the National Round Table for the end of March 2013.	One of the unique features of the NRTEE as an advisory body was the presence of federal ministers from Environment, Finance, Industry, Science and Technology, and Energy, Mines and Resources.	

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Manitoba Round Table	No final report. Manitoba Round Table for Sustainable Development	Unknown	Established in law to promote sustainable development in Manitoba and provide advice and recommendations to government. Duties include: creating awareness and understanding of sustainable development by the citizens in Manitoba; cooperating to share knowledge and experience; reviewing the Principles and Guidelines of Sustainable Development; advising on the development of, and reviewing the sustainable development strategy, and reviewing policy or law where requested; reporting recommendations.	Members appointed by the Minister of Conservation. Represent a broad range of experience and technical expertise, as well as regions and sectors of the province. Some Cabinet Ministers serve as members	N/A	7 principles and 6 guidelines for sustainable development articulated.	Jul 1, 1998 – created	Unavailable			Under <i>The Sustainable Development Act</i> , the Manitoba Round Table has a number of powers. Decision-making is by consensus. This is interpreted to mean no significant dissent; all participants support the resolution of the package of issues with possible concerns in certain areas.
Inquiry	Ipperwash Inquiry Report	The shooting of Dudley George during the Ipperwash protests	To inquire and report on events surrounding the death of Dudley George, who was shot in 1995 during a protest by First Nations representatives at Ipperwash Provincial Park and later died. The Inquiry was also mandated to make recommendations that would avoid violence in similar circumstances in the future.	Commissioner: Honourable Sidney B. Linden	4 volumes. First volume – Investigation and Findings – is 773 pages. Second volume – Policy Analysis – is 394 pages. Third volume – Inquiry Process – is 279 pages. Fourth volume – Executive Summary – is 115 pages.	100 recommendations	Jul, 2004 – hearings started; May, 2007 – report released.	Unavailable	The inquiry process was important in order to hold public officials and institutions accountable for their actions. The inquiry is also important because it helps to understand the roots and dynamics of aboriginal occupation and that Ipperwash was not an isolated event. The inquiry can help understand how to prevent aboriginal occupations and protests in the first place, or how to reduce the risk of violence if they occur.		The Commissioner separated the inquiry into two phases that ran concurrently: The evidentiary hearings that dealt with the events surrounding the death of Dudley George and the Policy and Research part that dealt with the issues directed to the avoidance of violence in similar circumstances.
Inquiry	Building on Values: The Future of Health Care in Canada (Royal Commission on the Future of Health Care Report)	Unknown	To review Medicare, engage Canadians in a national dialogue on its future, and make recommendations to enhance the system's quality and sustainability.	Commissioner: Roy J Romanow, QC	392 page report.	47 specific recommendations	Apr, 2001; Nov, 2002 – report released.	Unavailable	Unknown	Suggested timelines for recommendations are set out in the report, starting on p. 255.	Analyzed existing reports on Medicare and invited submissions from interested Canadians and organizations. To clarify understanding of key issues, organized expert roundtable sessions and conducted site visits, both in Canada and abroad. Where knowledge gaps were identified, independent experts were commissioned to conduct the initial research. Met directly with Canada's foremost health policy experts to hear their views. Also, engaged Canadians in consultations. Partnered with broadcasters, universities, business and advocacy groups, and health policy community to raise awareness of challenges confronting Medicare. Also established formal liaison contacts with provincial governments to share information. Tens of thousands of Canadians participated in consultation process.
Inquiry	[Somalia Commission of Inquiry]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Inquiry / Hearing and Study Commission	Forsaken: The Report of the Missing Women Commission of Inquiry (aka the BC Inquiry/aka the Oppall Inquiry/aka the Pickton Inquiry)	Robert Pickton's arrest	To inquire into and make findings of fact regarding the investigations into missing women from Vancouver's Downtown East Side between Jan 23, 1997 and Feb 5, 2002. To inquire into the decision of the Criminal Justice Branch to stay the 1997 charges of attempted murder, assault with a weapon, forcible confinement, and aggravated assault against Robert Pickton. To provide recommendations for changes to initiation/conduct of investigations of missing women and suspected multiple homicides. To provide recommendations for changes respecting homicide investigations by more than one investigating organization and coordination of those investigations.	Commissioner: Wally Oppal, QC	Four volumes. Executive summary is 180 pages. Volume 1: "The Women, Their Lives, and the Framework of an Inquiry: Setting the Context for Understanding and Change". Volume 2: "Nobodies: How and Why We Failed the Missing and Murdered Women". Volume 3: "Gone But Not Forgotten: Building the Women's Legacy of Safety Together". Volume 4: "The Commission's Process".	64 recommendations (2 urgent measures)	Sept 27, 2010 – created; Dec 17, 2012 – report released.	BC Government estimates cost at \$10 million. Commissioner received \$1500/day to preside over Inquiry.	BC Government's implementations outlined in "Safety and Security of Vulnerable Women in BC – a Status Report in Response to: Foresaken".	During the process, there were issues in meaningful participation of Aboriginal and women's advocacy groups, and some groups boycotted the Inquiry.	

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Inquiry	The Legacy of Phoenix Sinclair, Achieving the Best for All Our Children (Report of the Phoenix Sinclair Inquiry)	Death of Phoenix Sinclair	To inquire into the circumstances surrounding the death of Phoenix Sinclair and, in particular, to inquire into: (i) the child welfare services provided or not provided to Phoenix Sinclair and her family; (ii) any other circumstances, apart from the delivery of child welfare services, directly related to the death of Phoenix Sinclair; and (iii) why the death of Phoenix Sinclair remained undiscovered for several months. To report findings and make such recommendations as appropriate to better protect Manitoba children, having regard to the recommendations that have been implemented in reports done after the death of Phoenix Sinclair.	Commissioner: Honourable Edward N Hughes, QC	Two Volumes, with a third volume for Appendices. Volume 1 is 112 pages; Volume 2 is 406 pages; and, Volume 3 is 414 pages.	62 recommendations	Mar 23, 2011 – inquiry launched; Jan 13, 2014 – report released.	Province of Manitoba reports that Inquiry cost \$14 million	Manitoba indicated on the date of the report's release that it had already implemented 20 of the recommendations from the Report and that work is in progress on implementation of another 11 recommendations. The province also indicated that an implementation team led by Barbara Bruce of AMR Planning and Consulting, was being established to advise the Province on how to proceed with the implementation of the remaining 31 recommendations. The costs associated with the work of the Implementation Team have been set at \$350,000. The Province indicated that it plans to issue a progress report on the implementation of recommendations early next year.	See AMC's Bringing Our Children Home Report and Recommendations on CFS, June 2014. The Implementation Team's report was due September 30, 2014 and has not been released to the public. The Province is now calling the Implementation Team's report, an interim report, reporting on the progress of the team from January to the present. The opposition is calling on the Province to make the report public.	Three phases to the Inquiry: Phase I: the services provided/not provided to Phoenix and her family under <i>The Child and Family Services Act</i> , any other circumstances apart from the delivery of child welfare services directly related to her death and why her death remained undiscovered for so long; Phase II: How the child welfare system has changed since Phoenix' death – evidence from writers of the 6 reports listed in Order in Council on implementation of recommendations contained in those reports; Phase III: Looked at broader questions of what brings a vulnerable family to come into contact with the child welfare system and what resources, beyond the child welfare system, can support those families.
Government Advisory Panel	Canada's Action Plan on Open Government, 2011 [Advisory Panel on Open Government]	Over a two year period, the Federal Government hosted online consultations with Canadians on the development of the Open Government strategy in order to develop Canada's Action Plan on Open Government.	Panel's mandate is to provide the Government with advice and guidance on Open Government Activities, including: finding ways to improve the delivery of open data and open information to citizens; considering how to make the most of Open Government to maximize innovation and knowledge sharing; and, exploring how federal organizations can do an even better job of consulting Canadians.	Chair: The Honorable Tony Clement, President of the Treasury Board and Minister responsible for FedNor. 13 other members.	The Action Plan highlights three streams: Open Information, Open Data, and Open Dialogue.	2 foundational commitments; 3 activity streams to implement commitments within those streams; 12 Total Commitments in Action Plan.	Mar, 2011 – panel launched	Unavailable	Self-assessment is contained in "Implementation of Canada's Action Plan on Open Government (Year-1) Self-Assessment Report, 2012". The self-assessment concludes that the Government has fully implemented its Year 1 deliverables for 10 of its 12 commitments as listed above.	There have been criticisms that the panel rarely actually meets, and a panel member questioned whether government could meet its action plan. Advocacy groups have also encouraged the rejection of the plan.	
Coroner's Inquest	Inquest Touching the Death of Ashley Smith: Jury Verdict and Recommendations	Death of Ashley Smith	To inquire into the circumstances surrounding the death of Ashley Smith, particularly the failure of the correctional system and health care system to provide appropriate care and support to identified high risk, mentally ill, high needs inmate.	Dr. John Carlisle Chief Coroner of Ontario	Fourteen page report	104 recommendations set out in various categories related to the treatment and incarceration of female inmates in federal correctional institutions.	Delivered December 19, 2013	Unavailable	Implementation is ongoing. A steering committee has been formed and a pilot project is underway.	Recommendations are based on the idea that the death of Ashley Smith should act as a case study to demonstrate the failures of the correctional and health care systems – identifies gaps in practice and accountability.	

## APPENDIX F: OVERVIEW OF EXISTING PROCESSES

Model	Created by	Explanation & Mandate	Scope determined by	Examples	Some Potential Strengths and Weaknesses
Public Inquiry (Manitoban)	<i>The Manitoba Evidence Act</i>	<p>An investigation conducted into a matter of public concern led by a judge. As compared to inquest, inquiries are less restricted to specific facts and more able to look at broader public policy issues.</p> <p>Mandate: Any matter within the jurisdiction of the Legislature connected with or affecting: good government of the province, the administration of justice or any matter that is of sufficient public importance to justify an inquiry.</p>	Set out by Order in Council (originating from Federal Cabinet)	Phoenix Sinclair Inquiry	<p><u>Strengths:</u></p> <ul style="list-style-type: none"> <li>- ability to depart from certain evidentiary rules</li> <li>- well resourced</li> <li>- brings certain stakeholders together</li> <li>- independence (through a judge)</li> <li>- brings attention to an issue</li> <li>- results in an extensively researched report</li> <li>- cross-examinations may elicit truth from reluctant witnesses</li> </ul> <p><u>Weaknesses:</u></p> <ul style="list-style-type: none"> <li>- adversarial</li> <li>- too formalistic</li> <li>- excludes Indigenous legal traditions</li> <li>- they are long and very expensive / resource extensive</li> <li>- lack of participant funding or input in terms of references for the families</li> <li>- often hard to enforce recommendations</li> <li>- exclusion of the families</li> <li>- not contextual</li> </ul>
Public Inquiry (Canadian)	<i>Inquiries Act</i>	<p>Same as above but these inquiries relate to federal matters.</p> <p>Any matter connected with the good</p>	Set out by Order in Council (originating from Federal Cabinet)	<p>Royal Commission on Aboriginal Peoples</p> <p>Commission on</p>	- same as above



		government of Canada or the conduct of any part of the public business thereof.		the Future of Health Care in Canada	
Roundtables	Government or Legislation, eg. <i>The Sustainable Development Act</i>	<p>A conference for discussion or deliberation by several participants.</p> <p>Mandate: To bring together a group of people or a team to have in depth discussions on an issue, share opinions, strategies or tactics, or to “brainstorm”.</p> <p>Or</p> <p>To provide advice and guidance to government on a particular issue.</p>	<p>Established by government</p> <p>Or</p> <p>Set out in the Act</p>	<p>Roundtable on cyber-bullying and exploitation of children</p> <p>Or</p> <p>Manitoba Roundtable on Sustainable Development</p>	<p><u>Strengths</u></p> <ul style="list-style-type: none"> <li>- potential to be solution based because it offers safe and open environment</li> <li>- reduces the need for legal representation</li> <li>- potential to be more inclusive of all (including families)</li> <li>- brings stakeholders together</li> <li>- more informal</li> <li>- less adversarial</li> <li>- more flexible format</li> <li>- less formalistic terms of references</li> <li>- more control on outcome and process</li> <li>- can be more contextual</li> <li>- voices heard</li> <li>- can include systemic and individual considerations</li> <li>- less timely</li> <li>- potentially less costly</li> </ul> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- potentially less resources</li> <li>- harder to enforce recommendations</li> <li>- potentially harder to bring attention in mainstream</li> <li>- can be politicized</li> <li>- if parties are not inclined to be candid, there are fewer tools to elicit truth (such as cross-examinations)</li> </ul>
Truth and Reconciliation	Indian Residential	It is a commission tasked with discovering	Agreed to as part of the	Canada's TRC	<p><u>Strengths</u></p> <ul style="list-style-type: none"> <li>- eliminate denial</li> </ul>

Commission (TRC)	Schools Settlement Agreement	<p>and revealing past wrongdoings by a government (or maybe non-governmental bodies) in the hope of resolving conflict left over from the past.</p> <p>Mandate: To inform all Canadians about what happened in Indian Residential Schools (IRS) and document the truth of survivors, families, communities and anyone personally affected by the IRS experience.</p>	Indian Residential Schools Settlement Agreement		<ul style="list-style-type: none"> <li>- reduces the need for legal representation</li> <li>- more inclusive of all (including families)</li> <li>- brings stakeholders together</li> <li>- more informal</li> <li>- less adversarial</li> <li>- more flexible format</li> <li>- less formalistic terms of references</li> <li>- more control on outcome and process</li> <li>- can be more contextual</li> <li>- healing families and society</li> <li>- voices heard</li> <li>- can examine systemic and individual considerations</li> </ul> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- potentially less resources</li> <li>- harder to enforce recommendations</li> <li>- potentially harder to bring attention in mainstream</li> <li>- if parties are not inclined to be candid, there are fewer tools to elicit truth (such as cross-examinations)</li> </ul>
Inquest	<i>The Fatality Inquiries Act</i>	<p>An investigation into the death of an individual. Tends to be more restrictive and less likely to examine systemic issues.</p> <p>To determine the circumstances surrounding the death and make recommendations to reduce the likelihood of</p>	Set out in letter from the Chief Medical Examiner to the Provincial Court. The letter may or may not set out specific issues to be considered at the inquest	<p>Brian Sinclair Inquest</p> <p>Pediatric Cardiac Surgery Inquest</p>	<p>Same as inquiries. In addition:</p> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- there has to have been a death (would not address the circumstances of any missing women and girls)</li> <li>- report/judge cannot express opinion of culpability</li> <li>- in practice, inquests tend to exclude considerations of systemic issues</li> </ul>

		similar deaths in the future.			
Review by Children's Advocate	<i>The Child and Family Services Act</i>	<p>A review by the Office of the Children's Advocate after the death of a young person who was receiving child welfare services in the year before their death.</p> <p>Mandate: To identify ways in which programs and services may be improved to enhance the safety and well-being of children and prevent deaths in similar circumstances.</p> <p>The Children's Advocate may also do Special Reports on systemic issues.</p>	Set out in the Act - Review the standards and quality of child welfare and other publicly funded services, mental health or addiction treatment services	Emergency Placements for Children in Manitoba's Child Welfare System	<p><u>Strengths</u></p> <ul style="list-style-type: none"> <li>- potential for systemic change</li> <li>- can recommend changes to standards and funding of services</li> </ul> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- relates to children in care only</li> <li>- does not apply to adults</li> <li>- limited scope</li> <li>- potential exclusion of the families</li> <li>- the report and review is confidential</li> </ul>
Standing Senate Committee Reports	Standing Senate Committees	<p>Reports researched and written by various Senate "standing committees" on specific topics. For example, there is a Standing Committee on Aboriginal Peoples.</p> <p>To investigate and report</p>	Established by the Standing Senate Committee	2006 Standing Senate Committee on Social Affairs, Science and Technology's report called "Out of the Shadows at Last: Transforming	<p><u>Strengths</u></p> <ul style="list-style-type: none"> <li>- well resourced</li> <li>- broader scope</li> <li>- potential to include systemic and individual considerations</li> <li>- at times less partisan than House of Commons</li> </ul> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- limited scope</li> </ul>

		on matters of national importance.		Mental Health, Mental Illness and Addiction Services in Canada”	<ul style="list-style-type: none"> <li>- exclusion of families</li> <li>- potentially less consultation with stakeholders</li> <li>- politicization</li> </ul>
Manitoba Ombudsman Report	<i>The Ombudsman Act</i>	<p>Reports conducted by the Manitoba Ombudsman relating to a provincial government (in)action.</p> <p>To investigate and make recommendations to government regarding matters of administration.</p>	Set out in the legislation – decisions that are contrary to law, unreasonable, unjust, oppressive or improperly discriminatory	Report on the process for the review of child welfare and collateral services after the death of a child	<p>Same as above. In addition:</p> <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> <li>- provincially focused</li> </ul>
Independent Advisory Panel	Government	<p>A panel of “experts” from academia, civil society, business and independent consultants who research and discuss a particular issue and provide advise to the Federal government.</p> <p>To provide advice and guidance to government on a particular issue.</p>	Established by government	Advisory Panel on Open Government	Same as above (but not provincially focused)

## APPENDIX G: OTHER LEGAL TOOLS

### 1. *Doe v Metropolitan Toronto (Municipality) Commissioners of Police*, 1998 CanLII 14826 (ON SC)

The plaintiff in this case, Jane Doe, successfully sued the Metropolitan Toronto Police Force (MTPF) for failure to warn her and other potential victims of a serial rapist from whom they were at risk of harm. Her claim was based on negligence and violations of ss. 7 and 15(1) of the *Charter*.

Jane Doe was sexually assaulted by a man named Paul Douglas Callow, who sexually assaulted at least four other women in the area in a similar manner. Mr. Callow's victims were all single, white women living in a certain area of Toronto who lived on the 2<sup>nd</sup> or 3<sup>rd</sup> floor of their apartment buildings and he entered through an unlocked balcony door. Jane Doe alleged that had she known a serial rapist was operating in the area, she would have taken measures to protect herself. She argued that "but for" the failure by the police to warn her, she would not have been attacked.

The trial of this matter took over 8 weeks and the Court heard from approximately 30 witnesses, including an expert who testified about sexual violence against women, police supervisors who testified about the way in which sexual assaults had historically been and were currently investigated, and individual police officers involved in the "balcony rapist" investigation. The evidence overwhelmingly established that prior to Jane Doe's sexual assault, the MTPF had a dismal record in terms of its police officers understanding sexual assaults, properly investigating complaints, and dealing with victims in a sensitive way. The evidence showed the investigation into the "balcony rapist" was put on the back-burner many times because it was not considered as urgent or serious as other sexual assaults occurring around the same time. The trial judge found as fact that the police officers involved deliberately chose not to warn potential victims of the balcony rapist because they "believed that women living in the area would become hysterical and panic and their investigation would thereby be jeopardized".

The trial judge held that "a meaningful warning could and should have been given to the women who were at particular risk". He accepted Jane Doe's evidence that had she been made aware of the "balcony rapist", "she would have taken steps to protect herself and most probably those steps would have prevented her from being raped".

With respect to Jane Doe's negligence claim, the trial judge found the police to be under both statutory and common law duties to prevent crime and protect the public. He found the harm to Jane Doe was foreseeable and a "special relationship of proximity existed" between her and the MTPF. The police were held to have breached their duty of care because they were aware of "a specific threat or risk to a specific group of women" but did nothing to warn them or take other measures to protect them. The trial judge ultimately concluded:

In spite of the knowledge that police had about this sexual rapist and their decision not to warn, they took no steps to protect Ms. Doe or any other women from this known danger. In my view, in the circumstances of this case, the police failed utterly in the duty of care they owed Ms. Doe.

Sergeants Cameron and Derry made a decision not to warn women in the neighbourhood and did not do so. They took no steps to protect the women they knew to be at risk from an almost certain attack in result, they failed to take the reasonable

care the law requires and denied the plaintiff the opportunity to take steps to protect herself to eliminate the danger and ensure that she would not be attacked.

In this respect they are liable to her in damages.

In addition to being negligent, the trial judge also found the MTPF had violated Jane Doe's ss. 7 and 15(1) *Charter* rights.

With respect to s. 15(1), Jane Doe alleged "systemic discrimination existed within the MTPF in 1986 which impacted adversely on all women and, specifically, those who were survivors of sexual assault who came into contact with the MTPF". She also alleged "the sexist stereotypical views held by the MTPF informed the investigation of this serial rapist and caused that investigation to be conducted incompetently" and in such a way that she was denied equal protection and benefit of the law.

The trial judge found as fact that even though all of the police officers testified they considered sexual assault to be a serious crime, this was "largely an effort in impression management rather than an indication of any genuine commitment for change". The evidence indicated that for more than 20 years the MTPF failed to address systemic deficiencies in sexual assault investigations, sexist and stereotypical attitudes by police officers and an adherence to "rape myths", for instance that women lie about being raped and unless there are signs of a violent struggle there could not have been forced sexual intercourse.

Unfortunately there is not a lot of meaningful analysis in this decision, possibly because the s. 15(1) jurisprudence was not very developed at the time. Based on a totality of the evidence, the trial judge simply concluded:

The problems continued and because among adults, women are overwhelmingly the victims of sexual assault, they are and were disproportionately impacted by the resulting poor quality of investigation. The result is that women are discriminated against and their right to equal protection and benefit of the law is thereby compromised as the result.

In my view the conduct of this investigation and the failure to warn in particular, was motivated and informed by the adherence to rape myths as well as sexist stereotypical reasoning about rape, about women and about women who are raped. The plaintiff therefore has been discriminated against by reason of her gender and as the result the plaintiff's rights to equal protection and equal benefit of the law were compromised.

With respect to s. 7, Jane Doe alleged her security of the person was violated by the failure to warn. Similar to her s. 15(1) claim, there is not a lot of legal analysis regarding s. 7 and the trial judge simply found that the MTPF:

... deprived the plaintiff of her right to security of the person by subjecting her to the very real risk of attack by a serial rapist -- a risk of which they were aware but about which they quite deliberately failed to inform the plaintiff or any women living in the Church/Wellesley area at the time save only S.G. and M.L. and where in the face of that knowledge and their belief that the rapist would certainly attack again, they

additionally failed to take any steps to protect the plaintiff or other women like her. Clearly the rape of the plaintiff constituted a deprivation of her security of the person.

...

As I have indicated, because the defendants exercised their discretion in the investigation of this case in a discriminatory and negligent way as I have detailed above, their exercise of discretion was thereby contrary to the principle of fundamental justice.

Equally lacking is a meaningful s. 1 analysis, although that is likely because the MTPF called little or no justification evidence. The trial judge's analysis is rather strange, in that he begins by stating that s. 1 does not apply because the issue was police conduct, not a challenge to legislation. He described the MTPF's s. 1 argument as basically being "policing is a complicated business and the courts should stay out of it", which he dismissed out of hand:

In this respect their conduct was determined to have fallen short in part, because of their discriminatory treatment of women. Women were treated differently because some members of the force adhered to sexist notions that if warned, women would panic and scare off the attacker. The defendants do not suggest, even in argument, why such conduct in the circumstances of this case may be "justifiable". I suggest the answer is a simple one -- because it cannot.

At the end of the day the MTPF was ordered to pay Jane Doe over \$220,000 in general and special damages. In addition, the trial judge issued declarations that her ss. 7 and 15(1) *Charter* rights had been violated.

## **2. *Odhavji Estate v Woodhouse*, [2003] 3 SCR 263, 2003 SCC 69**

This case is an appeal of a motion to strike actions against individual police officers, the Metropolitan Toronto Chief of Police, the Metropolitan Toronto Police Board and the Province of Ontario on the basis that they do not disclose a reasonable cause of action. The actions were brought by the family of Manish Odhavji, who was fatally shot by police after he ran from his vehicle. The family alleged the police officers involved in the shooting intentionally breached their obligations to cooperate with the investigation conducted by the Special Investigations Unit (SIU). The family also alleged the lack of a thorough investigation caused them to suffer mental distress, anger, depression and anxiety. The actions were based on the torts of misfeasance in public office and negligence. For the purposes of this memo, I am only focusing on the negligence claim.

At para 44, the Supreme Court of Canada (SCC) reiterated the three components of negligence, namely: "(i) that the defendant owed the plaintiff a duty of care; (ii) that the defendant breached that duty of care; and (iii) that damages resulted from that breach." The Court then applied the well established two-step analysis from *Anns v Merton London Borough Council*, [1978] AC 728, the first being that "harm is a reasonably foreseeable consequence of the conduct in question" and there is "a

sufficient degree of proximity between the parties”. (para 48) The SCC noted that when determining proximity, courts are to “evaluate the nature of that relationship in order to determine whether it is just and fair to impose a duty of care on the defendant”. Relevant factors “include the expectations of the parties, representations, reliance and the nature of the property or interest involved”. (para 50)

The second part of the *Anns* test is a consideration of any policy reasons that would negate or reduce the scope of the duty of care. This stage of the analysis:

... is not concerned with the relationship between the parties but, rather, with the effect of recognizing a duty of care on other legal obligations, the legal system and society more generally. At this stage of the analysis, the question to be asked is whether there exist broad policy considerations that would make the imposition of a duty of care unwise, despite the fact that harm was a reasonably foreseeable consequence of the conduct in question and there was a sufficient degree of proximity between the parties that the imposition of a duty would not be unfair. (para 51)

The SCC expressed concerns about whether the appellants would be able to prove their case and whether an inadequate investigation “would rise to the level of compensable psychiatric harm”. Despite those concerns, it did not want to deprive the appellants of the opportunity to prove their case at a hearing. At para 54, the SCC noted it was “reasonably foreseeable that the officers’ failure to cooperate with the SIU investigation would harm the appellants”. Similarly, since the Chief of Police was responsible for ensuring that officers cooperated, it was reasonably foreseeable that his failure would also cause them harm.

One of the key factors supporting the finding of proximity was that the Chief of Police was statutorily obligated under the *Police Services Act* to ensure officers carried out their duties, including cooperating with the SIU investigation. (para 56) In addition:

A second factor that strengthens the nexus between the Chief and the Odhavjis is the fact that members of the public reasonably expect a chief of police to be mindful of the injuries that might arise as a consequence of police misconduct. Although the vast majority of police officers in our country exercise their powers responsibly, members of the force have a significant capacity to affect members of the public adversely through improper conduct in the exercise of police functions. It is only reasonable that members of the public vulnerable to the consequences of police misconduct would expect that a chief of police would take reasonable care to prevent, or at least to discourage, members of the force from injuring members of the public through improper conduct in the exercise of police functions. (para 57)

The SCC dismissed the appellants’ claim against the Police Board and the Province because there was insufficient proximity in their relationship with the appellants. In particular, these parties were not involved in day to day conduct of police officers and were not under a similar statutory duty requiring them to ensure police officers cooperated with SIU investigators.

### **3. *Hill v Hamilton-Wentworth Regional Police Services Board*, [2007] 3 SCR 129, 2007 SCC 41**

This is a fairly recent SCC decision dealing with whether a duty of care exists on the part of police



officers when they are conducting criminal investigations. In this case, Mr. Hill was wrongfully convicted of robbery and spent approximately 20 months in prison before he was released. He alleged the investigating officers were negligent because their investigation was flawed, in particular because of how they interviewed some witnesses and administered a photo line up.

This case is significant because for the first time the SCC considered whether a duty of care exists between a police officer and a suspect. It began its analysis by applying the *Anns* test and held that “police are not immune from liability under the Canadian law of negligence”. (para 3) Not only did the SCC find there was reasonable foreseeability of harm and proximity, it also found there were no “residual policy considerations” to justify negating the duty of care. As a result, the SCC held that “the police owe a duty of care in negligence to suspects being investigated, and that their conduct during the course of an investigation should be measured against the standard of how a reasonable officer in like circumstances would have acted”. (para 3)

With respect to the appropriate standard of care, the SCC noted at paras 52 and 73:

Police, like other professionals, exercise professional discretion. No compelling distinction lies between police and other professionals on this score. Discretion, hunch and intuition have their proper place in police investigation. However, to characterize police work as completely unpredictable and unbound by standards of reasonableness is to deny its professional nature. Police exercise their discretion and professional judgment in accordance with professional standards and practices, consistent with the high standards of professionalism that society rightfully demands of police in performing their important and dangerous work.

...

I conclude that the appropriate standard of care is the overarching standard of a reasonable police officer in similar circumstances. This standard should be applied in a manner that gives due recognition to the discretion inherent in police investigation. Like other professionals, police officers are entitled to exercise their discretion as they see fit, provided that they stay within the bounds of reasonableness. The standard of care is not breached because a police officer exercises his or her discretion in a manner other than that deemed optimal by the reviewing court. A number of choices may be open to a police officer investigating a crime, all of which may fall within the range of reasonableness. So long as discretion is exercised within this range, the standard of care is not breached. The standard is not perfection, or even the optimum, judged from the vantage of hindsight. It is that of a reasonable officer, judged in the circumstances prevailing at the time the decision was made - circumstances that may include urgency and deficiencies of information. The law of negligence does not require perfection of professionals; nor does it guarantee desired results (Klar, at p. 359). Rather, it accepts that police officers, like other professionals, may make minor errors or errors in judgment which cause unfortunate results, without breaching the standard of care. The law distinguishes between unreasonable mistakes breaching the standard of care and mere “errors in judgment” which any reasonable professional might have made and therefore, which do not breach the standard of care.

With respect to causation, the SCC reiterated that “the starting point is the usual ‘but for’ test. If, on a balance of probabilities, the compensable damage would not have occurred but for the negligence on

the part of the police, then the causation requirement is met”. (para 93) In addition, the SCC clarified that the limitation period for a negligence claim of this type “begins to run when the cause of action is complete”, meaning it arises “when the harmful consequences of the negligence result”. (para 96)

It is very important to note that the SCC made it clear that this case is limited to “the relationship between a police officer and a particularized suspect that he is investigating”. Having said that, the door was left open to future cases where a duty of care might exist, as follows:

... It might well be that both the considerations informing the analysis of both proximity and policy would be different in the context of other relationships involving the police, for example, the relationship between the police and a victim, or the relationship between a police chief and the family of a victim. This decision deals only with the relationship between the police and a suspect being investigated. If a new relationship is alleged to attract liability of the police in negligence in a future case, it will be necessary to engage in a fresh *Anns* analysis, sensitive to the different considerations which might obtain when police interact with persons other than suspects that they are investigating. Such an approach will also ensure that the law of tort is developed in a manner that is sensitive to the benefits of recognizing liability in novel situations where appropriate, but at the same time, sufficiently incremental and gradual to maintain a reasonable degree of certainty in the law. Further, I cannot accept the suggestion that cases dealing with the relationship between the police and victims or between a police chief and the family of a victim are determinative here, although aspects of the analysis in those cases may be applicable and informative in the case at bar. (See *Odhavji and Jane Doe v. Metropolitan Toronto (Municipality) Commissioners of Police* (1998), 1998 CanLII 14826 (ON SC), 160 D.L.R. (4th) 697 (Ont. Ct. (Gen. Div.)).) I note that *Jane Doe* is a lower court decision and that debate continues over the content and scope of the ratio in that case. I do not purport to resolve these disputes on this appeal. In fact, and with great respect to the Court of Appeal who relied to some extent on this case, I find the *Jane Doe* decision of little assistance in the case at bar. (para 27)

Ultimately the SCC concluded that based on the facts, the police were not negligent in Mr. Hill’s case. The Court agreed that the investigation was flawed, but it did not breach the standards of the day.

#### **4. Cases citing *Jane Doe*, *Odhavji* or *Hill***

I was not able to find any relevant Manitoba cases that followed or cited *Jane Doe*, *Odhavji* or *Hill*. I did look at some Court of Appeal and lower court decisions in other jurisdictions to see how they have been treated. As you will see, the Courts of Appeal appear reluctant to expand on *Odhavji* and *Hill*, possibly for fear of opening the door to indiscriminate litigation against police officers. However, the lower court decisions summarized below show a possible resurgence of *Jane Doe* and, depending on the judge, a willingness to find a duty of care if the facts are compelling.

##### **(a) *Wellington v Ontario*, 2011 ONCA 274**

This case is an appeal of a motion to strike a claim against two police officers who fatally shot 15-year old Duane Christian while pursuing him. The claim was filed by Duane’s mother, sister and estate against the individual officers, the Province of Ontario and the Director of the Special Investigations

Unit. It alleged the individual officers “either intentionally killed Duane or were reckless in their use of force” (para 7) and that the Province and Director of the SIU conducted a negligent investigation into his death. The Ontario Court of Appeal had to decide “a single important legal issue: do victims of crime committed by police officers have the right to sue the Special Investigations Unit (“SIU”) for negligent investigation?” (para 1)

The Ontario Court of Appeal applied the two-step *Anns* test to determine if the particular duty of care asserted in this case had already been recognized. At para 20, the Court referred to *Hill*, *Jane Doe* and other cases, noting that:

While the police owe a duty of care to a particular suspect under investigation (see *Hill* and *Beckstead*), and to warn a narrow and distinct group of potential victims of a specific threat (see *Jane Doe*), there is now a long list of decisions rejecting the proposition that the police owe victims of crime and their families a private law duty of care in relation to the investigation of alleged crimes: *Thompson v. Saanich* (District) Police Department, 2010 BCCA 308 (CanLII), [2010] B.C.J. No. 1239, 320 D.L.R. (4th) 496 (C.A.); *Fockler v. Toronto (City)*, [2007] O.J. No. 11, 43 M.P.L.R. (4th) 141 (S.C.J.); *Project 360 Investments Ltd. (c.o.b. Sound Emposium Nightclub v. Toronto Police Services Board*, 2009 CanLII 36380 (ON SC), [2009] O.J. No. 2473 (S.C.J.); *Spencer v. Canada (Attorney General)*, [2010] N.S.J. No. 640, 2010 NSSC 446 (CanLII); *Petryshyn v. Alberta (Minister of Justice)*, [2003] A.J. No. 108, 2003 ABQB 86.

The Court also referred to *Odhavji* but ultimately concluded that case was distinguishable on the facts. It also expressly stated that *Hill* did not apply because it was restricted to the relationship between a police officer and a suspect and at para 31 stated:

The situation of a suspect is distinguishable from the situation of a victim or his or her family. A suspect faces the risk of the stigma of being charged and convicted, as well as the potential loss of liberty and Canadian Charter of Rights and Freedoms rights. The interests of victims and their families in a proper investigation are simply not comparable in nature. While no doubt deeply felt on a subjective level, the interests for which these individuals seek compensation do not ordinarily attract legal protection. Claims for added grief and mental distress are compensable only in exceptional cases: see *Healey v. Lakeridge Health Corp.* (2011), 2011 ONCA 55 (CanLII), 103 O.R. (3d) 401, [2011] O.J. No. 231 (C.A.); *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27 (CanLII), [2008] 2 S.C.R. 114, [2008] S.C.J. No. 27.

At para 34, the Court stated: “At best, the combined effect of *Odjhavi* and *Hill* is to state that the duty alleged must be recognized under the *Cooper-Anns* test.”

The Court ultimately followed its previous decision of *Norris v Gatien* (2001 CanLII 2486, ONCA), where it was held that “the relationship between police officers and victims or their families did not give rise to a private law duty of care”. At paras 43 and 44, the Court concluded:

When the SIU investigates allegations of criminal misconduct by the police, its duties

are overwhelmingly public in nature. Every member of society has an interest in the thorough and effective investigation of police misconduct and in the apprehension and prosecution of any police officer who commits a crime. While victims of crime and their families understandably may feel that they have a specific and particular interest, in the end, their interest in knowing and understanding the circumstances of an alleged crime by certain police officers is shared with all members of the public.

There is now a well-established line of cases standing for the general proposition that public authorities, charged with making decisions in the general public interest, ought to be free to make those decisions without being subjected to a private law duty of care to specific members of the general public. Discretionary public duties of this nature are "not aimed at or geared to the protection of the private interests of specific individuals" and do "not give rise to a private law duty sufficient to ground an action in negligence"...

**(b) *Thompson v Webber*, 2010 BCCA 308**

The plaintiff in this case “sued three members of the Saanich Police Department and the District of Saanich in negligence, alleging the officers caused him injury by failing to adequately investigate and by failing to recommend prosecution in regards to information he supplied them”. (para 1) The claim arose after the plaintiff told the police that his former wife had physically abused their children and the respondents’ failure to investigate “caused his estrangement from his children, thereby causing him certain relationship and psychological consequences which he advances as injury justifying an award of damages”.

The evidence was that the police did interview Mr. Thompson’s former wife and his children, but then closed the file and took no further action. Mr. Thompson alleged this was negligent because a reasonable police officer would have forwarded the information to the Crown and recommended assault charges be laid. The evidence also revealed a very acrimonious family law proceeding between Mr. Thompson and his former wife, including a restraining order being filed against him and requiring access to his children be supervised. My sense from the decision is that Mr. Thompson was not a particularly sympathetic plaintiff and that likely affected the outcome.

The BC Court of Appeal applied the *Anns* test to determine if there was reasonable foreseeability of harm and proximity between the parties. In support of his case, Mr. Thompson relied on the *Odhavji*, *Hill* and *Jane Doe* cases but the Court did not follow them. The Court held there was no duty of care owed to Mr. Thompson by the police for the following reasons:

- there was insufficient proximity because “Mr. Thompson was not the subject of the information provided to the police, either as a person said to be wronged - who were his children, or the person thought to be the wrongdoer – Ms. Thompson. He was, although the father of the children, one party removed from the complaint. I consider it is plain and obvious, on the pleadings, that Mr. Thompson was not within the circle of people the police would reasonably have in mind as a person potentially harmed by their actions”; and
- the *Odhavji* case is distinguishable because in that case there was a failure to meet the requirements of specific legislation and the Chief of Police was responsible for ensuring the

officers cooperated with the investigation.

**(c) *Patrong v Wayne Banks and Others*, 2013 CanLII 60852 (ON SC)**

This case was a motion to strike negligence and *Charter* claims against the Toronto Police Services Board, the former Chief of Police and two individual police officers. The plaintiff, Kofi Patrong, was a young African-American man who was the victim of a drive-by shooting in the Malvern area of Scarborough. Mr. Patrong was standing outside his townhouse complex when he was shot by Tyshan Riley, a total stranger. He alleged the police knew Mr. Riley was dangerous and “his intention to drive into Malvern to shoot at young black males whom he perceived to be Malvern Crew members”. Mr. Patrong alleged the defendants were negligent because they failed “to take reasonable care to guard against foreseeable harm” and they also violated his s. 7 rights. He alleged he was “part of a narrow and identifiable group of Riley’s potential victims” and the “defendants knew or ought to have known that Riley posed a great threat to young black men’s safety in Malvern”, including him. (para 5)

The Court accepted that *Jane Doe* “establishes that the police may owe a duty of care to a crime victim if the facts as pleaded establish a special relationship of proximity between the police and the victim”. (para 24) However, the Court found that the facts as alleged did not support Mr. Patrong’s allegation that the police knew he was the target of foreseeable harm. The Court distinguished *Jane Doe* because the facts as alleged did not disclose that the police knew Mr. Riley had a pattern of prior similar criminal offences, that Mr. Patrong “was a member of a limited number of obvious victims and used him as ‘bait’ for Riley’s apprehension, as the police did in *Doe*”. (para 32) The Court said that Mr. Patrong had no “greater claim to police protection from Riley than any other Malvern resident or member of the public”. (para 46) The police might have known that Mr. Riley would commit another violent offence, “but what crime and against whom was entirely unknown”. (para 46) For that reason, the Court struck out Mr. Patrong’s claim in its entirety.

**(d) *Patrong v Banks et al.*, 2015 ONSC 3078 (CanLII)**

After his claim was dismissed in 2013, Mr. Patrong filed another claim against the same defendants. This time his claim survived a motion to strike.

It is evident from the following opening paragraphs of the decision that this judge took a very different view of Mr. Patrong’s claim and allowed it to proceed:

Kofi Patrong was shot in a drive-by shooting in the Malvern area of Scarborough, Toronto on April 19, 2004. He was only 19 years old and a high school graduate. Mr. Patrong’s goal of going to college was replaced by six surgeries, permanent disability, and a need for social assistance.

The shooter was a violent criminal named Tyshan Riley.

Riley was known to the police. In fact, the police were watching Riley that very day. The defendants Comeau and Banks were the police officers leading an investigation into Riley in connection with previous drive-by shootings in Malvern.

Riley was known to be a dangerous member of a criminal gang called the Galloway

Boyz. In 2004, the Galloway Boyz were in a gang war with a rival criminal gang called the Malvern Crew.

Two court orders already prohibited Riley from entering Scarborough. Riley was the prime suspect in a series of drive-by shootings that had recently occurred in the Malvern area. The police knew that if Riley went to Malvern, he would likely be armed and would pose a real threat. A Joint Management Team composed of senior officers of the Toronto Police Service had therefore ordered that if Riley entered Scarborough he was to be arrested; in a high risk take down if necessary. Such was the known danger presented by Tyshan Riley.

On April 19, 2004, surveillance officers watched Riley in a car heading toward Malvern traveling at high speed. The surveillance officers did not arrest him however. Riley drove to the heart of Malvern as expected. There he shot Kofi Patrong.

The surveillance officers did not arrest Riley because they were not told about the senior officers' arrest order. The defendant Banks disagreed with the senior officers' order to arrest Riley if he entered Scarborough and had declined to pass on the order. So despite two court orders and orders from their superiors, the surveillance officers just let Riley drive into Malvern.

Riley and the Toronto Police Service changed the course of Mr. Patrong's life that day.

In addition, it is also very evident from the decision that the judge was extremely frustrated by courts that take a rigid and narrow interpretation of the law regarding duties of care:

Judges do not always discuss how defining justice can involve personal moral judgments. In *Jacobellis v. Ohio*, 378 U.S. 184, U.S. Supreme Court Justice Potter Stewart famously wrote that while certain concepts may be difficult to define, "I know it when I see it." In cases like this one, the Supreme Court of Canada has said that the law of negligence is supposed to apply if it is "just and fair" to require the defendant to pay the plaintiff for the injuries caused by the defendant's negligence. *Odhayji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 S.C.R. 263 at para. 50. Although the question asks for an opinion of what is "just and fair," the law tries to supply other tests to make the decision seem less personal and more predictable. In doing so however, as discussed below, the law has strayed into areas where decisions can be made without regard to the underlying justice of the case. Irrelevant and arbitrary factors can be considered and important factors can be ignored. The vital, quintessentially common law judgment call of whether it is reasonable to hold the defendants to account for their neglect can get lost in the twists and turns of the path down which the common law has strayed. (para 10)

In a plain language, "tell-it-like-it-is" decision that I would encourage you to read in its entirety, the judge discusses *Jane Doe* and criticizes how it has been interpreted:

There are two problems intersecting in this case. First, *Jane Doe* is being read too narrowly. It is not a statute that limits lawsuits against the police by victims to only cases where a very small number of known potential victims is in play. That happened to be the facts in that case. There was an unknown assailant and a small group of known likely victims. Here we have the opposite; a known assailant and larger group of potentially unknown victims. Moldaver J. did not say that the common law duty to warn and the parallel duty to protect apply only in the former case and not in any other. To the contrary, he said that there even where a duty to warn would be ruled out a duty to protect citizens would still apply. Here, it is doubtful that the police could have warned all possible victims of Riley's approach or even the Malvern Crew for that matter. Doing so may well have made matters much more dangerous. As found by Moldaver J., that does not need to negate a duty to protect the victims by arresting the assailant. Given that Riley was known and that the order had already been made to arrest him, this case is much stronger for a pure operational negligence claim for failure to arrest than *Jane Doe* where Moldaver J. had to suggest the existence of a public policy duty to spend more money to identify the assailant before he could be arrested.

Moreover, reading *Jane Doe* as a statute requiring a fixed, known number of named plaintiffs, ignores the decisions quoted above that say expressly that proximity is a broad concept guided by factors rather than a fixed test. Mr. Patrong had a vital physical safety interest in the actions of the police. He and others in the neighbourhood had a right to expect the police to arrest Riley before he committed another drive-by shooting. There was a court order prohibiting him from entering Scarborough. The senior police officers had ordered his arrest. The police knew that a drive-by shooting was imminent. They knew it was likely to occur in a very defined area. (One stops to wonder whether Detective Banks would have made the same decision he is alleged to have made in this case if Riley had been headed into Rosedale or Forest Hill rather than into Malvern. But that is for another day.) There are good reasons to find a duty of care on the facts alleged. But they are largely obscured by an overly-narrow reading of *Jane Doe*.

**Negligence involving a government defendant requires a broader assessment of proximity.**

The existence of cases reading of *Jane Doe* too narrowly and others that tried to apply it where it probably did not fit, is only one manifestation of the problem. Those cases hint at the larger issue however. The real issue is that the questions being asked in all of these cases do not make much sense. The circular reasoning of *Nielsen* and *Anns* works very well in private law cases. The categories of negligence are never closed and we can trust common law judges to "know it when they see it." But it does not make sense to try to discern a hidden private law duty of care in statutory or regulatory schemes that establish public bodies with public duties. The statutory schemes are not drafted to deal with common law damages remedies in the main. It is the height of fiction to romp through these statutes to try to find hints at a non-existent legislative intent concerning the existence or non-existence of a private law duty of care. (para 67-69)

This decision has been cited in one other case, that being *Walsh v. Coady Estate*, 2015 NSSC 175 (CanLII) from the Supreme Court of Nova Scotia. Without going into the specific facts, in *Walsh* the Court dismissed a motion to strike a claim against the RCMP for failing to stop a driver they knew had been driving “erratic and risky” who then struck and killed two people, including Mr. Walsh. I am mentioning this case because the Court dismissed the motion to strike on the basis of *Patrong* and other cases that found the police owe a duty of care to individual members of the public if it is reasonably foreseeable they could be harmed by the actions of another person. I do not know if this is a new trend and courts in the future may be more willing to find a duty of care exists based on *Jane Doe*.

## 5. My comments on the case law

Based on the above cases, I have the following comments:

- *Jane Doe* is significant because:
  - the Court found that police owe a duty of care to members of a group at risk of harm by a particular offender. That duty takes the form of a warning or other measures to protect potential victims;
  - the Court found the police violated Jane Doe’s ss. 7 and 15(1) rights based on their dismal record of such things as investigating sexual assaults, their stereotypical assumptions about women and how rape victims are supposed to act. Originally I thought a *Charter* claim would have little merit but I think we should revisit this issue and walk our way through a potential claim given a similar dismal history of investigating murders and disappearances of Indigenous women; and
  - based on the 2015 *Patrong* and *Walsh* cases, *Jane Doe* may be making a resurgence and courts may be open to finding a duty of care if the facts are compelling, ie. sympathetic plaintiff and police conduct is particularly egregious. In an interesting twist, Moldaver, J. was the judge who dismissed the motion to strike the claim in *Jane Doe* in 1990. I am not sure, but he may be the same judge who is now on the Supreme Court of Canada.
- *Oldhavji* is significant because:
  - the SCC allowed a claim to be brought by the family of a deceased person;
  - a key factor in the decision was that the police officers and Police Chief breached their statutory obligations. I briefly skimmed *The Police Services Act* and the *Royal Canadian Mounted Police Act* and would draw to your attention the following sections:
    - *The Police Services Act*:
      - s. 22(1) - The police chief is responsible for “the enforcement of law, the prevention of crime and the preservation of the public peace in the municipality”;
      - s. 25 - A police officer’s duties include: “preserving the public peace”, “preventing crime and offences against the laws in force in the municipality”, “assisting victims of crime” and “apprehending criminals and others who may



lawfully be taken into custody”.

- *Royal Canadian Mounted Police Act:*
  - s. 18 - a RCMP officer’s duties include performing “all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody”;
  - the SCC confirmed the standard of care is that of a reasonable police officer;
  - the SCC confirmed the test for causation and when the limitation period begins to run; and
  - Courts of Appeal in Ontario and BC in *Wellington* and *Thompson* respectively have distinguished this case and appear to be less inclined to find a duty of care exists.
- *Hill* is significant because:
  - the SCC recognized the tort of “negligent investigation” by police officers;
  - the SCC made it clear that the case is limited to the relationship between police officers and a particular suspect, however it left the door open to future duties of care being recognized, including between the police and a victim or the police and families; and
  - in the right case, ie. if the facts support it, a claim in negligence against the Winnipeg Police or the RCMP might be possible provided the *Anns* test can be met, ie. there is reasonable foreseeability of harm, there is a special relationship of proximity and there are no policy considerations that would negate or limit the duty of care.

# APPENDIX H:

## RELEVANT INTERNATIONAL LAW SOURCES

### The Organization of American States

The Organization of American States (OAS) was established in 1948 and is the oldest regional organization in the world. According to its website, the OAS “constitutes the main political, judicial, and social governmental forum in the Hemisphere”.<sup>1</sup> After almost 30 years as an observer, Canada became one of the 35 Member States when it signed and ratified the Charter of the OAS in 1989.<sup>2</sup> Canada is represented at the OAS by what is called a “Permanent Mission”. According to the Federal Government’s website, “Canada’s areas of strongest engagement at the OAS are democracy and human rights, security and conflict prevention, and institutional reform”.<sup>3</sup>

One of the foundational documents of the OAS is the *American Declaration of the Rights and Duties of Man*, which was adopted in 1948.<sup>4</sup> The Declaration sets out fundamental human rights and freedoms, including the following:

Article I. Every human being has the right to life, liberty and security of the person.

Article II. All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

The Inter-American Commission on Human Rights (IACHR) was created in 1959 by the American Convention on Human Rights and its “mission is to promote and protect human rights in the American hemisphere”.<sup>5</sup> The IACHR takes the position that the *American Declaration on the Rights and Duties of Man* is a source of legal obligation on Member States of the OAS, including Canada:

... the Commission in its decisions has ***repeatedly interpreted the American Declaration as requiring States to adopt measures to give legal effect to the rights contained in the American Declaration***. The Commission has not only required States to refrain from committing human rights violations contrary to the provisions of the American Declaration, ***but also to adopt affirmative measures to guarantee that the individuals subject to their jurisdiction can exercise and enjoy the rights contained in the American Declaration***.<sup>6</sup> (emphasis added)

With respect to Article II of the Declaration, the IACHR’s position is that:

... the right to equality and non-discrimination contained in Article II of the American Declaration is a fundamental principle of the inter-American system of human rights. ... The principle of non-discrimination is the backbone of the universal and regional human rights systems.

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<sup>1</sup> <http://www.international.gc.ca/oas-oea/index.aspx?lang=eng>

<sup>2</sup> <http://www.international.gc.ca/oas-oea/index.aspx?lang=eng>

<sup>3</sup> <http://www.international.gc.ca/oas-oea/index.aspx?lang=eng>

<sup>4</sup> <http://www.cidh.oas.org/Basicos/English/Basic2.american%20Declaration.htm>

<sup>5</sup> <http://www.oas.org/en/iachr/mandate/what.asp>

<sup>6</sup> Report of the Inter-American Commission on Human Rights entitled “Missing and Murdered Indigenous Women in British Columbia, Canada”, December 21, 2014 (“the IACHR Report”), p. 59.

As with all fundamental rights and freedoms, the Commission has observed that ***States are not only obligated to provide for equal protection of the law, they must also adopt the legislative, policy and other measures necessary to guarantee the effective enjoyment of the rights protected under Article II*** of the American Declaration.<sup>7</sup> (emphasis added)

*The American Convention on Human Rights* recognizes and affirms fundamental human rights and freedoms, including in particular the right to life, liberty and security of the person, and the right to equal protection of the law. Member States who have ratified the *American Convention on Human Rights* “undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex ...” (Article 1). In addition, Article 2 states that “States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms”.

Canada has **not** signed or ratified the *American Convention on Human Rights*. However, that does mean the IACHR does not have any authority or jurisdiction to investigate allegations of human rights violations. Article 18 of the *Statute of the Inter-American Commission on Human Rights* and Article 20 of the *American Convention on Human Rights* give the IACHR the authority to observe Member States, issue reports, and make recommendations to governments regarding human rights violations.<sup>8</sup>

Petitions to the IACHR alleging violations of human rights may be filed by individuals, groups of individuals or organizations. A Member State may be held responsible for human rights violations in the following ways:

- action, meaning as a result of an act by the State or its agents;
- acquiescence, meaning as a result of the tacit consent of the State or its agents; or
- omission, meaning as a result of the State or its agents failing to take action when they should have done so.<sup>9</sup>

In addition to investigating complaints, the IACHR also has authority to monitor “the human rights situation in the Member States”. According to the IACHR’s website, “special attention must be devoted to those populations, communities and groups that have historically been the targets of discrimination”.<sup>10</sup>

With respect to Indigenous peoples, the IACHR has expressly recognized:

***... the protection and respect of the rights of indigenous peoples is a matter of special importance. In 1972 the IACHR affirmed that for historical reasons, and based on moral and humanitarian principles, States had a sacred duty to provide special protection to indigenous peoples.***

...

The organs of the Inter-American system for the protection of human rights have

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<sup>7</sup> IACHR Report, paras 130-131.

<sup>8</sup> IAHRC report, p. 21.

<sup>9</sup> <http://www.oas.org/en/iachr/docs/pdf/HowTo.pdf>

<sup>10</sup> <http://www.oas.org/en/iachr/mandate/what.asp>

developed jurisprudence that *recognizes the collective rights of indigenous peoples*. Throughout, the Commission has insisted on the need for special protection for the right of indigenous peoples to their lands and resources, because the full exercise of that right not only implies the protection of an economic unit, but also the protection of the human rights of a community whose economic, social, spiritual, and cultural development is based on its relationship to the land. ***The Inter-American System has indicated that the wretched living conditions that members of an indigenous community may experience and their general situation of abandonment give rise to a suffering that amounts to a violation of their mental and moral integrity.*** In addition, ***the failure of a State to take required positive measures, within its powers, that could reasonably be expected to prevent or to avoid the risk to the right to life of an indigenous person can amount to a violation of the right to life.***

The Commission has also given special attention to the right of indigenous peoples to judicial protection and guarantees under the American Declaration. Effective access to such protection is especially important given the context of historical, structural discrimination. ***Further, it is essential that such protection be available in consonance with indigenous peoples' culture and traditions, and provided in a way that ensures against discrimination.***<sup>11</sup> (emphasis added)

### **The 2014 IACHR Report on Missing and Murdered Indigenous Women**

On December 21, 2014, the IACHR issued a report entitled “Missing and Murdered Indigenous Women in British Columbia, Canada” (“the IACHR Report”). The IACHR Report came about after information was provided to the IACHR about the issue and hearings were held at the request of the Native Women’s Association of Canada, the Canadian Feminist Alliance for International Action and the University of Miami Human Rights Clinic. In addition, the IACHR visited Ottawa and British Columbia to meet government officials, Aboriginal leaders, non-governmental organizations, and family members.

The IACHR limited its investigation to British Columbia because that province has the highest number of murdered and missing Indigenous women in Canada, primarily because of the “Highway of Tears” and Vancouver’s Downtown East Side. According to the IACHR Report, B.C. has about 160 documented cases of murdered or missing Indigenous women.

The IACHR Report recognizes that Indigenous women are one of the most disadvantaged and vulnerable groups in Canadian society and at para 129 concludes:

As described above, the situation of missing and murdered indigenous women in Canada is a consequence of the historical treatment of indigenous peoples under the law and a context of past discrimination that continues to affect them. Despite the current national framework regarding equality and non-discrimination, the legacy of historical discrimination, including the Residential Schools and the *Indian Act*, is an important factor in understanding the persistence of unequal treatment and stereotyping of indigenous women, which in turn continue to place indigenous women at an increased risk for multiple forms of violence.

In addition to examining why Indigenous women and girls are at risk of violence, the IACHR Report

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<sup>11</sup> IACHR Report, paras 116-118.

examines Canada's legal framework and its obligation to address gender-based violence. In addition, the IACHR reviewed Canada's response to the issue of murdered and missing Indigenous women and made some specific recommendations. Some key findings in the IACHR Report include the following:

- A "crucial component" of Canada's duty under Article II of the American Declaration of the Rights and Duties of Man is "the prevention and eradication of violence against women." (para 133)
- There is a "strong connection" between discrimination and violence against women. "Gender-based violence is one of the most extreme and pervasive forms of discrimination, severely impairing and nullifying the enjoyment of women's rights." (paras 135, 138)
- In previous cases, the IACHR noted that "discrimination against women was a root cause of both the violence itself and the non-responsiveness to that violence." (para 139)
- Indigenous women "face two layers of discrimination as from the time they are born: first as members of their racial and ethnic group and second on the basis of their sex." (para 142)
- "In addition, the IACHR stresses that violence against indigenous women has an individual and collective dimension. It constitutes an offence to a woman's dignity and an offence to the culture of the community to which the woman belongs." (para 147)

### **The "Due Diligence Principle"**

One of the most interesting parts of the IACHR Report is the discussion regarding the "due diligence principle" in the context of murdered and missing Indigenous women and girls. In summarizing, the due diligence principle can be described as follows:

The inter-American human rights system has affirmed the States' obligation to act with due diligence in response to human rights violations. ***This duty involves four obligations: the obligation to prevent, the obligation to investigate, the obligation to punish, and the obligation to make reparations for human rights violations:***

This obligation implies the ***duty of States Parties to organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights***. As a consequence of this obligation, ***the States must prevent, investigate and punish any violation of the rights recognized by the Convention and, moreover, if possible attempt to restore the right violated and provide compensation as warranted for damages resulting from the violation.***<sup>12</sup> (emphasis added)

With respect to the due diligence principle and violence against women, the IAHRC Report states:

The Commission notes that the principle of due diligence has a long history in the international legal system and its standards and jurisprudence concerning State responsibility. ***The due diligence principle has been applied in a range of circumstances to mandate States to prevent, punish, and provide remedies for acts of violence. The principle applies when***

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<sup>12</sup> IACHR Report, para 153.

*such acts of violence are committed by States and, under some circumstances, by non-State actors.*

*Violence perpetrated or condoned by the State may include gender-based violence against women who are indigenous or members of minority groups.* There is a broad international consensus over the use of the due diligence principle to interpret the content of State legal obligations towards the problem of violence against women. This consensus is a reflection of the *international community's growing recognition of violence against women as a human rights problem requiring State action across a range of fronts.*<sup>13</sup> (emphasis added)

With respect to what is actually required by a State to fulfill its obligation to act with due diligence, the IAHR Report states:

The international community has consistently referenced the due diligence standard as a way of understanding what States' human rights obligations mean in practice when it comes to violence perpetrated against women of varying ages and in different contexts. *This principle has also been crucial in defining the circumstances under which a State may be obligated to prevent and respond to the acts or omissions of private actors. This duty encompasses the organization of the entire state structure – including the State's legislative framework, public policies, law enforcement machinery and judicial system - to adequately and effectively prevent and respond to these problems. The Inter-American Commission has invoked the due diligence principle as a benchmark to rule on cases and situations of violence against women perpetrated by private actors, including those pertaining to girls.*<sup>14</sup> (emphasis added)

Other key points about the due diligence principle are:

- “The protection of the right to life is a critical component of a State's due diligence obligation to protect women from acts of violence. This legal obligation pertains to the entire state institution, including the actions of those entrusted with safeguarding security, such as the police forces. It also extends to the obligations a State may have to prevent and respond to the actions of non-state actors and private persons.” (para 160)
- “The duty of protection related to the right to life is considered especially rigorous in the case of girls. This stems, on the one hand, from the broadly-recognized international obligation to provide special protection to children, due to their stage of physical and emotional development. On the other, it is linked to the international recognition that the due diligence obligation of States to protect and prevent violence has special connotations in the case of women, due to the historical discrimination they have faced as a group. Under the international human rights system, the States have been held responsible for violations to the right to life when their authorities failed to undertake reasonable measures to protect women and children from violence resulting in their death even though they knew or should have known of a situation of risk.” (para 161)
- “For its part, the Inter-American human rights system has established that States must adopt comprehensive measures to comply with due diligence in cases of violence against women. In other words, the State should prevent the risk factors and, at the same time, strengthen the institutions that can respond effectively in cases of violence against women. In particular, the

<sup>13</sup> IACHR Report, paras 154-155.

<sup>14</sup> IACHR Report, para 157.

State should have an appropriate legal framework of protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to complaints.” (para 164)

- “Given the strong connection between the greater risks for violence that indigenous women confront and the social and economic inequalities they face, States must implement specific measures to address the social and economic disparities that affect indigenous women. The IACHR recalls the statistics described in the previous section that demonstrate that indigenous women in Canada constitute one of the most disadvantaged groups on Canada. These statistics, according to some civil society organizations: point to the existence of institutionalized racism towards Aboriginal people, and towards Aboriginal women and girls, in the laws and policies of the Government of Canada with respect to the child welfare and criminal justice systems, and in the provision of education [...] and other essential services. Canada is failing to live up to its [international] obligations [...] to ensure that public authorities and public institutions eliminate racial discrimination, and to review and amend any laws or policies which have the effect of creating or perpetuating discrimination.” (para 165)
- “The IACHR has held that the State should adopt preventive measures in specific cases in which it is evident that certain women and girls may be victims of violence. Moreover, the Inter-American system has established that the obligation of prevention encompasses all those measures of a legal, political, administrative and cultural nature that ensure protection of human rights, which include improving women’s enjoyment of economic, social and cultural rights. Violation of these rights is an unlawful act which may result in the punishment of the person who commits the violation. There is also an obligation to compensate the victims for the harmful consequences. That said, the obligation to prevent is an obligation of the State to implement adequate means or conduct itself appropriately, and the mere fact of a right having been violated is not, in and of itself, proof of a failure to prevent. The finding of a failure to prevent will depend on what the State has done or failed to do to prevent the human rights violation in question.” (para 171)
- “The lack of due diligence in cases of violence against indigenous women has even more profound consequences as it affects not only the victims, but also their families and the communities to which they belong.” (para 182)
- “The Inter-American system has consistently found that a lack of due diligence that leads to impunity, and engenders further incidents of the very violence that was to be targeted, is itself a form of discrimination in access to justice. The Inter-American jurisprudence has established that States have the obligation to use all the legal means at their disposal to combat such situations, since impunity fosters chronic recidivism of human rights violations, and total defencelessness of victims and their relatives.” The IACHR has established that judicial ineffectiveness in cases involving violence against women creates a climate of impunity that invites violence and discrimination against women “since society sees no evidence of willingness by the State, as the representative of the society, to take effective action to sanction such acts.” When crimes committed against women go unpunished, this “sends the message that violence against women is tolerated; this leads to their perpetuation, together with social acceptance of the phenomenon, the feeling women have that they are not safe, and their persistent mistrust in the system of administration of justice.” (paras 183-184)

The IACHR Report specifically discusses the due diligence principle in the context of investigating the murder or disappearance of an Indigenous woman or girl. Paras 173-177 states:

In considering a failed investigation or prosecution, the IACHR has determined that “in order to establish in a convincing and credible manner that [a] result was not the product of a mechanical implementation of certain procedural formalities without the State genuinely seeking the truth, *the State must show that it carried out an immediate, exhaustive and impartial investigation,*” and *must explore all the investigative leads possible that might identify the authors of the crime, so that they can be prosecuted and punished.* The Inter-American jurisprudence has established that *the obligation to investigate a death means that the effort to determine the truth with all diligence must be evident as of the very first procedures.* The State may be liable for a failure to order, practice or evaluate evidence that may have been essential for a proper clarification of the facts.

The IACHR has singled out the investigation as the critical phase in cases involving violence against women and has written that *the “importance of due investigation cannot be overestimated, as deficiencies often prevent and/or obstruct further efforts to identify, prosecute and punish those responsible.”*

The IACHR has also held that the *influence of discriminatory socio-cultural patterns can adversely affect an investigation of a case and the assessment of any evidence compiled. In this regard, the creation and use of stereotypes becomes one of the causes and consequences of gender violence practiced against women.* The stereotypes in an investigation are the result of the existing situation of inequality and discrimination that many women confront due to multiple factors that are interrelated with their sex, such as race, age, ethnicity, socioeconomic condition and others.

*The Inter-American system has developed particular standards in relation to missing women. An obligation of strict due diligence arises with regard to reports of missing women, with respect to search operations during the first hours and days. This obligation of means, is more rigorous and demands an immediate and effective response on the part of authorities when complaints of disappearances are filed, to adequately prevent violence against women. This includes an exhaustive search. It also requires that the officials in charge of receiving missing person reports have the capacity and the sensitivity to understand the seriousness of the phenomenon of violence against women and the willingness to act immediately. Above all, it is essential that police authorities, prosecutors and judicial officials take prompt action by ordering, without delay, the necessary measures to determine the whereabouts of the victims or the place where they may have been detained. Adequate procedures should be in place for reporting disappearances, which should result in an immediate and effective investigation. The authorities should presume that the disappeared person has been deprived of liberty and is still alive until there is no longer any uncertainty about her fate.*

*Particularly regarding girls, states have a reinforced duty of due diligence.* The Inter- American system has established that states have the obligation to adopt all positive measures necessary to guarantee the rights of girls who have gone missing. *Specifically, states have the duty to ensure that immediate, effective measures are applied to investigate any report of missing girls, and to attempt to locate her in the context of a crime, as soon as possible once the family reports their absence. In the event that a missing girl’s body is found the state must investigate and prosecute and punish those responsible effectively and expeditiously.* (emphasis added)



At para 185, the IACHR sums up its discussion of the link between the right to be free from discrimination, violence against women and the due diligence principle:

To summarize, the American Declaration is recognized as constituting a source of legal obligations for OAS states including Canada. The organs of the international and regional human rights systems for the protection of human rights have developed jurisprudence that recognize the rights of indigenous peoples as well as the obligation to guarantee women's rights to equality, non-discrimination and non-violence. In this regard, international and regional human rights systems have developed a set of principles when applying the due diligence standards in cases of violence against women, as well as particular standards in relation to missing women. International and regional systems have also addressed the strong link between discrimination, violence and due diligence, emphasizing that a State's failure to act with due diligence with respect to a case of violence against women is a form of discrimination, and a failure on the State's part to comply with its obligation not to discriminate. The lack of due diligence in cases of violence against indigenous women is especially grave as it affects not only the victims, but also their families and the communities to which they belong. In the next section, the IACHR will analyze Canada's response to the situation of missing and murdered indigenous women in BC in light of the standards that have been described in this section.

With respect to a national inquiry, the IACHR made the following recommendation:

The IACHR strongly supports the creation of a national-level action plan or a nation-wide inquiry into the issue of missing and murdered indigenous women and girls, in order to better understand and address the problem through integral approaches. The IACHR considers that there is much more to understand and to acknowledge in relation to the missing and murdered indigenous women. This initiative must be organized in consultation with indigenous peoples, particularly indigenous women, at all stages from conception, to establishing terms of reference, implementation and evaluation.<sup>15</sup>

### **UN Report of the Special Rapporteur on the Rights of Indigenous Peoples**

This July, 2014 report was prepared by Special Rapporteur James Anaya. It deals with several issues relating to the human rights of Indigenous peoples in Canada, including missing and murdered women and girls, as follows:

#### **2. Missing and murdered aboriginal women and girls**

34. Indigenous women and girls are also disproportionately victims of violent crime. The Native Women's Association of Canada has documented over 660 cases of women and girls across Canada who have gone missing or been murdered in the last 20 years, many of which remain unresolved, although the exact number of unresolved cases remains to be determined. Since 1996, there have been at least 29 official inquiries and reports dealing with aspects of this issue, which have resulted in over 500 recommendations for action.

35. To address this severe problem, in 2010 the federal Government implemented a seven-point plan, which includes a mix of law enforcement and justice initiatives, as well as funding for victim and family support and prevention and awareness

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<sup>15</sup> IAHRC Report, para 309.

programmes. One part of the plan, which involves the identification of best practices in policing and the justice system in interactions with aboriginal women, resulted in the creation in March 2012 of an online searchable Compendium of Promising Practices to Reduce Violence and Increase Safety of Aboriginal Women in Canada. Further, over the last decade, the Royal Canadian Mounted Police, Canada's federal police force, has established integrated projects, units and task forces in Manitoba, British Columbia and Alberta to review unsolved homicides and missing persons cases.

36. There has also been action at the provincial level. For example, Manitoba has implemented legislative changes to improve investigative powers in missing persons cases and protect victims of trafficking, and has engaged in a number of consultations and awareness-raising efforts and funded anti-violence programmes. Ontario now includes persons missing for more than a month in their major crimes database, and the provincial police force has established an internal working group to link analysis, prevention and investigative efforts across the organization. Likewise, the Saskatchewan police have a provincial database on missing persons, which identifies aboriginal and non-aboriginal persons, and the province has a unique Provincial Partnership Committee on Missing Persons, which coordinates policy and public awareness development between aboriginal groups, the police and the justice system, and with non-governmental agencies.

37. Nevertheless, these efforts and any positive results from them have not, at least yet, abated continuing calls for greater and more effective action to address the problem of missing indigenous women and girls. During his visit to Canada, the Special Rapporteur heard consistent, insistent calls across the country for a comprehensive, nationwide inquiry, organized in consultation with indigenous peoples, that could provide an opportunity for the voices of the victims' families to be heard, deepen understanding of the magnitude and systemic dimensions of the issue, and identify best practices that could lead to an adequately coordinated response.

At p. 21, the Special Rapporteur made the following recommendation regarding a national inquiry:

Bearing in mind the important steps already taken to inquire into the disturbing phenomenon of missing and murdered aboriginal women and girls and to develop measures to address this problem, the federal Government should undertake a comprehensive, nationwide inquiry into the issue of missing and murdered aboriginal women and girls, organized in consultation with indigenous peoples.

## **UN Declarations and Conventions**

### **The United Nations Declaration on the Rights of Indigenous Peoples**

- Article 1 : Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights 4 and international human rights law.
- Article 2: Indigenous peoples and individuals are free and equal to all other peoples and

individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

- Article 7: Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
- Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- Article 22. 1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration. 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

## **The Universal Declaration of Human Rights**

- Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty
- Article 3: Everyone has the right to life, liberty and security of person.
- Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## **United Nations Convention on the Rights of the Child (CRC)**

- Article 2 - 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
- Article 6 - 1. States Parties recognize that every child has the inherent right to life. 2. States

Parties shall ensure to the maximum extent possible the survival and development of the child.

### **United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

- *Preamble* - Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,
- *Article 2* - States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- *Article 3* - States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### **United Nations Convention on the Elimination of All Forms of Racial Discrimination (CEAFRD)**

- *Article 2 - 1.* States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; ... (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; ... 2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the

objectives for which they were taken have been achieved.

- Article 5 - In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ...  
(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

## **International Covenant on Civil and Political Rights**

- Article 2 - 1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
- Article 6 - 1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- Article 7 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 9 - 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.



**CERTIFICATE / CERTIFICAT**  
**ARTICLES EFFECTIVE /**  
**LES STATUTS PRENNENT EFFET LE**

**13 MAI / MAY 2015**

  
**DIRECTOR/DIRECTEUR**

**The Corporations Act / Loi sur les corporations**

**1. Name of Corporation / Dénomination sociale**

FAMILIES FIRST FOUNDATION INC.

**2. The address in full of the registered office (include postal code)**  
**Adresse complète du bureau enregistré (inclure le code postal)**

472 Madison Street  
Winnipeg, Manitoba R3J 1J1

**3. Number (or minimum and maximum number) of directors**  
**Nombre (ou nombre minimal et maximal) d'administrateurs**

Minimum of three (3) directors and maximum of nine (9) directors.

**4. First directors / Premiers administrateurs**

Name in full / Nom complet	Address in full (include postal code) / Adresse complète (inclure le code postal)
Marcel Balfour	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3
Karen Harper	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3
Kayla Frank	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3

**5. The undertaking of the corporation is restricted to the following**  
**Les activités de la corporation se limitent à ce qui suit**

See attached Schedule "I".

6. Other provisions, if any / Autres dispositions, s'il y a lieu

Upon the dissolution or winding up of the corporation, all of its remaining assets, after repayment of its liabilities, shall be distributed to one or more qualified donees as defined under the provisions of the *Income Tax Act* (Canada), whether or not incorporated, which carries on activities within Manitoba similar to those of the Corporation.

The directors of the corporation shall serve as such without remuneration and no director shall directly or indirectly receive any profit from his or her position as such, provided that the directors may be paid reasonable expenses incurred by them in performance of their duties.

7. The corporation has no authorized capital and shall be carried on without pecuniary gain to its members, and any profits or other accretions to the corporation shall be used in furthering its undertaking.

La corporation n'a pas de capital autorisé et exercera ses activités sans que ses membres en tirent profit sur le plan pécuniaire; tout bénéfice réalisé par la corporation sera consacré à l'avancement de ses activités.

8. Each first director named herein becomes a member of the corporation upon incorporation.

Chacun des premiers administrateurs nommés dans les présentes devient membre de la corporation à la constitution de celle-ci.




9. Where the undertaking of the corporation is of a social nature, the address in full of the clubhouse or similar premises that the corporation will maintain. / Lorsque les activités de la corporation son à caractère social, indiquer l'adresse au complet du lieu où elle les poursuivra.

Not applicable

10. I have satisfied myself that, the proposed name of the corporation is not the same as or similar to the name of any known body corporate, association, partnership, individual or business so as to be likely to confuse or mislead./

Je me suis assuré que la dénomination sociale projetée n'est ni identique ni semblable à la dénomination d'une personne morale, d'une association, d'une société en nom collectif ou d'une entreprise connue ou au nom d'un particulier connu et qu'elle ne saurait prêter à confusion ni induire en erreur.

11. Incorporators / Fondateurs

Name in full / Nom complet	Address in full (include postal code) / Adresse complète (inclure le code postal)	Signature / Signature
Marcel Balfour	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, MB R3B 2B3	
Karen Harper	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3	
Kayla Frank	2 <sup>nd</sup> Floor, 275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3	

**Note:** If any First Director named in paragraph 4 is not an Incorporator, a Form 3 "Consent to Act as a First Director" must be attached. A minimum of three directors is required for incorporation. State full civic address in paragraphs 2, 4 and 11 - a P.O. box number alone is not acceptable.

**Remarque:** Si l'un des premiers administrateurs nommés à la rubrique 4 n'est pas un fondateur, joindre la formule 3 intitulée "Consentement à agir en qualité de premier administrateur". Aux fins de la constitution en corporation, il doit y avoir au moins trois administrateurs. Indiquer l'adresse complète dans les rubriques 2, 4 et 11; un numéro de case postale seul n'est pas suffisant.

**OFFICE USE ONLY / RÉSERVÉ À L'ADMINISTRATION**

Corporation Number / N° de la corporation :

7096594

Business Number / Numéro d'entreprise :

## **SCHEDULE I**

### **ATTACHED TO AND FORMING PART OF ARTICLES OF INCORPORATION OF FAMILIES FIRST FOUNDATION INC. (the “Corporation”)**

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The undertaking of the Corporation shall be restricted to the following:

- a) To educate the public on the needs of families of missing and murdered indigenous women and girls;
- b) To provide and coordinate the delivery of religious, spiritual, emotional, cultural, and financial support to families of missing and murdered indigenous women and girls;
- c) To provide and coordinate the delivery of translation services, media liaison services, and independent legal advice to families of missing and murdered indigenous women and girls;
- d) To provide and coordinate the delivery of community-based mentorship, counselling services, and child-minding services to families of missing and murdered indigenous women and girls;
- e) To provide communication services for the delivery of information to and from families of missing and murdered indigenous women and girls; and
- f) To undertake activities ancillary and incidental to the above-mentioned purposes in a manner that the law regards as charitable.