



October 9, 2018

**By email only**

Chief Commissioner and Commissioners  
c/o Commission Counsel  
National Inquiry into Missing and Murdered  
Indigenous Women and Girls  
PO Box 500, Station A  
Vancouver, BC V6C 2N3

Dear Chief Commissioner & Commissioners:

Families for Justice  
Our File No.: 17-2525

Please treat this letter as a motion brought pursuant to Rule 25 on behalf of Families for Justice, a party with standing. We ask that it be placed before the Commissioners to be heard in writing as quickly as possible.

The relief we seek is an order directing Commission Counsel to provide the parties with standing all documents relating to the witnesses to be called at the last hearing in St. John's, Newfoundland by 4:00 p.m. on October 11, 2018 (one business day in advance of the hearings scheduled to commence on October 15, 2018).

We rely on the record herein.

The grounds for the motion include:

1. Rules 65, 66 and 67 provides as follows:

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

66. Parties shall at the earliest opportunity provide Commission counsel with any documents that they intend to file as exhibits or otherwise referred to during the hearings, and in any event shall provide such documents no later than 48 hours prior to the day that document will be referred to or filed.

67. A party who believes that Commission counsel has not provided copies of relevant documents must bring this to the attention of Commission counsel at the

earliest opportunity. The object of this Rule is to prevent witnesses from being surprised with a relevant document that they have not had an opportunity to examine prior to their testimony. If Commission counsel decides the document is not relevant, it shall not be produced as a relevant document. This does not preclude the document from being used in questioning by any of the parties. Before such a document may be used for the purposes of questioning, a copy must be made available to all parties by the lawyer intending to use it not later than 48 hours prior to the testimony of that witness, subject to the discretion of the Commissioner(s).

2. At present, nine witnesses are scheduled to give evidence. Today, we received material for Joanne Crampton including a summary of her anticipated evidence and anticipated exhibits. The material is voluminous. We do not have statements of anticipated evidence for any of the other witnesses.
3. Rule 25 permits parties with standing to cross-examine. In order for cross-examination to be meaningful, the parties require timely production. Further, parties need to review the material and seek instructions in order to be able to properly prepare. In some instances, parties may require the assistance of a translator.
4. The practice directive dated June 15, 2018 requires the parties to give 48 hours notice in advance of the commencement of the hearing of a submission (including where the submission appends documentation). Parties cannot make a determination about whether to tender documentation if they do not know what evidence Commission Counsel intends to lead.
5. The parties with standing have been receiving material on very short notice, in some cases, on the eve of testimony and/or part-way through the hearing week. This makes it difficult to obtain instructions and prepare for the hearing, particularly where counsel are expected to attend to draw numbers for cross-examination at 7:30 a.m., wish to attend opening ceremonies at 8:00 a.m. and where the court day stretches to 6:00 p.m. or 7:00 p.m., as has been the case. It also impedes our ability to be of assistance to the Commissioners in drawing out key aspects of the testimony and connecting it to other testimony already heard.
6. The Commissioners have imposed limits on cross-examination such that the time allotted may be as short as 4 to 5 minutes. Timely production is essential because the parties with standing need to be able to collaborate on how to best use the limited time allotted and to avoid duplication.
7. Counsel needs to know all of the information coming for the hearing week at the start of the hearing week in order to plan their case.
8. A fixed deadline is fair and just, and will enhance the proceedings.

For all of these reasons, Families for Justice requests a fixed deadline of October 11, 2018 for the delivery of materials.

Thank you for your consideration of this motion. We look forward to receiving a ruling.

Respectfully,

Fraser Advocacy,  
Per:

A handwritten signature in blue ink, appearing to read 'SEF', is written over a light blue rectangular background.

Suzan E. Fraser  
SEF/rim