

National Inquiry into
Missing and Murdered
Indigenous Women and Girls



Enquête nationale
sur les femmes et les filles
autochtones disparues et assassinées

National Inquiry into Missing & Murdered Indigenous Women & Girls

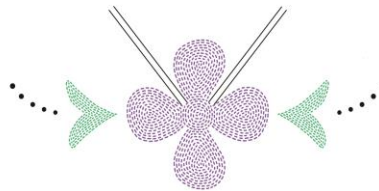
Truth-Gathering Process - Parts II & III

Institutional & Expert/Knowledge-Keeper Hearings:

“Criminal Justice Oversight and Accountability”

Hilton Hotel, Kent Room

Quebec City, Quebec



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Mixed Part II & III Volume VII

Wednesday September 19, 2018

Panel III: “Custodial Issues for Women”

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

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II

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Chair: Christa Big Canoe, Commission Counsel

Second Chair: Thomas Barnett, Commission Counsel

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

Grandmothers, Elders & Knowledge-keepers: Pamela Fillier (National Family Advisory Circle - NFAC), Pénélope Guay, Kathy Louis, Melanie Morrison (NFAC), Darlene Osborne (NFAC), Roland Sioui, Leslie Spillett, Evelyne St. Onge, Rebecca Veevee, Laureen "Blu" Waters, Bernie Williams

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1 Québec, Québec

2 --- L'audience débute à 8h03/Upon commencing at 8:03

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

7 Donc, on va encore une fois remercier
8 l'accueil sur le territoire du Neyowenseo (phonétique).
9 On remercie les aînées, les grands-mères, les
10 commissaires, les témoins, vous, les parties ayant qualité
11 pour agir, les membres du public.

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

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

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

25 J'avais une personne qui devait venir faire

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

13 Alors j'inviterais les parents à faire le
14 tour de la salle.

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

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

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

25 **Mme PÉNÉLOPE GUAY:** Je vous remercie.

1 Maintenant j'aimerais faire un... puis
2 c'est pas moi... mais avoir un chant. Je pense que c'est
3 important de commencer avec un chant traditionnel. Ça
4 nous fait reprendre notre pouvoir en nous et puis en même
5 temps en l'honneur de l'enfant-fille... je vais l'appeler
6 comme ça... de continuer à en prendre soin parce que c'est
7 important pour les parents aussi, mais de tous les
8 enfants.

9 **(CHANT/SONG)**

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

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

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

20 **ELDER REBECCA VEEVEE:** (Speaks in
21 Inuktitut).

22 **COMMISSIONER QAJAQ ROBINSON:** It's windy.
23 Good morning.

24 **ELDER REBECCA VEEVEE:** (Speaks in
25 Inuktitut).

1 **COMMISSIONER QAJAQ ROBINSON:** Good morning.
2 We've gathered here again together. I'm grateful for
3 this.

4 **ELDER REBECCA VEEVEE:** (Speaks in
5 Inuktitut).

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

10 **ELDER REBECCA VEEVEE:** (Speaks in
11 Inuktitut).

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

16 **ELDER REBECCA VEEVEE:** (Speaks in
17 Inuktitut).

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

21 **ELDER REBECCA VEEVEE:** (Speaks in
22 Inuktitut).

23 **COMMISSIONER QAJAQ ROBINSON:** Let's have a
24 good day.

25 **MS. NADINE GROS-LOUIS:** Nakurmiik. Alors

1 merci beaucoup encore une fois Pénélope et Rébecca pour
2 ouvrir cette journée d'une belle façon pour nous. So,
3 thank you so much.

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

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

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

15 **MR. BRYAN ZANDBERG:** Okay. Good morning.
16 Let's begin with Cassandra Churcher. Now, I understood it
17 was an affirmation or a promise this morning?

18 **MS. CHRISTA BIG CANOE:** It's a promise.

19 **MR. BRYAN ZANDBERG:** A promise? Great.
20 Cassandra Churcher, do you promise to tell your truth in a
21 good way today?

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

23 **MR. BRYAN ZANDBERG:** Thank you. And,
24 Savannah, would you like to make a promise or an
25 affirmation?

1 **MS. SAVANNAH GENTILE:** I'll make a promise.

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

5 **MS. SAVANNAH GENTILE:** I do.

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

9 **MS. PATRICIA TATE:** I do.

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

13 **MS. DIANE SERE:** I do.

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

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

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

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

24 **MS. KASSANDRA CHURCHER:** Yes, thank you.
25 My name is Kassandra Churcher. I am the Executive

1 Director of the Canadian Association of Elizabeth Fry
2 Societies. Prior to that, I have lived and worked in
3 Indigenous communities, mainly in Indigenous education and
4 community organizations.

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

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

12 **MS. KASSANDRA CHURCHER:** Please.

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

19 **MS. KASSANDRA CHURCHER:** What drew me to
20 work with the Canadian Association of Elizabeth Fry
21 Societies is clearly the extensive experience and work
22 I've done in partnership alongside and with the First
23 Nations and Inuit communities mainly in Quebec. I believe
24 that many of the systemic factors that I work now within
25 the correctional context start at the community level, and

1 that is an area that I am comfortable speaking to.

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

8 **MS. KASSANDRA CHURCHER:** Director.

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

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

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

25 **MS. KASSANDRA CHURCHER:** It is. The school

1 within a community in the north plays an essential role,
2 not just for the children but for the parents. And so, it
3 adopts a lot of responsibilities and commitments to the
4 entire community beyond just education.

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

8 **MS. KASSANDRA CHURCHER:** Please.

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

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

23 It was very quickly evident that to have a
24 cohesive program based on character development within the
25 Canadian context, we would have to start with Indigenous

1 knowledge as a foundation for all Canadians. And so, that
2 was the nature of my doctoral research.

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

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

20 Again, because of the nature of the school
21 within a community, there was a lot of partnership with
22 the local northern village councils to develop programs
23 for perseverance, parental implication, the compassionate
24 school project which looked at the effects of
25 intergenerational trauma and encountering the whole

1 student in that context.

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

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

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

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

1 corrections.

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

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

22 **MS. KASSANDRA CHURCHER:** I will be talking
23 a lot about those systemic factors that exist outside of
24 the prison system. That is an area that I think I can
25 speak to quite confidently. In addition, there will be

1 some discussion today in terms of the nature of
2 programming, education and training within the correction
3 system. And, because of my background in education and
4 curriculum development, I feel confident in critiquing
5 those programs that are delivered by the correction
6 system.

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

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

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

21 **MS. KASSANDRA CHURCHER:** No. Today, we are
22 here to include and document voices of those who are
23 incarcerated in this country. That is the primary focus
24 of our testimony. I will gladly speak to the -- again,
25 those community and systemic issues that relate to the

1 overrepresentation, over-incarceration of Indigenous
2 women, but that is my focus and that is the responsibility
3 that I have here today.

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

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

9 **--- Exhibit 22:**

10 CV of Kassandra Churcher A French
11 version is available on request

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

24 **CHIEF COMMISSIONER MARION BULLER:** Sure.
25 Certainly, we are satisfied that Ms. Churcher has the

1 necessary experience and education to provide opinion
2 evidence with respect to programming, education and
3 training through her current position with respect to
4 corrections.

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

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

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

1 Savannah. I noticed that you also provided us your
2 curriculum vitae. Is there anything that you wanted to
3 highlight from your CV?

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

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

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

22 **MS. SAVANNAH GENTILE:** Correct.

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

25 **MS. SAVANNAH GENTILE:** Later this month,

1 yes.

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

6 **MS. SAVANNAH GENTILE:** Correct.

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

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

13 **--- Exhibit 23:**

14 CV of Savannah Gentile

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

22 **MS. SAVANNAH GENTILE:** Yes.

23 **MS. CHRISTA BIG CANOE:** Thank you. I would
24 actually like to now introduce Patricia Tate. Patricia
25 Tate is also an institutional witness. However, today, I

1 will be asking to qualify her as a knowledge keeper.
2 Patricia, if we can start, if you could provide us a
3 little background?

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

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

21
22 I have worked as not just as a Native
23 liaison. I was the -- worked with the Canadian -- Ontario
24 strategy on HIV and AIDS, and was considered -- I am
25 considered to be an expert on the Indigenous issues for

1 prisoners dealing with HIV and Hepatitis.

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

4 **MS. PATRICIA TATE:** Please do.

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

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

19 And, along with other elders, these very
20 wise old people were trying to bring culture and
21 spirituality into the institutions and ensuring that the
22 women, in particular that I worked with, but also with
23 men, were able to access culture and spirituality,
24 recognizing the diversity of those individuals, but also
25 recognizing that there were some similarities and we

1 needed to be bringing culture and spirituality, sweat
2 lodge ceremonies and so forth into institutions in an
3 effort to enrich the lives of men and women who are
4 incarcerated, and hopefully -- you know, we talk about
5 rehabilitation. And, quite frankly, I do not think that
6 we are talking about rehabilitation when we are dealing
7 with many of the men and women in -- who are incarcerated,
8 we are talking about habilitation, because what they had
9 before they came to prison was not reflective of the
10 beauty of the culture and spiritual heritage that they
11 could learn about if they were given the opportunity while
12 incarcerated.

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

21 **MS. PATRICIA TATE:** Absolutely. I am very
22 fortunate that my father-in-law was an esteemed elder from
23 Ontario. But, one of the things that I think was most
24 gratifying within the system in -- 30 years ago, was the
25 recognition of diversity was very clear. There were

1 opportunities for elders to be brought from across the
2 country, particularly to prison for women, in light of the
3 fact that it was the only federal institution. And so,
4 elders came from the east, and from the west and from the
5 north, in order to meet the needs of all the women who
6 were incarcerated there.

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

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

24 **MS. PATRICIA TATE:** I'm sorry. Could
25 you...?

1 **MS. CHRISTA BIG CANOE:** Sure. In terms of
2 how you feel responsible, how do you help others ensure
3 that they are accessing traditional knowledge and
4 opportunities to grow, develop and learn from traditional
5 Indigenous practices?

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

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

25 And, in particular, although they also live

1 within the institutions and partake in ceremonies, the
2 Inuit women really struggle because there are virtually no
3 ceremonies or elders or teachings that are reflective of
4 their heritage, which is quite different from First
5 Nations heritage or Métis heritage.

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

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

25 **MS. PATRICIA TATE:** Oh, gosh. Yes. I have

1 to live to be at least 120 in order to know all that I
2 should know when I am working within the justice system.
3 The needs of women are so diverse and the ceremonies that
4 are available to them are limited. So, we do the very
5 best that we can, bringing prayer, bringing ceremony into
6 the institutions, but I, individually, can only act as a
7 conduit for women many times, and hopefully I can assist
8 them to be attached to resources that are out there in the
9 community that can meet their needs.

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

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

23 **MS. PATRICIA TATE:** Actually, that is a
24 very good question. And, one of the things that happens
25 in our little office -- we only have eight women working

1 full-time, but we have medicines available for women to
2 come and smudge in the mornings if they so desire. We
3 have a women's sharing circle that we facilitate, that --
4 we have our feather there, we have an opportunity for
5 women to come together who have come in conflict with the
6 law, and who are back in the community, and who are
7 working towards some of them getting their children --
8 reunited with their children, some of them getting into a
9 house of their own and reuniting with their families.
10 And, we are able to engage with them and offer them the
11 opportunity to go to ceremonies, we can take women to
12 sweat lodge ceremonies, we often take them to picking
13 medicines with the teachings that go along with the
14 medicine picking, the pow wows and other ceremonies.

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

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

1 much, Patty. Chief Commissioner, Commissioners, as I had
2 said earlier, I am presenting Patty as an institutional
3 witness, but I would like to also have her qualified as a
4 knowledge keeper as it relates to ceremony and providing
5 services to women experiencing correctional issues.
6 Sorry. As almost like a navigator of sorts. And, that --
7 but I want to make sure that when we qualify her, we are
8 not putting an expectation of any one particular
9 Indigenous culture's practices, more broadly at delivering
10 diverse Indigenous women and people.

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

16 **CHIEF COMMISSIONER MARION BULLER:** Could
17 you repeat the areas ---

18 **MS. CHRISTA BIG CANOE:** Certainly.

19 **CHIEF COMMISSIONER MARION BULLER:** --- of
20 evidence?

21 **MS. CHRISTA BIG CANOE:** Yes. The areas of
22 evidence in terms of a knowledge keeper is that Patty can
23 speak to, as a knowledge keeper, the ceremonies and access
24 to spiritual services for those Indigenous women and men,
25 I would say, as well, in your experience, who are

1 experiencing correctional issues and access – so, in
2 custody or leaving custody.

3 **CHIEF COMMISSIONER MARION BULLER:**

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

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

13 **MS. DIANE SERE:** Sure.

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

20 **MS. DIANE SERE:** Yes.

21 **MS. CHRISTA BIG CANOE:** Yes. And, I know
22 that it's not necessarily an easy thing for you to do
23 today, to be so candid and to, sort of, expose yourself to
24 us, so I'm very grateful that you're able to do that.
25 And, on that basis, I'm just going to ask if you can give

1 us a little bit of a brief background about who you are
2 and why you came today?

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

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

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

25 For those in the room, I want to remind you

1 that we do have health services and grandmothers, anyone
2 wearing the purple lanyards. If you need a moment, feel
3 free to see them or go to the health or the elders' room.

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

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

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

25 Thank you to the National Inquiry for

1 having the Canadian Association of Elizabeth Fry Societies
2 submit testimony today with regards to the over-policing,
3 over-criminalization and incarceration of Indigenous women
4 in Canada.

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

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

18 Many scholars, including Indigenous
19 scholars, encourage us that if we are truly seeking social
20 change that we must consider those who are most
21 marginalized, most oppressed at the centre of our
22 analysis. Fortunately, of course, we were contacted last
23 week so that we can ensure that the experiences of
24 incarcerated Indigenous women are included as part of the
25 Inquiry.

1 Now, the Canadian Association of Elizabeth
2 Fry Societies works with and for, alongside women who are
3 criminalized, who may be at risk of criminalization in our
4 network. We are also a membership of 24 community-based
5 organizations that are committed to substantive equality
6 in the delivery of programs and services.

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

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

23 We are the only organization in Canada
24 engaged in this work within the women's prison system,
25 which, of course, makes us uniquely well-positioned to

1 discuss and address this issue here today.

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

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

19 Today, we will try to, of course, expose
20 the systemic infrastructure that perpetuates the increased
21 vulnerability that puts women at risk of not only being
22 incarcerated, but, as you already know, disappearance and
23 murder. Second, we will leave you with some
24 recommendations addressing the current state of Indigenous
25 women's incarceration with a hope that we will eventually

1 sooner see actions to address their decarceration.

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

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

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

20 When our justice system criminalizes acts
21 that are as a direct result of survival due to the
22 conditions of poverty, racism, addiction and mental
23 health, it repeats patterns of colonialism which assert
24 that this is the right way to live, because of your
25 choices, not our system.

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

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

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

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

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

1 endured for centuries.

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

6 Women also have a tendency to under-report
7 crimes committed against them, although when they do, they
8 are more likely to report being a victim of physical
9 assault, sexual assault and robbery. According to the
10 2014 General Social Survey, nearly twice as many
11 Aboriginal women who reported spousal violence experienced
12 the most severe forms of sexual and physical violence, 61
13 percent compared to 32 percent, of course, of non-
14 Indigenous women. Indigenous women also have reported
15 that they feared for their lives at a higher frequency
16 than non-Aboriginal women, 53 percent versus 29 percent.

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

23 The rate of violence for Inuit women in the
24 north is 14 times higher than the national average in
25 Canada. Add this, of course, to issues we will discuss

1 regarding the lack of shelters and housing options, and
2 there is literally nowhere in their communities to seek
3 safety.

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

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

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

17 Let's discuss the leading causes of crime
18 for women. Theft under \$5,000, 23 percent; theft of over
19 \$5,000, 37; fraud, 32 percent; trafficking of stolen
20 goods, 21 percent. Now compare those numbers with the
21 fact that 37 percent of First Nations women living outside
22 of their community are living in poverty. Contextualize
23 the nature of those crimes with 30 to 70 percent of
24 Indigenous suffering from food insecurity, or that 40
25 percent of Inuit are living in housing which is

1 overcrowded.

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

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

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

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

1 institutionalized system.

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

9 The secondary effects of over-incarceration
10 are multiple. The impact is far beyond the statistic of
11 39 percent being incarcerated.

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

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

23 I'd like to speak about the access to
24 justice issue. Indigenous women must rely on a justice
25 system that is in no way reflective or adaptive to their

1 cultural history and reality. Canada's long history of
2 colonialism and abuse, that you have no doubt repeatedly
3 heard, is the core of this issue, of course. When a First
4 Nations Métis or Inuit woman appears in court, they go
5 before the same justice system that established the
6 reserve system, the residential school system and
7 continues the removal of children from their families, and
8 they ask that court for justice.

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

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

22 The intention of that report is to
23 contextualize some of the actions of the accused by
24 providing a comprehensive portrait before the courts.
25 However, this report falls short. It acts for judicial

1 consideration and doesn't have any actual substantive
2 power in directive sentencing, which is why, of course,
3 since its inception in 1999, there has been no reduction,
4 yet an increase of the incarceration of Indigenous women.

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

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

22 Again, the numbers since 2001 to 2016 have
23 increased from 18 percent to 39 percent. Gladue reports
24 are another cautionary tale of trying to address systemic
25 issues by holding an individual responsible for their

1 pathway in the criminal justice system.

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

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

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

23 **MS. KASSANDRA CHURCHER:** Yes, I included
24 that document along with the Office of the Correctional
25 Investigator's Statistics as well.

1 **MS. CHRISTA BIG CANOE:** Certainly. And, at
2 this point, I am going to actually ask if I can have those
3 two specific documents exhibited. And, the first one is
4 at Schedule E. It is entitled Women and the Canadian
5 Legal System: Examining Situations of Hyper
6 Responsibility. This is a discussion paper by the
7 Canadian Association of Elizabeth Fry Societies and the
8 Native Women's Association of Canada. I kindly request
9 that it is marked as the next exhibit.

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

16 **--- Exhibit 24:**

17 "Women and the Canadian Legal System:
18 Examining Situations of Hyper-
19 Responsibility," in *Canadian Woman*
20 *Studies / Les cahiers de la femme*

21 **MS. CHRISTA BIG CANOE:** Thank you. I also
22 ask that -- found at Schedule H is the Annual Report of
23 the Office of the Correctional Investigator for 2016 and
24 2017. This contains a large number of statistics in it as
25 well.

1 **CHIEF COMMISSIONER MARION BULLER:** Yes.

2 The Annual Report of the Office of the Correctional
3 Investigator, 2016-2017 will be Exhibit 25, please.

4 **--- Exhibit 25:**

5 *Annual Report 2016-2017, Office of the*
6 Correctional Investigator, ISBN: 0383-
7 4379 (105 pages)

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

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

20 **CHIEF COMMISSIONER MARION BULLER:** Sorry,
21 the author is?

22 **MS. CHRISTA BIG CANOE:** Mandy Wesley. If
23 you flip one more page, there is a second title page.
24 But, the first title page doesn't actually cite the
25 author.

1 **CHIEF COMMISSIONER MARION BULLER:** The next
2 report -- sorry, the next exhibit is number 25 [sic], and
3 that is *Marginalized: The Aboriginal Woman's Experience in*
4 *Federal Corrections*. The citation is APC-33CA, 2012, and
5 the author is Mandy Wesley.

6 **--- Exhibit 26:**

7 Marginalized: The Aboriginal Women's
8 Experience in Federal Corrections," in
9 *Aboriginal Peoples Collection*, APC 33
10 CA, 2012, ISBN No.: 978-1-100-19947-4
11 (68 pages)

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

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

1 to discuss today.

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

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

20 As a country, we care very little for poor
21 women and children, even less so if they are Indigenous,
22 less still if they are prisoners. The discrimination and
23 abuse that Indigenous women experience in society are
24 continued, even amplified in Canada's prisons which are
25 inherently colonialist, sexist and homophobic institutions

1 focused on punishment to the exclusion of health and
2 healing.

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

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

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

25 For instance, the Canadian Human Rights

1 Commission reports that women use self-injury as a coping
2 mechanism to survive the emotional pain rooted in
3 traumatic childhood adult experiences of abuse and
4 violence, mostly at the hands of men. Corresponding to
5 the higher levels of abuse experienced by women prisoners,
6 the rates of self-injury and attempted suicide are
7 significantly higher among women in prison as compared to
8 men.

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

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

21 **MS. SAVANNAH GENTILE:** Yes.

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

25 **MS. SAVANNAH GENTILE:** Absolutely.

1 **MS. CHRISTA BIG CANOE:** --- colleagues?
2 So, at Schedule C, we have the Arbour Report it is
3 commonly referred to. The title page actually, you will
4 see, the Solicitor General of Canada's title page. And,
5 it is listed as the -- sorry, my apologies. I thought --
6 oh, there it is. The Commission of Inquiry into certain
7 events at the Prison for Women in Kingston.

8 **CHIEF COMMISSIONER MARION BULLER:** Yes.
9 The next exhibit will be 27, and it is the Commission of
10 Inquiry into certain events at the Prison for Women in
11 Kingston.

12 **--- Exhibit 27:**

13 "Commission of Inquiry into certain
14 events at the Prison for Women in
15 Kingston," Public Works and Government
16 Services Canada, 1996, ISBN 0-662-
17 24355-2 (158 pages)

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

1 **MS. SAVANNAH GENTILE:** Oh, thank you.
2 During this time, in an attempt at collaborative reform
3 involving federally sentenced women who are inside
4 experiencing this, prison staff and community
5 organizations, such as CAEFS, the report Creating Choices
6 was developed by the task force on federally sentenced
7 women.

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

21 Today, you can still find those five
22 principles painted on the gym wall at the Fraser Valley
23 Prison for Women in British Columbia. But, as the Office
24 of the Correctional Investigator has pointed out
25 repeatedly for a number of years, those principles have

1 been completely eroded by CSC's policies and practices.

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

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

19 The vast majority of programming,
20 employment, health care and mental health services take
21 place in the general population. More recently, minimum
22 security units were developed which are positioned outside
23 of the barbed wire fence, although somewhat ironically are
24 based on a blueprint for maximum security units. The
25 women adeptly refer to the minimum security units as max

1 light, and many resist being moved there for reasons I
2 will discuss later on, time permitting.

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

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

22 The environment in the secure unit is
23 highly punitive, repressive and controlling. And, these
24 are the words of the Office of the Correctional
25 Investigator as well. I believe that is in the 2016/2017

1 annual report. This was documented -- I got ahead of
2 myself. It was documented in the annual report of the
3 correctional investigator this year -- or this past year.
4 Everything from the time that women eat, to the programs
5 they access, to whether they will be invasively strip
6 searched is controlled to a large degree by the max
7 correctional manager, a concentration of power which women
8 commonly report is abused.

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

20 As an example, women who score as a 1 or 2
21 on the level system may be shackled, including with leg
22 irons and handcuffs, to visit with their families and
23 children, to access health care appointments in the
24 general population, and if they are lucky, programming.
25 Due to this policy, at the Grand Valley Prison for Women

1 in Kitchener, Ontario, the number of women allowed to
2 visit at one time has been restricted to just two a week,
3 meaning many women don't get visits. And, in addition, a
4 number of women have reported actually cancelling their
5 visits because they do not want their children to see them
6 shackled in this way.

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

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

20 The level system provides another good
21 example of how CSC responds to efforts of reform, with
22 carceral clawback. Several years ago, after much work on
23 the part of the Office of the Correctional Investigator
24 and CAEFS, CSC rescinded a practice known as the
25 management protocol, which held women in segregated

1 conditions, forcing them to earn certain privileges,
2 things for which they were in fact legally entitled.

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

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

16 These conclusions are deserving of
17 interrogation. Who ends up in the secure unit and why?
18 Of the women isolated in these oppressive conditions in
19 the max and the seg units, 50 percent are Indigenous.

20 During an advocacy visit to Fraser Valley
21 this past May, our advocacy team observed actually that
22 100 percent of the women in the secure unit were
23 Indigenous. Women with mental health issues are also
24 seriously overrepresented in these placements, and this is
25 again how needs are translated to risks, and these units

1 are not at all equipped to address these issues. So the
2 women with the most need actually end up with the most
3 restricted access to the programs and services and support
4 that they need.

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

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

19 In fact, when the Healing Lodge Okimaw Ohci
20 was opened, no Indigenous women qualified for transfer
21 because CSC policy restricted access to minimum and, in
22 rare cases, medium security women. And I want to remind
23 you that the purpose of the section 81 was actually to
24 address what is now a humans rights crisis in terms of the
25 ever-increasing number of Indigenous women being

1 incarcerated. The point was to get women out into
2 community.

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

5 **MS. SAVANNAH GENTILE:** Sure.

6 **MS. CHRISTA BIG CANOE:** --- there because I
7 know that this is your daily bailiwick and you're very
8 familiar with some of the terminology, but when you say
9 section 81, if you could just briefly tell me what section
10 81 is?

11 **MS. SAVANNAH GENTILE:** Of course. Section
12 81 is a section in the *Corrections and Conditional Release*
13 *Act* that enables communities to enter into agreements with
14 CSC to provide for Indigenous prisoners to serve their
15 sentence in community with the support of community.

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

24 **MS. CHRISTA BIG CANOE:** Thank you. I know
25 that Patty will also be covering some information on

1 healing lodge. You just mentioned Spirit Matters. Spirit
2 Matters is a report from the Correctional Investigator's
3 Office, October 22nd, 2012. The Correctional Investigator
4 at the time, Mr. Howard Sapers, felt it was so important
5 to put this particular report out, that he took it
6 directly to Parliament. It is in the material at Tab I.
7 It is a final report that was delivered to Parliament on
8 October 22nd, 2012 and it is entitled "Spirit Matters:
9 Aboriginal People and the *Corrections and Conditional*
10 *Release Act*".

11 I'm asking that we please have this marked
12 as the next exhibit.

13 **CHIEF COMMISSIONER MARION BULLER:**

14 Certainly. Exhibit 28 will be "Spirit Matters: Aboriginal
15 People and the *Corrections and Conditional Release Act*",
16 October 22nd, 2012, Office of the Correctional
17 Investigator.

18 Thank you.

19 **--- EXHIBIT 28:**

20 Final report "Spirit Matters:
21 Aboriginal People and the Corrections
22 and Conditional Release Act," Office
23 of the Correctional Investigator,
24 October 22, 2012, ISBN: 978-1-100-
25 21908-0 (44 pages)

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

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

6 **MS. SAVANNAH GENTILE:** Yes.

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

20 **MS. SAVANNAH GENTILE:** M'hm.

21 **MS. CHRISTA BIG CANOE:** Is it also your
22 team's experience that the number is still that 50 percent
23 are in minimum? How many of the inmates that can get
24 minimum classification are you aware -- minimum security
25 classification are actually Indigenous, or is that kind of

1 a moving target?

2 **MS. SAVANNAH GENTILE:** It is. It
3 definitely is. I don't have an actual number for how
4 many. I don't know if anyone else would have the number?

5 **MS. KASSANDRA CHURCHER:** Could I put
6 something on?

7 **MS. CHRISTA BIG CANOE:** Yes, you may.

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

19 **MS. CHRISTA BIG CANOE:** So you've actually
20 anticipated where I was going with my questioning, was
21 that even if it was a moving target, that the
22 classifications themselves are easily changeable and often
23 -- is it a fair assumption that often for Indigenous
24 inmates, they will more often find themselves in a
25 punitive circumstance where they are upped in

1 classification? Often the classification has taken them a
2 long time? They've taken a long time to earn the right to
3 be put into a lower one, but often at the snap of a finger
4 can be put back into a higher security classification?

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

22 And we have seen that. I believe,
23 actually, we may have included a letter. I'm not sure if
24 this letter is included in the materials we provided, but
25 there was a letter recently written by the Regional

1 Advocacy Team going into EIFW, the Edmonton Institution
2 for Women, prison for women, and they have documented that
3 this is happening there, and I have seen it happening at
4 the Grand Valley Prison for Women recently. So it's an
5 increasing trend.

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

18 And, if I could, I just wanted to add one
19 more thing about the Section 81 agreements that is in
20 Spirit Matters, and that is that there's a complete lack
21 of funding parity between CSC-run Section 81s and
22 community-run Section 81s. And, what has happened is that
23 those community-run 81s have become a bit of a training
24 ground for CSC, because CSC is offering, of course, higher
25 salaries and better benefits. And, of course, you have to

1 -- you know, individuals have to look out for themselves.
2 And so, that is a rather unfortunate consequence of the
3 lack of funding going to these agreements.

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

17 What is the impact, then, of these secure
18 unit placements on Indigenous women prisoners, whether
19 they're being placed in maximum or solitary confinement?
20 Well, the Superior Court of British Columbia recently
21 accepted that the permanent harm of segregation prevents
22 the prisoner from successfully readjusting to the broader
23 social environment of the general population in the prison
24 and often severely impairs the prisoner's capacity to
25 reintegrate into the broader community.

1 It discusses extensively the psychological
2 harm and anxiety that can come about as a result of these
3 placements in administrative segregation, and I would
4 argue that that also applies to maximum security
5 placements. And, in fact, women who are segregated in
6 the maximum security units similar struggle in adjusting
7 to the general population and to the broader community
8 after being kept in those isolated punitive conditions for
9 months or even years.

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

17 Despite CSC's positive obligations set out
18 in Section 4(g) of the *Corrections and Conditional Release*
19 Act to consider and be sensitive to the unique needs of
20 Indigenous peoples, women, and those with mental health
21 issues and its practices and policies, CSC has a long
22 history of applying the same practices, such as
23 classification and strip-searching, to both men and women,
24 thereby exacerbating the disadvantage and harm to
25 Indigenous women.

1 I talked earlier about the rates of self-
2 injury and suicide attempts amongst women in prison and
3 how much higher they are. CSC has a practice, actually,
4 of segregating prisoners who attempt to self-injure or
5 attempt suicide, except they don't call it segregation.
6 They call it modified watch, mental health monitoring,
7 intensive intervention, anything but segregation. And,
8 CSC has a line that segregation is a status and not a
9 place, because they'll place women in a physical
10 segregation cell down the segregation range and call that
11 modified watch.

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

21 So, the way they apply segregation
22 provisions to women and men is no different, despite the
23 very different demographics and histories of those two
24 groups. It's the same in terms of strip-searching as
25 well. So, CSC's policy, their commissioners' directives

1 on strip-searching do not once ask the decision maker to
2 consider Indigenous women's often severe histories of
3 trauma, nor does it require that there be any just or
4 reasonable suspicion that might create some semblance of
5 cause.

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

22 At the same time, those women are meant to
23 gain access to community at increased rates through
24 escorted temporary absences, unescorted temporary absences
25 and the like, but that is not happening. And so, they are

1 left with very little, and the conditions are still pretty
2 restrictive. Women at Fraser Valley Institution for Women
3 have a lined path outside of the minimum unit, two yellow
4 lines that they can walk on if they want to go out for
5 walks. The path is not wide enough for two women to stand
6 beside each other walking, and these are minimum security
7 women. They're not a risk. That's CSC's own assessment,
8 and that's how they're treating those women.

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

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

25 Women -- like I said, they call segregation

1 different things so that those safeguards don't apply.
2 They might transfer a woman and that resets the clock. If
3 there is a 15-day cap, they transfer her to a new
4 institution; the clock starts over. So, she's still in
5 segregation. And, actually, that was the case with Ashley
6 Smith.

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

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

21 **MS. CHRISTA BIG CANOE:** Thank you,
22 Savannah. One of the reports you referred to in
23 discussing and establishing and situating for us,
24 Correctional Services Security Classifications and a
25 number of issues that people who don't ever have to work

1 with or provide services in corrections aren't necessarily
2 aware of. One of those reports was actually fairly dated;
3 it was 2003. It was the Canadian Human Rights Commission
4 report on Protecting Their Rights: A Systemic Review of
5 Human Rights in Correctional Services for Federally
6 Sentenced Women. This is at Schedule J.

7 You had actually touched directly upon it.
8 There was a number of recommendations, 19 recommendations,
9 that came into place. I only have a couple of questions
10 about this, if I might? Are the recommendations made in
11 2003 still recommendations that need to be implemented in
12 2018, at least some of them in part?

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

23 So, I would want to assess on a case-by-
24 case to really give you a full answer there. But, what I
25 could say is that there have been shifts. So, in the

1 Arbour Report, the recommendation originally was for a 30-
2 day cap. But, actually, two years ago at our conference,
3 our annual conference, Louise Arbour was on a panel, and
4 she actually said, you know, given what she knows now and
5 the way things have not changed all these years later,
6 decades later, she would actually come out -- she said she
7 didn't come out hard enough and that she would now ask,
8 actually, for a ban on the use of segregation, not a cap
9 of 30 days, not even a cap of 15 days. And, that's some
10 of the -- like, those -- we need to start recognizing that
11 CSC has had recommendation after recommendation, report
12 after report, and opportunity after opportunity to do
13 something, to change something meaningfully, and, at every
14 turn, it has proved incapable or unwilling. And, we need
15 to start pushing for more or demanding more, because
16 otherwise nothing is going to change.

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

1 or ---

2 **MS. SAVANNAH GENTILE:** Unwillingness.

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

8 **CHIEF COMMISSIONER MARION BULLER:** Yes.
9 Exhibit 29 is Protecting Their Rights: A Systemic Review
10 of Human Rights in Correctional Services for Federally
11 Sentenced Women, December 2003, Canadian Human Rights
12 Commission.

13 **--- Exhibit 29:**

14 "Protecting Their Rights: A Systemic
15 Review of Human Rights in Correctional
16 Services for Federally Sentenced
17 Women," Canadian Human Rights
18 Commission, December 2003 (92 pages)

19 **MS. CHRISTA BIG CANOE:** Commissioners,
20 given that we've heard from the first two witnesses and it
21 is now 10:10, it's probably an opportune time to have a
22 15-minute break before we come back with the next two
23 witnesses. And, just a friendly reminder to my colleagues
24 and parties with standing that Rule 48 prohibits you
25 having conversations with the witnesses about their

1 testimony. That doesn't prevent you from talking to them
2 or small conversation, but it's just a friendly reminder
3 that as long as the main panel is in-chief examination,
4 they cannot discuss the contents of their evidence.

5 **CHIEF COMMISSIONER MARION BULLER:** Yes, 15
6 minutes, please.

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

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

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

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

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

18 Patty, I have a number of questions for
19 you. You actually shared a lot of information in your
20 introduction when you were helping us understand the
21 knowledge you have. So, I was wondering, and I'm happy to
22 start where you're happy to start, given all of your
23 years' experiences both in correctional institutes and
24 with CAEFS, which is the acronym for the Canadian
25 Association of Elizabeth Fry Societies, about the type of

1 programs and, specifically, the quality of programs that
2 are specific to Indigenous peoples.

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

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

25 I mentioned the name of Dr. Art Solomon,

1 but he was only one of many elders who were involved in
2 ensuring that bundles weren't desecrated when elders were
3 coming into the institutions.

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

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

1 relationship with Corrections, and as such, were -- became
2 federal employees.

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

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

25 That program, however, has been removed

1 from the prisons. Corrections is not utilizing it. There
2 doesn't seem, in my opinion, to be anything that is taking
3 on the same level of commitment and the same level of
4 spirituality and culture for the Indigenous women across
5 this country. So, that was one of the programs that was
6 problematic, and it was intended to be a program that
7 would really enrich a woman's knowledge of her culture and
8 traditions.

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

21 We were advised that that wasn't going to
22 be a possibility within this framework of corrections,
23 that they could not have an expectation that -- certainly
24 the drug element is one, but as far as someone not being -
25 - someone committing to being alcohol-free was not

1 something that they could be requesting of their
2 employees. So, it -- there were so many of those kinds
3 of problems that arose when an individual was being asked
4 to -- or when programs were being implemented.

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

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

23 And, one of the important things about
24 these visiting elder programs were -- and I am going to
25 use her -- Mary as an example. There was a young woman

1 who had spent many years in Prison for Women, and Mary
2 Louis who was an elder from the West came, and they did
3 baths. And then after the baths, she did ceremonies and
4 she did talk about the traditions of -- the rich
5 traditions of the West Coast people.

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

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

24 That program has been suspended. There is
25 no longer a visiting elder program. The women may

1 periodically have some -- an elder from another region of
2 corrections come and visit them, but certainly not the
3 same kind of program that was implemented initially. The
4 elders, like Maggie Paul from the Atlantic and, as I said,
5 Mary Louis from the West and many other elders from across
6 the country, who came and stayed and were committed to
7 being there, to be part of that healing journey for women
8 while they were incarcerated has now been taken out of the
9 programming at Okimaw Ohci.

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

18 But, there are other institutions across
19 this country that also need to have the same level of
20 spiritual engagement for their Indigenous women, and it
21 doesn't occur. There are not enough dollars to have
22 elders coming in on an ongoing basis or being there on a
23 regular basis living in the institution. At Okimaw, there
24 are elders in the institution daily. I can't say that
25 that is the case across the entire country. And,

1 unfortunately, that means that women's culture and
2 traditions are not being respected.

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

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

23 We have heard a number of times that often
24 people, Inuit people are streamed through First Nation or
25 Métis programs ---

1 **MS. PATRICIA TATE:** Absolutely.

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

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

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

24 So, I am curious if you have any
25 information or whether you know if women have access to

1 their communities, to cultures, ceremonies through things
2 like temporary absences or when they are in minimum
3 security?

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

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

24 More recently in more recent years, and
25 certainly since the women have come to be part of that

1 facility, that room is a storage room and there are no
2 elders being hired to come in and actually corrections --
3 there are no elders coming into the institution. Again,
4 there is an expectation that people will reach out to the
5 services that they need in the community.

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

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

1 needs of all of the people.

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

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

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

22 There is another element that has always
23 concerned me. I mentioned at some point earlier that I
24 had been involved with the HIV and Hepatitis community,
25 and people who have been involved in injection drug use.

1 Methadone is a medicine. Methadone is a medicine and it
2 is a medicine that is not acknowledged in many facilities.
3 And, individuals who are receiving methadone as a medicine
4 are not allowed or entitled to participate or be part of
5 the pathways unit, which is supposed to be a healing unit
6 for Indigenous people within corrections.

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

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

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

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

21 Thank you.

22 **MS. PATRICIA TATE:** Sorry.

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

1 lodges.

2 **MS. PATRICIA TATE:** Corrections Canada has
3 -- I am going to back this up. When the lodge was
4 envisioned and the elders came together, and they looked
5 at the sacred ground and they decided that this was the
6 place that they were going to build a healing lodge for
7 Indigenous women. And, that was at the time when prison
8 for women was going to be closing. And, all of these
9 dreams came together and the ground was cut -- the first
10 ground was broken, there were eagles flying above the
11 elders that were there during that time and there was a
12 vision that prison was going to be different in the
13 future.

14 And so, part of that vision was that the
15 community, which was Nekaneet First Nation, would
16 ultimately end up taking on the responsibility of that
17 facility. Initially, Corrections Canada would set it up
18 as a prison, but the staff would be drawn from the
19 community in order to facilitate their becoming more
20 capable -- I shouldn't say "capable". More adept at
21 working within the parameters of corrections.

22 So, that was the vision. And, the vision
23 was that, although it was initially going to be set up as
24 a correctional facility, it would transition to becoming a
25 Section 81 undertaking at some time in the future. There

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

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

22 As it stands right now across Canada, there
23 are three section 81 facilities, two for men and one for
24 women. The first one that was ever developed was Stan
25 Daniels' Healing Lodge, which is Native Counselling

1 Service of Alberta's. It was a minimum security men's
2 institution and they've now converted it to a section 81,
3 and they do an incredibly good job. They have recently,
4 in the last two years, opened Buffalo Sage for Women.
5 It's a healing lodge for women, a section 81 healing lodge
6 for women in Edmonton as well. I should have mentioned
7 Stan Daniels is in Edmonton, and so too is Buffalo Sage
8 Healing Lodge. The other facility that's currently open
9 is called Ochichakkosipi. It's a men's facility in
10 Northern Manitoba, and it was the first one to be opened
11 as an 81 and not ever having been a correctional facility
12 initially.

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

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

19 **MS. PATRICIA TATE:** Chaplains.

20 **MS. CHRISTA BIG CANOE:** Chaplains.

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

24 **MS. PATRICIA TATE:** Oh gosh, do they --
25 well, an Elder has the same authority and the same

1 freedoms as a chaplain has in respect to visiting people
2 in the institution, going into the different areas of the
3 facility.

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

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

18 I'm going to talk about the Elders that
19 were -- one of the problems -- I shouldn't say problems --
20 one of the issues that has arisen over the course of the
21 years is that because in an effort to ensure that our
22 Elders and our traditional people were able to access the
23 institution in the same way that a chaplain was, there was
24 a -- there were individuals who were cultural
25 coordinators, who were knowledge keepers, who were not

1 Elders within their own home communities, who were
2 designated as Elders so that they would have access to the
3 prison system. That has not always proved to be a
4 positive thing. Over the years, it's been one of those
5 dilemmas that we have come across where you have people in
6 -- when you have young men in their thirties who are
7 designated as Elders, and within their community, they may
8 not be as accepted as an Elder. They may be accepted as a
9 knowledge keeper or sweat lodge conductor, or a ceremonial
10 pipe carrier, but they're not necessarily considered as
11 Elders. So it makes it -- it's a dilemma when you're
12 working within the justice system.

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

19 **MS. PATRICIA TATE:** That's absolutely true.

20 **MS. CHRISTA BIG CANOE:** And when -- I
21 actually only have one more question for you. When you
22 were talking earlier too about the services that you try
23 to provide now in your perspective in Saskatoon with EFRY
24 and connecting people to communities, you're mostly
25 working with people who were on parole or have been

1 released, or are you also working with high risk and other
2 partners in the community of Saskatoon?

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

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

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

25 **MS. CHRISTA BIG CANOE:** I'm sure that a

1 number of my colleagues -- sorry, Cassandra, did you want
2 to add something?

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

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

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

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

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

22 **MS. PATRICIA TATE:** So I'm going to speak
23 to this letter, but I want you to recognize -- know that
24 this is just a sample of what we send to the institutions
25 on a regular basis, outlining the different issues that we

1 see when we go to do our CAEFS advocacy visits. And in
2 this particular case, the women reported a lot of
3 different things.

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

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

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

24 Oh, and while we're there, we do meet with
25 each one of the groups in the institution. So at this

1 point in time, we're meeting with the Lifers Group, our
2 prison advocates and with the sisterhood, which is called
3 is-kway-lak (phonetic), and we meet with each of those
4 groups, and they give us their story. They share their
5 story about how life at Okimaw Ohci is proceeding.

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

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

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

1 of the authors.

2 **CHIEF COMMISSIONER MARION BULLER:**

3 Certainly.

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

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

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

13 **--- Exhibit 30:**

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

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

21 **MS. PATRICIA TATE:** There was one other
22 item that I wanted to add. I wanted to go back -- again,
23 I keep referencing back to Prison for Women and some of
24 the issues that were -- the women suffered with there and
25 some of the issues that we experienced there.

1 During the course of my tenure as a liaison
2 officer, there was a policy in place. And, that policy
3 was a reciprocal agreement between Corrections Canada and
4 Pine Grove Institution, which is a women's provincial
5 facility in Saskatchewan.

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

17 What is important in this scenario is that
18 there were never women sent from Prison for Women to the
19 West, to Pine Grove, despite the fact that a vast majority
20 of the Indigenous women who were in Prison for Women were
21 from Saskatchewan, and Alberta and Manitoba. What is
22 equally frightening for me is the fact that there were
23 women, provincially sentenced women doing less than a 2-
24 year sentence in Pine Grove who were sent to Prison for
25 Women to serve their sentence.

1 What is even more sad in this story is that
2 there was more than one of those women ultimately ended up
3 picking up charges inside Prison for Women that brought
4 them up to federal sentences. But, there was at least
5 one, and I think two who never made it out of Prison for
6 Women. They were provincially sentenced little girls who
7 came to Prison for Women, had their sentences increased by
8 virtue of behaviour inside and ended up dying in Prison
9 for Women amongst those who passed during those last
10 years.

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

18 **MS. CHRISTA BIG CANOE:** Thank you, Patty.
19 Diane, may I ask you some questions?

20 **MS. DIANE SERE:** Sure.

21 **MS. CHRISTA BIG CANOE:** I understand that,
22 and you had told us earlier, that you are going to
23 actually share your lived experiences as an inmate and
24 through the justice system and, again, we are very
25 grateful for that. I understand that you, just for, sort

1 of, ease of your own reference, has -- have written
2 yourself a statement to keep you on track.

3 **MS. DIANE SERE:** That is correct, yes.

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

6 **MS. DIANE SERE:** Yes.

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

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

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

23 I spent nine years going through the
24 judicial court system, 16 months incarcerated in a federal
25 prison, 32 months on parole and I am honoured now to be

1 working in this field for the last three years. With all
2 the lived experience, I could write a book.
3 Unfortunately, I only have a short time to share and,
4 therefore, I chose to speak about experiences that had the
5 most impact.

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

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

19 In 1988, I decided to move to Ottawa
20 seeking a better life. I was leaving behind a past of
21 emotional pain. I had suppressed my emotions in the hopes
22 that they would stay buried as if that life never existed.
23 I started living a modern way of life. I started working
24 part-time with employment agencies while finishing my
25 school in furthering my education.

1 In 1992, I started a term position with the
2 federal government. During this period, I kept my culture
3 a secret. I was a French-Canadian. After many years of
4 working in the field of human services, I was regularly
5 being exposed to discrimination, racism, sexism,
6 inequalities and oppression. I had so much anger and I
7 was troubled. I was looking for support and was not sure
8 where to get it. I started reconnecting with my culture.

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

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

25 From 2004 to 2012, I was in and out of

1 court working two jobs and struggling to maintain my
2 sanity. I had been terminated from positions because the
3 RCMP had advised my employers of my outstanding charges.
4 I was being shamed by society and I was struggling with
5 emotional stress and anxiety. I was afraid to leave my
6 safe place which was my home.

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

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

23 A few weeks later, I received a phone call
24 from a probation officer. She stated that she was going
25 to be responsible to do my pre-sentence report. I advised

1 her that I asked for a Gladue report. She stated, we do
2 not do Gladues in Ottawa. I will prepare a pre-sentence
3 report with Gladue considerations. I met with her and it
4 was clear that she had no knowledge of the Native culture.
5 She was very respectful and did her best, but there were
6 several misunderstandings that got translated into the
7 report.

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

17 In March of 2013, I was sentenced to four
18 years to a federal prison and was escorted to a provincial
19 remand centre pending a transfer. I spent my first night
20 on the floor of a holding cell infested with ants. My
21 worst nightmare had begun. I had lost my dignity, my
22 individuality. For the next four to five weeks, I spent
23 my time in protective custody which is segregation. I was
24 suffering anxiety, depression, I could not think clearly,
25 I did not know what date it was, how long I had been

1 there, I could barely eat, the food was making me sick.

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

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

18 I arrived at the Grand Valley Institution
19 for Women in late April of 2013. During orientation, I
20 was advised about elder services. I was eager to connect
21 with them. It took a few weeks before I could meet with
22 the elder, as I was required to take mandatory programming
23 and meet with other institutional services. Approximately
24 three weeks after arriving, I was able to meet with an
25 elder and create a healing plan.

1 I started regularly meeting with the elder.
2 This was the only place I felt safe within the
3 institution. I participated in the Aboriginal Women
4 Offenders Program, I was building a respectful
5 relationship and felt accepted. I regularly participated
6 in ceremonies, sweats, gatherings and I absorbed all the
7 teachings that were being offered. I even became a fire
8 keeper. My father was able to provide us with wild meat
9 to the institution so that we could enjoy a feast. It was
10 impossible to get any country food added to our grocery
11 list, despite the many requests.

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

22 This position did bring a lot of challenges
23 within the institution. I remember one day, a CO said to
24 me, Sere, I did not know you were a savage. I heard so
25 many racist remarks, including that we needed to be tamed.

1 All I could do was smudge. I had no control and my voice
2 was being silenced. I was also advised to be very careful
3 as this could affect my parole. During a room search, I
4 remember that my bundle was opened and disrupted. I
5 submitted a complaint that was never addressed.

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

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

1 recommendation that has yet to be implemented.

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

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

21 In April of 2016, I was approached by the
22 Elizabeth Fry Society and asked if I would be interested
23 in applying for the Indigenous Peer Support Worker
24 position. They had received funding and I was honoured
25 and excited and wanted to give back. In my role, I

1 attempted to gain access to GVI to support the Indigenous
2 women, some were still there -- some whom were still there
3 after I left, and I was denied. I was told I could
4 support them over the phone.

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

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

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

21 As mentioned during my introduction, there
22 have been multiple testimonies, hearings and reports that
23 have resulted in recommendations on how to address the
24 crisis of overrepresentation of Indigenous women within
25 the criminal justice system. These reports and

1 recommendations are included below. It's not -- it's a
2 limited list, but I'd like them on the record.

3 Report of the Standing Committee on the
4 Status of Women (2018); CAEFS Report to the U.N. Special
5 Rapporteur on Violence Against Women (2018); Indigenous
6 Women in Solitary Confinement produced by the Native
7 Women's Association of Canada (2017); Honouring the
8 Strength of our Sisters - Canadian Human Rights Commission
9 (2016); Truth and Reconciliation Commission (2015); Report
10 on the Life and Concerns of Inuit Women of Nunavik,
11 Saturviit (2015); Spirit Matters - Office of Correctional
12 Investigator (2012); Protecting Their Rights - A Systemic
13 Review of Human Rights in Correctional Services for
14 Federally Sentenced Women - Canadian Human Rights
15 Commission (2003); the Arbour Report - Commission of
16 Inquiry into Certain Events at the Prison for Women in
17 Kingston (1996); Creating Choices - CSC Task Force on
18 Federally Sentenced Women (1990), going back almost 30
19 years of recommendations to contextualize our own.

20 The recommendations in these reports were
21 built on testimony, consultations, deliberations, much
22 like we're doing here today. And, yet, we sit here with
23 ever growing numbers of Indigenous women being victimized
24 and criminalized. The problem is that these
25 recommendations address the systems that are responsible

1 for the current situation. The recommendations are not
2 enacted because the systems blame the individuals for
3 their behaviours and actions. This form of hyper-
4 responsibility forces Indigenous women to be accountable,
5 rehabilitate, reintegrate, while maintaining the safety of
6 a public that has not ever kept her safe.

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

16 In partnership and as an Indigenous ally,
17 CAEFS respectfully submits the following five
18 recommendations based on our experience working with
19 federally-sentenced women, how to address the over-
20 incarceration issue here in Canada. While we rely on
21 Indigenous to cover all First Nations, Inuit, Métis,
22 status and non-status Indigenous women, it is important
23 that these recommendations come with the knowledge that
24 these groups are distinct, and, therefore, the
25 recommendations that come later in our testimony must be

1 considered and developed within the appropriate cultural
2 context.

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

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

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

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

24 The intent of these sections was to afford
25 Indigenous communities greater control over the matters

1 that are affecting them. These provisions are broad and
2 allow for creative, flexible and individualized community-
3 based solutions. Unfortunately, since their inception 25
4 years ago, they have been severely underutilized,
5 especially in the case of Indigenous women.

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

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

20 Funding parity for community-driven Section
21 81 and 84 releases is also required. There continues to
22 be substantial funding discrepancies, as well as
23 differences in terms and conditions of work between what
24 is a Section 81 healing lodge, which Patty addressed,
25 operated by Indigenous communities and those operated by

1 the Correctional Services of Canada. In fact, in Spirit
2 Matters, which is another document that we've submitted,
3 the OCI indicates that CSC diverted Section 81 funding
4 meant for communities to prison-based programs, the very
5 same programs which Patty has just been critical of.

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

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

22 Further, the committee should explore a
23 remedial option such as that recommended by the Honourable
24 Louise Arbour in her 1996 report for prisoners whose
25 conditions of confinement amount to correctional

1 interference with their lawful sanction and, therefore,
2 renders their sentence in need of remediation.

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

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

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

24 Recommendation number 4, ending the use of
25 strip-searching. And, in this section, I will ask you to

1 protect yourselves. Was that the wording, Christa?

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

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

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

22 Women prisoners, the vast majority of whom
23 have these histories of physical and sexual abuse
24 frequently experience strip-searches as a form of sexual
25 assault. CAEFS maintains that strip-searching within the

1 detention systems of Canada is state-sanctioned sexual
2 assault. With 90 percent of Indigenous women reporting
3 being survivors of physical, sexual or domestic abuse,
4 this federal government action effectively retraumatizes
5 women on a regular and consistent basis. There are
6 reports of women being strip-searched, moving from one
7 section of the prison to another within the same prison
8 they are being strip-searched.

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

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

24 Our regional advocates across the country
25 continue to document, right up into the letter that we

1 submitted for the Okimaw Ohci Healing Lodge that strip-
2 searching is happening on a regular basis at the women's
3 institutions.

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

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

24 In conclusion, we respectfully submit our

25 ---

1 **MS. CHRISTA BIG CANOE:** Oh sorry, before
2 you have your concluding remarks, which I absolutely want
3 you to have, I just have a couple of questions and a
4 couple more documents I just need you to identify.

5 **MS. KASSANDRA CHURCHER:** Of course.

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

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

19 **CHIEF COMMISSIONER MARION BULLER:** Exhibit
20 31 is Women-Centred Corrections: Creating Choices for
21 Federally Sentenced Women or a Continuation of
22 Paternalistic Practices? by Jeanne Marie Greenough, 1999.

23 **--- Exhibit 31:**

24 Women-Centered Corrections Report

25 **MS. CHRISTA BIG CANOE:** Also, at Schedule G

1 is the Indigenous Women in Solitary Confinement report.
2 And, we have just heard your submissions and your
3 recommendations in relation to a number of these issues.
4 This is produced by the Native Women's Association of
5 Canada. I understand it is a publicly available document
6 and that members of this panel would be willing and able
7 to answer questions if they arose on this particular
8 document?

9 **MS. KASSANDRA CHURCHER:** Yes.

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

13 **CHIEF COMMISSIONER MARION BULLER:** Yes, 32
14 will be Indigenous Women in Solidarity Confinement Policy
15 Background - Native Women's Association of Canada, August
16 2017.

17 **--- Exhibit 32:**

18 Schedule G CAEFS Indigenous Women in
19 Solitary Confinement

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

25 **MS. KASSANDRA CHURCHER:** Mm-hmm.

1 **MS. CHRISTA BIG CANOE:** This is also a
2 publicly available document.

3 **MS. KASSANDRA CHURCHER:** It is.

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

6 **MS. KASSANDRA CHURCHER:** Yes.

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

14 **CHIEF COMMISSIONER MARION BULLER:** Okay.
15 Certainly. Exhibit 33 will be Statement by Commissioner
16 Anne Kelly on Correctional Service of Canada mandate
17 letter, authored by Anne Kelly, Commissioner of
18 Correctional Service of Canada, no date. That's Exhibit
19 33.

20 **--- Exhibit 33:**

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

24 **MS. CHRISTA BIG CANOE:** Thank you. And,
25 the last document is actually one that was a submission

1 prepared by the Canadian Association of Elizabeth Fry
2 Societies. It's dated February 2018, but can I ask what
3 the submissions were prepared for?

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

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

11 **MS. KASSANDRA CHURCHER:** Where's the report
12 title? Do you remember what the report title is?

13 **MS. SAVANNAH GENTILE:** I can't remember the
14 exact report title, but ---

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

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

21 **MS. KASSANDRA CHURCHER:** Several of ours
22 were adopted.

23 **MS. CHRISTA BIG CANOE:** Thank you. And,
24 obviously, since it was produced by you -- or prepared by
25 you and you made the submissions, you are happy to respond

1 to any questions in relation to this submission?

2 **MS. KASSANDRA CHURCHER:** Yes.

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

6 **CHIEF COMMISSIONER MARION BULLER:** Exhibit
7 34 is Submission prepared by the Canadian Association of
8 Elizabeth Fry Societies, February 2018. Exhibit 34.

9 **--- Exhibit 34:**

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

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

20 We close today's testimony with
21 recommendations number 30 from the Truth and
22 Reconciliation Commission. We call upon federal,
23 provincial, territorial governments to commit to
24 eliminating the overrepresentation of Aboriginal people in
25 custody over the next decade and to issue detailed reports

1 that monitor and evaluate the progress in doing so. Thank
2 you.

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

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

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

22 *They can't take me or break me 'cause I'm*
23 *stronger than the rest. That's right, I'm the best.*
24 *I contain my pain, bent on being sane to that*
25 *which I feign their madness towards this princess.*

1 *They can't see what they're doing to me*
2 *hidden behind these walls, touring the justice halls.*
3 *Take the crime to trial, got my lawyers number, please*
4 *dial. Oh, and later call for pizza. Yeah, make it*
5 *catered.*

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

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

14 *"One last thing" as I always say, I refuse*
15 *to give in. I was born to sin in this parade in which I*
16 *reign yay a delegate and nothing but. If I failed to*
17 *succeed, I'll say the Apostles Creed.*

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

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

21 **MS. PATRICIA TATE:** Yes, I have actually
22 asked for permission to offer to the Commission tobacco.
23 I can't help but look at the drum that sits on your
24 bundle. And, I was going to ask for permission with
25 tobacco to use that drum, because I didn't bring mine.

1 Many years ago at Prison for Women, an
2 elder by the name of Maggie Paul and a Mi'kmaw elder came,
3 and she had received a song for the women. It has become
4 a song that is heard across this country. The song is the
5 Strong Woman song, and I am sure many of you know that
6 song. And, if you have drums, rattles or just want to
7 sing along, I would invite you to do that.

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

18 It has had transitions over the years, and
19 I think I am okay with that, because it has grown with
20 each person who has had an opportunity to sing it. But,
21 when we sing it, I just want it to be known that this is a
22 song that came to the women at Prison for Women. This is
23 a song that gave them strength, courage through times of
24 trial. And, hopefully, it can continue to do that as --
25 into the future.

1 **CHIEF COMMISSIONER MARION BULLER:** Yes,
2 please and thank you very much.

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

11 (MUSICAL PRESENTATION)

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

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

25 **CHIEF COMMISSIONER MARION BULLER:** 1:00

1 please.

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

4 --- Upon recessing at 12:04

5 --- Upon resuming at 13:06

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

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

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

23 **MS. BETH SYMES:** I represent Pauktuutit,
24 the Inuit Women of Labrador; Saturviit, which is the Inuit
25 Women of Nunavik; The Ottawa Inuit Children Centre and the

1 Manitoba Inuit Association. And, my questions are going
2 to focus exclusively on Inuit issues.

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

7 **MS. KASSANDRA CHURCHER:** No.

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

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

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

18 **MS. KASSANDRA CHURCHER:** Correct.

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

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

23 **MS. BETH SYMES:** One of the early
24 recommendations of the report that you talked about in-
25 chief, a Call to Action, this is the report of the

1 standing committee on the status of women in June 2018,
2 was to count, to disaggregate who is Indigenous into First
3 Nations, Métis, Inuit and I would presume it should be
4 non-status as well?

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

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

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

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

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

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

21 **MS. KASSANDRA CHURCHER:** That is right.

22 **MS. BETH SYMES:** Now, you are aware of the
23 study that Pauktuutit, ITK and the Correctional Services
24 of Canada did with respect to the needs of Inuit offenders
25 in federal correctional facilities?

1 **MS. KASSANDRA CHURCHER:** I am. We do not
2 use or endorse the language of "offenders".

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

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

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

11 **MS. KASSANDRA CHURCHER:** Yes.

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

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

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

18 **MS. KASSANDRA CHURCHER:**

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

24 **MS. KASSANDRA CHURCHER:** That is our
25 understanding based on our regional advocates.

1 **MS. BETH SYMES:** And, again, despite their
2 incredibly small numbers, like less than 10, they too are
3 distributed across Canada. They are not all in one
4 institution?

5 **MS. KASSANDRA CHURCHER:** No, they are not.

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

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

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

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

19 **MS. PATRICIA TATE:** Yes, absolutely. That
20 is correct.

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

1 **MS. KASSANDRA CHURCHER:** I would agree with
2 that.

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

7 **MS. KASSANDRA CHURCHER:** Yes.

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

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

14 **MS. PATRICIA TATE:** Yes.

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

17 **MS. PATRICIA TATE:** I would agree.
18 Actually, I am going to -- perhaps I will just tell you a
19 short story about when I was working with men in Ontario
20 at the Kingston Penitentiary.
21 There was this celebration, and we had all the food -- as
22 liaisons, we brought in all the foods. And so, one of the
23 things that I brought in was raw meat, and it was frozen,
24 and it was -- the Inuit offenders there were just so
25 excited that it was coming. And, it was the one food --

1 we brought salmon, we brought ox -- well, we brought
2 everything. But, the one food that the institution would
3 not let through a gate, because it was frozen and they
4 couldn't check that it hid something inside of it, I
5 guess.

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

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

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

15 **MS. PATRICIA TATE:** Absolutely.

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

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

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

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

1 for parole?

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

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

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

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

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

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

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

23 **MS. BETH SYMES:** And, you are aware that
24 for Inuit, these ceremonies, cultures are foreign? They
25 are not them?

1 **MS. PATRICIA TATE:** I totally agree with
2 you.

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

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

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

20 **MS. PATRICIA TATE:** I would agree with
21 that.

22 **MS. BETH SYMES:** Now, of the 110 --
23 roughly, let's say, 110 Inuit men in the federal
24 correction system, my understanding is, or the report
25 says, that approximately a third of them are at Fenbrook,

1 which is a facility in Ontario?

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

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

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

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

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

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

17 **MS. PATRICIA TATE:** Yes.

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

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

22 **MS. BETH SYMES:** Now, I just want to say
23 then is that the same report designates -- or describes
24 Inuit male persons that they are younger, they are in for
25 violent offences that most of them plan to return to their

1 communities. But, would you agree with me that with no
2 treatment, no -- I know you are worried about treatment,
3 but no programs that are Inuit-specific and for sex
4 offenders, that these place the Inuit women and girls in
5 the community to which the man is returning at high risk
6 when he reoffends?

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

8 **MS. BETH SYMES:** And, the Inuit women
9 offenders who are in remand in Inuit Nunangat, whether
10 they are in the Northwest Territories, Nunavut,
11 Nunatsiavut or Nunavik, there is no facility in Nunavik
12 for women offenders; is that correct?

13 **MS. KASSANDRA CHURCHER:** That is correct,
14 and at the average cost of \$200,000 a year to incarcerate
15 one Inuit woman, the five that we are speaking about, that
16 is a \$1 million investment in communities to have them
17 live there.

18 **MS. BETH SYMES:** And so -- I am going to
19 come to that. Maybe I should just go straight to that. I
20 understand -- am I correct to understand that you are not
21 in favour of recommending a building of an Inuit
22 correctional facility, let alone an Inuit women
23 correctional facility in Inuit Nunangat?

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

25 **MS. BETH SYMES:** And, can you explain why?

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

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

14 **MS. KASSANDRA CHURCHER:** Absolutely.

15 **MS. BETH SYMES:** Those are my questions.

16 **MS. CHRISTA BIG CANOE:** Thank you, Ms.
17 Symes.

18 **MS. BETH SYMES:** Thank you.

19 **MS. KASSANDRA CHURCHER:** Nakurmiik.

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

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

24 **MS. JOSEPHINE DE WHYTELL:** Good afternoon,
25 Commissioners, elders and witnesses. Thank you very much

1 for your evidence this morning. My first question is for
2 Patty Tate. May I call you Patty?

3 **MS. PATRICIA TATE:** Yes, by all means.

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

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

12 **MS. PATRICIA TATE:** Yes, that is correct.

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

21 **MS. PATRICIA TATE:** Certainly.

22 **MS. JOSEPHINE DE WHYTELL:** Yesterday, we
23 heard evidence from the Honourable Kim Beaudin about his
24 unequivocal position that Gladue report writers be
25 Indigenous. Would you agree that Indigenous people

1 designing and -- in designing, delivering and controlling
2 Indigenous content and services is necessary within the
3 correctional system to give effective substantive
4 equality?

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

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

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

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

22 "It is the most natural of human instincts to want to go
23 home, even when memories of home are at times tinged with
24 sadness, fear or regret, because I'm not talking about
25 someone's actual home or a home from one's childhood. We

1 all nurture in our heart the idea of home. The idea of
2 home is about a place of safety, a refuge, a sanctuary
3 where love resides. Home is a place of hope, a place of
4 potential, a place where every one of us can feel like we
5 can become better. After careful reflection, Ms.
6 Pelletier, I'm sending you home."

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

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

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

22 There's nothing natural about the
23 correction system. There's nothing natural about prison.

24 Given the opportunity to be safe in their
25 healing and rehabilitation and reintegration, the only

1 real option to fulfil that mandate is to allow women to do
2 that in their community, with their family and their
3 children in their language. There can't be any other
4 alternative to do this authentically.

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

6 My next question is also for you,
7 Cassandra. Diane read a poem by Canoe James earlier which
8 contains the line:
9 "They can't see what they're doing to me, hidden behind
10 these walls, touring the justice halls."

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

14 **MS. KASSANDRA CHURCHER:** Absolutely.

15 Even when our advocates go into the prison
16 on a monthly basis, for two or three days is what we're
17 granted access for, a lot of the stories that were told is
18 feeling forgotten. "Is anyone aware of what's happening
19 here? Does anyone know what they're doing or saying to
20 us?" There's a very real sentiment that they are
21 invisible, which is why it's so important that we're here
22 to include their testimony in the Inquiry, and we hope
23 that more organizations will continue to focus on the
24 issue of over-incarceration of Indigenous women so that
25 their voices are heard and documented.

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

2 And you sort of led into my next question
3 there as well, which is how do you think this Inquiry
4 should lift up their voices and ensure that they impact
5 CSC policy, Correctional Services policy?

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

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

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

19 My next question is for Patty. You talked
20 a little bit about institutional charges. I believe it
21 was you. If not, please feel free to answer, whoever it
22 was.

23 Institutional charges came up in respect of
24 the procedures for determining the prisoner's
25 responsibility for the charge, the opportunity for the

1 prisoner to be heard and treated fairly.

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

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

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

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

11 **MS. PATRICIA TATE:** That's absolutely fair
12 to say.

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

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

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

24 **MS. SAVANNAH GENTILE:** There are definitely
25 a great many issues regarding the way that internal court

1 is run. There is an absolute lack of procedural fairness.
2 We've had our internal advocates start to insert
3 themselves into the hearings and start to document. And
4 absolutely, there isn't procedural fairness. Things
5 happen like a whole substantive discussion about the
6 charge takes place and then the mic is turned on, the
7 recording is turned on. And by that point, women have
8 sort of been intimidated into accepting or pleading to a
9 charge.

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

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

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

22 **MS. JOSEPHINE DE WHYTELL:** Yes. I'm not
23 asking for a legal opinion. I might clarify that. I'm
24 asking for her experience in reviewing these documents, if
25 she's ever seen a situation where the Correctional

1 Services of Canada recognizes that there is a Charter
2 right to a fair trial and tries to implement those in the
3 context of institutional charges?

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

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

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

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

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

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

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

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

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

1 assault, physical assault, emotional assault?

2 **MS. KASSANDRA CHURCHER:** There's much
3 within the culture of Correctional Services of Canada that
4 repeats those exact same patterns for women who have those
5 histories, yes.

6 **MS. CATHERINE DUNN:** And it is fair to say
7 that women who have those histories among the Indigenous
8 women in the population who get into prison come from
9 those very backgrounds?

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

11 **MS. CATHERINE DUNN:** And so as you've
12 indicated in your direct, women victimized through no
13 fault of their own in childhood, in young adulthood, are
14 re-victimized again and again in prison, and again and
15 again have no force or ability to make that stop?

16 **MS. KASSANDRA CHURCHER:** Yes.

17 **MS. CATHERINE DUNN:** And this was a missed
18 opportunity for the women across Canada, particularly the
19 Indigenous women in prison across Canada, to come here and
20 protest their situation?

21 **MS. KASSANDRA CHURCHER:** That is exactly
22 correct. Today, as we testify here before you, there are
23 women all across the country who are in segregation or
24 maximum security or in prison who have stories to tell
25 that cannot be told.

1 **MS. CATHERINE DUNN:** And is it not true
2 that in Canada, humane treatment is a standard which is
3 not to be accepted, I mean, not to be thrown away?

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

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

10 **MS. KASSANDRA CHURCHER:** I think that's a
11 yes or no answer. I might defer to Savannah on that.

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

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

19 **MS. SAVANNAH GENTILE:** Yes.

20 **MS. CATHERINE DUNN:** And, when you say
21 "levelling someone", whether you're a Level 1 or 2 or 3 or
22 however it works, at the end of the day, it doesn't affect
23 recidivism, because recidivism doesn't really happen that
24 much with Indigenous women offenders?

25 **MS. SAVANNAH GENTILE:** Yes.

1 **MS. CATHERINE DUNN:** So, levelling is a
2 form of punishment. It's not a form of rehabilitation; is
3 that correct?

4 **MS. SAVANNAH GENTILE:** Absolutely.

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

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

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

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

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

23 **MS. PATRICIA TATE:** I have to agree totally
24 with Kassandra's comments with respect to the fact that
25 the issues of why an individual chooses to take their own

1 lives are complex and multi-faceted. But, I would most
2 certainly surmise that strip-searches would contribute to
3 those decisions that they make.

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

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

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

20 **MS. CATHERINE DUNN:** And, from a
21 commonsense level, an Indigenous woman who has been a
22 victim of childhood sexual assault, childhood physical
23 abuse, it's not outside the realm of possibility that when
24 she is subjected as an inmate to strip-searches over and
25 over again that the harm caused to her as an individual is

1 extreme.

2 **MS. SAVANNAH GENTILE:** I would agree.

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

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

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

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

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

23 **MS. CHRISTA BIG CANOE:** I'm sorry ---

24 **MS. CATHERINE DUNN:** Could you describe ---

25 **MS. CHRISTA BIG CANOE:** I'm sorry.

1 Actually, Ms. Dunn, you are out of time. I'm sorry.

2 **MS. CATHERINE DUNN:** Darn it. Thank you.

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

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

10 **MS. CATHERINE DUNN:** Yes.

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

25 **MS. CATHERINE DUNN:** Thank you. Those are

1 my questions.

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

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

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

18 I would just like to note for the record
19 that it was unfortunate that Canada's proposal to have a
20 witness from CSC testify as part of the hearings this week
21 was not accepted. In July, when we were advised of the
22 topic of the hearings, we proposed Government of Canada
23 witnesses for all four hearings. The proposal to have a
24 Correctional Service of Canada person testify here this
25 week was not accepted. And, I just note for the record

1 that that is unfortunate because the Commission should
2 have the benefit of both sides of the story, so to speak.
3 And, the parties are being denied the opportunity to
4 cross-examine a Correctional Service of Canada official,
5 as are the commissioners.

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

14 **CHIEF COMMISSIONER MARION BULLER:**

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

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

22 **CHIEF COMMISSIONER MARION BULLER:** Okay.

23 **MS. ANNE TURLEY:** We will wait for the
24 final transcripts so that they can review it and provide
25 evidence in writing in answer to any of the criticisms

1 about the policies, programs and practices.

2 **CHIEF COMMISSIONER MARION BULLER:** Sure.
3 Just for the record, ordinarily, subject to what we've
4 written in our public practice direction, merely these
5 submissions will be tendered at a hearing. However, if
6 Commission counsel is willing to waive that requirement,
7 we're certainly open to it because we welcome the
8 submissions from the Government of Canada.

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

11 **MS. ANN TURLEY:** Thank you very much.
12 Thank you to the panel.

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

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

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

22 **MS. CAROLINE WAWZONEK:** My pleasure to do
23 so. I'm here on behalf of the Native Women's Association
24 of Northwest Territories. They represent Indigenous women
25 across the Canadian political boundary of the Northwest

1 Territories. And for the record, my name is Caroline
2 Wawzonek.

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

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

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

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

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

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

25 **MS. CAROLINE WAWZONEK:** Okay. Now having

1 just said that, there was a couple of problems that you
2 did identify with the CCRA, one of them being policy
3 decisions.

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

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

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

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

21 **MS. KASSANDRA CHURCHER:** Yes.

22 **MS. CAROLINE WAWZONEK:** And would that --
23 in your opinion, would that adequately support the
24 community to deliver the necessary levels of programming
25 to achieve rehabilitation and reintegration?

1 **MS. KASSANDRA CHURCHER:** It's difficult to
2 say it would be equitable at 100 percent because so many
3 of our communities are struggling with services, programs,
4 and housing. However, it would be a start.

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

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

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

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

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

24 **MS. PATRICIA TATE:** I can't speak to that.
25 Can you?

1 **MS. SAVANNAH GENTILE:** I'm not aware of --
2 I'm not aware of any policy in that regard.

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

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

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

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

23 So I would -- I would certainly think that
24 if you had someone from your own community there, an Elder
25 or a community member, it would be a real benefit to you.

1 But that doesn't necessarily transcend to the fact that
2 just because you're brown you're going to be okay.

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

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

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

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

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

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

21 **MS. PATRICIA TATE:** I'm not certain. I
22 think there's a requirement that it's made available to
23 them. The difficulties in accessing it may be cumbersome
24 and cause delays that may ultimately mean that someone may
25 choose not to go that route.

1 **MS. CHRISTA BIG CANOE:** Next, we would like
2 to invite up the Assembly of First Nations. Ms. Julie
3 McGregor will have six and a half minutes.

4 **--- CROSS-EXAMINATION BY MS. JULIE MCGREGOR:**

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

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

11 **MS. SAVANNAH GENTILE:** Yes.

12 **MS. JULIE MCGREGOR:** So it seems that since
13 the 1990s, there's been a change in corrections policy for
14 women in prison and it seems like it's been a regression,
15 not that things were ever so great before but that there
16 seems to be -- I'm thinking about making reference to the
17 -- I'm making reference to the report on the Task Force of
18 Federally Sentenced Women and it was referenced in the
19 materials that were submitted under Jeanne Marie
20 Greenough's Thesis on "Women-centered corrections".

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

24 So there seems to be that there was a lot
25 of momentum or maybe some changes happening in the '90s

1 and then it's regressed. The correctional policy for
2 Indigenous offenders and Indigenous women offenders has
3 somehow regressed. Can you comment on why that's the case
4 or what were the factors that caused that?

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

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

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

20 **MS. SAVANNAH GENTILE:** In the federal -- I
21 mean, we are really not for engaging in policy reform,
22 because when we engage in that policy reform at the
23 federal or the correctional level, it doesn't really have
24 a meaningful impact on the operational realities that come
25 down on the women. So, that is why we focus on

1 decarceration and using those Section 81 and 84 to get
2 women out using decarceration strategies and those sorts
3 of things because, again, policy reform has not, for over
4 25 years, had an impact.

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

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

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

22 **MS. SAVANNAH GENTILE:** I don't think
23 training could really address this. Unfortunately, I
24 think it is far too embedded in the institution and its
25 structure itself.

1 **MS. JULIE MCGREGOR:** Mm-hmm. I just want
2 to move a bit, and this could be either for Savannah or
3 Kassandra, these questions. I wanted to ask you a bit
4 about internationally.

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

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

20 **MS. JULIE MCGREGOR:** Thank you. Article 22
21 of the United Nations Declaration on the Rights of
22 Indigenous Peoples states that, "States shall take
23 measures in conjunction with Indigenous peoples to ensure
24 that Indigenous women and children enjoy the full
25 protection and guarantees against all forms of violence

1 and discrimination.”

2 Would you agree with me that correctional -
3 - any changes to either correctional policy or the
4 correction system in Canada should, at a minimum, reflect
5 those standards? And, I know, again, you are going to say
6 you are about -- you don't necessarily agree with policy
7 changes but, at a minimum, should there be some reflection
8 of Article 22's principles?

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

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

25 **MS. KASSANDRA CHURCHER:** I could speak to

1 what is happening in Canada that is quite progressive.
2 Our -- we partnered with Mi'kmaq communities in the
3 Atlantic in Nova Scotia, and we are drafting a proposal
4 for an Indigenous house. It would be a Section 81
5 agreement driven by the Mi'kmaq community of Nova Scotia.
6 And, we haven't submitted it yet, but we are trying to
7 partner with more local organizations and governments to
8 try to have them access this legislation and make it
9 happen. And, slowly, but surely, the more Section 81
10 agreements are in place, the less we can be dependent on
11 this structure and more an Indigenous community's
12 structure, which is our goal.

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

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

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

20 **MS. KRYSTYN ORDENIEC:** Good afternoon,
21 Commissioners, Chief Commissioner. My name is Krystyn
22 Ordeniec. I represent Northern Alliance -- Northern
23 Treaty Alliance. It is made up of Nishnawbe Aski Nation,
24 as well as Grand Council Treaty No. 3, which is 77
25 communities in Northern Ontario as well as Eastern

1 Manitoba, so my questions will focus on that context in
2 the Northern and remote areas of Ontario and Eastern
3 Manitoba. And, I just wanted to say thank you so much for
4 your powerful and compelling testimony, and the personal
5 story of Ms. Sere. Thank you.

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

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

1 under the category of violence have to do with physical
2 abuse, defence -- in defence or reactionary.

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

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

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

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

1 those other factors.

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

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

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

1 on a regular basis.

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

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

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

18 **MS. PATRICIA TATE:** Absolutely.

19 **MS. KASSANDRA CHURCHER:** --- of the office
20 into remote communities. But, the nature of the work that
21 our 24 locally community-based organizations are doing in
22 terms of everything from counselling services to parenting
23 to transition houses, to rental support programs, food
24 banks, clothes banks, all of those services remain
25 inaccessible to those who live in semi-remote or remote

1 communities.

2 **MS. KRYSYTN ORDYNEC:** So, maybe you could
3 speak on the relationships that you hope to foster either
4 through recommendations or who would be partners either at
5 the community level or through other organizations that
6 you would really like to see either get funded or to be
7 able to continue their good work as well?

8 **MS. PATRICIA TATE:** I actually think that
9 within all communities, within Indigenous communities,
10 whether those are First Nations or Métis settlements,
11 there needs to be agencies and organizations who can be
12 there for the individuals from the community. As I say,
13 we don't speak all the languages of the Indigenous
14 community across Canada, but it would be ideally through
15 the -- I'm going to say through the tribal council or
16 through chief and council, whether that's through the
17 Justice Department or whether that's through Health,
18 someone at a community level needs to be engaged in
19 helping to work with the individuals when they're coming
20 home from the institutions. And, we will gladly augment
21 that and assist in any way we can to provide information
22 around services that an individual might be able to
23 access, even if they're taking a medical taxi back into
24 town to pick up information to be of assistance if they
25 have mental health issues in particular, which would be

1 difficult to address at a local level, but are absolutely
2 necessary to the healing and the wellbeing of people
3 coming home.

4 **MS. KRISTYN ORDYNIEC:** Thank you so much
5 for your time.

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

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

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

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

21 **MS. KASSANDRA CHURCHER:** Yes.

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

25 **MS. KASSANDRA CHURCHER:** Yes.

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

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

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

15 **MS. KASSANDRA CHURCHER:** Yes, I would
16 agree. Crimes of survival.

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

21 **MS. KASSANDRA CHURCHER:** Yes.

22 **MS. JOSEPHINE DE WHYTELL:** So, where
23 Indigenous parents go to jail, causing their children to
24 be involved in the foster care system, and their children
25 are a former Crown wards, they are at high risk of being

1 arrested for poverty-related crimes and more likely to
2 becoming victims of violence and economic abuse, would you
3 agree this leads to the perpetuation of the revolving
4 door, so to speak, in terms of their reinvolvement in
5 child welfare and ongoing involvement in criminal justice?

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

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

14 **MS. KASSANDRA CHURCHER:** Yes.

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

19 **MS. KASSANDRA CHURCHER:** I'm not sure.

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

24 **MS. JOSEPHINE DE WHYTELL:** That does answer
25 my question perfectly. Thank you. So, sentencing is not

1 intended to be punitive?

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

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

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

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

22 **MS. PATRICIA TATE:** Absolutely not. And,
23 unfortunately, sometimes the young women that we see on a
24 regular basis are women who think that their stay within a
25 justice system is almost inevitable. It's part of the

1 transition of growing into adulthood.

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

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

23 **MS. KASSANDRA CHURCHER:** And, let's not
24 forget that the youth are the future knowledge keepers.
25 They are the future leaders. They are the future judges,

1 and lawyers, and their whole community depends on them.
2 So, when they're removed from their community for
3 incarceration for an extended period of time, and then
4 have to go back with the social stigma of that, there's
5 also an impact generationally. It disrupts their own
6 development into integral members of their community,
7 which is so desperately needed.

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

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

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

21 **MS. KASSANDRA CHURCHER:** I do not think you
22 need a doctorate in this; right? They are being separated
23 from their children. Many of them, 64 percent, are single
24 mothers, primary caregivers. That means, one day you are
25 making dinner and picking up at day care, and next day,

1 you are in prison and you do not know who is going to do
2 any of that for your child. It causes an enormous amount
3 of mental anguish, and pain and anxiety to women on a day-
4 to-day basis to know that they are not with their
5 children. And, if they are not necessarily with family
6 and in a foster care system, not even know which families
7 they are placed with.

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

18 **MS. KASSANDRA CHURCHER:** Yes. I don't
19 know, Patty, did you want to speak to that?

20 **MS. PATRICIA TATE:** I will only speak to
21 one segment of that question, and that is the persons of
22 significant interest and that process. I definitely agree
23 that if family can be involved with an individual while a
24 mom might be away serving a sentence, it is important that
25 that is an option that is out there on the table, but it

1 needs to be somebody that has got more than a pulse.

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

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

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

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

21 **MS. CHRISTA BIG CANOE:** Thank you. So,
22 next, we would like to invite up the Institute for the
23 Advancement of Aboriginal Women. Ms. Lisa Weber will have
24 6.5 minutes.

25 **--- CROSS-EXAMINATION BY MS. LISA WEBER:**

1 **MS. LISA WEBER:** Thank you and good
2 afternoon, Chief Commissioner and Commissioners.
3 Panellists, thank you very much for your evidence this
4 morning and this afternoon.

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

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

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

24 **MS. KASSANDRA CHURCHER:** Our national work
25 is focused namely at the legislative advocacy level

1 supporting the five regional teams across the country on
2 monitoring the conditions of confinement, and providing
3 human rights based tools and advocacy for women who are
4 incarcerated. So, that is primarily what the work of the
5 national office is.

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

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

20 **MS. KASSANDRA CHURCHER:** Yes.

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

23 **MS. KASSANDRA CHURCHER:** Provincially,
24 there are only -- there is the Canadian Council of
25 Elizabeth Fry Societies in Ontario, there is

1 (indiscernible) in the pacific. We have some regional
2 provincial bodies, mostly it is a collection of local
3 Elizabeth Fry Societies. So, they are autonomous, we have
4 an independent board, we have an association membership,
5 but provincially, it is not consistent across the country.

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

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

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

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

24 **MS. LISA WEBER:** Okay. You spoke a lot
25 about a lot of the really good work. I just want to

1 acknowledge that it is really good work that your
2 organization has been doing. And, I just want to ask
3 though, just to confirm, that you are aware that there are
4 many grassroots non-profits, as well as individuals, who
5 are actually going into the federal institutions and doing
6 a lot of this work as well. You are aware of that?

7 **MS. KASSANDRA CHURCHER:** We are members of
8 the National Associations Active in Criminal Justice that
9 represents 17 national organizations, which in turn
10 represent all of those community-based organizations. We
11 meet with them several times a year, so we are critically
12 aware that there are multiple organizations. And, I would
13 like to address the fact that in every community there are
14 informal support networks delivering services and doing
15 their best to try to fill gaps where those organizations
16 or our organizations cannot support them.

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

23 And, I am just wondering then, we have
24 heard a lot about the support of women who -- once they
25 are in a federal institution. I am just wondering, does

1 your mandate allow you to work with women who are perhaps
2 facing trial or are victims within the criminal justice
3 system?

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

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

20 **MS. LISA WEBER:** Thank you. I just have
21 one question I would like to get out the door before the
22 timer stops. It has to do with judicial oversight and I
23 would leave it open to the panel to decide who could
24 answer. I really appreciate Diane's comments about how
25 the Gladue report in her experience may have

1 misinterpreted some of her life experiences. And, I would
2 like to know whether or not you have heard from
3 individuals that perhaps feel like the judge didn't get
4 it? And, given that, I am wondering if you would agree
5 with a recommendation to this Commission that perhaps more
6 Indigenous judges and justices should be appointed in
7 order to facilitate a better understanding of the complex
8 issues facing Indigenous persons involved in the criminal
9 justice system?

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

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

23 **MS. CHRISTA BIG CANOE:** Thank you. Chief
24 Commissioner, Commissioners, we will have another seven
25 parties at cross-examination and a short re-direct. And,

1 knowing the time is 2:30, this may be a good opportunity
2 to have a 15-minute break?

3 **CHIEF COMMISSIONER MARION BULLER:** Okay.
4 Fifteen-minutes, please.

5 **MS. CHRISTA BIG CANOE:** Thank you. And, if
6 we can return for 2:45 to continue with cross-examination?

7 --- Upon recessing at 14:26

8 --- Upon resuming at 14:51

9 **MR. THOMAS BARNETT:** Good afternoon,
10 Commissioners. Next, if we could call up Eastern Door
11 Indigenous Women's Association. Natalie Clifford, you
12 have 6.5 minutes.

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

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

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

1 involved with the justice system?

2 **MS. DIANE SERE:** Absolutely.

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

7 **MS. DIANE SERE:** Yes.

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

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

14 **MS. NATALIE CLIFFORD:** Sorry, could you
15 clarify?

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

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

25 I know this is an old Inquiry, and we are

1 talking about a new time today, but I just wondered if you
2 could comment on whether to your knowledge the existing
3 Corrections Canada sexual harassment policy is robust and
4 sufficient to protect employees. And, by extension, would
5 you, based on that knowledge, if you know, extend the same
6 recommendation to application of the same standard for
7 inmates today?

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

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

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

22 **MS. NATALIE CLIFFORD:** Okay. Thank you.
23 To your knowledge, again, based on that Inquiry report,
24 another of the issues identified was the lack of access to
25 female health care providers for women who are

1 incarcerated. Has this improved?

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

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

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

23 **MS. NATALIE CLIFFORD:** Thank you. Just a
24 quick question on this of the difference between a healing
25 lodge and a Section 81 institution, Ms. Churcher or Ms.

1 Gentile, could either of you provide some insight
2 understanding that a Section 81 is under used? I noted
3 that Section 81 wasn't included in your recommendations,
4 per se.

5 **MS. KASSANDRA CHURCHER:** Decarceration,
6 wasn't it?

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

11 **MS. NATALIE CLIFFORD:** Just being mindful
12 of the time, that is the only reason I am going very
13 quickly before you. So, I wonder then, if you could very
14 briefly paint a picture of -- because Section 81 is quite
15 broad and under utilized, if you could tell us in your
16 perspective what is a good model to come out of Section
17 81? And, I ask this because on reading the section in the
18 legislation, I thought, well, this could look like
19 anything from a house, where someone is living with a
20 family, to an institution not unlike the healing lodge.
21 So, if there is a middle ground that you could advise?

22 **MS. SAVANNAH GENTILE:** Actually, I think
23 that it is a strength of the legislation that it is so
24 broad, because it allows to be individualized to meet the
25 needs and capacities of each individual Indigenous woman.

1 A one-size fits all approach, I don't think, is the way
2 forward for this. I think that there should be that kind
3 of needs assessment and wraparound services based on what
4 are the capacities or the -- its challenges for that
5 particular woman.

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

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

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

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

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

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

25 So, my first question would be to the four

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

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

18 **MS. SAVANNAH GENTILE:** There are a number
19 of examples. And, they are -- you know, Defending
20 Battered Women on Trial is actually a book produced by
21 Professor Liz Sheehy, and they examined a number of
22 women's cases to have them reviewed would -- you know,
23 because the self-defence as it stands is a defence really
24 made -- built for men in, you know, bar brawls or that
25 kind of context not for a woman who has been

1 systematically abused, and then at one point fears for her
2 life and reacts, or something of that nature. So, there
3 are a number of cases like that documented in that book in
4 particular. I don't know if Diane or Patty or Cassandra
5 had anything to add.

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

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

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

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

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

21 **MS. RAINBOW MILLER:** Okay. And, that comes
22 to my next question where in your report it says that
23 Indigenous women are more susceptible to entering a guilty
24 plea at a very high rate and also pressures in plea
25 bargaining. Could you elaborate on that?

1 **MS. SAVANNAH GENTILE:** So, if, you know, a
2 number of charges are laid or a very extreme charge, women
3 feel the pressure to just get it done with. There are a
4 lot of reasons why. One of those reasons is not to put
5 their children and their families through a long drawn out
6 court trial, especially if it was defence of other, in the
7 case of a child.

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

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

25 **MS. RAINBOW MILLER:** Okay. And, what about

1 the -- where it says "pressure in plea bargaining". Is
2 that pressure that comes from the lawyers that want to
3 close the case, or would you have examples about that?

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

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

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

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

24 **MS. RAINBOW MILLER:** Yes.

25 **MS. SAVANNAH GENTILE:** It is a massive

1 problem and that these women aren't necessarily gaining
2 access to lawyers.

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

7 **MS. SAVANNAH GENTILE:** Yes.

8 **MS. RAINBOW MILLER:** Okay. Thank you.
9 Those are all my questions.

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

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

14 **MS. STACEY SOLDIER:** Yes. Good afternoon.
15 I first want to show my respect by thanking the Huron-
16 Wendat Nation for welcoming us yet again today on their
17 territory. Thank you to the survivors and families who
18 are here and who may be listening. You continue to
19 inspire me every day. Thank you to the Commissioners and
20 staff for all of your hard work yet again all day today,
21 as well as the elders and grandmothers for your support
22 and for your prayers today.

23 Witnesses, your testimony today has been
24 very eye-opening. I work in the criminal justice system
25 in my day job, and so I am very familiar with much of what

1 you said, and it doesn't get any easier hearing it again.
2 And, one of the things that was running through my mind
3 was a quote that -- a quote that says, "I ask no favour
4 for my sex. All I ask of our brethren is that they take
5 their feet of our necks."

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

13 I wanted to address CAEFS and as well as
14 the provincial counterparts with their involvement in the
15 rural area. And, it was spoken to before with respect to
16 the difficulty not only in funding, but also having staff
17 working with women in the smaller institutions that are in
18 the provinces. I wonder, Cassandra, if you can speak to
19 that further.

20 **MS. KASSANDRA CHURCHER:** What we are
21 noticing -- and two examples. Our E. Fry out of -- near
22 Kamloops, our South Cariboo E. Fry, which is in a semi-
23 remote area, deeply affected by the forest fires, and also
24 our Barrie E. Fry in Ontario both service large vast
25 territories of semi-remote communities.

1 And so, what they have started to adapt is
2 having workers work remotely, meaning their workers will
3 have a transport budget, take their laptop, cellphone and
4 car and drive to a Tim Hortons three-and-a-half hours away
5 to meet a woman and hear her story, find out what she
6 needs, and then try to adapt. And, we are encouraging it
7 because of the need. They are reacting and adapting to
8 the gaps in services.

9 **MS. STACEY SOLDIER:** Absolutely. And, it
10 appears that -- and I can say, for example, the Elizabeth
11 Fry Society Manitoba, it is a small organization, it is a
12 scrappy organization. They do an incredible amount of
13 work for women, but are certainly limited to Winnipeg --
14 the Winnipeg area, essentially.

15 What I have read from their most recent
16 annual report is that there are workbooks that are
17 utilized by women in the Pas Correctional, which is
18 essentially an 8-hour drive away from Winnipeg, and
19 Brannon Correctional which is a 2-hour drive away from
20 Winnipeg. Has there been any indication from funding
21 sources, either provincial or federal, to expand these
22 types of services to women in rural areas as well as women
23 in rural institutions?

24 **MS. KASSANDRA CHURCHER:** I was at E. Fry
25 Winnipeg's AGM last week. I can speak firsthand of the

1 Absolutely, absolutely, absolutely, and it's frightening,
2 and it's sad to see that many of the women that we deal
3 with who are incarcerated are coming to jails and prisons
4 without any knowledge or any pride in their heritage and
5 the richness of the cultures that they belong to.

6 It's a lightbulb moment for some of them.
7 And, some of them, they are not prepared to take on the
8 task of making those changes, and have been so violated,
9 so abused, so marginalized throughout their lives as
10 Indigenous women that they're not prepared to even
11 acknowledge their roots.

12 I have to tell you, there's women that I
13 deal with that say, "Well, you know, I just told them I
14 was Italian. It was a lot easier when I came to jail to
15 be Italian than it was to be an Indigenous woman," and
16 that's a sad testimony to the reality of what goes on out
17 there in the community.

18 **MS. CHRISTA BIG CANOE:** I notice that both
19 Diane and Savannah were either nodding or wanted -- if you
20 wanted to add a response to that?

21 **MS. SAVANNAH GENTILE:** I think Patty
22 covered it quite well.

23 **MS. DIANE SERE:** Well, I just wanted to add
24 something to that, is that what happens, too, is a lot of
25 these women are found -- or, brought into the jails

1 because they've lost their culture, right, the
2 disconnection to their culture, and what it means to be
3 living with the Seven Grandfather Teachings. So, when
4 they're getting back -- when they're incarcerated and are
5 able to connect back with their culture and start learning
6 the Seven Grandfather Teachings again, I think that does
7 help them a lot, and that needs to stay when they're going
8 back into the communities.

9 **MS. STACEY SOLDIER:** Thank you very much.
10 Thank you for being here today.

11 **MS. CHRISTA BIG CANOE:** Thank you. Next,
12 we would like to invite up Ms. Elizabeth Zarpa on behalf
13 of ITK. Ms. Zarpa will have six and a half minutes.

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

15 **MS. ELIZABETH ZARPA:** Good afternoon. My
16 name is Elizabeth Zarpa. I'm legal counsel representing
17 Inuit Tapiriit Kanatami. And, for those of you who may or
18 may not be aware, it's the national organization that
19 represents Inuit in Canada.

20 I want to say thank you for coming and
21 testifying today. It's a very important topic to speak
22 about, and you do it so eloquently and in such a short
23 period of time.

24 I want to highlight the testimony given in
25 relation to Indigenous women accessing federal programming

1 relating to culture, and in order for a prerequisite for
2 them to access this programming, they need to be
3 considered Indian under the *Indian Act*; is that correct?

4 **MS. PATRICIA TATE:** Not necessarily. They
5 need to have proof of their Indigenous heritage. So, even
6 though they may be a non-registered Indian, if they've
7 been adopted out, part of the Sixties Scoop or, for that
8 matter, have no sense of who they're -- where their
9 heritage lies, they have to be able to prove their
10 heritage.

11 **MS. SAVANNAH GENTILE:** If I could add, it's
12 like a lot of practices and policies within CSC, that kind
13 of practice is inconsistently applied.

14 **MS. PATRICIA TATE:** Absolutely.

15 **MS. SAVANNAH GENTILE:** Yeah.

16 **MS. ELIZABETH ZARPA:** Okay. And, just for
17 clarity, I wanted to highlight -- the practice is
18 something that I was uncertain around, so thank you for
19 the clarification. And, I wanted to highlight for the
20 record, and also individuals who are listening to this
21 livestream, that Inuit are actually excluded from the
22 *Indian Act* under Section 4(1), and I think that the
23 practice of recognizing individuals from their nation and
24 how they self-identify is an important practice. And, I
25 would like to know whether you guys have any opinions on

1 best practices for CSC to follow through with for
2 Indigenous women when they're trying to access different
3 programming?

4 **MS. PATRICIA TATE:** I think one of the
5 problems is that the programming that's offered is very
6 generic and not necessarily programming that is going to
7 meet the needs of all the Indigenous women who are
8 incarcerated across the country. That being said, I think
9 that anyone who self-identifies as Indigenous or having
10 Indigenous heritage should be entitled to participate in
11 any programming or any ceremonies that are offered within
12 an institution.

13 I've worked in the prison system for many,
14 many years, and I can tell you that sometimes those
15 associate members of the brotherhoods and sisterhoods
16 create a huge wealth of strength for those sisterhoods or
17 brotherhoods, as the case may be. And, those are
18 individuals who, although not Indigenous themselves, have
19 chosen that walk as part of their healing, and their
20 commitment to that healing can be very strong and very
21 nurturing to a group of men or women.

22 **MS. KASSANDRA CHURCHER:** Federal Minister
23 of Public Safety Ralph Goodale released a mandate letter
24 to the new CSC Commissioner, Anne Kelly, encouraging the
25 development and establishment of relationships with

1 Indigenous partners and organizations and communities.
2 Particularly because you're a representative of ITK and
3 there is such a small number of federally-sentenced Inuit
4 women, this is an opportunity where Correctional Service
5 of Canada could approach for a Section 81 agreement and a
6 transfer of funds to see if those women could serve their
7 sentences or complete serving their sentences in their
8 communities or in their territories. That is a concrete
9 thing that could happen.

10 **MS. ELIZABETH ZARPA:** Great. And, that was
11 sort of the segue into my next question was whether you're
12 aware of any sort of conversations with Inuit
13 organizations or governments in relation to Section 81 or
14 84 programming in Canada's north or Inuit Nunangat?

15 **MS. KASSANDRA CHURCHER:** No, not to our
16 knowledge, or at least we haven't been approached in the
17 last year.

18 **MS. ELIZABETH ZARPA:** Okay. And, I would
19 like to go a little bit deeper with regards to programming
20 that has happened outside of an Inuit-specific framework,
21 but one that has been successful or something that you
22 see, successful elements of a Section 81 or 84 program
23 that you see is working in a really great way to, sort of,
24 reintegrate or work well for the Indigenous women who
25 access those programs?

1 **MS. KASSANDRA CHURCHER:** Do you want to
2 speak to Buffalo Sage?

3 **MS. PATRICIA TATE:** Yes. As it stands
4 right now, there is only one Section 81 facility in Canada
5 for women, and that is Buffalo Sage. It is a facility, as
6 I mentioned earlier today, that is run through Native
7 Counselling Service of Alberta, and they have a lot of
8 expertise in Section 81 programming because they, in fact,
9 ran the first Section 81 for men, which was Stan Daniels
10 Healing Centre.

11 The programming that they are offering is -
12 - although it is not specific to the Inuit population, it
13 is -- all Indigenous people are welcome to participate in
14 the programming, and it has proven to be extremely
15 valuable within the framework of Corrections' interest.
16 And, again, as I mentioned before, CSC has dropped the
17 program in their institutions. However, that program does
18 run outside of CSC through Stan Daniels since it belonged
19 to them in the first place.

20 I should say that one of the things about
21 the program that makes it so uniquely valuable and rich is
22 that it offers an opportunity for offenders or prisoners
23 to be isolated from the population, general population of
24 prisons, and to do their work in a safe, remote setting,
25 oftentimes. And so, that has really given the program in

1 and of itself some uniqueness that was never available in
2 other programs that have been developed and offered in the
3 institutions.

4 **MS. KASSANDRA CHURCHER:** Another potential
5 positive is also the use of escorted temporary absences
6 and unescorted temporary absences.

7 **MS. PATRICIA TATE:** Yes.

8 **MS. KASSANDRA CHURCHER:** So, envisioned
9 under Creating Choices, it was community-in, community-
10 out. It would be a seamless dynamic structure for women
11 who are federally sentenced. Clearly, you know, Savannah
12 has addressed the fact that that's not the reality. But,
13 CSC could very well start increasing the approvals of
14 escorted temporary absences, unescorted temporary
15 absences, to get women back into the community, and
16 volunteer, and work, and programming based in the
17 community.

18 **MS. ELIZABETH ZARPA:** Okay, thank you.
19 That's my time.

20 **MS. CHRISTA BIG CANOE:** Thank you. Next,
21 we would like to invite up the New Brunswick Aboriginal
22 Peoples Council. Ms. Elizabeth Blaney will have six and a
23 half minutes.

24 **--- CROSS-EXAMINATION BY MS. ELIZABETH BLANEY:**

25 **MS. ELIZABETH BLANEY:** Thank you. Good

1 afternoon, elders, families, Chief Commissioner,
2 Commissioners and witnesses. Thank you, panel, for your
3 testimony this morning, and in particular for drawing our
4 attention to the need to hear first voice on this
5 important issue. Thank you, Diane, for sharing your
6 story.

7 My name is Elizabeth Blaney, I am from the
8 New Brunswick Aboriginal Peoples Council. And, the New
9 Brunswick Aboriginal Peoples Council is a political voice
10 for Indigenous peoples who live off-reserve on their
11 ancestral homelands throughout New Brunswick.

12 My first question is for Ms. -- or I prefer
13 Elder Tate. Earlier you, and just a moment ago, ITK's
14 counsel mentioned that there is a standard in
15 identification that an Indigenous woman must meet in order
16 to be eligible for programs and services. So, you
17 explained a little bit about the process a moment ago, to
18 the best of your ability, can you explain how women then
19 prove their heritage?

20 **MS. PATRICIA TATE:** Well, certainly if
21 someone is First Nation, they have got a treaty card or
22 they have membership. Métis, same situation applies. In
23 some cases, it has been a matter of providing
24 documentation of your birth situation, that has been the
25 standard that was set initially, when the pathways

1 programs first came into the institutions.

2 I don't know -- and I think that Sav has
3 already alluded to the fact that this policy is not
4 implemented on a regular basis or on a consistent basis at
5 every institution, but the bottom line is, it is one of
6 those situations that we unfortunately have to deal with
7 in some facilities.

8 **MS. ELIZABETH BLANEY:** So, you mean, like,
9 birth certificates to prove ---

10 **MS. PATRICIA TATE:** Yes.

11 **MS. ELIZABETH BLANEY:** Is that what you
12 meant? Okay. And so, you say it has not been applied
13 consistently, so I am assuming that there is no staff
14 there to help a woman do this work?

15 **MS. PATRICIA TATE:** Oh, no. That would be
16 the -- no.

17 **MS. DIANE SERE:** Yes, I just wanted to add
18 to that. I know that at GVI, they have an Aboriginal
19 liaison officer that the woman can sit down and they do an
20 ASH report, which is an Aboriginal Social History, and get
21 some of the information through that report. But, I
22 cannot say how accurate it would be in order to determine
23 someone's heritage.

24 **MS. ELIZABETH BLANEY:** All right. Okay.
25 Thank you. So, to the best of your knowledge, Ms. Tate,

1 are non-status women eligible for programs and services?

2 **MS. PATRICIA TATE:** Yes, they are.

3 **MS. ELIZABETH BLANEY:** If they meet that
4 criteria of ---

5 **MS. PATRICIA TATE:** That's correct.

6 **MS. ELIZABETH BLANEY:** Okay. Thank you.
7 My next question is for Ms. Churcher. From the
8 perspective of the E. Fry Society, do you agree that
9 reintegration can only be successful if the programs and
10 supports are created and implemented by those who can
11 relate to the world view and culture of the Indigenous
12 woman who is leaving custody?

13 **MS. KASSANDRA CHURCHER:** Yes. And,
14 unfortunately, we did not spend much time today talking
15 about the barriers and challenges to release and
16 reintegration for women, once they come out of the
17 correction system. But, certainly having those developed
18 and led by Indigenous communities would be a start in
19 supporting their reintegration.

20 **MS. ELIZABETH BLANEY:** Would you also agree
21 then, that if the woman is non-status, off-reserve, she
22 cannot be successfully reintegrated unless the supports
23 and services then are tailored to her population?

24 **MS. KASSANDRA CHURCHER:** It is tough to say
25 broadly because, you know, every individual woman has

1 their own path to walk. I think that it needs to be a
2 support that exist, and that is an option and that is a
3 choice, because having choice is privilege, and
4 unfortunately, a lot of the women that you are speaking
5 about do not have choice. So, I think that's what I would
6 endorse.

7 **MS. PATRICIA TATE:** I think that is
8 absolutely what we need to look at. Every woman is an
9 individual, every woman has her own journey and her own
10 decisions to be made. What needs to be available is that
11 the resources are out there for her to be able to have
12 those choices. And, we talked about creating choices as -
13 - I mean, obviously that is fundamental to creating
14 choices in the community for all women.

15 **MS. ELIZABETH BLANEY:** Thank you. My last
16 question I would like to address to Savannah. So, on page
17 98 of the discussion paper, Women and the Canadian Legal
18 System, the author state that, "Corporations holding
19 permits successfully apply to court for injunctions to
20 stop protests against development. And, courts are now
21 readily convicting and imposing heavy sentences on
22 Aboriginal leaders and activists when they resist the
23 courts, commands to respect the corporation's rights over
24 Aboriginal land."

25 The document, further down on page 98,

1 refers to legalized violence against Aboriginal peoples
2 who assert stewardship over their traditional lands. Do
3 you agree that the criminalization of women activists
4 increases the vulnerability of Indigenous women and their
5 children to violence both systemic, i.e. racism, child
6 welfare, removal, and personal forms of it, of violence,
7 including abduction and perhaps murder?

8 **MS. SAVANNAH GENTILE:** Yes. We talked at
9 brief about that. I mean, as we talked about today all of
10 the issues leading -- flowing from criminalization in
11 terms of the impacts on family and children, definitely
12 make those children and that family, that woman more
13 vulnerable.

14 **MS. ELIZABETH BLANEY:** Okay. Thank you
15 very much everyone.

16 **MS. CHRISTA BIG CANOE:** Next, we would like
17 to invite up the Congress of Aboriginal Peoples. Ms.
18 Lonbard will have 6.5 minutes, please.

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

20 **MS. ALISA LOMBARD:** Good afternoon. Thank
21 you to the Huron-Wendat Nation for welcoming us on their
22 territory, thank you to the elders, to the panel for
23 sharing their knowledge and to the Commissioners for
24 listening intently.

25 My name is Lisa Lonbard and I am counsel

1 representing the Congress of Aboriginal Peoples. My
2 questions today will relate directly to access to
3 reproductive health care services.

4 In schedules K and L of the documents filed
5 with the Inquiry, specifically two letters, the first
6 dated July 10th, 2018 from CAEFS, addressed to Kikawinaw
7 Rachel Parker of the Okimaw Ohci Healing Lodge in Maple
8 Creek, Saskatchewan; and the second, a letter dated
9 September 16th, 2018, also from CAEFS, under Ms. Gentile's
10 cover, addressed to Warden Brooke Kassen of the Fraser
11 Valley Prison for Women in Abbotsford, B.C. These letters
12 highlighted the organization's concerns arising from their
13 site visits with respect to CSC's alleged breach of
14 Section 86(1) of the Corrections and Conditions Release
15 Act, which essentially provides or stands for the
16 propositions that the service shall provide every inmate
17 with (a) essential health care; and (b), reasonable access
18 to non-essential mental health care that will contribute
19 to the inmate's rehabilitation, successful reintegration
20 into the community.

21 Now, my question to the panel is, would you
22 agree that reproductive health care constitutes an
23 essential health care service for women while
24 incarcerated?

25 **MS. SAVANNAH GENTILE:** Yes. And, what I

1 would say about health care, because we have not actually
2 touched on it enough today, it is a very serious issue.
3 Women are not getting access to proper health care. Their
4 health care appointments are escorted temporary absences
5 out to health care appointments, which are sometimes
6 scheduled months in advance, are often being cancelled
7 without any notice to the woman, and she won't discover
8 this until the next time she goes to an appointment and
9 the doctor asks her why she has cancelled so many times.
10 And, frequently, women's concerns about their health care
11 are not treated seriously.

12 **MS. ALISA LOMBARD:** On that note, can
13 anyone from the panel describe, from either observation
14 report or lived experience, the experience of an
15 Indigenous woman in receiving prenatal, labour and
16 delivery and post-partum health care, in addition to
17 reproductive health care in general?

18 **MS. SAVANNAH GENTILE:** Well, I mean, the
19 case of Julie Bilotta comes to mind. She was a woman
20 whose screams for help went unattended to for hours. She
21 was in a segregation cell where she eventually gave birth
22 to -- it was a breach birth. And, a year later, her son
23 died. So, I mean, in terms of the level of health care,
24 it is again inconsistent. Not all cases are that way, but
25 unfortunately it's not as extreme an example as you would

1 hope it would be. So no, I don't think that -- you know,
2 there are incidences of women giving birth while shackled
3 and that sort of thing, so no, I don't think they're
4 receiving the level of healthcare that they should be.

5 **MS. ALISA LOMBARD:** Thank you.

6 Would you agree that the integrity of an
7 Indigenous woman's right to proper and informed consent in
8 receiving reproductive healthcare is compromised while
9 incarcerated?

10 **MS. SAVANNAH GENTILE:** Yes.

11 **MS. ALISA LOMBARD:** Thank you. Those are
12 my questions.

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

14 Next we would like to invite up the
15 Vancouver Sex Workers' Right Collective. Ms. Carly
16 Teillet will have six and a half minutes.

17 **--- CROSS-EXAMINATION BY MS. CARLY TEILLET:**

18 **MS. CARLY TEILLET:** Tanshy, bonjour, and
19 good afternoon.

20 I would like to start by thanking the
21 Huron-Wendat people for welcoming us yet again today to
22 their territory to do our work and to acknowledge the
23 survivors, the families, the Elders, the singers, the
24 medicine and sacred objects that are here with us so that
25 we can do our work in a good way.

1 My questions this afternoon will be for
2 Kassandra and Patricia, if I may use your first names?

3 So when an Indigenous woman experiences an
4 assault and she resists or she fights, as a survivor she
5 can then face criminal charges for that act of resistance,
6 for surviving?

7 **MS. KASSANDRA CHURCHER:** Yes.

8 **MS. CARLY TEILLET:** And those could include
9 assault, assault with a weapon or attempted murder of the
10 person who perpetrated the violence.

11 And this morning, Kassandra, you discussed
12 the criminalization and incarceration of indigenous women
13 who struggled to survive. And so I want to ask about that
14 process of being charged and what happens. So when you're
15 charged with a crime for protecting yourself, you can then
16 be sent to a pre-trial centre or a remand centre and you
17 can be held there in custody until your trial. That could
18 be eight months, a year. We heard two years this morning.
19 And this could be a trial where you could be found not
20 guilty because of self-defence.

21 We heard from Diane this morning how
22 traumatic entering a remand centre can be. And so are you
23 aware of any programs that assist or help indigenous
24 survivors with the trauma of being charged, of being then
25 processed by Corrections, and then that first process of

1 entering into that institution?

2 **MS. KASSANDRA CHURCHER:** First, I'd like to
3 thank you for bringing up the remand centres and the
4 holding time. That occurs all across the country, months
5 and months of waiting for court time.

6 A lot of our local Elizabeth Fry Societies
7 do have court workers. They would also have local support
8 workers that will visit remand centres, will try to meet
9 with women, try to connect them with their family, try to
10 explain what is happening to them. I think we can for
11 granted that people understand their rights, that people
12 understand our criminal justice system or our corrections
13 system, and people do not. When someone is charged,
14 arrested and then put in a remand centre, they have a lot
15 of questions.

16 So sometimes, but that again is not a
17 consistent service across the country.

18 **MS. PATRICIA TATE:** I'd like to speak to
19 the situation with regard to remand in Saskatchewan. Pine
20 Grove Institution for Women has probably 75 percent of the
21 population that are on remand status. You need to know
22 that when you are on remand status in a provincial
23 institution, you are entitled to nothing. You have no
24 programs. You're locked up 23 hours a day. You're not --
25 you can't go to school. You don't have any access to any

1 of the healing programs that the population has, and the
2 reasoning behind that is that of course you haven't been
3 found guilty of anything, so how can we then say you need
4 treatment? How can we say you need AA? They have zero to
5 do except sit in small cages on units that are
6 overcrowded. To the extent that they had the chapel,
7 recently the chapel was being used as a dormitory. Of
8 course, that meant that was because in some -- because we
9 had had an over-representation in the men's provincial and
10 all the men were in the gym at the women's facility, so
11 the women then inherited the chapel for a while. And
12 these women are, as I said, locked up 23 hours a day with
13 absolutely no programming and no access to any of the
14 services that the provincial system can offer to its
15 sentenced individuals.

16 **MS. CARLY TEILLET:** Patricia, if I may ask
17 another question?

18 **MS. PATRICIA TATE:** Yes.

19 **MS. CARLY TEILLET:** You talked about Elders
20 visiting the healing lodge and Elders from different
21 nations would come and visit, and that was so important.
22 Were any of these Elders two-spirited individuals or LGBTQ
23 individuals?

24 **MS. PATRICIA TATE:** What a good question.
25 Actually, no, not that I'm aware of. However, I do want

1 to tell you that most recently we've had an opportunity to
2 visit with some LGBTQ people at Okimaw Ohci, and we are
3 setting up a group there, and we do have a really well-
4 respected two-spirited Elder in our community. Her name
5 is Marjorie Bokesh(phonetic). Some of you may know of her
6 from her international work that she's done in the
7 community, and she's more than willing to attend the
8 institution.

9 So we're trying to put that process in
10 place. It is a first, to be honest, but it's one that
11 we're committed to seeing move forward. And I know that
12 there are -- maybe Sav can talk to other institutions
13 where the LGBTQ community has been more active.

14 **MS. SAVANNAH GENTILE:** In terms of Elders,
15 I haven't heard of that, no. Not that I'm aware of.
16 There are, you know, at GVI, a couple started the LGBTQ
17 for Change group, and when they were transferred to Fraser
18 Valley, they started that there as well. So there's that
19 sort of effort on the part of the women.

20 **MS. CARLY TEILLET:** So my last question,
21 I'd to ask about access to children and family and kinship
22 when you're incarcerated. And I have very little time
23 left, but I'm going to ask the question together.

24 It's my understanding that access to
25 internet is a privilege that can be awarded or taken away,

1 and I also understand that a lot of people in our
2 community connect with their family through Facebook or
3 through internet, and they connect with their children.
4 That's how we announce fishing and that's how we announce
5 hunting and deaths and all sort of celebrations.

6 So could you talk a little bit about the
7 importance of preserving that kinship relationship and
8 communication with the family, preserving that?

9 **MS. KASSANDRA CHURCHER:** First, there's no
10 access to internet in the federal system. So they don't
11 have the ability to follow Facebook feeds and pictures of
12 their children. I think that...

13 Did someone else want to -- did you want to
14 speak to that Diane? I saw you lean forward.

15 Just in terms of the communication piece,
16 the phone system is something that we should be
17 addressing. There is a class-based system in prisons that
18 really replicates the issues that we see in the larger
19 broad society. If you don't have money to put on your PIN
20 card to get access to the phone numbers you need, then
21 you're not making any calls. No one is going to hear from
22 you. And oftentimes women come in without any money to be
23 able to make any phone calls. We have a 1-800 number.
24 They can call us toll-free, but for the most part,
25 communication as simple as just a phone call can be

1 inaccessible to some women in prison.

2 **MS. DIANE SERE:** And I want to add to that
3 that these women need to make requests to add these phone
4 numbers to their PIN card, and it can take quite a long
5 time for the jail or the prisons to verify those numbers
6 in order to approve those numbers as numbers that they can
7 call. And also, I mean, you know, with those PIN cards,
8 it's a payphone in the house, and if you don't have any
9 money, you're not making any phone calls. You have no
10 connection with the outside world. There is no internet.

11 **MS. CARLY TEILLET:** I'm over time. Thank
12 you so much for your answers. Merci. Migwetch.

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

14 We would like to invite up Manitoba
15 Keewatinowi Okimakanak. Counsel Jessica Barlow will have
16 six and a half minutes.

17 **--- CROSS-EXAMINATION BY JESSICA BARLOW:**

18 **MS. JESSICA BARLOW:** Good afternoon.

19 I'd like to acknowledge the Elders and
20 Grandmothers, families and survivors, the sacred items in
21 the room, the Huron-Wendat for welcoming us here. My name
22 is Jessica Barlow and I'm legal counsel on behalf of MKO.
23 And I would like to thank the panel members today for your
24 testimony, and I would especially like to thank you, Ms.
25 Sere, for sharing your truth with us today.

1 I'll be directing my questions to specific
2 panel members, but if any other panel members wish to
3 weigh in, please feel free. And am I able to address you
4 all by your first names? Okay, thank you.

5 So my first question is going to be
6 directed to you, *Kassandra*, and earlier you spoke about
7 public negligence and as it pertains to incarceration.
8 And I'm wondering if you're able to elaborate on this for
9 us, please?

10 **MS. KASSANDRA CHURCHER:** Yes. In a lot of
11 our dealings, it comes down to an issue of public safety,
12 public safety. That's a lot through the parole process.
13 It's a lot of the work that we're engaged in with CSC. It
14 comes down to risk assessment factors.

15 Public safety is this massive issue except
16 there's no connection to the very real fact that it is
17 women who live in the public who are not safe and hence
18 come into the system through factors that I addressed
19 earlier in my testimony, like addiction or mental health
20 or poverty.

21 And so when I made the connection between
22 public safety and public negligence, I think there's
23 something to talk about in terms of what are the gaps that
24 are leading to the criminalization of indigenous women and
25 the disconnect that we see every day.

1 **MS. JESSICA BARLOW:** And so in terms of
2 that, what types of further recommendations on top of the
3 ones that you've made earlier would you make to address
4 those gaps in this public negligence?

5 **MS. KASSANDRA CHURCHER:** I think one of the
6 most powerful statements that was made, Savannah you had
7 mentioned divesting from the prison system and investing
8 in the communities. Money exists. Money is there. It's
9 about where the money is being directed and so I think
10 that's a pretty concrete way to shore up some of the holes
11 in the social support network.

12 **MS. JESSICA BARLOW:** In addition, you had
13 also said a similar thing about the child welfare system.

14 **MS. KASSANDRA CHURCHER:** Absolutely.

15 **MS. JESSICA BARLOW:** Wonderful. Thank you.
16 My next question is for you, Savannah. You
17 spoke earlier about "privileges" and I use that term very
18 lightly, the privileges associated with the classification
19 levels. Is that correct?

20 **MS. SAVANNAH GENTILE:** Yes.

21 **MS. JESSICA BARLOW:** Okay. And so is it
22 fair to say that these privileges are in fact not
23 privileges at all but instead they are basic human rights
24 or needs that should not be given nor taken away by an
25 arbitrary classification?

1 **MS. SAVANNAH GENTILE:** Yes, and I think
2 that's why the OCI called it an illegal and discriminatory
3 system.

4 **MS. JESSICA BARLOW:** And so I'm wondering
5 if in your experience you can speak to why these
6 privileges are being granted and taken away in such an
7 arbitrary manner and if you could potentially provide any
8 recommendations as to how that could be corrected?

9 **MS. SAVANNAH GENTILE:** Well, I think first
10 of all, the system itself needs to be rescinded. It is a
11 discriminatory and unlawful tool and I think that --
12 sorry, can you repeat the first part of your question?

13 **MS. JESSICA BARLOW:** Sure. So I'm
14 wondering if you're able to talk about why they're
15 applying this type of arbitrary classification and then
16 any recommendations that you can provide to sort of
17 address that.

18 **MS. SAVANNAH GENTILE:** It's an interesting
19 question because it sort of requires me to understand why
20 CSC is engaging in a policy that is unlawful. It is a
21 form of social control of managing the women and keeping
22 them obedient. CSC will say that it's for the safety of
23 the women, the safety of the institution, but in our
24 experience, when women are treated in lawful and
25 respectful ways, there is no need to resort to maximum

1 security or segregation placements.

2 **MS. JESSICA BARLOW:** Okay. And further to
3 that, so we've heard a lot about things like assimilation
4 and conformity. And so what I'm hearing and would you
5 recommend that more respectful manners be implemented by
6 these institutions instead of these conformist and social
7 controls?

8 **MS. SAVANNAH GENTILE:** I would say the max
9 security or the secure units as a whole are rather
10 inhumane. They create a lot of distance between the staff
11 and the women and when you create -- you start putting up
12 walls between the staff and the women, you're taking --
13 you're putting up walls -- you're failing to recognize
14 their humanity.

15 So they are supposed to be engaging in
16 dynamic security measures. That is interacting with the
17 women, understanding who they are, where they come from so
18 that they can be familiar with the dynamics in the prison
19 and be able to address things proactively rather than
20 reactively, but that's not happening and especially not in
21 the secure units.

22 **MS. JESSICA BARLOW:** Wonderful. Thank you.

23 And my next question is directed to you,
24 Patty. Earlier -- and we've heard a little bit about this
25 already about disenfranchisement and earlier in your

1 testimony, you said that women that may potentially have
2 been disenfranchised, they don't count when it comes to
3 programs and services and I'm wondering if you can explain
4 that a little bit further.

5 And also, I just want to state that
6 everyone -- everyone counts and I'm sure you would agree
7 with me but I want to hear more about why they don't
8 count.

9 **MS. PATRICIA TATE:** When it comes to
10 funding, I'm looking at the resourcing as average of the
11 initiatives for Indigenous offenders. The institution is
12 looking at the numbers of individuals who are represented
13 by that population. And so if somebody does not have
14 access to information that is specific to their heritage,
15 then they may be -- they may be excluded from the ability
16 to participate in programming.

17 I mentioned earlier that there are other
18 exclusions for individuals who may want to be part of the
19 Pathways program and methadone was one of those exclusions
20 as well.

21 **MS. JESSICA BARLOW:** Wonderful. I thank
22 you all so very much and I thank you for the work that you
23 do. Good afternoon.

24 **MS. CHRISTA BIG CANOE:** Thank you.
25 Chief Commissioner and Commissioners, that

1 concludes the cross-examination from the parties with
2 standing that chose to cross-examine today. I do have a
3 couple of questions for the purpose of redirect. On that
4 basis, I would ask that we do set the clock for the
5 standard time for redirect, although I don't anticipate
6 requiring it all. It's normally 20 minutes and it won't
7 take 20 minutes though I don't believe.

8 **--- RE-EXAMINATION BY MS. CHRISTA BIG CANOE:**

9 **MS. CHRISTA BIG CANOE:** I actually have
10 just sort of two areas to follow up on. So at this point,
11 based on the evidence that you gave this morning, the
12 parties with standing were able to ask questions in cross-
13 examination. Redirect allows me to either clarify or
14 further explore anything that's come up in cross-
15 examination.

16 And so I want to start with one of my
17 colleagues, Ms. Catherine Dunn, had talked to the panel
18 about strip searches and I think we've heard you
19 resoundingly say how -- how negative they are.

20 But one of the areas I'm hoping to explore
21 a little further is we've heard, you know, how insensitive
22 -- Cassandra gave a very explicit description earlier as
23 part of the recommendations as to the process itself and
24 we've talked about the negative impacts it can have on the
25 women that are being searched.

1 But I was curious if you guys could speak
2 to if there's ever any consideration given to a woman's
3 mental health. So you talked about the history of trauma
4 but prior to doing a strip search, is there any assessment
5 tools or anything put into place to know not just her
6 mental health in the moment of being searched but what
7 impact it's had on her prior or after?

8 **MS. PATRICIA TATE:** I'd like to just -- my
9 colleagues I'm sure have got lots to share about this but
10 the one thing that I think is significant when you're
11 speaking and I think about the women who are coming back
12 in -- and I'm using Okimaw Ohci as my example here, and
13 when the women come back in from a work pass or an
14 escorted absence, particularly work passes or for that
15 matter going to church or to a ceremony, there is a little
16 a little cup and in the cup there are short straws and
17 long straws. It has virtually nothing to do with your
18 security, security concerns pertaining to you, it's
19 whether you draw the short straw. Those are the people
20 who get tested and who get strip searched.

21 So do people consider your mental health
22 and mental health issues in your history, absolutely not.
23 They consider whether you've go the short straw.

24 **MS. SAVANNAH GENTILE:** And what I would add
25 to that is that each institution is responsible for

1 developing a search plan. So the practice of strip
2 searching actually varies across the prisons across
3 Canada.

4 At GVI for example, the search plan has
5 actually done away with all discretion in terms of the
6 strip searching and strip searches are done mandatorily
7 after work release or whatever. So there is no short
8 straw or long straw. It's just you go out, you came back,
9 you will be strip searched.

10 And I would also like to point out that the
11 correctional investigator has documented that in as many
12 as 30 percent of the cases, those strip searches aren't
13 even done according to the policy. So a woman is meant to
14 have her top or her bottom on at least one at a time, but
15 in a lot of cases, women will be completely naked and that
16 sort of thing. So, there's certain policies around how
17 it's conducted. I would say it doesn't make it anymore
18 humane or any less degrading. The women are amazingly
19 resilient, and a lot of them, unfortunately, have learned
20 to cope and numb out to that, and I'd say there's a big
21 disconnect, because I've heard upper management at CSC
22 say, "Well, it's not a big deal. It's just a part of
23 institutional policy, institutional life."

24 So, there's a huge disconnect happening.
25 I've had -- you know I've actually experienced eye rolls

1 when I talk about the trauma that women experience, in
2 relation to strip-searching in relation to their history.
3 So, there's -- yeah, it's unfortunate.

4 **MS. CHRISTA BIG CANOE:** Yes, go ahead.

5 **MS. DIANE SERE:** I wanted to add to
6 something to that as well, and it's not just the physical
7 strip-searches, but they also do a lot of room searches.
8 So, they're disrupting your private, your personal
9 property, and they also have dogs coming into your rooms
10 and stuff like that. And, you know -- and we have women
11 that are afraid of dogs, and we're lined up, you know, on
12 the walls, and the dogs are searching us from up and down,
13 front and back. So, I mean, it's just more than a
14 physical strip-search. There's also a lot of other
15 invasive ways of searching.

16 **MS. CHRISTA BIG CANOE:** Thank you for
17 adding that. I guess I'm just kind of sitting here
18 shocked. And, Savannah, I know you're not a lawyer yet,
19 but I'm pretty sure you're probably familiar with *Golden*.
20 So, the Supreme Court in Canada made a ruling a number of
21 years ago on strip-searches and its unconstitutionality.

22 So, beyond acknowledging the degraded
23 experience that a -- so, in *Golden*, it was a detainee, not
24 an inmate that experienced the search, the routine strip-
25 search, and out of that case came a lot of what I thought

1 we would know as Canadians would be unacceptable
2 procedures of strip-search.

3 But, when you talk about things like
4 drawing a star, it tells me there -- not only has the
5 discretion moved, it's very randomized. And, if the
6 outcome isn't -- if I understood and heard you correctly
7 earlier today, they're not actually producing a lot of --
8 when they do their searches, they're not actually coming
9 up with, like, a lot of contraband or any of the --
10 anything.

11 So, to me, it is somewhat shocking.
12 There's also international law in relation to strip-
13 searches. So, I wanted to give you the opportunity to
14 speak to any further -- any further instruments, and I
15 hate using the word "policies," because I know your guys'
16 position on this, but what we know already in either
17 Canadian law or international law that not only looks at
18 this as a degrading and inhumane thing, but why it
19 continues to persist, or you're dealing with short straws
20 and eye rolls?

21 **MS. SAVANNAH GENTILE:** Yes. In around
22 2005, actually, all of the deputy wardens at the prisons
23 for women across Canada came out and were developing --
24 they developed a memo coming out against those kinds of
25 routine strip-searches, because there's routine and with

1 cause. So, we're talking about the routine strip-searches
2 which are either done randomly or -- they're at
3 discretion. So, randomly or in the case of GVI,
4 mandatorily.

5 We did raise this issue with the National
6 Office for CSC last fall, this past fall, and that is the
7 letter I provided this morning. We did raise *Golden*.
8 Unfortunately, they make the distinction between the
9 prison environment. So, you know, they say it's not
10 binding and that we raise, of course, international tools,
11 the Mandela Rules and that sort of thing, where it should
12 be done as a last resort and there's an acknowledgment
13 internationally that it is retraumatizing, and that less
14 invasive methods can and should be used.

15 But, again, this is sort of the move
16 towards more punitive, more security-driven state, because
17 they argue it's necessary to address the issue of drugs,
18 for instance, in the institution, and we continue to
19 encourage them to provide -- to actually address the root
20 cause of the drug issue. If there's a drug issue and it's
21 related to addictions issues, and we should be dealing
22 with the trauma and the addiction, not after the fact
23 penalizing or, you know, using these highly punitive
24 methods to keep drugs out when it's, in fact, they're not
25 finding -- we did an Access to Information Request,

1 they're not finding a lot. They're not finding a great
2 deal of contraband, and when they are, it's very non-
3 serious contraband, like a lipstick container or sometimes
4 pictures of ---

5 **MS. PATRICIA TATE:** Thirty-five cents.

6 **MS. SAVANNAH GENTILE:** Thirty-five cents.
7 You know, those are the sorts of things that are being
8 found. You know, there may be the occasional serious
9 piece, but it's very rare. So, I would say it's not
10 actually meeting its objective in conducting these strip-
11 searches in the first place.

12 **MS. CHRISTA BIG CANOE:** Does it take it too
13 far to say, for instance, because it's based on safety --
14 like, when you look at the CSC policies that are all
15 available on-line, the conduct of strip-searches always
16 ties back to safety. But, for example, you gave -- this
17 morning you talked about when it's in the same facility,
18 and the drug argument, or often there's this language used
19 in corrections, a talking reference to the inmates of, you
20 know, the culture of drugs and everything. Is it too far
21 to say that it's a lot easier to publicly put out there
22 that it's always a safety concern instead of having to
23 deal with the real issues because of the failures in
24 programming and other things available to inmates?

25 **MS. SAVANNAH GENTILE:** Yes. I would say

1 that's exactly right. And, I would say that is also a
2 failure of the positive obligation under 4(G) of the CCRA
3 to, you know, consider women's particular circumstances
4 when they're -- in their practices and policies.

5 **MS. CHRISTA BIG CANOE:** Yes, thank you.
6 The other area that I wanted to re-examine on -- my
7 colleague, Ms. Lombard, had brought up about prenatal and
8 birthing, and any care that's available. It's something
9 we didn't get a chance to explore too greatly in the
10 examination in-chief, is what happens to women when
11 they're pregnant in custody, what happens to women when
12 they birth, and what are the processes that immediately
13 remove the child. Because -- do you guys have any
14 examples where a woman who is pregnant in custody and
15 birth isn't able to keep their child with them in custody?

16 **MS. SAVANNAH GENTILE:** Yes. Actually,
17 there's a case that comes to mind for me. I don't want to
18 give any particulars because I don't want to identify this
19 woman, but, in her case, she was pregnant, she gave birth,
20 and then they maxed her out, took away her infant child,
21 you know. So, they're preventing breastfeeding and that
22 sort of thing as well for the child. She did fight it and
23 she eventually won.

24 But, the trauma of enduring that for both
25 the child and for herself exist. It happened, and you

1 can't take that back. And, it was, I would say -- or her
2 sense of it was that she was a high-profile prisoner and
3 that had something to do with it. And, even after she won
4 her grievance, she did get -- you know, she got comments
5 here and there that it was -- you know, from staff here
6 and there that, you know, they did the right thing.

7 **MS. CHRISTA BIG CANOE:** Right. And,
8 there's also potentially some shaming involved around a
9 prison not being the proper environment to raise ---

10 **MS. SAVANNAH GENTILE:** Actually ---

11 **MS. PATRICIA TATE:** One of the other issues
12 that women who are pregnant and expecting a child and are
13 considering entering into the mother-child program which
14 exists in the federal system is that with the -- with your
15 inclusion in that program, Child and Family Services are
16 automatically part of the process, irrespective of the
17 fact that you may have a family at home, a mom, a dad or
18 whoever the case may -- or the baby's father, there are
19 citizens that Child and Family Services has an open file
20 on your infant while that child is involved in the
21 mother/child program. And, particularly for Indigenous
22 women who have had a not so great experiences which Child
23 and Family Services, and perhaps being apprehended
24 themselves or having had their other children apprehended,
25 they're not anxious -- they hesitate to participate in the

1 program for that very reason.

2 **MS. CHRISTA BIG CANOE:** And, like, what's
3 the plausibility of that program in terms of across the
4 country or access to it for everyone? Does anyone know
5 that information on this panel?

6 **MS. SAVANNAH GENTILE:** What was the ---

7 **MS. CHRISTA BIG CANOE:** So, the mother and
8 child program, is it available across the country? Not
9 the federal program, but is something similar available in
10 provinces and territories?

11 **MS. KASSANDRA CHURCHER:** First, to address
12 the federal mother and child program, it's extremely
13 restrictive, and I'm not sure if people are aware of that.
14 You need to be classified as either minimum or medium.
15 You can have no history of mental health issues. None of
16 your crimes, of course, can involve a minor. If you don't
17 qualify on any one of those, or if you receive
18 institutional charges, it will restrict your access to
19 that program or remove you from the program.

20 So, women who have been accepted with their
21 children, children can live with their parents, a mother
22 full-time until the age four, and then part-time until the
23 age of 12 from within the prison. If you have an
24 institutional charge, if you're maxed out, if you're
25 reclassified, then you're removed from the program and

1 your child is removed from you.

2 **MS. CHRISTA BIG CANOE:** You've actually
3 anticipated my next part of the question was, what happens
4 if you get reclassified? So, you earn the right to be in
5 a lower classification, access a program, demonstrate the
6 ability to retain your child within the program when
7 something happens. So, again, is it like a snap decision
8 if your classification goes up you lose? And, as Patty's
9 point out now, then -- because there is already
10 involvement by child apprehension, the child is then
11 apprehended? Is that the general -- is that what happens?

12 **MS. KASSANDRA CHURCHER:** Could I make a
13 comment about institutional charges? They can be
14 behaviour, attitude, sometimes -- it is -- it can be
15 incredibly subjective and inconsistent, and invisible
16 boundaries from which women have to try to negotiate their
17 safety, which is why it is so difficult for them sometimes
18 to "respect institutional policies", because often times
19 they don't receive the institutional policies. They don't
20 know what is guiding the culture and the framework there.

21 **MS. CHRISTA BIG CANOE:** Diane?

22 **MS. DIANE SERE:** I wanted to add something
23 about institutional charges. It could be something as
24 simple -- and I got an institutional charge. I got an
25 institutional charge for having somebody else's t-shirt in

1 my room. So, it was a woman that was living in the same
2 house as me, and her t-shirt was in my room. And, when
3 they did a room search, that t-shirt was not on my
4 personal property list, and I got an institutional charge
5 for that.

6 **MS. SAVANNAH GENTILE:** There is another
7 case actually. I don't have the full citation. It is the
8 *Twins* case, and it was -- actually involved passing a
9 chicken wing, and it went -- I think it went all the way
10 up to the Supreme Court, because it was an institutional
11 charge.

12 So, women are encouraged to do -- engage in
13 pro-social behaviour, but at the same time, if they share
14 food, that is a charge. If they can't visit in each
15 other's houses, that is a charge. If you are in a
16 relationship, don't think about going into their house,
17 that is a charge. And, women in relationships are also
18 often prevented from being in the same house.

19 There used to be a rule in the handbook, in
20 the prisoner's handbook actually, that said same-sex
21 partners could not reside in the same house. Two women at
22 GVI actually filed a human rights complaint, and that rule
23 was removed from the book. But, it still, in practice,
24 happens.

25 **MS. CHRISTA BIG CANOE:** So, is it fair to

1 say that, in particular, as it relates to anyone accessing
2 the child -- the Mother-Child Program that there is always
3 an atmosphere of fear that you can instantaneously lose
4 your child?

5 **MS. SAVANNAH GENTILE:** Yes, I would say
6 definitely, especially because those are -- they are
7 minimum security women often. So, they often -- you know,
8 they have a lot to lose. They have -- they can lose their
9 child, they are on their way out, so parole is very
10 present in their mind. They don't want to rock the boat
11 and that sort of thing.

12 You know, we had an incidence where a woman
13 had, you know, every month, she can go out into community
14 to purchase some things, like diapers, everything she
15 needs once a month. She, with her own money, bought a
16 little kiddy pool for her 2-year-old son, and staff told
17 her she couldn't use the pool, so they took it away and
18 now he is using, like, a bucket, which he loves. But, you
19 know, she went out and bought a pool for her son, and he
20 is not in prison as much as he is there with his mother;
21 you know? The child in some ways is being punished.

22 **MS. PATRICIA TATE:** So, he is now in a
23 Rubbermaid bucket, just so you can picture that. I am
24 talking about the big Rubbermaid bucket is what he is
25 allowed to sit in. And, the comment that was made to mom

1 by staff was, "What will a community think about you
2 having a bucket -- a pool out there for your son?" Now, I
3 am not sure what they would think about him sitting in a
4 Rubbermaid bucket, but my bet is it wouldn't be nearly as
5 favourable as if he had a pool.

6 **MS. SAVANNAH GENTILE:** There are -- if I
7 could quickly add, there are other complications as well.
8 So, if a woman is in the Mother-Child Program and there is
9 another spouse involved, if -- we have had in cases where
10 that partner has their visits suspended for six months,
11 and then they are denied access to seeing their child
12 inside because they are in the Mother-Child Program. And,
13 the reason for the suspended visits is often a positive
14 Ion scan.

15 So, there is an Ion scanner which tests for
16 drugs, except that it is well-documented that there are a
17 lot of false-positives. I, myself, has -- have tested
18 over. A lot of RA's do, but we usually aren't denied
19 access to the institution when we do. But, when it is a
20 visitor, they are and sometimes they have their visits
21 cancelled for six months, which has huge implications for
22 a woman who is involved in the Mother-Child Program.

23 **MS. CHRISTA BIG CANOE:** Thank you for
24 clarifying and sharing that additional information. I
25 have no further questions in re-direct. At this point, I

1 would like to ask the Commissioners if they have
2 questions.

3 **--- QUESTIONS BY COMMISSIONER QAJAQ ROBINSON:**

4 **COMMISSIONER QAJAQ ROBINSON:** Sorry, just
5 sorting out our lineup. I want to thank you all for being
6 here. I have a number of questions, and I am grateful
7 that we are on-time.

8 In your testimony, and I think this
9 question will be predominantly for Kassandra and Savannah,
10 but I welcome other input as well. You talked about the -
11 - even -- that Indigenous women with severe or acute
12 mental health challenges are even further marginalized.
13 And, I am wondering for women in CSC's custody, if they
14 have severe or acute mental health challenges, where are
15 they held?

16 **MS. SAVANNAH GENTILE:** Often, they are held
17 in the secure unit in maximum security. They often
18 receive maximum security designations. They also do have
19 the SLEE (phonetic) Unit, which is supposed to be
20 intensive mental health support where they have staff who
21 are present more regularly, they have behavioural
22 counsellors and that sort of thing present on that unit.
23 But, frequently, they do end up in maximum security.
24 Like, I mentioned that earlier I think, and those units
25 are not in any way equipped to handle women with complex

1 mental health needs.

2 And, you know, we have been trying to
3 encourage for years CSC to engage with Section 29 of the
4 CCRA to -- which allows for the transfer of women into
5 mental health facilities in community. The problem is
6 that -- well CSC does say that it is too expensive to
7 engage in those agreements, but there have been forensic
8 psychiatric facilities in community that have put
9 proposals forward to CSC to do so. But, they haven't --
10 there is, I think, one or two mental health beds in this
11 country for women under Section 29, so it is not used.

12 **MS. PATRICIA TATE:** We also have Regional
13 Psychiatric Centres where women -- where there is a
14 women's unit at the one in Saskatoon. The other option
15 for women who have extreme psychiatric needs is at Pinel,
16 which is a mental health institution in Québec that
17 corrections has a standing arrangement with it. We have a
18 unit there where women are -- will go for programming,
19 specific programing.

20 **MS. SAVANNAH GENTILE:** And, if I could add
21 about RPC and Pinel, that they are duly designated prisons
22 and psychiatric -- forensic psychiatric facilities. They
23 operate very similarly to the prisons. In fact, in some
24 ways, they are more punitive. Women are often held in
25 segregation when they are transferred to Pinel or to RPC.

1 **COMMISSIONER QAJAQ ROBINSON:** What is RPC?
2 I am not good with acronyms.

3 **MS. SAVANNAH GENTILE:** Regional Psychiatric
4 Centre.

5 **COMMISSIONER QAJAQ ROBINSON:** And, that is
6 the one in Saskatchewan?

7 **MS. SAVANNAH GENTILE:** Yes.

8 **COMMISSIONER QAJAQ ROBINSON:** Okay. And,
9 you said it is dual, so it is men and women?

10 **MS. SAVANNAH GENTILE:** Yes.

11 **MS. PATRICIA TATE:** Regional Psychiatric
12 Centre has one unit for women and the rest of the facility
13 is for men. So, there is one individual unit that the
14 women -- that house women only.

15 **COMMISSIONER QAJAQ ROBINSON:** And, it is
16 within this -- can you describe what that unit looks like?
17 Like, what is a unit? Is it a house? Is it a hallway
18 with cells?

19 **MS. PATRICIA TATE:** It is actually a pod
20 with cells in the -- on the pod and a -- I want to call it
21 a -- it is very similar to the secure unit. Very similar
22 to the secure unit. And, it does house up to probably 20
23 women.

24 **COMMISSIONER QAJAQ ROBINSON:** Okay. And,
25 do they have access to the outdoors? Do they have access

1 to culture, spiritual services within those psychiatric
2 facilities?

3 **MS. PATRICIA TATE:** I can't speak to Pinel
4 and what is available there in Québec. But, I can tell
5 you that there is a female elder and there is a
6 spirituality room that is located within the Regional
7 Psychiatric Centre. The women do have access to sweats
8 and to an outside courtyard that they can take advantage
9 of the outdoors, although it is not very large.

10 **COMMISSIONER QAJAQ ROBINSON:** Okay.
11 Savannah, you said two beds -- that there are two beds
12 available. Can you expand on that ---

13 **MS. SAVANNAH GENTILE:** I would have to
14 double check what is the latest figure. I am pretty sure
15 that is accurate, but...

16 **MS. KASSANDRA CHURCHER:** CSC had an
17 agreement in Belleville, in Ontario, for two beds. But,
18 clearly from what Patty and Savannah have already spoken
19 about, it is an under utilized, under funded part of the
20 legislation that exists specifically for women who have
21 mental health issues.

22 Should they be in prison, does prison then
23 exasperate those mental health issues? We have seen women
24 enter with no mental health issues and exit with mental
25 health issues. So, there is definitely work to be done

1 under Section 29(2) to get them in the proper facilities.

2 **MS. SAVANNAH GENTILE:** Yes, the Office of
3 the Correctional Investigator has been very critical on
4 this issue, and the fact that -- like, there have been
5 recommendations for CSC to engage in those kinds of
6 arrangements and agreements. And, I think the criticism
7 levelled was if they had done that, implemented the Ashley
8 Smith recommendations, then it is quite possible that
9 others would not have died. You know, I think of Terry
10 Baker who died in a segregation cell at GVI. It might
11 have even been the same cell that Ashley Smith died in.
12 She was just taken off suicide watch just prior to her
13 death.

14 **COMMISSIONER QAJAQ ROBINSON:** Is it fair to
15 say that what you are telling us right now is that there
16 are women in this country who are, right this moment, in
17 the exact same situation that Ashley Smith was in?

18 **MS. SAVANNAH GENTILE:** Yes.

19 **COMMISSIONER QAJAQ ROBINSON:** Thank you. I
20 want to talk a little bit about your recommendation about
21 decarceration. I guess my first question is this
22 generally for corrections -- all corrections or is this
23 specifically for women?

24 **MS. SAVANNAH GENTILE:** Yes, the legislation
25 exists for everyone. I mean, as a woman centered

1 organization, we are going into the women's prison, so I
2 can really only speak to the situation and experiences for
3 women. And, I would say that the demographics are quite
4 different between the female and the male populations, and
5 so I would not be -- it is not within my area to say that
6 it should be broadly applied.

7 But, what I will say is that, you know,
8 women represent 5 percent. And, what the Honourable
9 Louise Arbour suggested was that, that should not be a
10 reason to disregard them. In fact, it might be a good
11 starting point to trying to actually implement some of
12 these sections of legislation to start doing things
13 differently.

14 **COMMISSIONER QAJAQ ROBINSON:** We have heard
15 from witnesses, and I think specifically of the testimony
16 of Fay Blaney when we were in this city talking -- we are
17 in Quebec City; right? Okay. And, she talked about how a
18 lot of the violence is gender based, that it is male
19 violence on women and gender and race based violence.

20 In light of that, and I am not going to go
21 into her citations and references to that, but it makes me
22 think that if we are going to look at responses, we have
23 to look at responses differently when it comes to men and
24 women. So, I am wondering, if we are looking at
25 decarceration, should different considerations be made and

1 there be a gendered lens and a race based lens to that as
2 well?

3 **MS. SAVANNAH GENTILE:** Yes, absolutely.

4 **COMMISSIONER QAJAQ ROBINSON:** Thank you.

5 One of the things that I think about when you talk about
6 decarceration and the utilization of Section 81 is -- I am
7 not going to use the term "capacity", because communities
8 have the capacity. It is the infrastructure.

9 And, we just came back from Nunavut where
10 the resources and the services available to the community
11 that is there already is so scarce and stretched, I can
12 see a huge concern about taking on further -- like, taking
13 on a Section 81, as much as a community may want to do
14 that, when the infrastructure and the services available
15 already are so heavily taxed. Would you agree with me
16 that in addition to applying the act -- Section 81 and the
17 provisions within the act that allow for this community
18 taking ownership, in parallel, has to be that investment
19 in the services and the infrastructure within the broader
20 communities?

21 **MS. SAVANNAH GENTILE:** Yes, I think it
22 should be taken as an opportunity to make that investment.

23 **COMMISSIONER QAJAQ ROBINSON:** Thank you. I
24 want to look now at alternative measures before going into
25 custody. And, you talk about the room for discussion and

1 a fulsome and thoughtful application of the corrections
2 and -- CC something-something act -- what is it again?
3 What is the acronym?

4 **MS. SAVANNAH GENTILE:** CCRA.

5 **COMMISSIONER QAJAQ ROBINSON:** CCRA. But,
6 is there work that needs to be done to actualize more
7 effectively alternative measures as outlined in the
8 criminal courts and the Criminal Code, that not only
9 should we be looking at something different than
10 corrections, we should be looking at something different
11 even earlier on, in a more robust investment and
12 supporting of initiatives that look to get even away from
13 the criminal justice system from the onset?

14 **MS. PATRICIA TATE:** You know, within
15 Saskatchewan, we had an investment in domestic violence
16 courts and processes, whereby individuals could attend
17 court and they could -- with a guilty plea, they can
18 attend programming, lengthy committed programming that
19 would allow them to leave at the end of the program
20 without having a criminal record.

21 That is just one tiny example of the kind
22 of alternative measures that could easily be put in place
23 and could be implemented for, not just for Indigenous
24 people, but for people across this country, that would
25 relieve the justice system of some of the burden that they

1 have of people that do not really need to be there.

2 **MS. SAVANNAH GENTILE:** Sorry, if I could
3 just quickly add. Even before we have a guilty plea or a
4 charge of any kind, if we are investing in things like
5 guaranteed liveable income, you know, those sorts of
6 things will go a long way. You know, the Mincome project,
7 I cannot cite in too much detail, but it saw tremendous
8 improvements, cuts to health care costs and increase in
9 return to grade 12 and completion of grade 12. Like,
10 tremendous benefits. That is the kind of investments
11 communities need, affordable housing, guaranteed liveable
12 income -- you know, poverty is one of the key issues that
13 we are often not addressing, we are not talking about it
14 at all.

15 **COMMISSIONER QAJAQ ROBINSON:** Thank you.
16 Patty, I think you were about to use the word that we have
17 heard so much, pilot project?

18 **MS. PATRICIA TATE:** Yes. It was a pilot
19 project. It is not a pilot project any longer. And, in
20 fact, I know that there have been other provinces who have
21 replicated the programming that is being offered in
22 Saskatchewan for -- specifically for domestic violence.
23 But, it does not have to be about domestic violence, it
24 could be about any kind of charges that an individual is
25 having to deal with.

1 Years ago, with young offenders, there were
2 lots of alternative measures that were offered to young
3 offenders who were just starting up on -- their criminal
4 behaviour was just fresh. And, if they could be captured
5 at that moment in time, prior to ever having had a
6 criminal record, and being incarcerated, and having to,
7 you know, serve time where they are living in fear, and
8 they are living with violence, and they are living with
9 gangs, if we could do that more than we are currently, it
10 would certainly be a bonus.

11 **COMMISSIONER QAJAQ ROBINSON:** And, the
12 government should not be doing it by piecemeal pilot
13 project ---

14 **MS. PATRICIA TATE:** Amen.

15 **COMMISSIONER QAJAQ ROBINSON:** Sorry,
16 Kassandra, I think you were going to say something?

17 **MS. KASSANDRA CHURCHER:** Well, I just
18 wanted to note that several of our societies run youth and
19 adult diversion programs. They are very proactive in
20 fostering relationships with community members who sit on
21 community justice committees, who then act as
22 representatives and case managers for the member of
23 community who has come into the court system.

24 They foster relationships also with Legal
25 Aid lawyers and the court system, so that there is phone

1 calls that happen, we have someone who could go into
2 programming, do you have space, we are going to put in a
3 motion. Some of that interruption into diversion (phonetic),
4 of course, happens even at police stations; right? And
5 so, there has been several of our local societies that are
6 investing more and more in youth and adult diversion
7 programs to keep them out of the system you are talking
8 about.

9 **COMMISSIONER QAJAQ ROBINSON:** Final thing I
10 want to say and I have to honour, we have heard from some
11 families that diversion, that release into the community,
12 that there have been murders, there have been brutal acts
13 committed by people who have been in the system and come
14 out or were released early. And, we heard people that
15 felt that there should have been -- there was no safety
16 provided because of short sentences and releases.

17 And, I want to give you the opportunity to
18 connect your position on particularly decarceration to the
19 creation of safety for the women and the girls, because
20 there are women that we have heard from who were raped,
21 who were murdered by men who had done it before. And, we
22 have to honour that truth that the families are
23 experiencing and bring this to their safety and
24 protection. And, I want to give you that opportunity to
25 connect what you have presented to us today to that.

1 **MS. KASSANDRA CHURCHER:** There will be two
2 parts. I will answer first, then Savannah, I will defer
3 to you. As you know, I have also lived in northern
4 communities as well, how close they are, how supportive
5 they are of each other.

6 What I remark in my experience is the lack
7 of support services, the lack of mental health, the lack
8 of addiction support, the lack, the lack, the lack. There
9 is -- when people, like the examples you were giving, are
10 released back into their community, maybe a psychologist
11 flies in once every three weeks or six weeks, maybe
12 someone gets funding for an addictions program to talk
13 about alcohol and drugs. Maybe there is no funding, so
14 there is no program this winter.

15 There is a severe lack of local support,
16 both preventative and protective for the people who have
17 been impacted by this, but also for their own community
18 members that are being reintegrated into the community.
19 They are not being reintegrated with the proper supports
20 to help address issues of trauma, and issues of abuse, and
21 issues of addiction and issues of mental health, and so
22 unfortunately they resort to some of the same coping
23 mechanisms and self-medication mechanisms that led
24 originally to their criminalization. I think, Savannah,
25 you want to discuss the gender based nature of the

1 question?

2 **MS. SAVANNAH GENTILE:** Yes. Well, it is
3 what you brought up earlier, which is why we focus on
4 women in prison and why there needs to be a gender based
5 approach to these, to implementing these decarceration
6 programs or plans, because there are vastly different
7 issues to consider when you are looking at a male
8 population versus a female population. Women are often
9 the victims of such crimes and women frequent -- you know,
10 the vast majority of crimes that women are convicted and
11 sentenced for are poverty related. So, we are not talking
12 about crimes of violence, although that does happen.

13 And, the reality that we are faced with is
14 that people eventually leave prison. And, the question we
15 have to ask ourselves is, are they coming out better or
16 worse? And, I think invariably the answer is worse. So,
17 that is not an investment in public safety or community
18 safety. And, at the moment, we are not doing anything to
19 address that, we are actually contributing to the problem
20 rather than addressing the root causes. And, that is why
21 again, the focus on divesting from the prison to invest in
22 community, because prisons are hugely expensive, huge
23 overhead costs and they tend to suck resources from
24 communities.

25 And so, these communities are still left

1 without the resources and these people will eventually get
2 out, they will eventually go back. And so, I think that
3 points to what I said earlier, is that, you know, really,
4 do we care about women and children? Because contributing
5 to this prison system is not doing anything for them.

6 **COMMISSIONER QAJAQ ROBINSON:** I have one
7 final question. You know, the reports that you provided
8 us, the findings that we have heard from the Office of the
9 Auditor General, the Office of the Correctional
10 Investigator, even, you know, court decisions have made
11 findings, whether it is about strip searches, whether it
12 is about segregation, you name it, we know what it is, we
13 know what needs to be done, but it is not done. These
14 bodies, the correctional investigator, the auditor general
15 are part of the checks and balances that we expect in our
16 society to hold government to account -- to guide them,
17 but to hold them into account. What is missing?

18 **MS. SAVANNAH GENTILE:** One of the key
19 issues is that the Office of the Correctional
20 Investigator's recommendations, like many of these
21 recommendations, are not binding. So, the CSC is not
22 bound to them. There is no way to enforce them
23 implementing these recommendations, which I think is one
24 of the reasons we talk about -- if we could get judicial
25 oversight, there might be some more ability to control or

1 monitor those decisions in terms of segregation, in terms
2 of these things, you know, to hold CSC accountable for the
3 decisions it's making. I mean, that is what comes to mind
4 immediately, it is just they are not binding.

5 **COMMISSIONER QAJAQ ROBINSON:** Okay. I want
6 to -- those are all my questions. I want to thank all
7 four of you so much. Diane, I want to thank you for
8 sharing with us your truth, your expertise. And, I want
9 to also say, for me, I wanted to hold a hearing like this
10 in a women's facility. I hate when I do this. And, it
11 was a big part of our extension request, you know the
12 hurdles of trying to get in those walls, and it will be a
13 disappointment I will carry for my life. And, I want you
14 to share with the women how much we wanted to hear them.
15 I cannot end today without saying that, that they are
16 valued and they are not forgotten. So, I just need to say
17 that.

18 **MS. KASSANDRA CHURCHER:** We will make sure
19 they know.

20 **COMMISSIONER QAJAQ ROBINSON:** And, we will
21 not forget them in our report.

22 **MS. SAVANNAH GENTILE:** If I could just say,
23 I think it will mean so much to the women to know that
24 there are people outside who are talking about it and
25 invested in these issues. It means so much to them.

1 **MS. PATRICIA TATE:** So, thank you for that.

2 **--- QUESTIONS BY COMMISSIONER BRIAN EYOLFSON:**

3 **COMMISSIONER BRIAN EYOLFSON:** I, too, want
4 to thank all four of our panellists very much for coming
5 and sharing your evidence with us today. And, Diane, I
6 want to thank you for sharing your truth with us, your
7 personal experience.

8 I just have a couple of questions -- a lot
9 of questions have been asked and I just want to back up a
10 little bit. Cassandra, to the beginning of your evidence
11 earlier this morning, you were talking about systemic
12 factors such as colonialism, racism, sexism, addiction,
13 health issues being translated into risks as opposed to
14 needs in the system. And, I am just wondering if you can
15 comment a bit more on that or unpack that in terms of how
16 that happens in the system at what points, and by what
17 mechanisms and how that plays out.

18 **MS. KASSANDRA CHURCHER:** Happily, I will
19 defer to any one of my colleagues to also discuss this.
20 You know, the condition of being over-policed and under-
21 protected I imagine has been well-documented by your
22 travels across the country.

23 When history -- when a person's story
24 becomes a report, their name becomes a number. It loses
25 the value and the richness of the context, particularly

1 within the corrections framework who has a mandate to
2 rehabilitate and reintegrate, but tends to focus on public
3 safety. So, histories of abuse, or violence or addictions
4 when translated into a correctional plan, translated
5 within the system tends to look like warning flags instead
6 of looking like needs, instead of reading like help.

7 And, what happens is then when it moves
8 further along the justice system into the correction
9 system, instead of providing those supports to address the
10 original needs, you end up becoming over-classified and
11 increasingly restricted until you are on Level 3 of a
12 secure unit with no access to counselling, or programs or
13 education. And, that is the disturbing cycle of what
14 happens when someone documents their history with the
15 intention of telling their story to where they can end up
16 on the other end of the correction system.

17 **MS. SAVANNAH GENTILE:** If I could just
18 quickly -- I briefly touched on the Custody Rating Scale
19 as a tool that was developed for white men, and we have
20 touched now on the gender -- the need for a gender-
21 specific focus. And, part of that is some of the ratings
22 that come in look at homelessness, family instability,
23 family violence preceding imprisonment. And, those are
24 taken as risks partly, because it was a tool developed for
25 men, and women react very different to those

1 circumstances. They become victims overwhelmingly. But,
2 that is not -- the tool doesn't take that into account.
3 That is part of the issue. So, those things that make
4 them victims actually get interpreted as risks.

5 And, women also -- there is institutional -
6 - what is the word? Long day. Institutional adjustment
7 is one of the ratings. And, I really think of that as,
8 how well do you acclimate to structured oppression; right?
9 Things like emotional instability and that sort, which
10 could be indicators of mental health issues become
11 indicators of risk. So, it is actually built into their
12 tools in a way, and that is part of why we have been
13 challenging them.

14 You know, this was challenged in
15 (indiscernible). And, essentially, what came out of that
16 was, yes, they discriminate, and that was essentially the
17 result. The tools are discriminatory. Now, they have to
18 do something about it, but it has been a long battle
19 actually around the classification tools and that sort of
20 thing.

21 **COMMISSIONER BRIAN EYOLFSON:** And so, what
22 impact could this have on Indigenous women who are already
23 facing these factors that are causing them to be
24 vulnerable to violence, and then these factors are
25 interpreted as further risk factors in terms of their

1 programming?

2 **MS. PATRICIA TATE:** I think one of the
3 issues -- I have been going into the institutions for well
4 over 30 years now, and my -- every visit I go, there are
5 women that I meet and I wonder how they are vertical. How
6 can they possibly still be vertical in light of the
7 history and the story that they share?

8 And, these are women who are already at --
9 as they enter into an institution feeling less than
10 adequate, more than marginalized, less than valued in any
11 way, shape or form. So, when you add to that, the
12 assessments that are made of them with respect to risk,
13 you are compounding the trauma. Sometimes I have been --
14 I have spoken sometimes about trauma that women
15 experience. And, when I am talking about Indigenous
16 women, I am not talking about trauma. I am talking about
17 trauma, trauma, trauma, trauma, trauma and they are still
18 standing up.

19 You know, these are women who have every
20 gift that they could possibly have and strength to be able
21 to move forward with their -- in their lives, but they are
22 not given the tools that are necessary in order to
23 facilitate that happening. And, as a result, they are
24 returning to the communities, as Sav said, worse off than
25 when they arrived in the institutions.

1 **COMMISSIONER BRIAN EYOLFSON:** So, in terms
2 of programming, training, education, you know, Indigenous
3 women ending up no better or worse off when they leave,
4 what is missing in terms of training, programming,
5 education that might be of some assistance?

6 **MS. KASSANDRA CHURCHER:** Nothing inside a
7 prison.

8 **MS. SAVANNAH GENTILE:** That is it. It is a
9 really -- it is an impossible environment to investigate
10 your trauma. You know, it is not a space for healing.
11 Often if you -- if there are trauma responses then to --
12 trying to address, look into your trauma, those are
13 penalized. Poor behaviour, bad attitude, talking back;
14 you know? So, it is not a safe space for that in the
15 first place.

16 **MS. KASSANDRA CHURCHER:** We all know the
17 detrimental history that state-run education has had on
18 our Indigenous communities. So, when we hear programs and
19 training and education from within corrections, right away
20 it just feels and looks like every other education
21 initiative put forward by the government in the past that
22 has been inauthentic and disconnected from an Indigenous
23 person's life and their reality, and has left us with the
24 legacy of residential school survivors. So, we are very,
25 very against endorsing education or training as corrective

1 measures for what is happening within the prisons for
2 Indigenous women.

3 **MS. SAVANNAH GENTILE:** Yes, I think the
4 women inside who do -- you know, I have heard prison is
5 the first place -- first time I felt safe. You know,
6 those sorts of comments are common. And, I think that is
7 a real indictment on our communities if prison is the
8 first place a woman feels safe. It is -- you know, it is
9 a terrible situation.

10 And, I wanted to just also say that if
11 women with mental health are having a difficult time
12 adjusting at a lower level of security in the general
13 population because of their mental health, then CSC has a
14 duty to accommodate them, not increase their security
15 rating and punish them for their mental disability.

16 **COMMISSIONER BRIAN EYOLFSON:** Thank you
17 very much for answering my questions.

18 **--- QUESTIONS BY COMMISSIONER MICHÈLE AUDETTE:**

19 **COMMISSIONER MICHÈLE AUDETTE:** Merci
20 beaucoup. Est-ce que mon micro est ouvert? Yes, it is!
21 Okay... désolée! Alors, mes questions vont être en français.

22 Juste avant de poser mes questions auprès
23 des témoins, je veux juste clarifier une chose tout à
24 l'heure : dommage pour la plupart d'entre vous, avec le
25 temps que vous avez pour poser vos questions, car je vous

1 avoue, vos questions sont très bonnes. Et le commentaire
2 que j'ai fait à mon collègue tout bas était : « Ces
3 questions sont bonnes. » Donc, Me Dunn, je ne vous
4 accordais pas plus de temps, mais je disais que vos
5 questions étaient bonnes! Alors, désolée pour les autres
6 collègues, ce n'était pas pour dire que c'est ma préférée,
7 ce n'est pas ça du tout! [Rires]

8 Et juste pour dire aussi que mon rôle de
9 commissaire, je le prends au sérieux, mais souvenez-vous :
10 mon école, c'est la communauté, ce n'est pas le monde
11 juridique, ce n'est pas le monde du droit. Donc, peut-être
12 que je ne fais pas les choses comme on devrait faire dans
13 des commissions d'enquête, mais je suis convaincue que
14 j'ai ma place au sein de cette enquête, convaincue!

15 Alors... surtout quand on entend des
16 témoignages comme vous toutes, depuis ce matin et de vous
17 dire sincèrement que je marche à côté de la commissaire
18 Robinson à l'effet qu'aujourd'hui, on se retrouve dans une
19 situation, je le répète, une enquête historique et
20 beaucoup de preuves vont être manquantes, beaucoup trop de
21 preuves, notamment celles de la réalité des femmes
22 incarcérées, des femmes qui se retrouvent dans les
23 pénitenciers, dans les prisons provinciales ou fédérales.

24 Et je tiens à remercier aussi Mme Melanie
25 Morrisson, qui est derrière moi, qui est membre du Cercle

1 des familles pour aviser et soutenir les commissaires dans
2 leurs travaux. Elle est venue avec moi rencontrer les
3 employés de l'établissement à Laval, un établissement
4 fédéral, un pénitencier, où là, on a rencontré pour parler
5 de l'Enquête nationale puis donner la perspective d'une
6 famille qui a perdu un être cher, l'impact que ça a, ainsi
7 de suite.

8 Donc, il y a eu des tentatives, à maintes
9 reprises, pour essayer de travailler avec Elizabeth Fry,
10 de voir comment on pourrait aller dans les pénitenciers,
11 les prisons et ainsi de suite. Dans ma conclusion, je vais
12 vous revenir avec ça.

13 Alors, pour mes questions, l'article 81,
14 l'article 84 ; souvenons-nous que pour la plupart d'entre
15 nous, peut-être qu'on comprend qu'est-ce que c'est parce
16 qu'on travaille avec ça, mais souvenons-nous que cette
17 Enquête a un volet éducatif : comme je demandais hier à Me
18 Big Canoe de nous expliquer la règle Gladue, parce que la
19 plupart des Canadiens ne comprennent pas qu'est-ce que
20 c'est. Et si c'est possible, dans vos réponses, quelques
21 secondes, nous expliquer, à ceux et celles qui écoutent
22 ces audiences, c'est quoi l'article 81 et 84.

23 Dans votre document *Spirit Matters*, vous
24 parlez justement de ces deux articles-là sur le système
25 correctionnel et la mise en liberté sous conditions,

1 pouvez-vous nous donner des exemples que ces articles-là
2 ont été mis en œuvre? On va commencer avec 81.

3 **MS. KASSANDRA CHURCHER:** Oui. Je serais
4 contente de partager un exemple. J'ai mentionné ça avant ;
5 c'est le travail qu'on fait avec les Micmacs de Nouvelle-
6 Écosse. On a développé une maison autochtone pour des
7 femmes. C'est un exemple extrêmement intéressant, parce
8 que c'est à Cape Breton, mais c'est hors de la communauté
9 autochtone, qui est juste à côté. Et on pense que ça
10 serait un exemple pour adresser les femmes qui, peut-être,
11 ne veulent pas retourner dans leur communauté, qui veulent
12 rester dans un centre urbain.

13 On fait ça en partenariat, car la maison
14 serait supportée par la société Elizabeth-Fry de Cape
15 Breton, mais entourée avec toutes les connaissances,
16 toutes les expériences des aînés des communautés micmacs
17 en Nouvelle-Écosse. Alors, on est en train de développer
18 le programme, la demande de financement avec Services
19 correctionnels Canada, on doit le soumettre pour
20 approbation. Mais on croit que ça va commencer à donner un
21 exemple de qu'est-ce qu'on peut faire avec l'article 81.

22 Et pour des autres communautés, je voudrais
23 adresser le fait que quand on rencontre les femmes en
24 prison et on parle nous aussi comme l'article 81,
25 l'article 84. Fréquemment, les femmes ne connaissent pas

1 les lois, leurs droits : « Savez-vous que vous avez le
2 droit de demander à votre communauté de supporter une
3 demande pour sortir de prison? » « Non. C'est quoi ça?
4 Comment on fait? Personne ne m'a donné d'information. »

5 Alors, quand on discute de l'éducation au
6 public, c'est même une éducation que nous, on doit faire
7 et on doit être conscientes, quand on rentre dans la
8 prison, que les gens ne connaissent pas que c'est une
9 réalité, que même juste une femme en prison peut écrire
10 une lettre pour demander à sa communauté de supporter sa
11 demande. C'est avec aucun avocat, avec le système de
12 justice, juste une lettre, mais les femmes n'ont pas toute
13 l'information. Et des fois, c'est à nous de la partager.

14 Alors ça, c'est une limite. Mais on essaie
15 de faire plus d'éducation au public, même avec les
16 communautés autochtones. J'ai un beau-frère qui est chef
17 de sa communauté et on était en discussion ; lui aussi a
18 demandé : « Est-ce que c'est quelque chose que moi, je
19 peux demander pour notre peuple, pour amener les femmes
20 ici, pour rester chez nous? » J'ai dit : « Absolument. »
21 Mais il n'y avait aucune information pour savoir comment
22 le faire. Alors ça, il y a un grand manque de
23 communication et éducation autour des articles 81 et 84.

24 **COMMISSIONER MICHÈLE AUDETTE:** L'exemple
25 que vous donnez, est-ce qu'il y en d'autres? D'autres

1 communautés qui ont utilisé l'article 81?

2 **MS. KASSANDRA CHURCHER:** Il y a l'exemple à
3 Toronto, je vais laisser Savannah en discuter. Et il y a
4 aussi un exemple qu'on essaie maintenant de faire une
5 attente sous l'article 81. C'est pour une femme noire, de
6 retourner dans la communauté noire de Toronto. C'est un
7 peu une autre façon de l'adresser pour les femmes en
8 minorité.

9 **MS. SAVANNAH GENTILE:** I think it is a real
10 challenge actually getting the Section 81s and 84s
11 underway because the legislation is broad, and there's not
12 a lot of information, and CSC certainly isn't doing
13 anything to facilitate these agreements, and the reality
14 is that they have the funding to and they're not doing it.

15 So, what happens is, you know,
16 organizations like ours are trying to fill those gaps,
17 trying to engage in conversations with our community
18 partners like NWAC, and there are challenges with getting
19 these agreements started in certain communities, for sure.
20 It's been highlighted already that some of these
21 communities are lacking infrastructure. There is an
22 apprehension in others about accepting some of the -- you
23 know, if there has been a crime and it's caused -- had an
24 impact on the community, there's an apprehension in some
25 communities of accepting or bringing these women back.

1 The other thing is that they don't
2 necessarily have to go back to their -- to their home
3 community. There are other communities that they can go
4 to or urban centres, and I think -- and beginning to
5 engage in discussions about what is possible under Section
6 81 because, really, the legislation is broad enough that
7 the sky is the limit. I think communities just need
8 information and resources and support.

9 So, that is something that we have
10 discussed and we've begun trying to develop tools to
11 assist communities or organizations who are interested in
12 beginning that application process, trying to simplify it,
13 because it has become quite a hurdle, actually, quite an
14 overwhelming process to engage in, which is unfortunate
15 because it creates barriers for communities.

16 So, you know, again, part of the challenge
17 is funding, to get funding for a position to actually
18 specifically look at Section 81s and begin those
19 conversations in communities to identify what are the
20 barriers, what are the needs, what resources are
21 necessary, what infrastructure is in place or needs to be
22 put in place.

23 I think beginning to engage in those
24 conversations is really important. It's unfortunate, but
25 we don't have a lot of examples of -- successful examples

1 other than, you know, the one institutional example.

2 **MS. PATRICIA TATE:** I'm going to speak to
3 Section 84s, because I think we've alluded to it a couple
4 of times throughout the course of the day, but we have not
5 really discussed it.

6 There is a significant difference between a
7 Section 81 and a Section 84, and guess what the
8 significant difference is? It's about money. There is
9 absolutely -- there are absolutely no resources available
10 to a community who suggest that they want to participate
11 in a Section 84 release for a woman to their area.

12 In the beginning when Section 81s and 84s
13 were implemented, Corrections had set it out that it was
14 entirely at the woman's responsibility to make all the
15 arrangements for a Section 84 release, if that was her
16 desire.

17 So, think in terms of a woman who may
18 indeed decide that she wants to move to a community where
19 she knows no one. And so, she knows none of the
20 resources. The original arrangements and the original
21 process that Corrections had in place was that those women
22 were responsible to find those resources in the community
23 that they wanted to reside. And basically all that section
24 84 commitment is just that, a commitment by agencies,
25 organizations and individuals in a specific area that are

1 willing to work with you when you are released from an
2 institution, that are willing to support you on your
3 journey. That could be a medical team. That could be
4 mental health. That could be a chaplain or an Elder who
5 is there for you and is willing to take on that
6 responsibility. It could also include AA or some other
7 addictions programming, and it could be family members as
8 well.

9 But all it amounts to is a group of people
10 who have come together and said "We're willing to support
11 this individual." Obviously, if this individual is going
12 back to a reserve, it makes it very easy to find those
13 resources and community members who are prepared because
14 each of the individuals who work at the Band Office might
15 have a mandate. You may have a mandate for Child and
16 Family Services. You may have a mandate for mental
17 health. You may have a mandate for addictions. And so
18 those people can come together.

19 When it's an urban setting and the
20 resources are not only more diverse but divested from each
21 other, it makes a little bit more difficult, but certainly
22 the suggestion when people start thinking about it is that
23 there's going to be resources made available.

24 Theoretically, a section 81 should be well
25 resourced. It needs to be well resourced because

1 oftentimes people are having to travel to access the
2 support systems that they need even though the community
3 has taken on that task.

4 In the last year, we, in Saskatchewan, had
5 a situation where there was a community that was
6 suggesting that they might be interested in entertaining a
7 section 81 for a woman who has significant needs,
8 including mental health needs. The community was
9 relatively remote. The need was for a mental health
10 practitioner, for a psychiatrist, for a psychologist, for
11 transportation, for addictions counselling and so forth,
12 and because of that and the fact that the monies were not
13 as generous as one would have expected them to be to take
14 on this task, that community has had to bow out of the
15 opportunity, and this woman remains incarcerated as a
16 direct result.

17 But that's the difference between a section
18 81 and a section 84. Is there anything else?

19 **Mme KASSANDRA CHURCHER:** C'est juste une
20 question de l'argent. C'est toujours une question de
21 l'argent.

22 Avant, j'ai mentionné que ça coûte à peu
23 près 192 000 \$ par année pour avoir une femme en prison et
24 le projet qu'on développe maintenant en Nouvelle-Écosse,
25 ç'a l'air que ça va coûter 90 000 à 100 000 \$, moitié du

1 prix pour avoir un FAM dans la communauté.

2 **COMMISSAIRE MICHÈLE AUDETTE:** Merci
3 beaucoup. Merci justement de nous expliquer les
4 différences.

5 Ensuite, vous nous avez donné beaucoup de
6 documentation. Le prochain témoin aussi demain c'est une
7 femme qui a une large expertise et connaissance sur les
8 femmes qui se retrouvent en prison, les femmes
9 incarcérées, femmes autochtones, on s'entend. Alors, on a
10 pris connaissance aussi de ces documents de Madame
11 Brassard.

12 Et partout on voit dans les rapports, dans
13 les recherches, puis vous l'avez mentionné d'entrée de
14 jeu, que le système de justice est une structure imposée,
15 qui est complètement étrangère aux autochtones, puis qui
16 se base sur un concept de punition, de réhabilitation et
17 évidemment pour les femmes autochtones, une culture
18 d'assimilation. Ça, c'est dit partout et par vous aussi.
19 Ça tient pas compte de nos langues, de nos traditions, de
20 nos cultures, de nos façons de faire en tant
21 qu'autochtones.

22 Et je remercie nos aînés qui prennent de
23 leur temps pour aller voir les femmes dans ces milieux-là.

24 Vous avez aussi mentionné avec Qajaq
25 Robinson sur... vous avez dit en anglais *piecemeal*. Moi,

1 je vous écoutais et puis je voyais la courtepointe en
2 arrière, comment on est financé à petits morceaux, à court
3 terme, sur une thématique ou sur une mode gouvernementale,
4 une vague. Ici on parle de quelque chose de très, très...
5 une institution depuis très, très longtemps.

6 Comment on pourrait faire en sorte que les
7 choses changent. Alors, ma question c'est ça, ma première
8 question. Est-ce qu'on doit faire table rase, repenser
9 les solutions au complet pour adopter un système carcéral
10 ou un système qui pourrait répondre aux femmes
11 autochtones? Ça c'est ma première question. Ou ça serait
12 quoi la meilleure façon de répondre à nos réalités, nous,
13 les femmes, qui font l'objet d'une incarcération?

14 **Mme KASSANDRA CHURCHER:** J'aimerais en
15 premier remarquer que vous êtes en train de le faire.
16 L'Enquête est historique. Ça c'est un processus légal
17 qu'on fait aujourd'hui, mais c'est absolument pas
18 similaire d'aucune façon des processus légaux qui existent
19 hors de cette salle. Je crois que c'est un exemple
20 extrêmement important de comment on peut faire des choses.
21 Les gens ont besoin de la concrétisation. Ça veut dire
22 quoi un processus légal qui vient d'un esprit autochtone?

23 Et aujourd'hui et qu'est-ce que vous
24 faites, vous êtes en train de nous fournir un exemple.

25 Je crois qu'il y a une grande discussions à

1 avoir pour comment adapter, changer et développer un
2 système de justice autochtone qui est vrai dans ce pays et
3 ça c'est du travail qui va avoir un grand impact sur qui
4 rentre dans les prisons.

5 Un autre avocat a demandé une question :
6 « Si on voit plus de juges autochtones, si on voit plus
7 d'avocats autochtones, est-ce qu'on va voir peut-être une
8 réduction du nombre de femmes qui rentrent en prison? »
9 Dans notre expérience et qu'est-ce qu'on voit, oui, parce
10 qu'ils viennent dans l'expérience dans le système légal
11 avec une connaissance de c'est quoi la réalité de la
12 personne devant eux, et c'est quelque chose qui manque.

13 Je vais laisser mes collègues adresser la
14 question autour de comment on change le système carcéral,
15 mais je voudrais remarquer que l'Enquête est historique.

16 **COMMISSAIRE MICHÈLE AUDETTE:** Merci.

17 **MS. SAVANNAH GENTILE:** It's a really big
18 question, how can we change things? I mean, the prison
19 systems have been around for a long time, but if you
20 contextualize them in broader history, they're actually a
21 relatively new invention and, I would say, a failed
22 experiment at reform. You know, they were meant to be a
23 more humane way than the guillotine and sending people off
24 to the galleys. I mean, in that sense they are maybe
25 perhaps better in some ways; in other ways not so much.

1 So I think, you know, if any of -- if
2 certain not-for-profit organizations operated the way CSC
3 operated, I mean, I think we would lose our funding
4 relatively quickly.

5 And so I think it takes, in some ways, just
6 the courage to say no, there -- you know, abolition sounds
7 like a big thing, but you know, I was in a meeting with
8 the UN Office on Drugs and Crime, and he actually said to
9 me, "No, abolition, it's not -- it is possible. It is
10 possible and, in fact, it's the only way." I mean, it's
11 documented internationally in report after report that
12 these things aren't working, that this isn't working. So
13 why are we continuing to tinker and make minor changes to
14 a system that is so incredibly harmful. We have to do it
15 differently. I mean, how we actually get there, I don't
16 think any one of us is qualified to say on our own, but I
17 think we need to start having the right discussions and
18 the right starting point, because we often aren't willing
19 to go as far as to say "No, shut it down. Let's think of
20 new ways." We're often having the conversation of, "Well,
21 if you change this about it, then visits will be
22 improved." Or how can we create more access between the
23 prison and the community. Well, I think it is -- we have
24 shown that over the past 30 years or more, it is not
25 working and we just need to abandon that conversation of

1 reform so that we can start talking -- start at the right
2 starting point for these conversations.

3 **MS. PATRICIA TATE:** I -- one of the things
4 that I often remember is a quote that an elder shared with
5 us one time in a meeting. And, it was a meeting about
6 prison of course. And, he said, "You know, if you plant
7 corn, don't expect it to reap strawberries. And, just
8 because you are going to build -- put more corn in and
9 build bigger prisons and more facilities, it's still going
10 to be corn that grows out of that ground. It's not going
11 to be strawberries." We need strawberries. We need a
12 brand new approach that is restorative. And, interesting
13 that I have used strawberries as the example, because it
14 needs a heart.

15 **COMMISSIONER MICHÈLE AUDETTE:** Merci.
16 Aidez-moi à dire le nom. En 2006, j'ai visité les cinq
17 établissements pour les femmes incarcérés à travers le
18 Canada. Et, je suis allée dans un endroit c'était pour les
19 femmes autochtones et puis il n'y avait pas de clôtures.
20 Ce n'était pas comme visuel, l'architecture comme une
21 prison traditionnelle avec les barbelés, le béton et tout
22 et tout. Moi, j'avais le mandat d'écouter les femmes
23 autochtones et à un moment donné, j'ai posé la question «
24 ici depuis que c'est ouvert est-ce qu'il y a beaucoup de
25 femmes qui se sauvent? » Il n'y a pas de clôtures ou de

1 barrières. Seulement une fois que c'est arrivé. Avez-vous
2 déjà pensé ou réfléchi pourquoi il n'y a pas eu beaucoup
3 d'évasion? Sérieux? Je ne savais pas.

4 **MS. KASSANDRA CHURCHER:** Oui, maintenant il
5 y a des clôtures et je pense à Joliette. Et, aussi à
6 Québec. Il y avait une section où il n'y avait pas de
7 clôture. Une fois, ils ont dit on va juste couper l'accès
8 pour une période pour évaluer la situation. Maintenant, je
9 crois que ça fait 18 mois et les femmes ont encore aucun
10 accès pour aller se promener dans ce quartier. La remarque
11 de comment les prisons ont changé depuis 2002, 2003 et
12 2004, on voit plus de sécurité, on voit plus de clôtures,
13 plus de barrières, plus de restrictions à l'accès. Au
14 début, c'était supposé être une communauté avec des
15 maisons avec accès à toutes les places dans la structure.
16 Mais, maintenant les femmes, des fois, ne peuvent même pas
17 accéder à d'autres sections de la prison parce qu'il y a
18 des préoccupations de sécurité. Si c'est vrai ou non, on
19 ne sait pas. Mais, on voit que ça devient de plus en plus
20 similaire aux prisons pour les hommes.

21 **COMMISSIONER MICHÈLE AUDETTE:** Thank you.

22 **MS. SAVANNAH GENTILE:** When the prisons
23 were regionalized, you have to understand that the women
24 were coming from a very different kind of prison, P4W.
25 Very different infrastructure to, then, prisons that were

1 developed with the intention in mind of being very
2 different; right? So, they didn't initially have fences.
3 The guards weren't guards, they didn't wear uniforms, and
4 that created the opportunity for dynamic security for
5 relationship building and connection, which is what these
6 women needed to heal.

7 But, very quickly -- you know, and the --
8 one of the problems was CSC never developed a national
9 strategy to address this, like, huge transition that women
10 were going to go through. And so, you know, at every
11 opportunity, it -- things like women escaping, right,
12 which was literally them walking out, walking off the
13 premises, because there wasn't a fence, are -- were used
14 to justify further security measures. So, that was part
15 of the problem is that it wasn't -- women weren't properly
16 transitioned either.

17 **MS. PATRICIA TATE:** There is still -- there
18 is no fence around prison at Okimaw Ohci Healing Lodge at
19 the present time, but is it any less a prison? Absolutely
20 not. It is just as much of a prison as all of those
21 facilities that do have a wall around them. And, the --
22 and much of that is not of the direct result of no fence,
23 but it is the direct result of the staffing.

24 I am going to cite you an example. I sat
25 in a meeting with individuals from the healing lodge one

1 day. And, the discussion was around staffing. And, one
2 of the staff of the institution said to me, "You know,
3 Patty? We hired a woman not too long ago. And, she came
4 to us with the best qualities that we would really look
5 for in a restorative justice, healing lodge environment.
6 And, we would look to her to -- we look to her to be an
7 example of who we would want to hire."

8 And, we hired her. And, we sent her to
9 basic training in Saskatoon, and she came home wearing
10 steel-toed boots and has not taken them off. And, that is
11 an unfortunate reality that this is a militaristic model
12 of intervention that is part of the basic training that is
13 part of corrections' philosophy. And, unfortunately, it
14 is very, very difficult to get beyond that when you are --
15 as a staff person.

16 I will say that because there is no fence,
17 it certainly gives the appearance of being less punitive,
18 less restrictive, more open and engaging than most of the
19 other facilities. But, the reality is, prison is a prison
20 is a prison. And, Okimaw Ohci is equally as much of a
21 prison with the same expectations of individuals as the
22 other facilities. Do women run? Not usually. But, by
23 and large, they don't run because it is the best of the
24 worst.

25 **COMMISSIONER MICHÈLE AUDETTE:** Merci

1 beaucoup parce qu'à cette époque-là en 2006, les femmes
2 aimaient ça parce qu'on peut pratiquer notre culture,
3 notre tradition et notre spiritualité. Je vais juste
4 répéter pour être sûr. Les femmes appréciaient l'espace
5 parce qu'elles pouvaient pratiquer leur culture, leurs
6 traditions et leur spiritualité et ça accompagné de gens.
7 Je suis très attentive et sensible à votre réponse. Deux
8 dernières petites questions. Il y a des femmes qui sortent
9 des établissements. Et, selon vous les conséquences d'une
10 post-incarcération des femmes et des filles autochtones,
11 ça ressemble à quoi? S'il en a des conséquences.

12 **MS. PATRICIA TATE:** What a good question.
13 Actually, within our organization, we were committed to
14 hiring experiential women for a variety of different -- in
15 a variety of different roles with the Elizabeth Fry
16 Society of Saskatchewan. We have people who are mentors.
17 We have, actually, art teachers. We have people who come
18 in and volunteer. We have -- actually, one of the women
19 that is presently facilitating our women's healing circle
20 is an experiential woman. We have tried to offer those
21 kinds of opportunities for women throughout the service.

22 But, it is really important that a woman is
23 solidly on her healing journey before that kind of an
24 opportunity is made available to them, because otherwise
25 we set them up to fail. We set us up to be disappointed,

1 because our women have not been acceptable and we set them
2 up to disappoint us and to fail themselves when they
3 really do need to take the time and energy to evaluate the
4 -- exactly what they want their lives to look like.

5 But, for the most -- it is interesting
6 because a lot of women who are leaving institutions are
7 wanting to give back. Women who are changing their ways
8 and looking at becoming part of the community really want
9 to be -- have something meaningful that they can do. And,
10 it is very hard for women who don't necessarily feel that
11 they are entitled to be healthy, to feel like they can
12 actually move into just taking care of themselves for a
13 while. And, I think it is important that we support that
14 piece for women, but I also -- I am really grateful that
15 we have opportunities for women to work within our system
16 and to refer them to other agencies and organizations that
17 have like philosophies.

18 **MS. DIANE SERE:** The only thing I would
19 like to add to that is that, with the reintegration piece,
20 it is the stigma of having that, you know, criminal record
21 continues to follow you. And, this makes it very
22 difficult for women to be able to get employment or to be
23 able to get housing because, as you know, there is a lot
24 of housing that are looking at, you know, criminal
25 background checks to retain housing. So, these women are,

1 unfortunately, without those supports out there, having a
2 very, very difficult time.

3 **COMMISSIONER MICHÈLE AUDETTE:** Merci
4 beaucoup. Merci beaucoup, Diane. Et, ma dernière
5 question. Le fait que nous ne sommes pas en mesure d'aller
6 écouter la vérité des femmes qui sont dans les
7 établissements. Ça va être quoi l'impact sur le rapport de
8 cette enquête nationale?

9 **MS. SAVANNAH GENTILE:** I am trying to think
10 that through, it is an interesting question, because you
11 have just gotten, sort of, a snapshot really of what is
12 going on, and it is a lot -- there has been a lot of
13 information to take in, I think. And, there is still much
14 more. And, I think one of the most powerful -- I said
15 this earlier, my best education has been going in and
16 hearing and seeing again and again these issues come up
17 and being able to connect it back to the systemic issues,
18 to know that, yes, this is real, this is happening and
19 this is -- you know, there is a place for individual
20 accountability, but also we have to address -- we have to
21 be accountable as a society to address the deep rooted
22 inequalities that exist.

23 **MS. KASSANDRA CHURCHER:** On a tous les
24 rapports, on a tous les pourcentages. Mais, c'est les
25 histoires, ce sont des êtres humains, des vrais. Le fait

1 de les écouter à Nova dans le Nouvelle-Écosse ou Fraser
2 Valley à BC et entendre la même expérience du système
3 carcéral c'est remarquable. C'est difficile pour nous à
4 communiquer leurs histoires personnelles, mais aussi
5 l'impact que ça veut dire quoi d'être en prison pour eux
6 et les histoires les problèmes qu'on remarque aujourd'hui
7 qui sont dans les rapports. Il y a une vérité qui doit
8 être communiqué de vive voix.

9 **MS. SAVANNAH GENTILE:** And, if I could just
10 add that, you know, we have these statistics and these
11 facts, and it has been well documented for decades. I
12 mean, the record is very clear, CSC has not addressed the
13 fact that women, particularly Indigenous women, are more
14 likely to be classified as higher risk, that they are --
15 they are overrepresented in segregation and maximum
16 security placement, as are women with mental health
17 issues, they have higher rates of self-injury and suicide
18 attempts and are unable to access the program that they
19 need. That is, I think, abundantly clear in the evidence.
20 It has been documented in so many reports that we couldn't
21 name them all in our submissions.

22 And so, just recognizing that, keeping that
23 in mind, you know, everything that we do is driven by
24 those stories, by those women's truths, and it is really
25 important to us to engage in legal reform efforts that

1 will actually address and hopefully lead to meaningful
2 change, change that translates on the ground for them.
3 They do not need any more laws that say nice things, they
4 need a real change. I think that is the only thing I hope
5 that this community can keep in mind when they are writing
6 their report.

7 **MS. PATRICIA TATE:** My sense is that this
8 committee is another voice voicing the things that we at
9 CAEFS and at E. Fry organizations have been saying for a
10 long time, and every individual who changes their position
11 on what is humane and what is the way that we need to deal
12 with each other is important.

13 We may only make a little step in the right
14 direction, but you need to know that you are making a step
15 in the right direction just by virtue of having this forum
16 today, this forum. And, I might add, allowing us to
17 present to you our story about the issues that we face on
18 a daily basis in institutions.

19 Sometimes it seems that we are out there
20 alone. Today I do not feel like we are alone and I want
21 to thank you for that. And, I am very grateful that we
22 have had an opportunity to speak to you and to share the
23 issues that we see in institutions for women across this
24 country. Meegwetch.

25 **COMMISSIONER MICHÈLE AUDETTE:** Commentaires

1 Patricia, Diane.

2 **MS. DIANE SERE:** J'ai le coeur gros.

3 **COMMISSIONER MICHÈLE AUDETTE:** C'est bon,
4 tu peux prendre le temps.

5 **MS. DIANE SERE:** Je vais le dire en
6 anglais, ça va être plus facile. These women, all they are
7 seeking is validation. They want to know that we care
8 about them, that their voices are being heard, and that we
9 love them and that we support them. And, we want to help
10 them, get out of these institutions.

11 **COMMISSIONER MICHÈLE AUDETTE:** Merci
12 beaucoup, Diane, Patricia, Savannah, Cassandra. Merci
13 beaucoup, beaucoup, beaucoup, beaucoup. Madam Buller.

14 **--- QUESTIONS BY CHIEF COMMISSIONER MARION BULLER:**

15 **CHIEF COMMISSIONER MARION BULLER:** First, I
16 want to thank you all for being here today with us, it has
17 been quite the education. I hate to say how many years
18 ago now. 25 to 30 years ago, when I was a lawyer going
19 into penitentiaries and prisons, that was an eye opener
20 for me. And, I do not know whether I am surprised or not
21 that, in the 25 and 30 years, a lot of things have not
22 changed.

23 I also want to tell you that it was very
24 painful and a very disappointing decision for us to have
25 to not go to prisons and penitentiaries. And, not just

1 for us, but for our staff, and for our grandmothers and
2 members of the National Family Advisory, it was a large
3 disappointment for all of us because we all care.

4 So, having said that, I have some
5 questions. We have listened to a lot of families across
6 Canada with perhaps different viewpoints and I want to put
7 those viewpoints to you for your response. I have heard
8 from many community members in different locations across
9 Canada who have said, we do not want offenders in our
10 community, male or female, it does not matter, because we
11 do not feel safe and/or because we think it is a matter
12 of, Section 81 in particular, offloading onto us, the
13 community, what CSC should have been doing all along.
14 Another reason for not wanting offenders back in the
15 community is a real fear of -- real or not, but real
16 perceived fear of recruitment into gangs, male and/or
17 female. Would any of you like to comment on what we have
18 heard or what I have heard?

19 **MS. KASSANDRA CHURCHER:** It is always
20 painful to hear when a community has to reject their own
21 members based out of fear, which is yet just more proof
22 and another indicator of the lasting and harmful effects
23 of colonialism and intergenerational trauma. So, when you
24 say that, I -- you know, to have to turn away a brother, a
25 cousin, a sister, an aunt, because you are fearful, there

1 are so many factors underpinning that statement.

2 When they say CSC has failed, it is the
3 justice system has failed. When we encounter an
4 individual woman, we see lots of people and systems that
5 have failed them, some of them going back to when they
6 were children; right? I think that there is work to be
7 done in this area in consultation with communities, and
8 there is a public education piece about how it can look,
9 how we can support members.

10 Genuinely, the safety is an issue, but the
11 healing is a larger factor. And, I think that because of
12 the broadness of the legislation, an example like what is
13 happening in Nova Scotia, there is alternatives so that
14 communities can support their members on their healing
15 path so that they get to a point where they are strong
16 enough to be accepted back into the community. I don't
17 think it is an "either or" or "black and white" situation
18 at all. I think there are places to have conversations
19 and have discussions.

20 I will let maybe someone else -- it would
21 be good to address the stigma that a lot of women face
22 when they return into their communities and the challenges
23 as well for them, the burden of it.

24 **MS. SAVANNAH GENTILE:** I think that, in
25 terms of Section 81s, it is really -- it really is up to

1 the community. So, there may be communities that are
2 comfortable with that and others who are not. And, I
3 think that is the brilliance about being able to address
4 it on a case by case basis, because you can get that
5 started in certain regards.

6 The other thing is, you know, all of these
7 strategies, decarceration, abolition, they are not
8 strategies that will be fulfilled tomorrow, or next year,
9 or even the year after that; right? They are very, very
10 long-term strategies. And, to build up the necessary
11 infrastructure and address those needs and those concerns
12 in a way that is satisfactory to those communities, I
13 think, is important. And, that is why, I think, it is
14 just a matter of being able to commit to that goal if it
15 is 20 years from now, but there is no commitment. There
16 is no commitment to decarceration or to abolition so that
17 we can work towards that. So, we keep going around in
18 circles having the same conversations.

19 I think, yes, it is going to take time. It
20 is really going to take time, and it is not going to
21 necessarily be for this generation, but maybe the next and
22 the next after that. Because if we can build the
23 infrastructure and communities can decide this for
24 themselves, the infrastructure, the resources that are
25 needed, then some decades from now, that -- those feelings

1 might be different.

2 **MS. PATRICIA TATE:** You know, I am -- I
3 struggle with the issue of people being afraid. And, I
4 recognize that in our -- my own home community where
5 people don't want individuals coming back. But, quite
6 honestly, decarceration is only one piece of the puzzle.
7 Decarceration isn't the answer. It is part of an answer
8 that is hugely complicated, and it certainly includes
9 interventions prior to anyone going to jail or prison so
10 that they can work parallel -- they can be parallel to
11 each other.

12 If you can keep a -- if the community is
13 healthy and if the community has resources to be healthy
14 and to stay healthy, whether that is athletics for their
15 students and parenting programs for their young moms, then
16 that in conjunction with decarceration and the commitment
17 that that community has to make is a practical expectation
18 that can happen.

19 It cannot happen in isolation from other
20 healing, because it is -- because if the community isn't
21 well, then they can't expect -- be expected to work on the
22 healing path of an individual who is coming home. So, it
23 -- as Sav said, it is something that is going to take a
24 while, but it certainly includes a community commitment to
25 wellness.

1 **MS. DIANE SERE:** I think the only thing I
2 can add to that is that, you know, it is unfortunate,
3 because I feel like the whole world is living in fear.
4 That is the reality of life today, that people are living
5 in fear. And, what Patty was saying in terms of giving
6 those resources to the communities so that they can build
7 upon those fears in terms of providing the resources to
8 build, I think that, you know, maybe that would stabilize
9 a lot of peoples fears of, you know, certain activities
10 happening in their communities.

11 **CHIEF COMMISSIONER MARION BULLER:** Thank
12 you. In looking at decarceration, Section 81, Section 84
13 in particular of the Act, is an Indigenous woman at a
14 disadvantage if her family, her community will not take
15 her back?

16 **MS. KASSANDRA CHURCHER:** Compared to being
17 in prison?

18 **CHIEF COMMISSIONER MARION BULLER:** Compared
19 to a woman whose family will take -- or community will
20 take her back.

21 **MS. KASSANDRA CHURCHER:** I think it is a
22 very real and personal and subjective sense of rejection
23 to have to live that. I wouldn't want to speak for that
24 experience. It is not mine. But, the conversation we are
25 having is even if the community doesn't accept that woman

1 back, the alternative shouldn't be that that woman stays
2 in prison. The alternative should be that there is a
3 healthy, secure place that can help her and her healing,
4 that connects her to her Indigenous culture and language,
5 and that doesn't necessarily have to be in the community.
6 So, I think that is probably what we are trying to focus
7 on.

8 **MS. SAVANNAH GENTILE:** If I could add to
9 that? You know, one of the challenges we face as
10 Elizabeth Fry Societies, a lot of the locals have halfway
11 houses, but part of the problem is that they are very
12 closely tied to CSC through contracts. And so, in all
13 sorts of ways, some of those halfway houses become mini
14 jails.

15 So, cutting ties with, you know, CSC,
16 creating funding, there are all sorts of organizations out
17 there, community-based organizations, that are just dying
18 to do this work and are underfunded, and overworked and
19 working from the sides of their desks. And, they can't do
20 it the way they envision doing it, because they are
21 handicapped by contracts with CSC that place conditions on
22 them that they have to become the jailor, conduct your
23 analysis tests, which -- you know, monitor women, report
24 to the parole board and send women back. You know, that
25 creates distrust, but that is social control.

1 We need to get away from a model of social
2 control, which is what CSC operates under and, yes, return
3 to the principles of creating choices. But, you know, I
4 think the point is, is that CSC, with its culture, has
5 demonstrated it is not possible there. But, I really do
6 think that that is possible in all sorts of different ways
7 with community-run organizations who are connected to the
8 issues.

9 **CHIEF COMMISSIONER MARION BULLER:** Thank
10 you. One word that keeps coming up time and time again in
11 these hearings and elsewhere is "trauma". Trauma
12 experienced by women and children, men for that matter as
13 well. Within the federal system, what, if any, treatment
14 programs are there to specifically address trauma?

15 **MS. SAVANNAH GENTILE:** There aren't.

16 **CHIEF COMMISSIONER MARION BULLER:** No.

17 **MS. SAVANNAH GENTILE:** One of the reasons
18 there aren't is because it is a recognition on the part of
19 CSC that it is not the place to be dealing with trauma,
20 which is why we say that you can't -- it can't be done in
21 the prisons.

22 **MS. KASSANDRA CHURCHER:** Any trauma work
23 has to be coming from a place of trust, and the deep power
24 imbalances that exist within the prison won't allow for
25 it.

1 **CHIEF COMMISSIONER MARION BULLER:** And
2 finally, turning now to Gladue reports, perhaps this is an
3 overstatement of the situation but as I see it, having
4 used Gladue reports in courts regularly, it appears to me
5 that there's a misuse of Gladue reports for purposes other
6 than for which they were intended.

7 And a lot of that, from my perspective from
8 what I've heard especially today, is that all players
9 involved in the system from the -- in the penal system
10 I'll say after they've walked out of the courtroom into
11 the correction system, all players don't have a true or a
12 real understanding of the purpose and content of a Gladue
13 report and how that can be used to everyone's advantage.

14 And I'll just dial it back to comments made
15 earlier about Gladue reports being rather than -- being
16 used to identify risk as opposed to need. To me that
17 sounds like a situation where the -- without being
18 critical of individuals of course, where the advocate who
19 is acting on behalf of the prisoner is not advocating for
20 the proper use of that report based on lack of experience
21 or lack of knowledge.

22 Feel free to disagree with me. I kind of
23 hope you do but it appears to me that there's a lack of
24 understanding the real purpose and enforcement of the real
25 purpose of those Gladue reports.

1 **MS. SAVANNAH GENTILE:** I think there is a
2 misunderstanding of the purpose but I think that it's more
3 a symptom of engaging in a system that is part of the
4 problem. Like it is -- in a sense, it's similar to reform
5 efforts within corrections. It's building the capacity of
6 the justice system which has historically disadvantaged
7 and marginalized and criminalized Indigenous peoples.

8 And it's invasive and we've identified a
9 number of problems and I think it's because it doesn't go
10 far enough and maybe it comes too late. It comes at the
11 point of a charge being laid and -- you know, and they're
12 guilty. So it's about -- it's not even about guilt or not
13 guilt, it's about sentencing.

14 So I think it's coming a bit late and it's
15 actually just investing in a system that has been shown to
16 be discriminatory against Indigenous peoples.

17 **CHIEF COMMISSIONER MARION BULLER:** So then
18 are you advocating for the discontinuation of the use of
19 Gladue reports?

20 **MS. KASSANDRA CHURCHER:** No, but there's a
21 lot of education that could be done. Judges can have some
22 training on how to use them, understand them, interpret
23 and apply them. Lawyers can have training for the same,
24 court support workers, corrections. The tool is a tool
25 and it's only going to be as effective as good as what we

1 put into it. We've heard of non-Indigenous Gladue writers
2 who don't have extensive knowledge, history or
3 understanding. Diane, you shared with us your own story
4 of your presentencing report.

5 There's no national framework for Gladue
6 reports. There's no national standards and so it's --
7 again, it's piecemeal and it's inconsistent and it's
8 inaccessible and it's costly and it is difficult because
9 these women are disclosing their lives to someone, all of
10 the ugly, hurtful, painful parts of their lives and we're
11 leaving it up to chance that they'll find someone who
12 understands, who knows, who cares, and that's just for the
13 production. That's not even for the use.

14 So no, we are not endorsing its
15 abolishment. We're just saying that could we do better?
16 I think so.

17 **MS. DIANE SERE:** And I wanted to add
18 something too but it's just with Gladue, you know, they're
19 not looking to use Gladue unless you're doing 90 days or
20 more or -- yeah, 90 days or more I believe it is, right.
21 And what's happening is that if defence counsel is looking
22 at their client and not knowing what's going to happen
23 with that client and what happens when they're going in
24 court, they're doing their own submissions and it's being
25 allowed to go on record as, you know, with their own

1 submissions, what they should be doing is right from the
2 time this person is charged, they should have that Gladue
3 so that they can see what brought them there, right, and
4 be able to utilize that from the beginning from whether
5 it's through bail and then through the child and then
6 through sentencing.

7 So in my opinion, I think that's a good
8 tool to be using in terms of dealing with Indigenous women
9 and men.

10 **CHIEF COMMISSIONER MARION BULLER:** Okay.
11 Thank you.

12 Well, we've kept you way too late, a very
13 difficult day for you. I can appreciate but thank you.
14 What you've told us today has made a difference to our
15 work and we want to thank you for that.

16 You've given us the gift of your knowledge,
17 experience, also of your time I note and so we have some
18 small gifts to give you in return. Tobacco of course for
19 the tradition but also eagle feathers because we know
20 there are days when you need some help flying. And
21 hopefully these eagle feathers will give you that lift to
22 keep doing your work in a good way.

23 So on behalf of all of us here, I thank you
24 very much for spending your day with us, sharing your
25 knowledge as I've said and enlightening us and everyone

1 who has been watching and listening. Thank you.

2 (PRESENTATION OF GIFTS)

3 **MS. CHRISTA BIG CANOE:** As you are gifting
4 those, may I make a couple of housekeeping announcements
5 for tomorrow?

6 **CHIEF COMMISSIONER MARION BULLER:** And we
7 are adjourned.

8 **MS. CHRISTA BIG CANOE:** Yes. So as we're
9 adjourning today, I see that our MC for the week, Nadine,
10 probably has an announcement too, but I just want to
11 remind parties with standing that there will a draw
12 tomorrow at 7:30, between 7:30 and 8:30 in the Dufferin
13 Room for tomorrow's evidence. And thank you.

14 (Closing Ceremony - Singing)

15 --- Upon adjourning at 5:36 p.m.

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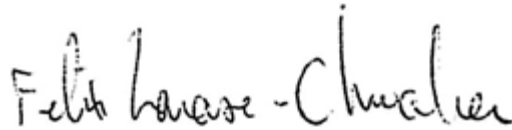
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LEGAL DICTA-TYPIST'S CERTIFICATE

I, Félix Larose-Chevalier, Court Transcriber, hereby
certify that I have transcribed the foregoing and it is a
true and accurate transcript of the digital audio provided
in this matter.

A handwritten signature in cursive script that reads "Félix Larose-Chevalier". The signature is written in black ink and is positioned above a horizontal line.

Félix Larose-Chevalier

Sep 19, 2018