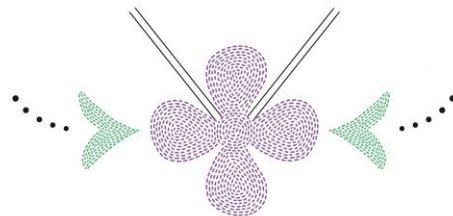


National Inquiry into  
Missing and Murdered  
Indigenous Women and Girls



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

**National Inquiry into Missing and Murdered  
Indigenous Women and Girls  
Truth-Gathering Process  
Part 2 Institutional hearings: “Government Services”  
Sheraton Suites Calgary Eau Claire  
Calgary, Alberta**



**PUBLIC**

**Part 2 Volume 2  
Tuesday May 29, 2018**

**Panel 1: “Models for Delivery of Victims Services  
to Indigenous Peoples”**

**John Phelps, Chief Federal Prosecutor, Yukon Region;**

**Leanne Gardiner, Director of the Community Justice and  
Policing Division for the Department of Justice, Government  
of the Northwest Territories;**

**Naomi Giff-MacKinnon, Senior Policy Analyst,  
Government of Canada**

**Betty Ann Pottruff, Q.C., Senior Advisor,  
Government of Saskatchewan**

**INTERNATIONAL REPORTING INC.**

## II

### CORRIGENDUM

In her testimony at line 18 on page 36 and continuing on to page 37 of this transcript, Ms. Betty-Ann Pottruff, QC, described the North Sask Victim Services model as "a community-based model", which she no longer holds to be accurate.

Through her counsel, Ms. Barbara Mysko, Ms. Pottruff has requested that the official record be corrected. In her sworn affidavit, Ms. Pottruff provided the following correction:

"[The] North Sask Victim Services (NSVS) is in fact a Police-based Victim Services program. It is, however, much larger than the other programs in the province, serving the entire Northern Administration District (NAD) in Saskatchewan. The NSVS board of directors, like all other RCMP based programs, is comprised of community members from the NAD, and RCMP members. Because the program is so large with multiple staff and a significantly larger budget, Government has created an Executive Director position for this program."

Ms. Mysko submitted the application for this correction on June 14, 2018. There was no objection recorded by any of the Parties and the Commissioners granted Ms. Mysko's request on July 18, 2018.

### III

#### APPEARANCES

Aboriginal Women's Action Network	Fay Blaney (Representative) MiKenze Jordan (Representative)
Assembly of First Nations	Julie McGregor (Legal Counsel)
Assembly of Manitoba Chiefs	Joëlle Pastora Sala (Legal Counsel)
Awo Taan Healing Lodge Society	Darrin Blain (Legal Counsel)
Canadian Association of Chiefs of Police	Ashley Smith (Legal Counsel)
Directeur des poursuites criminelles et pénales	Anny Bernier (Legal Counsel)
Eastern Door Indigenous Women's Association	Natalie D. Clifford (Legal Counsel) Cheryl Maloney (Representative)
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Government of Manitoba	Coral Lang (Legal Counsel) Kendra Jarvinen (Legal Counsel)

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Government of Newfoundland and Labrador	Denise Spencer (Legal Counsel)
Government of Northwest Territories	Karin Taylor (Legal Counsel) Brad Patzer (Legal Counsel)
Government of Nova Scotia	Sean Foreman (Legal Counsel)
Government of Ontario	Julian Roy (Legal Counsel) Catherine Rhinelanders (Legal Counsel)
Government of Saskatchewan	Barbara Mysko (Legal Counsel)
Government of Yukon	Jennifer England (Representative) Fia Jampolsky (Legal Counsel)
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Institute for the Advancement of Aboriginal Women	Rachelle Venne (Representative)
Inuit Tapiriit Kanatami	Elizabeth Zarpa (Legal Counsel)
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Manitoba Keewatinowi Okimakanak	Jessica Barlow (Legal Counsel)
Native Women's Association of Canada	Virginia Lomax (Legal Counsel)
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V

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Ontario Federation of  
Indigenous Friendship Centres

Niki Hashie (Representative)

Pauktuutit, AnânuKatiget  
Tumingit, Saturviit, Ottawa  
Inuit Children's Centre, and  
Manitoba Inuit Association

Beth Symes (Legal Counsel)

Regina Treaty Status Indian  
Services, Inc

Erica Beaudin (Representative)

Saskatchewan Association of  
Chiefs of Police

Katrina Swan (Legal Counsel)

Winnipeg Police Service

Kimberly Carswell  
(Legal Counsel)

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Chair: Meredith Porter, Commission Counsel

Second Chair: Breen Ouellette, Commission Counsel

**Witness: John Phelps, Chief Federal Prosecutor, Yukon Region**

Counsel: Anne McConville for Government of Canada

**Witness: Leanne Gardiner, Director of the Community Justice and Policing Division for the Department of Justice, Government of the Northwest Territories;**

Counsel: Karin Taylor and Brad Patzer for Government of Northwest Territories

**Witness: Naomi Giff-MacKinnon, Senior Policy Analyst, Government of Canada**

Counsel: Anne Turley for Government of Canada

**Witness: Betty Ann Pottruff, Q.C., Senior Advisor, Government of Saskatchewan**

Counsel: Barbara Mysko for Government of Saskatchewan

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

Grandmothers, Elders & Knowledge-keepers: Minnie Amidlak, Cynthia Cardinal (National Family Advisory Circle - NFAC), Barbara Dumont-Hill (Government of Canada), Spike Norton Eagle Speaker, Louise Haulli, Kathy Louis, Myrna Laplante (NFAC), Gerald Meguinis, Melanie Morrison (NFAC), Bernie Poitras, Sarah Nowrakudluk (NFAC), Gaylene Rain, Audrey Siegl, Laureen "Blu" Waters, John Wesley, Alvine Wolfleg, Charlotte Wolfrey (NFAC), Waasaanese (Government of Ontario)

Clerk: Maryiam Khoury

Registrar: Bryan Zandberg

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**IX**  
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<b>Panel 1A: Models for Delivery of Victims services to Indigenous Peoples Witness: Betty Ann Pottruff, Q.C.</b>		
21	Saskatchewan Domestic Violence Death Review Interim Report, Pilot - Phase 1 (May 2017), Saskatchewan Ministry of Justice (35 pages)	6
22	Saskatchewan Domestic Violence Death Review Final Report, (May 24, 2018), Saskatchewan Ministry of Justice (50 pages)	6

All exhibits submitted by Meredith Porter, Commission Counsel.

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NO.	DESCRIPTION	PAGE
<b>Panel 1B: Models for Delivery of Victims services to Indigenous Peoples Witness: John Phelps</b>		
23	"Crown Witness Coordinator Program Sub-Study: Final Report," (March 29, 2010) Justice Canada Public Prosecution Service (73 pages)	323

All exhibits submitted by Anne Turley, Legal Counsel for  
Government of Canada.

1 Calgary, Alberta

2 --- Upon commencing on Tuesday, May 29, 2018 at 8:20 a.m.

3 --- **OPENING COMMENTS**

4 **MR. JASON GOODSTRIKER:** Good morning,  
5 everybody. Good morning, attorneys, commissioners.

6 Amongst the Blackfoot people, we have a very  
7 sacred order that we're all expected to join when we get to  
8 that age of maturity. Anyway, I'm -- I'm a little bit away  
9 from it, but -- but Spike and Alvine are members of that  
10 order. I'm a -- I'm a helper of those people, so -- of the  
11 Sun Dance, when our Sun Dance happens and our ceremony  
12 times happen, we all are assumed to -- to that time. And  
13 I'd like to ask Spike and -- or, sorry, Alvine and -- I  
14 always call him Spike, but anyway, Ina (ph) to come on up  
15 here and come and have a word of prayer today so that we  
16 can begin. They're going to help us.

17 And then we're going to have a song because  
18 it's something that you're in this area, and, Madam  
19 Commissioner, we're very honoured to have you, to have us,  
20 to have a prayer. So (speaking in Native language).

21 **MR. SPIKE EAGLE SPEAKER:** (Speaking in  
22 Native language).

23 Good morning, I hope everybody had good rest  
24 last night. I just wanted to mention that when my wife and  
25 I were first asked to come up here to do some of this

1 prayer and all that, we didn't really know what this  
2 Inquiry was really about, we just thought it was kind of  
3 another culture workshop or something, but we had a chance  
4 to sit back there yesterday and listen to all the stuff and  
5 not realizing the people's pain, their loss. And we talked  
6 about it last night, and I said, "You know, there's a lot  
7 of people that -- thousands of our people are hurting."

8 And when I got to my room, the way I felt, I  
9 just sat down and I started to pray. And that's the way I  
10 was raised. I was taught that when you're struggling with  
11 your own spirit, you have to sit down and reconnect and you  
12 have to pray, and that's what I done. So I feel a lot  
13 better today, and I'm going to offer this prayer so that  
14 today would be a very good day for all of us.

15 People that have sorrows, people that have  
16 lost loved ones, we're going to pray for those people and  
17 that things -- they could have some kind of resolutions to  
18 some of their losses and their problems. (Speaking in  
19 Native language).

20 **MR. JASON GOODSTRIKER:** Thank you to the  
21 Eagle Speaker family. Just put your hand on your heart and  
22 say, "Hey, hey." Now, you're all Blackfoots.

23 **(LAUGHTER)**

24 **MR. JASON GOODSTRIKER:** We're going to ask  
25 our nephew to sing a song. You don't have to stand up,

1 just enjoy it. He's going to sing it, and he told me that  
2 it's kind of like an arising song, just to lift your  
3 spirits, so enjoy. And if you want to dance chicken dance,  
4 you can go ahead.

5 --- DRUMMING CEREMONY

6 MR. JASON GOODSTRIKER: Thank you. Thank  
7 you. Well, we're in the beginning. I don't know about you,  
8 but I want to go get my bows and arrows and go get my land  
9 back after that song.

10 (LAUGHTER)

11 MR. JASON GOODSTRIKER: Okay. My Elder just  
12 asked me what my Blackfoot name was, and I didn't introduce  
13 it yesterday. But in the Indian way, down the road,  
14 whenever you people meet each other, it's common experience  
15 to introduce each other with your Indian name. And mine is  
16 (speaking in Native language). It means the warrior that  
17 rode a red horse.

18 But today's a special day, and we'll allow  
19 you Madam Commissioner to begin. I have six daughters, and  
20 I have a wife, and I have a whole bunch of aunties, and some  
21 went to the next world, and it's about this and their day  
22 today. So thank you, again, to all of those that testified.  
23 And welcome, again, to Blackfoot country. And remember you  
24 can only eat steak twice a week, so --

25 (LAUGHTER)

1                   **MR. JASON GOODSTRIKER:** So tonight, Michèle,  
2 maybe I'll buy you a salad or something, or fish or  
3 something. Thank you. Enjoy. Enjoy today.

4                   **COMMISSIONER MICHÈLE AUDETTE:** I have to buy  
5 something for him, or?

6                   **UNIDENTIFIED SPEAKER:** I think he's going to  
7 buy for you.

8                   **COMMISSIONER MICHÈLE AUDETTE:** Okay.

9                   **UNIDENTIFIED SPEAKER:** (Indiscernible) I have  
10 steak too.

11                   **CHIEF COMMISSIONER MARION BULLER:** I'll ask  
12 counsel to take their places as well as witnesses, please.

13                   **MS. MEREDITH PORTER:** Good morning. Good  
14 morning. Good morning, Chief Commissioner, Commissioners.  
15 I have a couple -- there's a few housekeeping items that I  
16 did want to speak to prior to getting started with the  
17 cross-examination of the witnesses. First, I did want to  
18 mention to the parties with standing, that if they had  
19 questions that they wanted to direct to Betty Ann Pottruff,  
20 as you are aware, she will be leaving early this afternoon.  
21 So if you did have any questions that you did want to put to  
22 her prior to her departure, if you could go to the first  
23 table and see Francine Merasty, she's got her hand up. Just  
24 identify yourself to her, and have a chance to speak with  
25 her, so she's aware of -- of who will be posing questions

1 later on this morning. Thank you.

2 The other issue that I wanted to speak to,  
3 I'm aware that yesterday on the record it was noted that the  
4 witnesses that are appearing as part of the victim services  
5 panels were referred to as experts on the record. And I  
6 just wanted to clarify on the record that they have not been  
7 brought in as experts, nor have they been qualified as  
8 experts. So I do just want to note that on the record. I  
9 think that was an error. That came up yesterday.

10 The final issue that I did want to speak to  
11 was with respect to the party that cross-examined at the end  
12 of the day yesterday, she had spoken to a couple of  
13 documents in her questions, and I don't believe those had  
14 been tendered as exhibits. So I will speak to them briefly,  
15 and in -- in particular, she had made reference to both the  
16 interim and the final report of the Saskatchewan Domestic  
17 Violence Death Review Report. And I am going to then now  
18 request that both the interim report and the final report, I  
19 believe copies have been provided to all Commissioners, and  
20 I do have a copy here for the Registrar. So at this time, I  
21 request that they be tendered as exhibits in relation to the  
22 cross-examination of the party counsel for Pauktuutit, she  
23 spoke to them yesterday.

24 **CHIEF COMMISSIONER MARION BULLER:** Okay. The  
25 interim report dated May 2017 will be Exhibit 21.

1 --- **EXHIBIT NO. 21:**

2 Saskatchewan Domestic Violence Death  
3 Review Interim Report, Pilot - Phase 1  
4 (May 2017), Saskatchewan Ministry of  
5 Justice (35 pages)

6 **CHIEF COMMISSIONER MARION BULLER:** And the  
7 Saskatchewan Domestic Death Review Report, May 24th, 2018,  
8 will be Exhibit 22.

9 --- **EXHIBIT NO. 22:**

10 Saskatchewan Domestic Violence Death  
11 Review Final Report, (May 24, 2018),  
12 Saskatchewan Ministry of Justice (50  
13 pages)

14 **MS. MEREDITH PORTER:** Thank you very much.  
15 All right. Thank you very much. We'll continue then with  
16 the questions from the parties with standing. And then next  
17 party that I would like to invite up to question the  
18 witnesses with their -- in cross-examination is Awo Taan  
19 Healing Lodge Society. And I note that counsel for the Awo  
20 Taan has 24 minutes.

21 **MR. DARRIN BLAIN:** Thank you very much, and  
22 good morning, Chief Commissioner Buller. Good morning,  
23 Commissioners. Good morning to the Elders. It's an honour  
24 for me to be here in Blackfoot Territory, Treaty 7  
25 Territory. I'll always cherish my days as general counsel



1 to the Blackfoot Nation, a hundred kilometres to the east of  
2 here. For those of you who I haven't met, my name is Darrin  
3 Blain. I'm a lawyer in private practice here in Calgary.  
4 I've just finished my 800th Indian residential school  
5 hearing. And welcome to my hometown. Good morning. Mr.  
6 Phelps, good morning.

7 **MR. JOHN PHELPS:** Morning.

8 **JOHN PHELPS, Previously Affirmed:**

9 **CROSS-EXAMINATION BY MR. BLAIN:**

10 **MR. DARRIN BLAIN:** Sir, I take it that you're  
11 aware of our Supreme Court of Canada decision known as  
12 *Jordan*.

13 **MR. JOHN PHELPS:** Yes, I am.

14 **MR. DARRIN BLAIN:** I wonder if you could  
15 comment briefly on the intersection of *Jordan* and the work  
16 that the people in your office do with the victims. And  
17 what I'm wondering, specifically, if we can have a -- a chat  
18 with the Commission this morning about -- I -- I'd like to  
19 know whether or not the failure of victims and witnesses to  
20 come forward are resulting in cases being thrown out as  
21 contemplated in *Jordan*?

22 **MR. JOHN PHELPS:** As indicated yesterday, my  
23 perspective comes from my practice being in the Yukon  
24 Territory, and my responsibility over the Yukon Territory.  
25 We're quite fortunate, unlike many other jurisdictions in

1 Canada, to not be experiencing a significant impact from the  
2 *Jordan* decision. Our -- our courts are able to hear matters  
3 in a timely fashion. And we have not lost a significant  
4 prosecution as a result of *Jordan* to date. So I'm unable to  
5 assist in answering that question because we haven't had  
6 that experience.

7 **MR. DARRIN BLAIN:** Very well. And I wonder  
8 if the services that are provided by your office are  
9 provided in all of the traditional languages of -- of the  
10 people that you serve?

11 **MR. JOHN PHELPS:** They are not, no.

12 **MR. DARRIN BLAIN:** Could that be a  
13 recommendation to the Commission, sir?

14 **MR. JOHN PHELPS:** It's certainly a priority  
15 in Nunavut for -- for us, and it is provided in Nunavut.  
16 The significance in our jurisdiction in the Yukon may be  
17 less so because we don't face the language barrier that's  
18 experienced on the East Coast, so I -- I -- I'm not too sure  
19 that I can answer the question. I don't know if it would be  
20 a better service to victims or not, but I don't -- and I  
21 don't know that it would result in better communication for  
22 them on the West Coast, in the Yukon Territory. I don't  
23 have the answer to that, and I don't have an opinion one way  
24 or another.

25 **MR. DARRIN BLAIN:** Very well. Thank you.

1 You painted a picture yesterday -- excuse me -- of the  
2 services that your office provides, and as I understand it,  
3 people who have been subpoenaed as witnesses and have  
4 witnessed something traumatic, potentially, they're  
5 contacted by your office. There's some kind of link made up  
6 between your office and these people made in court  
7 preparation, people who are going to court as -- as  
8 witnesses. I have a few appointed questions in that regard.  
9 When your office contacts them, are they given a gender  
10 choice of representative from your office? The reason I ask  
11 that is because it's been my experience in sitting with  
12 hundreds of sexual assault victims that women often like to  
13 speak to women and -- and -- and so forth.

14 **MR. JOHN PHELPS:** Unfortunately, we -- we  
15 don't presently have that luxury. Crown Witness  
16 Coordinators in the Yukon Territory are female at this time.  
17 I think across the North -- it hasn't always been the case,  
18 but given the turnover I spoke about yesterday, currently,  
19 for example, they're all female in the Yukon and we -- there  
20 may be one male to assist, so it can be very difficult to  
21 give the opportunity of gender of choice. With the  
22 prosecution service, we have a much better balance, male to  
23 female, and that would be an -- an option that could be  
24 canvassed, although to answer your question, it's not  
25 offered.

1           **MR. DARRIN BLAIN:** I wonder if that might be  
2 a recommendation to the Commission.

3           **MR. JOHN PHELPS:** I -- I would -- I wouldn't  
4 see why not. Thank you, sir.

5           **MR. DARRIN BLAIN:** You mentioned just now  
6 about prosecutors, and I'm wondering if you can comment on  
7 the existence or the complement of First Nation prosecutors  
8 in your -- in your courts.

9           **MR. JOHN PHELPS:** I -- I don't have the  
10 statistic for the other two regions. We have 1 out of 12 in  
11 the Yukon.

12           **MR. DARRIN BLAIN:** In -- in your perspective  
13 and in what you deal with in the trenches on a day-to-day  
14 basis, I wonder if the addition of more First Nation  
15 prosecutors ought to be a recommendation to the Commission,  
16 sir.

17           **MR. JOHN PHELPS:** The only concern -- the  
18 reason why I'm pausing is -- is not that I have any concern  
19 with the recommendation whatsoever. It's just the -- the  
20 ability to staff those positions. We don't seem to attract  
21 applications as frequently as one would hope from First  
22 Nation candidates, not particularly, with my experience in  
23 the Yukon. We had in our complement one born and raised  
24 Yukon First Nation individual who articulated and spent ten  
25 years with us, but that was an anomaly, not the norm. I

1 don't see any harm at all with the concept, and I -- I see  
2 it as being potentially a benefit to the regional offices if  
3 it's possible.

4 **MR. DARRIN BLAIN:** Thank you very much. And  
5 just an -- I suppose as a gentle reminder for you and I that  
6 we don't necessarily need to be concerned with how we're  
7 going to get that done or how the Commissioners are going to  
8 put that into the report, just that it might be something  
9 that would benefit our people, which takes me to judges.  
10 When you talk about the judges that the CWC folks and -- and  
11 the witnesses are appearing in front of, can you talk about  
12 the composition of the bench in your area and whether there  
13 are -- are any First Nation judges?

14 **MR. JOHN PHELPS:** Sorry again. I'm only  
15 pausing because I'm not familiar with the other two  
16 territories, so I can't be certain. Certainly in the Yukon,  
17 there are no First Nation judges.

18 **MR. DARRIN BLAIN:** I wonder if that might be  
19 a recommendation to the Commission, sir.

20 **MR. JOHN PHELPS:** Certainly.

21 **MR. DARRIN BLAIN:** Thank you. You talked  
22 about, in your -- your presentation, sir, about -- my  
23 impression was that you gave your program a pretty decent  
24 report card, and you talked about a complaints process so  
25 that, if my understanding is that if a victim or somebody

1 that's being helped by your -- by your program wants to  
2 complain about how things went, they have the right to do  
3 that. I wonder if there are any First Nation people hearing  
4 complaints in that process or Elders or cultural advisors.  
5 I wonder if there's any of that involved in that.

6 **MR. JOHN PHELPS:** No, there's not.

7 **MR. DARRIN BLAIN:** I wonder if that might be  
8 a recommendation to your Commission, sir.

9 **MR. JOHN PHELPS:** I have no objection to  
10 that.

11 **MR. DARRIN BLAIN:** Thank you. I turn now to  
12 Ms. Pottruff. Good morning, ma'am.

13 **MS. BETTY ANN POTTRUFF:** Morning.

14 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

15 **CROSS-EXAMINATION BY MR. BLAIN:**

16 **MR. DARRIN BLAIN:** The first item of business  
17 is for me and my family to bring our condolences to your  
18 province. We understand that, with our extended family in  
19 your great province, that we have -- your province has  
20 suffered a great loss with the hockey team bus tragedy  
21 occurring just south of Tisdale. I've driven that road and  
22 we -- we're all human beings, we all suffer the loss of  
23 others, and I want to give you our heartfelt condolences as  
24 a matter of housekeeping and -- and -- and a good morning to  
25 you, Ma'am.

1           You -- you talked about, as I understand your  
2 presentation, that part of your dynamic was to make justice  
3 more accessible, reformed, and relevant, and -- and that --  
4 and I acknowledge that you are very senior in the Government  
5 of Saskatchewan. Is that correct?

6           **MS. BETTY ANN POTTRUFF:** I've been there a  
7 long time.

8                               **(LAUGHTER)**

9           **MR. DARRIN BLAIN:** That's what -- that's what  
10 you mentioned. My -- my one question for you this morning  
11 is about criminal law reform and whether or not the Province  
12 of Saskatchewan is involved in *Criminal Code* reform, and I'm  
13 thinking about sentencing for people who harm Indigenous  
14 women and girls.

15           **MS. BETTY ANN POTTRUFF:** I think I can only  
16 provide you with a very general answer on that. There are a  
17 -- a number of ongoing federal, provincial, territorial  
18 committees that -- that deal with criminal law reform. I've  
19 been part of those committees in the past, and certainly  
20 sentencing is one of the areas that is always under review  
21 and is currently under review.

22           **MR. DARRIN BLAIN:** And is it your  
23 recommendation to the Commissioners that it continue to be  
24 under review for the purposes of reviewing sentences for  
25 people who harm Aboriginal women and children?

1           **MS. BETTY ANN POTTRUFF:** I -- I think that  
2           sentencing is an -- always an area where, in fact, we can be  
3           more innovative and -- and look at ways to better serve both  
4           the victim and the offender, and certainly that includes  
5           Indigenous women and girls.

6           **MR. DARRIN BLAIN:** Thank you. Those are my  
7           questions for you this morning. I understand you're leaving  
8           early, and -- and I wish you safe travels. Just bear with  
9           me for a second. I'm just reviewing my notes. Ms.  
10          Gardiner, good morning.

11          **MS. LEANNE GARDINER:** Morning.

12          **LEANNE GARDINER, Previously Affirmed:**

13          **CROSS-EXAMINATION BY MR. BLAIN:**

14          **MR. DARRIN BLAIN:** Now, as I understand your  
15          presentation, as I understand what you do, and I -- and I  
16          acknowledge the hard work that you do and that your office  
17          does. I don't think working with victims is easy work,  
18          whether they be before a court hearing or after a court  
19          hearing, so just a nudge and an acknowledgement of the work  
20          that your office does.

21                   I have to be real frank about something. It  
22          really sounds like your folks are underqualified. And  
23          don't get mad at me for saying that. I think we would both  
24          agree that when you're working with people who have been  
25          traumatized by sexual violence, whether they be women or



1 children, and that's what we're talking about in this  
2 Inquiry -- and I'm not trying to be disrespectful to the  
3 men that are also traumatized, that there is significant  
4 and remarkable psychological impact and need for the women  
5 and for the children who either experienced it or have  
6 unfortunately witnessed that, or may have witnessed their  
7 mother being killed, that sort of thing, the need is so  
8 great, it's acute.

9 It -- do I understand you to be telling the  
10 Commission that there is no real special training required  
11 for your people that are -- your staff that are going out  
12 and meeting with this -- these dear people? Can you  
13 comment on that?

14 **MS. LEANNE GARDINER:** Yes, thank you for  
15 your question. I just want to qualify a bit just so we're  
16 on the same page. I don't have staff members that report  
17 to me that are providing that frontline service. We're not  
18 typically serving victims directly out of our office. We  
19 have a community-based program where we're providing  
20 funding to sponsoring organizations to provide that  
21 frontline service that reflects the context of the  
22 community that they're serving.

23 So when it comes to their qualifications,  
24 because I think me kind of establishing our model doesn't  
25 take away from your comments, of course, about training,

1 and I agree wholeheartedly with what you say about the  
2 reality of victims of crime and tragedy and where they are  
3 and their needs, and their needs sometimes being acute and  
4 requiring additional services that our victim services  
5 providers are not equipped to provide. So as I mentioned,  
6 they're not, for the most part -- we do have some providers  
7 that are trained as social workers and a variety of other  
8 backgrounds, we have some that are not.

9 It really is up to communities to decide who  
10 they want to staff those positions with, with our support,  
11 as far as background. Sometimes we help prepare the job  
12 descriptions that they might put out for -- to hire. We  
13 provide all of that support and communities decide who is  
14 best suited to do that work.

15 That being said, I have a responsibility in  
16 my role, absolutely, to do my best to help provide the  
17 opportunities to support that skillset and to build that  
18 skillset, so that's why we do -- we do some of the work we  
19 do around training. We support communities to apply for  
20 additional funding, if that's required, to support that  
21 training.

22 I want to mention as well that our territory  
23 has been involved with a Pan-Territorial project with the  
24 other two territories in partnership with the Northern  
25 Institute of Social Justice in the Yukon, with Yukon

1 College, about an essential -- it's the essential  
2 skills -- my apologies if I get the acronym  
3 wrong -- essential skills for northern victim services  
4 worker. So the goal -- and right now there's a draft of  
5 modules for all of those essential skills, that the  
6 intention of these positions, or these providers, is to  
7 provide the initial contact, as well as ongoing support.

8 That -- and when I say "referrals," that  
9 includes referrals to professionals who have the training  
10 to be supporting people in their varying degrees of need.  
11 It also -- and when I say "referral," I want to make sure,  
12 because we had some discussion yesterday, referral is not  
13 sending someone down the street to a different program.  
14 This program in general, and I can say consistently, even  
15 though all these different organizations are running  
16 programs in communities, they're not typically sending  
17 people down the street to a different service. They're  
18 finding out exactly what they need, and they're  
19 walking -- they're walking them there. Sometimes they're  
20 waiting until they're done and continuing to provide the  
21 service.

22 So I hear your concern, and I agree that  
23 it's something we have to always keep in mind and keep  
24 coming back to make sure that in a real time way the  
25 experiences that our providers are having, that we're

1 looking at that and making sure they have access to what  
2 they need to do their jobs safely, and safely for their own  
3 long-term wellbeing as well.

4 **MR. DARRIN BLAINE:** M'hm.

5 **MS. LEANNE GARDINER:** I hope that answers  
6 your question.

7 **MR. DARRIN BLAINE:** It does answer it. I'm  
8 wondering if we could rephrase some of it. We're here to  
9 make recommendations to this -- to the Commission. I  
10 wonder if I could ask you a few pointed questions about  
11 your work and the world that you work in and the people  
12 that you work -- that you work with and that are working  
13 with these vulnerable women and children and others.

14 Would it be your recommendation today,  
15 Ms. Gardiner, to the Commission that more First Nation  
16 service providers, frontline workers, be hired and funded  
17 and be properly qualified for the people they serve? Is  
18 that a fair recommendation to the -- to the Commission this  
19 morning?

20 **MS. LEANNE GARDINER:** Absolutely, especially  
21 in our territory where the people we are serving, people  
22 providing services need to reflect the clients they're  
23 serving, and absolutely, I agree.

24 **MR. DARRIN BLAINE:** And would you --  
25 it -- thank you. Would it be your recommendation to the

1 Commission this morning that they do what they can to move  
2 heaven and earth to ensure that the services that are being  
3 provided to victims be provided in all of their traditional  
4 languages, and that funding be provided for that initiative  
5 as well?

6 **MS. LEANNE GARDINER:** I would agree that  
7 efforts need to be significant to make sure that that's the  
8 case. I hear your comments from earlier about not being  
9 concerned about how to make that happen, but that a  
10 recommendation -- because we -- I have the similar  
11 challenges, or we do, when we -- when we try to make those  
12 things happen, but --

13 **MR. DARRIN BLAINE:** M'hm.

14 **MS. LEANNE GARDINER:** -- if something is to  
15 be person centered, which I will always suggest is the best  
16 approach, someone's first language is the best way to  
17 support them --

18 **MR. DARRIN BLAINE:** Great.

19 **MS. LEANNE GARDINER:** -- in my experience.

20 **MR. DARRIN BLAINE:** Great. Bear with me for  
21 a moment.

22 This is a general question to everybody  
23 except Ms. Pottruff. It's one of those if anybody can  
24 answer this, go ahead and please -- please chime in, if you  
25 can. I'm not trying to be smart or sassy by asking the

1 question, I'm trying to find out if anybody has the answer  
2 to this.

3 We talk about all of the reports that have  
4 come out with regard to victim services and some people try  
5 and paint it really a nice picture about how victim  
6 services are well-handled and that kind of thing. Can  
7 anybody point me, or more importantly, the Commissioners,  
8 to a report where the families of the deceased and the  
9 victims were questioned about the effectiveness of the  
10 programs, the victim services programs?

11 In essence, has there been a systematic  
12 analysis of what the users are saying about the program?  
13 Because it's one thing for people who sit at a desk all day  
14 to look at statistics to say we're getting convictions,  
15 we're doing well, people are coming to court, the witnesses  
16 are coming to court. I'm thinking of a case in  
17 Saskatchewan called Colton Boushie, which everyone in this  
18 room should know about. That family is not very happy  
19 about how they've been supported, for example. I'm  
20 wondering if anybody on the panel can refer me or the  
21 commissioners to any reports, either in existence on the  
22 record or not, regarding this?

23 **MS. LEANNE GARDINER:** I'm not aware of one.

24 **MR. DARRIN BLAINE:** Thank you.

25 **UNIDENTIFIED SPEAKER:** No.

1                   **MR. DARRIN BLAINE:** Thank you. Good morning  
2 to the Commissioners. Those are my questions.

3                   **CHIEF COMMISSIONER MARION BULLER:** Thank  
4 you. The next party that I would like to invite up to  
5 question the witnesses is from the Regina Treaty Status  
6 Indian Services. And that party will have 23 minutes for  
7 questioning.

8                   **MS. ERICA BEAUDIN:** Good morning. This  
9 microphone is affecting my bifocals this morning. So my  
10 apologies. Or I guess they're called progressives.

11                   Good morning. Thank you to the Elders,  
12 drummers, and singers for their prayers and songs  
13 yesterday. As well, as a citizen of Treaty 4, I  
14 acknowledge the Treaty 7 -- I acknowledge the welcome to  
15 Treaty 7 and bring well-wishes from our Treaty area. My  
16 name is Erica Beaudin, and I am the executive director of  
17 the Regina Treaty Status Indian Services. My first  
18 question is to Mr. Phelps.

19                   **JOHN PHELPS, Previously Affirmed:**

20                   **CROSS-EXAMINATION BY MS. BEAUDIN:**

21                   **MS. ERICA BEAUDIN:** Mr. Phelps, thank you  
22 for your presentation yesterday. Regarding the Crown  
23 Witness Coordinator Program, it was developed in 1991 to  
24 bridge the cultural gap between the prosecutors and the  
25 victims and witnesses, correct?

1           **MR. JOHN PHELPS:** Yes, that was one of the  
2 primary purposes.

3           **MS. ERICA BEAUDIN:** So could we conclude  
4 this program was to fill a gap with witness -- with victims  
5 or witnesses to crime within the legal system in the three  
6 Territories?

7           **MR. JOHN PHELPS:** Yes.

8           **MS. ERICA BEAUDIN:** Have there been  
9 statistics captured to document the success of convictions  
10 for the Crown since the creation of the Crown Witness  
11 Coordinator Program?

12           **MR. JOHN PHELPS:** You may want -- what was  
13 the question again?

14           **MS. ERICA BEAUDIN:** So basically what I'm  
15 asking is pre-CWC and post-CWC, have there been statistics  
16 gathered to see if there has been more success for the  
17 Crown in terms of convictions with the CWC program?

18           **MR. JOHN PHELPS:** I'm not aware of actual  
19 statistics. There was a study done of the program in 2010  
20 by the Policy Centre for Victim Issues with the Department  
21 of Justice, and there were certainly a number of interviews  
22 done with various parties to the justice system, including  
23 the judiciary. And there was certainly anecdotal  
24 commentary that more offenders were being held to account  
25 as a result of the program, primarily due to the fact of an



1 increase in cooperation by victims in the system,  
2 particularly at the trial stage. But not statistics that  
3 I'm aware of.

4 **MS. ERICA BEAUDIN:** Okay. Do you feel the  
5 CRC -- and may I use that abbreviation -- has -- or the  
6 Crown Witness Coordinator Program -- do you feel that it's  
7 essential or integral to the success of increasing  
8 conviction rates due to the support given to the victims  
9 and witnesses?

10 **MR. JOHN PHELPS:** I do think it's -- it's  
11 extremely important. It -- it certainly does increase the  
12 success of the prosecution to have victims supported  
13 throughout the process, understanding the process and  
14 what's going on. And our experience is that there is an  
15 increased -- or there's certainly -- with knowledge,  
16 there's a willingness to participate. So I would agree  
17 with your comment on that basis, yes.

18 **MS. ERICA BEAUDIN:** So while the program was  
19 created to create greater advantage or understanding for  
20 the Indigenous peoples in the Territories, there has, in  
21 fact, been the other benefit of this education and  
22 knowledge creating better conviction rates for the Crown?

23 **MR. JOHN PHELPS:** That has been one of the  
24 results, yes.

25 **MS. ERICA BEAUDIN:** Okay. Thank you. The

1 Crown Witness Coordinator Program works with Victims  
2 Services and other community-based agencies to meet the  
3 non-legal needs of the victims or witnesses to crime,  
4 correct?

5 **MR. JOHN PHELPS:** We -- we collaborate with  
6 the other programs so that we have an understanding of  
7 what's available in each community, what those programs do,  
8 so that we can make the referrals, yes, so that they can  
9 provide that support.

10 **MS. ERICA BEAUDIN:** Okay. When working with  
11 the overall needs of the victims or witnesses to crime,  
12 we're talking spiritual, emotional, mental, physical, who  
13 is the primary case holder of the victim or witnesses to  
14 crimes file to ensure the needs of the client -- and I'm  
15 using "client" just to abbreviate continuously saying  
16 "victim or witnesses to crime" -- so the needs of the  
17 client, so to speak, are met?

18 **MR. JOHN PHELPS:** Sorry. I'm having a  
19 difficult time with your question. Our Crown Witness  
20 Coordinators are -- are primary contact and responsible for  
21 the sharing of information responsible for support through  
22 the prosecution service. Their particular needs are  
23 generally met through referrals. We don't provide  
24 counselling, and we don't provide the level of support that  
25 a lot of the victims would need, I believe, in the context

1 that you're asking the question. So that would be referred  
2 out to another organization such as the Territorial Victims  
3 Services Unit.

4 **MS. ERICA BEAUDIN:** Okay. So the CWC  
5 becomes one aspect of that client's case file in terms of  
6 meeting the needs of the victim or the survivors?

7 **MR. JOHN PHELPS:** That's correct.  
8 Regardless of which agency is involved with a particular  
9 victim -- and, for example, again I'll refer to the  
10 Territorial program -- they also provide court support for  
11 victims that -- that request it from them. But we would be  
12 part of that team, so we would work with them. We would  
13 defer to them. We would carry through with our  
14 responsibility, but we would support the -- the individuals  
15 that are providing care or support for the victim through  
16 the process, as well.

17 **MS. ERICA BEAUDIN:** So how is the overall  
18 well-being of the victim's identified needs met in terms of  
19 the CWC?

20 **MR. JOHN PHELPS:** It would depend on the  
21 needs. So as I mentioned yesterday, there is information  
22 gathering for the purpose of the prosecution -- the  
23 prosecutor, sorry, who could deal with some of the safety  
24 needs. And when I say that, I say it in the context of  
25 what's available to us as prosecutors, which is what we

1       could request a court to place on an individual for safety  
2       reasons.  And they also provide assistance for travel at  
3       times to make sure that an individual can make it to court.  
4       We're responsible for travel for civilian witnesses.  And  
5       they would make those arrangements for a victim.  If the  
6       victim requires support, often they would make those travel  
7       arrangements for the support, as well, and the requests, et  
8       cetera.  And they would meet with them and make sure that  
9       they're comfortable in the -- you know, in the courthouse,  
10      we'll often do a walk-through beforehand so that they  
11      understand where they're going, what the environment's  
12      going to be like.

13                   And that's sort of a -- you know,  
14      that -- that's the context of -- of our program.  It's not  
15      designed and I wouldn't put it forward to suggest that it  
16      meets all of the needs of victims.  We are open to working  
17      with any agency that's willing to provide support to a  
18      victim in a collaborative fashion so that we can meet our  
19      needs and our objectives, and they get the care that's  
20      required, as well.

21                   **MS. ERICA BEAUDIN:**  Okay.  Once the court  
22      process is complete, does the CWC program disengage from  
23      the victim?

24                   **MR. JOHN PHELPS:**  Yes.  It -- it does, yes.

25                   **MS. ERICA BEAUDIN:**  Okay.  What is done to

1 ensure from the CWC's perspective -- so once it's complete,  
2 what is done to ensure the victim's needs continue to be  
3 met once the legal process has been completed in -- and I  
4 guess what I'm talking about is if there's safety concerns  
5 after the legal process has been complete, do they stay  
6 within the program or do they go to the community-based  
7 organizations or the victims services and a new file is  
8 opened, if it becomes legal again?

9 **MR. JOHN PHELPS:** I believe the answer to  
10 your question is that they -- they go with the community-  
11 based organization. So if there -- there were safety needs  
12 at a sentencing, for example, those would be addressed in  
13 court. But once the sentencing is complete, and assuming  
14 there isn't an appeal of the case, then our responsibility  
15 -- or not responsibility, sorry, but our interaction with  
16 the victim does come to an end. There would be some follow-  
17 up meetings to ensure that they understand what took place,  
18 and that we answer any questions they may have with respect  
19 to the process and how it ultimately ended. But then,  
20 again, it would be a referral to other organizations that  
21 provide services to victims and support to victims,  
22 regardless of whether or not there's a court process under  
23 way.

24 **MS. ERICA BEAUDIN:** Okay. When working with  
25 victims or witness to violence, has there been a lens

1 created to meet the unique needs of Indigenous people in the  
2 territories?

3 **MR. JOHN PHELPS:** Sorry, a -- a lens?

4 **MS. ERICA BEAUDIN:** A lens or a -- a process,  
5 a method, in order to ensure that you're better meeting the  
6 needs, as opposed to coming in from a -- a westernized legal  
7 perspective?

8 **MR. JOHN PHELPS:** We recognize the importance  
9 of training, so that there's a better level of understanding  
10 of the variations -- cultural variations throughout the  
11 territory -- the Yukon and the territories in general.  
12 That's, you know, and -- and, I suppose, a -- there and --  
13 an understanding is developed throughout CWC's career on how  
14 to deal with particular victims from particular backgrounds,  
15 and that information is shared. As far as in -- an -- a  
16 lens or an identifiable policy, we don't have one, no.

17 **MS. ERICA BEAUDIN:** Okay. So could this be  
18 done to ensure cultural -- greater cultural appropriateness  
19 of the CWC? The -- what you had just spoken about. Could  
20 more be done?

21 **MR. JOHN PHELPS:** I -- I think that more can  
22 always be done, so I -- I -- you know, if there was a -- a  
23 look, specifically, at that, I don't see it as being a bad  
24 thing at all.

25 **MS. ERICA BEAUDIN:** Thank you. In terms of

1 the evaluation of the CWC program, has there been a tool  
2 created so the clients you work with have an authentic voice  
3 in whether their needs are met through this program?

4 **MR. JOHN PHELPS:** We -- we don't currently  
5 have a -- an exit tool to -- to assess that, no.

6 **MS. ERICA BEAUDIN:** Okay.

7 **MR. JOHN PHELPS:** We -- we find that it's --  
8 I think it would be a good idea. So I'm not too sure how we  
9 would go about it, and whether or not we would have  
10 successful compliance, but the -- the concept is a good one  
11 to measure whether or not they feel that the -- the service  
12 is positive.

13 **MS. ERICA BEAUDIN:** Okay. So what you do  
14 have for an evaluation of your program, is there any sort of  
15 cultural appropriate considerations that would be identified  
16 through your statistics, or how, like I said, you measure  
17 success of the program?

18 **MR. JOHN PHELPS:** Do we currently have?

19 **MS. ERICA BEAUDIN:** Yes.

20 **MR. JOHN PHELPS:** No, we don't. We don't ask  
21 or -- or require victims to self-identify for any purpose.  
22 And we don't provide any sort of measure with respect to  
23 what would be considered a success rate because our program  
24 might be successful, for example, of course, in a case of an  
25 acquittal if the necessary information and supports were in

1 place for a victim. So we don't -- we don't have a measure.  
2 I mean, we would have a measure of convictions versus  
3 acquittals, but we wouldn't, in that context, have a sense  
4 of whether or not it was a successful service regardless of  
5 the outcome.

6 **MS. ERICA BEAUDIN:** Okay. Moving on to the  
7 recruitment for CWC program. You discuss the difficult time  
8 recruiting and retaining Indigenous people, correct?

9 **MR. JOHN PHELPS:** All people, including  
10 Indigenous, yes.

11 **MS. ERICA BEAUDIN:** Okay. In order to be  
12 more client-based and friendly, is there opportunity for a  
13 different recruiting or hiring process to mentor or hire  
14 people who may not have the initial required education or  
15 skill level, but who may have the creditability within the  
16 communities and, therefore, bring a different skillset to  
17 the program?

18 **MR. JOHN PHELPS:** I believe there may be,  
19 yes. There may be a -- there may be a different approach  
20 that we haven't looked at, yes.

21 **MS. ERICA BEAUDIN:** Okay. You had mentioned  
22 that the determinants of success don't necessarily have  
23 clients' voices in there, but how can victims of violence,  
24 witnesses, families who have utilized this program have an  
25 impact in who is hired or who stays in that program? How is



1 their voices heard? How are their voices heard?

2 **MR. JOHN PHELPS:** In -- in -- with respect to  
3 the who is hired, they -- they don't have a voice at this  
4 point in time. There's -- I'm not too sure I understand the  
5 question.

6 **MS. ERICA BEAUDIN:** I'm looking at  
7 appropriateness of staffing within there, in order to  
8 provide quality and relevant services to the Indigenous  
9 people who utilize the CWC program.

10 **MR. JOHN PHELPS:** There's not a formal avenue  
11 for -- for feedback in that regard. If that's -- if that's  
12 the question. I -- you know, I -- we're -- we're quite  
13 proud of the program that we have, and -- and the service we  
14 offer because we find it extremely important that, in the  
15 context of the work we do, we make sure we do whatever we  
16 can for -- for the victims throughout the process, within  
17 the confines of us being a prosecution service. And we  
18 think we do that very well. With respect to Indigenous or  
19 non-Indigenous workers, we really haven't had any method of  
20 assessing whether or not it would improve or decline as a  
21 result of the turnover.

22 At times, we've had the majority of  
23 Indigenous court workers. Right now, we have a minority.  
24 The service overall, though, we think is positive and  
25 important. We talked about the recruitment methods. I -- I

1 don't disagree that we could think further outside of the  
2 box for the -- for the recruitment, but we also have to keep  
3 in mind that when we lose a Crown Witness Coordinator, or  
4 times two, which would be 40 percent of our -- our  
5 population of Crown Witness Coordinators, there's an urgency  
6 to fill those positions. And we're reacting -- we're  
7 reacting as quickly as we can to make sure that we don't  
8 have a large gap in service.

9 So we would have to think about that long-  
10 term, and certainly give consideration to what we hear  
11 today, and what recommendations may be to figure out how we  
12 do that in a timely fashion.

13 **MS. ERICA BEAUDIN:** Thank you, Mr. Phelps.  
14 My next questions are for Ms. Gardiner.

15 **LEANNE GARDINER, Previously Affirmed:**

16 **CROSS-EXAMINATION BY MS. BEAUDIN:**

17 **MS. BEAUDIN:** In the Northwest Territories, a  
18 community-based model is utilized for Victims Services,  
19 correct?

20 **MS. LEANNE GARDINER:** Yes, Ma'am.

21 **MS. ERICA BEAUDIN:** Was there ever a police-  
22 based model in the territories?

23 **MS. LEANNE GARDINER:** Not that I'm aware of.  
24 My awareness goes back as far as about 2004. But not -- and  
25 not in my -- the operation, like, my job every day. It's

1 not something that I'm aware of was in place.

2 **MS. ERICA BEAUDIN:** Okay. Yesterday, you  
3 stated that victims can self-refer, and they don't  
4 necessarily have to be part of an active legal system,  
5 correct?

6 **MS. LEANNE GARDINER:** Yes.

7 **MS. ERICA BEAUDIN:** Is the agency who holds  
8 the Victims Services program the primary case worker? And  
9 are they also responsible for assisting the CWC with  
10 navigating any legal process that occurs?

11 **MS. LEANNE GARDINER:** Sorry. When you refer  
12 to primary case worker for a victim, as far as the services  
13 that they've come to look for assistance with, then I would  
14 say, yes. They're -- they could also be involved with other  
15 programs of course, with case management or other services.  
16 But as far as that aspect, their -- their -- would be the  
17 main contact person for the services they're looking for.

18 If they're involved with a court process as  
19 well, then, yes, they'll often work together with the local  
20 Crown Witness Coordinators to address victims needs. So  
21 it's -- it wouldn't be strange. I would -- I'd submit that  
22 a witness, or victim could be in court and have both of  
23 those supports in the courtroom at the same time.

24 **MS. ERICA BEAUDIN:** Okay. So once the legal  
25 issues are complete, if there are, does the victim services

1 worker still keep an open file and assist the client until  
2 they don't require services?

3 **MS. LEANNE GARDINER:** Yes. There are, at  
4 times, victim services providers will be in regular contact  
5 with someone, you know, for -- for years, so it's not  
6 contingent on what's happening in the court system or not.

7 **MS. ERICA BEAUDIN:** Okay, thank you. What  
8 is the evaluation tool used to determine statistics or  
9 victim satisfaction with the victim services agencies?

10 **MS. LEANNE GARDINER:** At this time, we  
11 don't -- we don't have an evaluation tool that would  
12 determine victim satisfaction. We have annual reporting  
13 that victim services providers complete to indicate which  
14 services they've been providing, what types of offences the  
15 victims have been victims of, so that we can kind of see  
16 what -- we can monitor and see what kinds of services are  
17 being demanded because that, to me, and to my organization,  
18 provides some valuable information about people's needs.  
19 It also provides some information about what other services  
20 they're being referred to, because it also paints a picture  
21 of the people who programs are serving.

22 But as far as an evaluation tool and a  
23 formal feedback from the victims being provided the service  
24 about efficacy, currently that does not exist. There is  
25 a -- there is a complaints process where they can come to

1 the department and let us know, and it happens on occasion  
2 that if things have not gone well and we -- we find ways to  
3 address that, but far as formal evaluation, there is not at  
4 this time.

5 **MS. ERICA BEAUDIN:** Okay, thank you. I'm  
6 cognizant that I have three minutes left, so  
7 Ms. Giff-MacKinnon, I'm going to bypass the questions I had  
8 for you, if you don't mind, but thank you for your  
9 presentation yesterday, it was greatly appreciated.

10 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

11 **CROSS-EXAMINATION BY MS. BEAUDIN:**

12 **MS. ERICA BEAUDIN:** Ms. Pottruff, thank you  
13 for your presentation yesterday. You discussed the  
14 provincial partnership committee on missing persons, you  
15 mentioned the Amnesty International report, would you also  
16 say the missing and murdered Indigenous women in  
17 Saskatchewan that went missing and/or murdered in 2004, '05  
18 was also an impetus?

19 **MS. BETTY ANN POTTRUFF:** Yes.

20 **MS. ERICA BEAUDIN:** Today I name Tamra  
21 Keepness is still missing, Daleen Muskego Bosse, Amber  
22 Redman and Melanie Geddes, who went missing and later found  
23 murdered. I say their name for remembrance today.

24 Would you also say from your recollection,  
25 was it additional lobbying or advocacy by the Indigenous

1 Women's Leadership that created pressure for the Province  
2 of Saskatchewan to respond to missing persons?

3 **MS. BETTY ANN POTTRUFF:** Yes, I think that's  
4 fair.

5 **MS. ERICA BEAUDIN:** You believe the province  
6 had many lessons to learn from the Indigenous people of  
7 Saskatchewan on how to work with families of missing and  
8 murdered people?

9 **MS. BETTY ANN POTTRUFF:** Yes, clearly, and  
10 we -- we did have significant support from the Indigenous  
11 community and organizations to learn those lessons.

12 **MS. ERICA BEAUDIN:** Okay, thank you. Did  
13 the province ever have a victim services model that wasn't  
14 police based, to your knowledge?

15 **[Registrar's note: The following response by Ms. Betty Ann**  
16 **Pottruff was subsequently corrected. See the "Corrigendum"**  
17 **on page II of this transcript.]**

18 **MS. BETTY ANN POTTRUFF:** There is a  
19 community-based model for the north, North Sask Victim  
20 Services is a community-based model, but the other -- the  
21 other services are police-based.

22 **MS. ERICA BEAUDIN:** What would be required  
23 for the Province of Saskatchewan, especially the municipal  
24 police services, to change their model from police or  
25 systems-based to community-based?

1           **MS. BETTY ANN POTTRUFF:** I think one of the  
2 things that could be looked at is the model of North Sask  
3 Victim Services, which is community board members as well  
4 as some police members on the board that oversees the  
5 service.

6           The services initially were, in my  
7 recollection, created as police-based models because  
8 there -- this was a new service, and we needed not only to  
9 find a way to bridge to victims and to support them, but  
10 also to have the police become comfortable with this sort  
11 of service because it was new, and -- and so it may be that  
12 over time the service is accepted and so that the model  
13 being placed in the police service may not be as important  
14 as it was at the beginning to make sure of -- at that time  
15 we wanted to make sure it had credibility with the police  
16 service, so it's certainly something that could be looked  
17 at.

18           **MS. ERICA BEAUDIN:** Okay. How did the  
19 families of the missing and murdered people contribute to  
20 the provincial partnership? And I'm going to be really  
21 fast here, Ms. Pottruff. How can the PPMC -- because we  
22 have 20 seconds -- prioritize families' voices in the work  
23 of the PPMC -- PPCMP, and more specifically, act as voices  
24 for change with even the agencies within the provincial  
25 partnership?

1 MS. BETTY ANN POTTRUFF: I think we've  
2 certainly talked about ways to -- to have better links with  
3 agencies and with families, and whether that could be  
4 rotating regional meetings, each year taking a different  
5 region and trying to have a more intensive conversation  
6 there, or whether it's some other process. I think we're  
7 open to talking about how do we -- how do we maintain the  
8 links and the connections and make them stronger?

9 MS. ERICA BEAUDIN: Thank you. My time is  
10 up right now, so as you mentioned, you will be retiring  
11 from provincial public service next month, I just want to  
12 personally, and on behalf of my organization, thank you for  
13 your years of quality compassionate and empathetic service  
14 to the vulnerable people of Saskatchewan. Thank you all.

15 (APPLAUSE)

16 MS. MEREDITH PORTER: Thank you. The next  
17 party that I would like to invite up to question the  
18 witnesses is from the Aboriginal Women's Action Network,  
19 and the Aboriginal Women's Action Network will have 23  
20 minutes for questions.

21 JOHN PHELPS, LEANNE GARDINER, NAOMI GIFF-MACKINNON, BETTY  
22 ANN POTTRUFF, Previously Affirmed:

23 CROSS-EXAMINATION BY MS. BLANEY:

24 MS. FAY BLANEY: Good morning. My first  
25 question will, I'm sure, reveal where I'm coming from. I'm



1 wondering if you've thought of utilizing more positive  
2 terminology rather than referring to the people that you  
3 serve as "victims"? And that's for each of you that have  
4 victim services programs.

5 **MS. LEANNE GARDINER:** It's not something  
6 that I'm aware of in general that -- as something that  
7 we've considered.

8 **MS. FAY BLANEY:** And, John?

9 **MR. JOHN PHELPS:** To be honest with you, I  
10 can't speak for the organization as a whole, but I haven't  
11 given consideration to that. Thank you for your -- your  
12 question.

13 **MS. NAOMI GIFF-MACKINNON:** If it's okay if I  
14 provide an answer to that important question? There is a  
15 real movement to recognizing the limitations of the term  
16 "victim of crime," and there is an increased sensitivity to  
17 understanding the journey that people go through when  
18 they've been harmed and -- and how they survive those  
19 experiences, so there's a real emphasis on survival and  
20 survivors of crime.

21 **MS. BETTY ANN POTTRUFF:** Thank you. If I  
22 can just respond too for a moment?

23 **UNIDENTIFIED SPEAKER:** I'm trying to see  
24 where the voice is coming from.

25 **MS. BETTY ANN POTTRUFF:** Sorry, I'm over

1 here. I appreciate what Naomi has said because I think  
2 that's important. I also want to recognize that  
3 Saskatchewan recently implemented a legal advice for  
4 survivors of violence program, so we're trying to move  
5 in -- somewhat in that direction.

6 **MS. FAY BLANEY:** Okay. And my next question  
7 has to do with what I spoke about the last time around.  
8 I'm just wondering if there was any consideration of  
9 drawing on the work of the consciousness raising feminist  
10 antiviolence women's' groups for this type of work? And  
11 what I'm getting at there is this concept of service  
12 delivery, particularly in light of the fact that Indigenous  
13 peoples have been colonized, women's groups still struggle  
14 with patriarchy, and we still struggle with poverty, we're  
15 a very oppressed group, and so I'm just wondering if there  
16 was any consideration of drawing on groups that would do  
17 consciousness raising that would recognize this as a  
18 catalytic moment for change to recognize those oppressive  
19 forces that are impacting these groups that you call  
20 victims? And that's for everybody.

21 **MS. LEANNE GARDINER:** I will -- thank you for  
22 your question. I would say that the model we have includes  
23 some of those groups as service providers already, so I  
24 would say that the -- if there's a formal effort on my part,  
25 for example, to inject that particular movement into, I

1 would say no. But it's not necessarily my -- my role  
2 either, we -- because it's a community-driven program, but  
3 some of our organizations are women's groups that are  
4 delivering the service, so I think that they're -- the  
5 programs are being shaped by those -- those elements already  
6 and just in the nature of having it be delivered by  
7 community organizations.

8 **MS. FAY BLANEY:** Community-driven? Are they  
9 Indigenous organizations behind your program?

10 **MS. LEANNE GARDINER:** Yes. Some of -- the  
11 majority of the organizations delivering victim services are  
12 Indigenous governments or hamlet councils.

13 **MS. FAY BLANEY:** And did you speak with the  
14 Native Women's Association of Canada at all?

15 **MS. LEANNE GARDINER:** I have not spoken with  
16 the Native Women's Association of Canada, but our provider  
17 in our capital city in Yellowknife is the Native Women's  
18 Association of the Northwest Territories. One of our  
19 longest-running victim services providers has been doing  
20 that work in Yellowknife for 20 years, so we -- I speak with  
21 them on a regular basis. They're a valuable partner of  
22 ours.

23 **MS. FAY BLANEY:** I struggle with the concept  
24 of victim services and women's groups. They just seem  
25 somehow to clash.

1                   **MS. LEANNE GARDINER:** I share that -- I  
2 share that sentiment with you. My experience with the  
3 people being served by these programs is one of resilience  
4 and -- and when we talk about vulnerable peoples, I -- I  
5 have the same -- if there was a way we could refer to -- to  
6 people we're -- we're helping in a way that recognizes the  
7 moments of vulnerability but some overall resilience, I -- I  
8 would be absolutely supportive of changing the -- the  
9 approach.

10                   **MS. FAY BLANEY:** And would you make that  
11 recommendation to change the approach?

12                   **MS. LEANNE GARDINER:** I -- I would lend my  
13 support to that.

14                   **MS. FAY BLANEY:** Okay. Good to know.

15                   **MS. LEANNE GARDINER:** Thank you.

16                   **MS. FAY BLANEY:** And I'm -- I'm not familiar  
17 with everyone's names over there, but if I can hear from  
18 you, I would really appreciate that.

19                   **MS. NAOMI GIFF-MACKINNON:** Just to build on  
20 what Ms. Gardiner mentioned in terms of the partnerships and  
21 the question that you asked in terms of the nature of those  
22 partnerships, and -- and the transition from -- moving from  
23 a service that's delivered to a service that's codesigned,  
24 and I agree with the -- the discomfort that you raised in  
25 terms of some of the -- the ways we are thinking about

1 victim services. And -- and victim services networks across  
2 the country are looking at that.

3 In fact, this week, we -- that -- we're  
4 meeting this week. It is National Victims and Survivors of  
5 Crime Week, so we're having those discussions across the  
6 country. In terms of the -- the Family Information Liaison  
7 Units that have been set up, as I mentioned yesterday, many  
8 of them have been designed with input from many Indigenous  
9 women's organizations across the country, and they have co-  
10 designed the program and they're co-delivering it for  
11 families as well. So I agree that that's an important way  
12 to move forward.

13 **MS. FAY BLANEY:** So with BC, which is where  
14 I'm from, I'm just wondering if the model suits -- I -- and  
15 I had a question here relating to the rationale of why you  
16 would use the language of "family" within Family Information  
17 Liaison Unit. Because in BC, where, I think, this Inquiry  
18 began, in spite of the rhetoric going on now about it being  
19 a families-first. It did start in BC and it started not  
20 with families but in the *Pickton Massacre*. It was women  
21 that were being prostituted, and so I'm just wondering if  
22 this one-size-fits-all suits the needs of women in urban  
23 centres like the Downtown Eastside of Vancouver.

24 **MS. NAOMI GIFF-MACKINNON:** So each -- in  
25 terms of the -- the -- the Family Information Liaison Units,

1 they do look different in every province and territory, so  
2 it -- it was important to not have a one-size-fits-all. I  
3 would note as well the -- the -- in addition to the -- the  
4 funding for Family Information Liaison Units, at the same  
5 time, funding was made available to support community  
6 organizations to provide dedicated supports for families at  
7 the community level and for victims and survivors as well,  
8 so that was a companion investment to the -- the more  
9 formalized unit to work with families to get information.  
10 Though there was an -- an attempt to -- to be a -- a bit  
11 more comprehensive in terms of the partnerships and the  
12 types of needs that families and Indigenous victims and  
13 survivors of crime have.

14 **MS. FAY BLANEY:** I guess the concern I have  
15 with the term or the concept of "family" is that it is a  
16 patriarchal construct, and within the *Indian Act*, it's a  
17 patriarchal construct and it has caused huge damage in our  
18 community. So I'm wondering why you would use the language  
19 of "family".

20 **MS. NAOMI GIFF-MACKINNON:** When we -- when we  
21 developed the name "Family Information Liaison Unit" our  
22 thinking was to be inclusive to the needs of family members  
23 who have outstanding information about their missing or  
24 murdered loved ones, so it was about identifying the -- the  
25 group of people who had outstanding needs and -- and were

1 seeking some assistance in terms of getting the information  
2 about their loved one.

3 **MS. FAY BLANEY:** M'hm. And I -- I don't mean  
4 any disrespect to families. I know that the families have  
5 suffered a great deal across this country and they have  
6 mobilized. But the fact remains that people in the Downtown  
7 Eastside of Vancouver and other urban centres like that do  
8 not neatly fit into that one-size-fits-all of "family."  
9 That's -- that's the case I'm making.

10 **MS. NAOMI GIFF-MACKINNON:** Is it okay -- I  
11 understand what you're saying and I -- I see what you're  
12 saying now. So I -- I would mention that the Family  
13 Information Liaison Units across the country would be open  
14 to all those different types of families that are developed,  
15 very broad definition of "family" -- loved ones and friends  
16 would also be included.

17 **MS. FAY BLANEY:** M'hm.

18 **MS. NAOMI GIFF-MACKINNON:** For a network.

19 **MS. FAY BLANEY:** Well, I have consistently  
20 maintained that this Inquiry needs to be a feminist-first  
21 agenda rather than a families-first, so I'll leave that one  
22 alone for now. And I didn't hear from the others on my  
23 question about the importance of coming at it from a  
24 consciousness-raising perspective, but I will -- I'm okay  
25 with leaving that. I am wondering, since we're talking

1 about women and girls in this Inquiry, I'm wondering if your  
2 programs have benefited women and girls and if you do  
3 disaggregate those statistics.

4 MS. LEANNE GARDINER: Our -- one of the  
5 exhibits we looked at yesterday and -- will show that the  
6 majority of people served by our local programs are  
7 absolutely women and more often Indigenous women. So as far  
8 as who we're serving, those -- those programs are absolutely  
9 serving --

10 MS. FAY BLANEY: And do you have hard numbers  
11 for that?

12 MS. LEANNE GARDINER: There are numbers for  
13 the '16, '17 fiscal year in the report that was -- do you  
14 want me to give you the name of --

15 MS. FAY BLANEY: Oh, no, it's okay. I'm  
16 just --

17 MS. LEANNE GARDINER: Okay. It should be in  
18 the materials you received. It's a 2016-17 program report  
19 that we provide to our -- our partners at the Federal  
20 government, and in the back, you'll see some statistics  
21 around who the program's serving, like gender and ethnic  
22 background.

23 MS. FAY BLANEY: Okay. And John?

24 MR. JOHN PHELPS: As far as statistics go, we  
25 don't keep statistics with respect to the victims that we



1 support. I can say that we deal with, as I mentioned  
2 yesterday, a significant amount of violence. Within that  
3 violence, there's a significant amount of intimate partner  
4 violence, and the vast majority of individuals that we're  
5 supporting are women in that context. We have a lot of  
6 children that are victimized within the territories. In the  
7 Yukon Territory, we are part of a multi-partner  
8 collaboration for the support of children. Our Crown  
9 Witness Coordinators participate in that program and we  
10 provide -- we do provide support at a significant volume, I  
11 suppose, to -- to young women, girls, as well, but we don't  
12 have statistics on that. It's -- it's not something that we  
13 keep.

14 **MS. BETTY ANN POTTRUFF:** In Saskatchewan, in  
15 the paper that was provided to the Commission yesterday,  
16 page 14 through about 17, talks about the various victim  
17 programs that are provided by the Province of Saskatchewan,  
18 and -- and for most of them, there are some numbers provided  
19 in terms of number of clients served. The one that -- I'm  
20 not sure if this answers your question, but the one that  
21 would be relevant to the question is the numbers of  
22 transition house and sexual assault service persons served  
23 and -- and it's about -- we had -- about 80 percent of those  
24 served are women and children, and -- and, you know, many of  
25 them, most of them Indigenous, 80 percent Indigenous served

1 by those.

2 **MS. NAOMI GIFF-MACKINNON:** That's a really  
3 good question in terms of -- and some of the discussion  
4 that we've had in terms of data collection and reflecting  
5 on the impact of programming on the users of that service,  
6 how is it affecting survivors and family members. So in  
7 terms of learning from that and learning about the  
8 importance of that as we move forward, the FILU initiative,  
9 we worked with all the partners across the country to  
10 develop some consistent reporting tools, which would  
11 include seeking feedback in an appropriate sensitive way,  
12 which would vary across the country, from family members  
13 who used the FILU services, to get a sense of how the  
14 programs are meeting their objectives, and we will have  
15 some data in terms of the -- the numbers, the quantitative  
16 aspect of an evaluation and a performance measurement as  
17 well as some qualitative feedback about the services that  
18 have been provided.

19 **MS. FAY BLANEY:** I'm at my final question  
20 now. Since we're here trying to investigate the question  
21 of missing and murdered Indigenous women and girls,  
22 primarily what I'm interested in, are their lives any safer  
23 as a result of what it is that you've done? Are they, for  
24 instance, moving beyond community pressures to not report?  
25 That's a dominant aspect of my community, that women are

1       pressured not to report, so do you -- is there any  
2       indication that women are moving beyond that? Has there  
3       been any noticeable increase in reporting of male violence  
4       against women and children, whether that be sexual or  
5       physical assault? What difference is your program making  
6       to ensure the safety of women and girls that are alive  
7       right now?

8                   **MS. BETTY ANN POTTRUFF:** I'm not sure that I  
9       can give you a definitive answer on any of that. What  
10      I've -- what we've heard from agencies dealing with sexual  
11      assault, for example, is that they have seen an increase in  
12      people calling for their service and their support, and  
13      there's -- there's an impression that, in fact, the number  
14      of reports are increasing to the police as well as -- as to  
15      other resources. And I think -- I think it's -- it's  
16      really hard then to put a number on that.

17                   We know that the -- you know, less -- less  
18      than one in -- one in ten or three in ten of either  
19      domestic or sexual assaults are reported, and, as I say,  
20      there's -- there's an impression that that's increasing,  
21      but it's always difficult to -- to know whether, in fact,  
22      those statistics are -- are relevant to the nature of the  
23      violence, because the more serious the violence, the more  
24      likely it is to be reported. And so there's a lot of  
25      things to pick apart to try to figure out whether, in fact,

1 we have a good answer to that.

2 I do know that with programs like the legal  
3 advice for victims, survivors of sexual violence, we're  
4 hoping the information we make available to people free  
5 allows them to make a decision about reporting or not  
6 and -- and gives some control back to the victim, so the  
7 victim will perhaps have a little more sense that they can  
8 take advantage of the options that the justice system  
9 offers to them.

10 **MS. LEANNE GARDINER:** Thank you for your  
11 question. I -- I agree with Betty Ann when she says that  
12 even if you see changes in -- in, you know, reported  
13 statistics, it's hard to take those apart to determine  
14 what's impacting where. I would -- I would see victim  
15 services provision, like our program, as -- as an attempt  
16 to reduce harm, to mitigate risk. Whether that's actually  
17 resulting in a -- you know, a longer-term impact on  
18 victimization or harm, violence, I don't -- I don't, and  
19 I'm not likely to have statistics related to our program  
20 that show that that's happening.

21 Do I think that the support that people are  
22 getting, and women in particular are getting, is in an  
23 anecdotal way that I can't show -- like, I don't have a way  
24 to show that in data. Do -- you know, emergency phones  
25 that are being provided are being used, safety planning is

1 helping with -- with women who have asked for the support,  
2 they're using that, they're using those plans, they're  
3 putting them in place, so I think that if we weren't there,  
4 that wouldn't be happening. So whether it's reducing the  
5 violence, I'm not -- I'm not convinced that a harm  
6 reduction approach is necessarily going -- you know,  
7 serving people who are victims of crime is going to impact  
8 that long term, but I do think that women are getting some  
9 supports that they need from people that really care about  
10 their safety in general. But do I have a rigorous  
11 evaluation method that shows that? I don't.

12 **MR. JOHN PHELPS:** Sorry, I don't -- we don't  
13 have statistics that would assist in answering that  
14 question on whether or not a positive experience through  
15 direction with our program is positive as an experience can  
16 be in the context of those cases would increase further  
17 reporting. Sorry about that.

18 **MS. FAY BLANEY:** And you?

19 **MS. NAOMI GIFF-MACKINNON:** I would agree  
20 with what was said in terms of thinking about the role of  
21 victim services has been after someone who has been harmed  
22 and trying to work within that -- that experience. So  
23 victim services comes in at a certain point in someone's  
24 experience of harm and -- and they work -- and that's where  
25 they start working from, so there are some challenges

1 there, as Ms. Pottruff and Ms. Gardiner noted.

2 MS. FAY BLANEY: Can you rephrase that? I  
3 didn't quite get what you were saying.

4 MS. NAOMI GIFF-MACKINNON: I was thinking  
5 about victim services as coming in at a certain point in  
6 someone's experience of harm, which is after they have been  
7 harmed, so there are -- there are challenges within that  
8 victim services framework in terms of their role in terms  
9 of preventing crime. As Ms. Gardiner mentioned, there are  
10 opportunities to work with -- with them in terms of safety  
11 planning and identifying other methods to keep safe and the  
12 supports that they need to move -- to move in that way, but  
13 they come to victim services because they have been harmed,  
14 so there's -- so that's where they're starting from.

15 MS. FAY BLANEY: M'hm. Okay, so it's  
16 pointless for me to ask any prevention questions?

17 MS. NAOMI GIFF-MACKINNON: No, I don't -- I  
18 don't think so.

19 MS. FAY BLANEY: Okay.

20 MS. NAOMI GIFF-MACKINNON: I think that  
21 it's -- just that it's -- there are some limitations within  
22 victim services.

23 MS. FAY BLANEY: Right. Okay. Thank you  
24 very much.

25 MS. MEREDITH PORTER: Excuse me, just --

1                   **MS. FAY BLANEY:** Yes.

2                   **MS. MEREDITH PORTER:** Just for the record,  
3 although a representative from the Aboriginal Women's  
4 Action Network may not need an introduction, for the  
5 record, could we have your name, please?

6                   **MS. FAY BLANEY:** Fay Blaney.

7                   **MS. MEREDITH PORTER:** Thank you very much.

8                                   **(APPLAUSE)**

9                   **MS. MEREDITH PORTER:** Thank you. The next  
10 party that I would like to invite up to question the  
11 witnesses is from the Assembly of First Nations, and they  
12 will have 23 minutes for their questions.

13                   **MS. JULIE MCGREGOR:** Good morning,  
14 Commissioners and -- is this on? Good morning,  
15 Commissioners and panel members. My name is Julie  
16 McGregor, I'm an Algonquin from Kitigan Zibi Anishinabeg,  
17 and I represent the Assembly of First Nations.

18                   I would like to begin by acknowledging the  
19 drum and the Elder's -- excuse me, and the Elder's prayer,  
20 and I would like to thank the Treaty 7 people for welcoming  
21 me on to their territory. In terms of questioning for the  
22 panel today, I'd like to begin with directing my questions  
23 to Mr. Phelps, and then to Ms. Giff-MacKinnon. Good  
24 morning, Mr. Phelps.

25                   **MR. JOHN PHELPS:** Good morning.

1       **JOHN PHELPS, Previously Affirmed:**

2       **CROSS-EXAMINATION BY MS. MCGREGOR:**

3                   **MS. JULIE MCGREGOR:** I'm going to start by  
4 asking my -- I'm going to start asking my questions to you  
5 about the Crown Witness Coordinator Program. And then I'm  
6 going to ask a few questions about the PPSC Deskbook on  
7 "Victims of Crime", which I believe, is Exhibit number 4.

8                   **MR. JOHN PHELPS:** Okay.

9                   **MS. JULIE MCGREGOR:** To begin with, on the  
10 Crown Witness Program, which -- which we're referring to as  
11 the CWC Program, you've given in -- a lot of evidence in  
12 terms of the program this morning and yesterday, and I don't  
13 want to go over what's already been said, but I do want to  
14 ask a few questions about it. And, specifically, on the  
15 role of the CWC person and their ability to provide  
16 appropriate and timely referrals to support programs. So  
17 are there any support programs that the CWC's make referrals  
18 to, which are culturally appropriate and specific to the  
19 First Nations that you serve in your area?

20                   **MR. JOHN PHELPS:** The -- the Crown Witness  
21 Coordinator is responsible to have the requisite knowledge  
22 for the communities that they service. And in the Yukon,  
23 pretty much every community, with the exception of one that  
24 we go to, does represent a separate First Nation within the  
25 territory and they're responsible to have an understanding



1 of what resources are in place with respect to each First  
2 Nation, what counselling is available within each First  
3 Nation, and what services the First Nation, if they're not  
4 providing themselves, are -- are supporting in the  
5 community. And they make referrals on a regular basis to  
6 those programs to make sure that victims understand that  
7 they're available and can take advantage of them. It's not  
8 always the case that there is anything that's culturally  
9 relevant in the community, but if there is, then they would  
10 make the referral to the program.

11 **MS. JULIE MCGREGOR:** And these services, you  
12 mentioned First Nations operated services, is there a number  
13 of First Nations operated support services in your area that  
14 you cover?

15 **MR. JOHN PHELPS:** It -- it truly does vary  
16 from First Nation to First Nation as to what it is they're  
17 offering, and at what stage they are at drawing down the  
18 powers under their self-governing agreements. Most of the  
19 First Nations have some form of an active justice  
20 department, and an active social department. At least one  
21 of the First Nations has a victim service -- I call it a  
22 department, but a -- a victim service within their First  
23 Nation. So it really depends from First Nation to First  
24 Nation if they have in-house counselling to assist their  
25 members. Then we would make the referral that -- I don't

1 have the statistics, it -- it's not universal, that's for  
2 sure. And it's not the same from First Nation to First  
3 Nation necessarily.

4 **MS. JULIE MCGREGOR:** When you have a First  
5 Nation person who's a victim of crime, how does the CWC  
6 treat the victim differently as opposed to a non-Indigenous  
7 victim of crime?

8 **MR. JOHN PHELPS:** I don't know that I can  
9 answer that question. I -- I would suggest that they  
10 approach each individual the same way, and assess the needs  
11 of the individual, and they modify their approach on a -- on  
12 a case-by-case basis by the individual, but there's not a --  
13 a set distinction between the approach.

14 **MS. JULIE MCGREGOR:** You stated in your  
15 evidence yesterday that the CWC employees -- employs about  
16 21 individuals across the territories.

17 **MR. JOHN PHELPS:** Yes.

18 **MS. JULIE MCGREGOR:** But there are only maybe  
19 one in Northwest Territories and one in the Yukon who are  
20 Indigenous staff; is that correct?

21 **MR. JOHN PHELPS:** Currently, yes. That --  
22 that does fluctuate, but currently that is correct.

23 **MS. JULIE MCGREGOR:** Given the Indigenous  
24 population in the north and the types of communities that  
25 you serve, do you think that that's an acceptable ratio?

1           **MR. JOHN PHELPS:** I -- I'm not too sure what  
2           an acceptable ratio is. It certainly doesn't reflect the  
3           victimology within the territories. We -- we certainly do,  
4           regardless of the population. The population, for example,  
5           is 25 percent in the Yukon Territory, Indigenous -- the  
6           -- the representation within the justice system on the  
7           accused side is in the range of 80 percent and I would  
8           suggest the victimology is -- is up in that range as well.  
9           So do we -- do we have representation that reflects the  
10          victimology? No, we don't.

11          **MS. JULIE MCGREGOR:** Thank you. Now, the  
12          parties previous to me have brought up the issue of  
13          recruiting more people into -- into the CWC. And you've  
14          mentioned in your evidence that it is a challenge. And that  
15          a lot of the times it's very reactionary when you lose staff  
16          because you don't have the time to put in a process that  
17          would see more representation of First Nations CWC  
18          individuals, workers. Has the PPSC ever considered  
19          partnering with First Nations to develop a training program  
20          for CWC, which would ensure culturally appropriate services  
21          for First Nations -- the First Nations population? That  
22          would be, sort of, a proactive rather than a reactive way of  
23          recruiting.

24          **MR. JOHN PHELPS:** Not that I'm aware of that  
25          we have done it. I -- I would suggest that it's a good

1       idea. In the Yukon, for example, the possibility of --  
2       for -- for example, partnering with the Council of Yukon  
3       First Nations would be something that could assist, and  
4       would be worthwhile. Again, so there are -- there are  
5       options available, I believe, in all three territories. Not  
6       that it's necessary in Nunavut at this time, but in  
7       Northwest Territories and Yukon, to change the way we do  
8       things, so that we're not reacting in the fashion that I --  
9       I spoke of yesterday and referred to today, or earlier  
10      today, whichever it was.

11                   **MS. JULIE MCGREGOR:** As a Chief Federal  
12      Prosecutor, what do you see as barriers to adopting a more  
13      inclusive approach and proactive approach?

14                   **MR. JOHN PHELPS:** I don't see any barriers to  
15      receiving recommendations, or even going back after having  
16      this dialogue today, and reconsidering the way we do things.  
17      I have an ongoing and continuous collaborative working  
18      relationship with the Council of Yukon First Nations on  
19      other projects. There's no reason why I could not have a  
20      dialogue about this and consider a -- an approach that would  
21      be beneficial to the goal of increasing the number of Crown  
22      Witness Coordinators. We could reconsider our approach to  
23      the Yukon College, for example, and consider presentations  
24      that might serve to attract applicants to our program. And  
25      those are issues that we could certainly consider, and we

1 could look at doing differently.

2 **MS. JULIE MCGREGOR:** Thank you. You  
3 mentioned in your evidence yesterday that CWCs receive  
4 cultural awareness training; is that correct?

5 **MR. JOHN PHELPS:** That's correct. Yes.

6 **MS. JULIE MCGREGOR:** Have you, yourself, as a  
7 Chief Prosecutor -- Federal Prosecutor, sorry, been required  
8 to take cultural awareness training?

9 **MR. JOHN PHELPS:** I have taken the -- the  
10 training, and I have implemented it as mandatory for all  
11 employees within my region. It was not required to take it  
12 myself, no.

13 **MS. JULIE MCGREGOR:** Do you think that all  
14 Federal Prosecutors should take cultural awareness training,  
15 especially if they're dealing with an Indigenous population?

16 **MR. JOHN PHELPS:** I -- I do. Absolutely.  
17 Yes, I support that.

18 **MS. JULIE MCGREGOR:** The cultural awareness  
19 training that CWCs take, is it provided through any of the  
20 First Nations in the area, or partnered with them, or in  
21 conjunction with them?

22 **MR. JOHN PHELPS:** The program that we've made  
23 mandatory was developed between the Northern Institute of  
24 Social Justice, which is with the Yukon College facility,  
25 and in partnership with the Council of Yukon First Nations,

1 so it does have involvement of the First Nations. I did  
2 speak yesterday of the program that was available on the  
3 Tr'ondëk Hwëch'in First Nation. That's their specific  
4 program, specific to their First Nation, but the one that's  
5 mandatory was developed in partnership.

6 **MS. JULIE MCGREGOR:** Thank you. I'd like to  
7 move on to asking you some questions about your Deskbook.  
8 The Victims of Crime Deskbook, it is exhibit 4. Do you have  
9 it in front of you?

10 **MR. JOHN PHELPS:** I do.

11 **MS. JULIE MCGREGOR:** Thank you. Now, the  
12 date on the cover says January 15, 2017. Is that correct?

13 **MR. JOHN PHELPS:** Yes.

14 **MS. JULIE MCGREGOR:** Now, is that date the  
15 day that the document has been revised, or was that the  
16 original date of the Deskbook coming into being?

17 **MR. JOHN PHELPS:** The revision date.

18 **MS. JULIE MCGREGOR:** So this is the latest  
19 version of the Deskbook; is that correct?

20 **MR. JOHN PHELPS:** To my knowledge, yes.

21 **MS. JULIE MCGREGOR:** Is there a section in  
22 the Deskbook which deals specifically with Indigenous  
23 victims of crime?

24 **MR. JOHN PHELPS:** No, just -- just what's  
25 covered within this chapter.

1                   **MS. JULIE MCGREGOR:** So it's a fairly up-to-  
2 date document and you've discussed about the victimology.  
3 Why is there no section relating to Indigenous victims of  
4 crime?

5                   **MR. JOHN PHELPS:** I apologize, but I don't  
6 have an answer for that. It's not a document that I  
7 personally have control over. It's developed through  
8 headquarters and it's a directive from the Attorney General  
9 of Canada, so I don't know the answer to whether or not it  
10 was considered and not put in or whether it was an oversight  
11 or otherwise. I don't know.

12                   **MS. JULIE MCGREGOR:** So you're saying that  
13 you do not and your office does not have any direct input on  
14 a handbook that is developed for dealing with victims of  
15 crime in an area, in your specific area, which you have a  
16 lot of Indigenous victims of crime?

17                   **MR. JOHN PHELPS:** We are consulted on change,  
18 so if you're asking perhaps the question might be why I  
19 didn't advocate for it, and I don't have an answer for that.  
20 I -- I did not advocate for it at the time. I thought that  
21 the -- the chapter was sufficient as written, and that's a  
22 very good recommendation. Thank you..

23                   **MS. JULIE MCGREGOR:** Also, I'd like to turn  
24 to section 4.2, "The Special Needs of Some Victims." It's  
25 on page 5.

1           **MR. JOHN PHELPS:** Yes, I have that before me.

2           **MS. JULIE MCGREGOR:** I'd like to direct you  
3 to the last paragraph of that section, and I'll read the  
4 paragraph out for you. (as read)

5                           Some victims may view court proceedings  
6 with suspicion. They may have concerns  
7 about biases or prejudice based on their  
8 race, ethnic origin, gender identity, or  
9 sexual orientation. Crown counsel  
10 should be aware of such concerns and  
11 seek to address them in appropriate  
12 manner -- in an appropriate manner.

13 Can you tell me how Crown -- how Crown counsels seek to  
14 address these concerns and what is an appropriate manner?

15           **MR. JOHN PHELPS:** The -- the requirement is  
16 to be aware of the concern. We provide training to try and  
17 enlighten the Crown prosecutors with respect to,  
18 particularly, cultural concerns that may exist and provide  
19 training for them to understand that they may need to modify  
20 their approach or their appreciation for their interactions  
21 with individuals as a result, but there's not a -- a one-  
22 size-fits-all answer to that question.

23           **MS. JULIE MCGREGOR:** And is the training that  
24 they receive the same as the cultural awareness training you  
25 spoke of earlier?



1           **MR. JOHN PHELPS:** They do have to take that  
2 training, yes, and we encourage them to take advantage of  
3 any training that would assist in this regard. It might be  
4 made available through the Law Society, through the Yukon  
5 College, or through any of the other various organizations  
6 in the Yukon that may provide training from time to time.

7           **MS. JULIE MCGREGOR:** Thank you, Mr. Phelps.  
8 I'm going to move my questions over to Ms. Giff-MacKinnon.

9 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

10 **CROSS-EXAMINATION BY MS. MCGREGOR:**

11           **MS. JULIE MCGREGOR:** According to your  
12 evidence and your biography, which is at exhibit -- which is  
13 exhibit number 13, you lead the National Family Information  
14 Liaison Unit and community-based activities with Indigenous  
15 organizations; is that correct?

16           **MS. NAOMI GIFF-MACKINNON:** Yes.

17           **MS. JULIE MCGREGOR:** Am I correct that -- I  
18 -- I may need to be corrected on this one, but the -- the  
19 FILU program began in August of 2016? Is that correct?

20           **MS. NAOMI GIFF-MACKINNON:** That's when the  
21 funding was announced.

22           **MS. JULIE MCGREGOR:** Yes. And that the FILUs  
23 became operational not all at the same time, not, obviously,  
24 all in -- on August the 26th, but afterwards in staggering  
25 -- staggered ways?

1                   **MS. NAOMI GIFF-MACKINNON:** Yes.

2                   **MS. JULIE MCGREGOR:** Yesterday, you described  
3 the work of FILUs as -- as sort of a conduit, if I could say  
4 that, and can correct me if that's a wrong characterization,  
5 but a conduit for sharing information with family members.  
6 Is that correct?

7                   **MS. NAOMI GIFF-MACKINNON:** That's -- that is  
8 one way to describe it. It could also be described as a  
9 navigator position, as well.

10                  **MS. JULIE MCGREGOR:** And you also stated that  
11 FILUs work closely with -- with regional or local Indigenous  
12 organizations to -- to provide services to family members;  
13 is that correct?

14                  **MS. NAOMI GIFF-MACKINNON:** Yes.

15                  **MS. JULIE MCGREGOR:** That -- this includes,  
16 as you stated in your testimony yesterday, the Manitoba  
17 region, correct?

18                  **MS. NAOMI GIFF-MACKINNON:** Yes.

19                  **MS. JULIE MCGREGOR:** Were you aware, Ms.  
20 MacKinnon, that in late -- as of late last spring and summer  
21 of 2017, regional organizations in Manitoba were on their  
22 own and without -- on their own volition and without funding  
23 from the inquiry or the FILU program, were organizing and  
24 providing information and outreach sessions to First Nation  
25 communities in Manitoba? Were you aware of that?

1                   **MS. NAOMI GIFF-MACKINNON:** Not specifically  
2 that -- not specifically, no.

3                   **MS. JULIE MCGREGOR:** Were you aware at the  
4 time that there was a concern about a lack of information  
5 being provided to First Nations family members in Manitoba  
6 and that organizations -- these regional organizations were  
7 taking it upon themselves to do this?

8                   **MS. NAOMI GIFF-MACKINNON:** I don't have -- I  
9 didn't -- don't have any knowledge of the specific work that  
10 was being done in Manitoba, but we were aware that -- that  
11 information -- that families were seeking information  
12 through other ways as well before the FILU initiative began,  
13 that there were some mechanisms for families.

14                   **MS. JULIE MCGREGOR:** But this would have been  
15 during the time the FILU initiative would have been somewhat  
16 operational. We're talking spring and summer of 2017.

17                   **MS. NAOMI GIFF-MACKINNON:** I'm not certain  
18 about how the Manitoba organizations were working with  
19 families. I do -- I do know that in the Manitoba FILU  
20 model, Manitoba victim services works closely with Manitoba  
21 Keewatinowi Okimakanak as well as Ka Ni Kanichihk in terms  
22 of their work with families, and maybe they built on that  
23 work that they were doing already to -- to extend the  
24 region's scope.

25                   **MS. JULIE MCGREGOR:** Thank you. Were you

1 aware that the National Inquiry has been holding community  
2 hearings across Canada to gather the truth from family  
3 members and survivors?

4 **MS. NAOMI GIFF-MACKINNON:** Yes.

5 **MS. JULIE MCGREGOR:** Are you aware that one  
6 such community hearing was held in Smithers, British  
7 Columbia, which was in close proximity to the Highway of  
8 Tears, where many family members had lost loved ones?

9 **MS. NAOMI GIFF-MACKINNON:** Yes.

10 **MS. JULIE MCGREGOR:** Were you aware that some  
11 of the family members who provided testimony during the  
12 hearing were approached by the RCMP, in some cases hours  
13 before they were about to provide their testimony, and  
14 provided information about their loved ones' cases,  
15 including autopsy reports, and that this was highly  
16 upsetting to a lot of the family members who were providing  
17 evidence?

18 **MS. NAOMI GIFF-MACKINNON:** I'm aware that  
19 meetings were held in Smithers with family members, that the  
20 FILUs -- FILU team had organized with the -- with the RCMP  
21 and with the families. Yes, I'm aware of that meeting. I  
22 -- I'm not -- I'm not certain -- I'm not aware of the -- the  
23 -- what you mentioned about the concerns families had about  
24 receiving information at that time.

25 **MS. JULIE MCGREGOR:** It was provided as

1 testimony during the community hearing, but it was also  
2 reported in the news that families were upset with receiving  
3 this type of information just as they were about to provide  
4 their testimony. So would that have been the job of the --  
5 the FILU, to be a conduit or a navigator for that  
6 information rather than the RCMP providing that sort of  
7 information, highly upsetting information, before the  
8 community hearing?

9 **MS. NAOMI GIFF-MACKINNON:** In terms of how  
10 that meeting was organized, I'm -- I don't have all the  
11 information because I was not present at that time. I do  
12 know that there were some concerns shared. I knew -- I  
13 know that there was some discussion. I -- I do -- as I  
14 understood it, the FILU team in British Columbia working in  
15 Smithers at that time were working closely with the  
16 families who were seeking the information, and that they  
17 were taking direction from families, as I understand it.  
18 But they would be best placed to speak to that.

19 But I -- as I understand it, as well, I do  
20 believe that they've had discussions about how that  
21 situation -- how that situation played out and how they  
22 could do -- do better in some ways in terms of working more  
23 closely together to make sure that there are no -- no  
24 concerns or -- or challenges in the -- in the work that  
25 FILUs are doing with families.

1                   **MS. JULIE MCGREGOR:** Would you agree with me  
2                   that that -- that way of proceeding in terms of meeting  
3                   with the RCMP and providing documents such as autopsy  
4                   reports was not a trauma-informed way of providing  
5                   information to family members?

6                   **MS. NAOMI GIFF-MACKINNON:** When family  
7                   members bring their questions to FILU teams -- we've talked  
8                   a lot about this amongst the FILU network about the -- the  
9                   importance of taking direction from families in terms of  
10                  what information they'd like to see. So families identify  
11                  what information they'd like to know, what their gaps are,  
12                  and FILU teams work to find that information for them.

13                  Along the way, FILU has worked very closely  
14                  with families to identify the -- the nature of some of the  
15                  information that they're about to receive and talk about  
16                  how it could cause trauma and could be very upsetting, and  
17                  talk about ways to diminish or to minimize the trauma to  
18                  the extent that they can. So if families are seeking that  
19                  information, FILU teams take the direction from families on  
20                  that front but work very closely to ensure that  
21                  families -- that they're having those sensitive  
22                  conversations about how best to support families through  
23                  receiving that difficult information.

24                  **MS. JULIE MCGREGOR:** I do have a follow-up  
25                  question, but I -- I realize my time is -- is up, so thank

1           you very much.

2                   **MS. MEREDITH PORTER:** Thank you. Chief  
3 Commissioner, we are about 10 minutes after. We have a  
4 break scheduled for 10:30. I'd like to seek your  
5 instructions to call -- invite one more party before we  
6 head into our first break of the morning?

7                   **CHIEF COMMISSIONER MARION BULLER:** Let's  
8 have one more party.

9                   **MS. MEREDITH PORTER:** Thank you. In that  
10 case, I will invite the next party to come and pose their  
11 questions to the witnesses. And the next party is the  
12 Assembly of Manitoba Chiefs, and they will have 23 minutes  
13 for their questions.

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

15                   **MS. JOËLLE PASTORA SALA:** Good. Okay. Good  
16 morning, Commissioners, Elders, family members. My name is  
17 Joëlle Pastora Sala. I am counsel to the Assembly of  
18 Manitoba Chiefs. I'd like to just begin by acknowledging  
19 and thanking the Blackfoot Nation who are welcoming us into  
20 their territory. I thank them also for the prayer  
21 yesterday and acknowledge the sacred items that are in the  
22 room.

23                   Good morning, panel members. Thank you for your  
24 presentations yesterday. My questions this morning will  
25 focus primarily on questions for Mr. Phelps, Ms. Gardiner,

1 and Ms. Giff-MacKinnon. And I'd like to begin with  
2 Mr. Phelps. I hope you're not -- not feeling picked on  
3 yet.

4 **MR. JOHN PHELPS:** Not at all. Thank you.

5 **JOHN PHELPS, Previously Affirmed:**

6 **CROSS-EXAMINATION BY MS. PASTORA SALA:**

7 **MS. JOËLLE PASTORA SALA:** During your  
8 presentation yesterday, you indicated that the -- the CWC  
9 was originally developed in 1991, and we've already heard  
10 this quote, but to bridge the cultural gap including  
11 between the common law and Aboriginal and Inuit cultures,  
12 correct?

13 **MR. JOHN PHELPS:** Yes.

14 **MS. JOËLLE PASTORA SALA:** And based on your  
15 knowledge, was the CWC program created with any involvement  
16 of Indigenous nations or representative organizations?

17 **MR. JOHN PHELPS:** I wasn't part of the  
18 development at the time, and I'm not familiar with that. I  
19 wouldn't know.

20 **MS. JOËLLE PASTORA SALA:** As a follow-up to  
21 Ms. McGregor of AFN's question, do you know if PPSC ever  
22 considered delivering the CWC services or programs in your  
23 region through an Indigenous organization or Indigenous  
24 nation?

25 **MR. JOHN PHELPS:** Through one? Not that I'm



1       aware of, no. I think the intention of the program -- our  
2       program is to, as much as possible, complement any other  
3       program that might be available. So we would be quite  
4       supportive of more victims services being available through  
5       a variety of agencies across the North, and we would be  
6       happy to work collaboratively with them. So it's not a  
7       suggestion that our service, you know, is -- is the one  
8       that -- that should be in place for the primary care and  
9       services for a victim. We're there to collaborate and  
10      assist.

11                   **MS. JOËLLE PASTORA SALA:** And picking up on  
12      that theme of collaboration, in terms of bridging that  
13      cultural gap, would you agree that relationship building  
14      with the community is key?

15                   **MR. JOHN PHELPS:** I do, yes. That's the  
16      primary purpose for us to, where possible, try and maintain  
17      continuity between our Crown Witness Coordinator and  
18      specific communities.

19                   **MS. JOËLLE PASTORA SALA:** And one of the  
20      reasons why relationship building may be key is that there  
21      has been a historic lack of trust in the western system,  
22      including the PP --

23                   **MR. JOHN PHELPS:** PPSC.

24                   **MS. JOËLLE PASTORA SALA:** -- PSC.

25                   **MR. JOHN PHELPS:** Yeah, that's a fair

1 comment, yes.

2 **MS. JOËLLE PASTORA SALA:** Can you point me  
3 towards an initiative of the CWC which has the objective of  
4 building relationships with the community on a long-term  
5 basis?

6 **MR. JOHN PHELPS:** Beyond the integration  
7 that we attempt with -- with the assignment, there's  
8 encouragement. There's requirements within their  
9 objectives to develop those relationships. That's  
10 something that's relatively new in the Yukon region over  
11 the last few years. I can't remember when we implemented  
12 it, but to require them to actually develop some paperwork  
13 documentation to show their knowledge of what's going on in  
14 the community. We encourage all of our Crown to do the  
15 same, and we encourage them to have meetings and -- and  
16 show the outcome of their attempts to have meetings with  
17 either leadership within the First Nation or the designated  
18 leadership representation, such as the justice departments  
19 within each First Nation, so that at least there's a  
20 development of some form of a relationship, even at -- at  
21 that level and an attempt to learn more about what might be  
22 available to better understand the community. And  
23 that's -- that's done on a community -- a community basis.  
24 And the teams, being the prosecutor who's assigned and the  
25 Crown Witness Coordinator who's assigned are expected to

1 follow through. And we provide them with the -- sorry. We  
2 afford them with the time in the community to do that.

3 **MS. JOËLLE PASTORA SALA:** Would there be any  
4 of the -- in addition to what you've just said, are there  
5 any initiatives that re-invest in the community as part of  
6 that building of a relationship?

7 **MR. JOHN PHELPS:** Re-invest, did you say?

8 **MS. JOËLLE PASTORA SALA:** In terms of  
9 relationship buildings -- building.

10 **MR. JOHN PHELPS:** I -- beyond what I've just  
11 answered, I can't -- I can't think of anything.

12 **MS. JOËLLE PASTORA SALA:** In answer to  
13 Ms. Beaudin's question earlier about cultural appropriate  
14 considerations, you indicated that there were no  
15 evaluations, correct?

16 **MR. JOHN PHELPS:** That's correct, yes.

17 **MS. JOËLLE PASTORA SALA:** And since the  
18 creation of the program almost 30 years ago, has there been  
19 any evaluation or audit of the CWC to determine whether it  
20 has been able to, "bridge the cultural gap?"

21 **MR. JOHN PHELPS:** Specifically, no, not that  
22 I'm aware of.

23 **MS. JOËLLE PASTORA SALA:** And recognizing  
24 your comments earlier that you feel that your program is  
25 doing a good job, would you agree that an independent

1 evaluation might be helpful?

2 **MR. JOHN PHELPS:** Yes, I think it would.

3 **MS. JOËLLE PASTORA SALA:** Would you agree  
4 that it may be beneficial to include Indigenous Nations or  
5 Indigenous representative organizations in such an  
6 evaluation?

7 **MR. JOHN PHELPS:** I think any information  
8 that I can receive as the chief federal prosecutor for the  
9 Yukon would be beneficial, and if that information -- if an  
10 evaluation was done that included Yukon First Nations, I  
11 think that would be quite valuable, yes.

12 **MS. JOËLLE PASTORA SALA:** I'd like to take  
13 you to the -- I think it's still Exhibit 2, which is the  
14 overview of public prosecutions of Canada CWC program. Do  
15 you have that before you, sir?

16 **MR. JOHN PHELPS:** I do, yes.

17 **MS. JOËLLE PASTORA SALA:** And at pages 2 to  
18 4 of this document there's a description of the services  
19 provided by CWC; do you see that?

20 **MR. JOHN PHELPS:** Yes.

21 **MS. JOËLLE PASTORA SALA:** And these include,  
22 but are not limited to, initiating contact with victims and  
23 witnesses, ensuring victims understand their rights under  
24 the Canadian Bill of Rights, taking appropriate steps to  
25 enhance the safety and comfort of victims and witnesses,

1 and providing individualized personal and emotional  
2 supports; do you see that?

3 **MR. JOHN PHELPS:** Yes.

4 **MS. JOËLLE PASTORA SALA:** Are any of these  
5 services provided from an Indigenous perspective based on  
6 the nations within your region?

7 **MR. JOHN PHELPS:** Sorry, I'm pausing because  
8 I -- my personal experience with prosecution and with --  
9 actually on the groundwork with the team is with the Yukon  
10 territory. I think it's -- it's a different service in  
11 Nunavut, for example, based on the population there and the  
12 makeup of our Crown Witness Coordinator team, and I think  
13 it's -- it's done differently as a result of that.

14 Is there anything specific within our  
15 mandate or our approach from community to community within  
16 the Yukon? Other than having the awareness through the  
17 training and hopefully the understanding of the regional  
18 differences throughout the territory, no, I can't say that  
19 there is.

20 **MS. JOËLLE PASTORA SALA:** Switching gears a  
21 little bit, would it be correct to assume that when you use  
22 the term "victim" that you're relying on the definition in  
23 the Canadian Bill of Rights?

24 **MR. JOHN PHELPS:** Our program would go  
25 beyond that, but for the purpose of the discussions here,

1 yes. We do provide a service to non -- sort of businesses  
2 that may have suffered a loss as a result of crime, but our  
3 primary focus would be the definition under the CVBR, yes.

4 **MS. JOËLLE PASTORA SALA:** When you say you  
5 go beyond that, is there something additional than the  
6 definition in Section 2 of the Canadian Victim Bill of  
7 Rights that I should be aware of?

8 **MR. JOHN PHELPS:** Just that the CVBR deals  
9 with the real person, and we do provide at times to a  
10 corporate body some services, but it's a small percentage,  
11 yes.

12 **MS. JOËLLE PASTORA SALA:** Okay. Can I take  
13 you to Section 2 of the Canadian Victim Bill of Rights?

14 **MR. JOHN PHELPS:** Sure.

15 **MS. JOËLLE PASTORA SALA:** So Section 2  
16 specifically defines victim?

17 **MR. JOHN PHELPS:** Yes.

18 **MS. JOËLLE PASTORA SALA:** Do you see that,  
19 sir? And it says that it's an individual who has suffered  
20 physical or emotional harm, property damage or economic  
21 loss as a result of the commission or alleged commission of  
22 an offence; do you see that?

23 **MR. JOHN PHELPS:** Yes, I do.

24 **MS. JOËLLE PASTORA SALA:** In terms of the  
25 services we just referred to provided by CWC, is it correct

1 that these services are not offered to family members of  
2 missing loved ones?

3 **MR. JOHN PHELPS:** Is -- it is correct in the  
4 sense that we are a prosecution-based service and we only  
5 engage if there have been charges.

6 **MS. JOËLLE PASTORA SALA:** Right. So the --

7 **MR. JOHN PHELPS:** In most cases we wouldn't  
8 be the service that provides the support, there would  
9 be -- there are other entities within the Yukon territory  
10 that would provide that support.

11 **MS. JOËLLE PASTORA SALA:** So you  
12 wouldn't -- just to clarify, you wouldn't be providing the  
13 supports because victims must be engaged with the criminal  
14 justice system, and for those family members who have loved  
15 ones who are missing, they're not understood to be,  
16 "engaged with the criminal justice system;" would that be  
17 correct?

18 **MR. JOHN PHELPS:** I think that's a fair  
19 assessment. We have a collaborative relationship with the  
20 territorial government and a memorandum of understanding  
21 for service -- the provision of services with them and with  
22 the RCMP. And when it comes to the reporting of crime or  
23 concerns, as you've referenced, of missing individuals, the  
24 service that would be provided would be throughout the  
25 territorial government and the RCMP, or both.

1                   **MS. JOËLLE PASTORA SALA:** And, Mr. Phelps,  
2 you spoke a little bit yesterday of what happens when a  
3 victim doesn't want to access the CWC services, and I  
4 believe your answer was that they're -- it was their right  
5 to do so, correct?

6                   **MR. JOHN PHELPS:** That's correct, yes.

7                   **MS. JOËLLE PASTORA SALA:** To the extent that  
8 someone has been a victim of a crime, but chooses not to  
9 proceed with their complaint, you would agree that there is  
10 a possibility for re-victimization?

11                   **MR. JOHN PHELPS:** Yes.

12                   **MS. JOËLLE PASTORA SALA:** Is it also  
13 possible that someone who is the victim of a domestic  
14 assault, but chooses to withdraw their statement or  
15 complaint, could be subject to a criminal charge of  
16 mischief on the basis that the complaint was not -- was  
17 made, but not proceeded?

18                   **MR. JOHN PHELPS:** That is a possibility,  
19 yes. In practice it's not the case for the very reason  
20 that you've alluded to, the re-victimization of an  
21 individual who has already suffered the harm.

22                   **MS. JOËLLE PASTORA SALA:** In trying to piece  
23 the different elements of the presentations we heard  
24 yesterday, it occurs to me that in some cases victims may  
25 be interacting with a minimum of two or three different



1 groups, so including victim services, CWV, the police, and  
2 then possibly the FILUs; is that correct?

3 **MR. JOHN PHELPS:** Yes.

4 **MS. JOËLLE PASTORA SALA:** I'd like to  
5 explore some questions relating to the relationship between  
6 these services. First, is there a formal relationship,  
7 whether through policy or otherwise, between these service  
8 providers to determine, like, who does what when?

9 **MR. JOHN PHELPS:** Yes.

10 **MS. JOËLLE PASTORA SALA:** Could you point me  
11 to --

12 **MR. JOHN PHELPS:** We have memorandums of  
13 understanding, so there's the relationship between the RCMP  
14 and the Crown as it relates to informing victims of what's  
15 going on after a crime has been reported, and the  
16 responsibility rests with the RCMP until such time as  
17 there's a first appearance in court, and then it transfers  
18 to the Crown's office, for example. The relationship with  
19 the victim services branch in the Yukon territory is a  
20 little more complex than that because they provide service  
21 before a report of a crime, or regardless of report of a  
22 crime, through a criminal justice process and beyond as  
23 well, so we have an understanding of primary responsibility  
24 for updating a victim throughout the prosecution stage of  
25 that service so that they're not receiving multiple phone

1 calls with respect to what's going on, and there's a  
2 coordinated effort to make sure that it's not confusing to  
3 a victim.

4 **MS. JOËLLE PASTORA SALA:** What about with  
5 the FILUs?

6 **MR. JOHN PHELPS:** At this point in time  
7 there's no formal MOU or otherwise with the FILUs, but we  
8 do have assigned prosecutors within our office to address  
9 the concerns, so we're collaborating with the program for  
10 information requests from -- from the program.

11 **MS. JOËLLE PASTORA SALA:** Is it conceivable  
12 that victims would have to retell their stories and  
13 therefore be re-traumatized multiple times?

14 **MR. JOHN PHELPS:** It's certainly  
15 conceivable, yes. It's -- it's something that we -- we  
16 recognize as a concern, and within the limitations of our  
17 program we do our best for that not to occur, but it -- it  
18 does even within the programs themselves due to the natural  
19 turnover over the lifetime of their requirement for the  
20 service, yes.

21 **MS. JOËLLE PASTORA SALA:** Thank you, sir,  
22 those are my questions for you. Good morning, Ms.  
23 Gardiner.

24 **MS. LEANNE GARDINER:** Good morning.

25 **LEANNE GARDINER, Previously Affirmed:**

1           **CROSS-EXAMINATION BY MS. PASTORA SALA:**

2                   **MS. JOËLLE PASTORA SALA:** Similar to my  
3 question of Mr. Phelps, I read in your materials that you  
4 also rely on a similar definition of victim, as per the  
5 Victim Bill of Rights; is that correct?

6                   **MS. LEANNE GARDINER:** I would say we rely on  
7 that definition specifically for, especially the position.  
8 One of the positions I'm responsible for that is responsible  
9 for the implementation of the CVBR. When it comes to front-  
10 line service provision for victims, I would say the  
11 definition is -- is broader than that. You'll see in some  
12 of our materials we refer to victims of crime and tragedy.  
13 There are many other instances where our providers are  
14 supporting families and victims where no -- where it's not  
15 immediately apparent that there's necessarily a criminal  
16 offence that's taken place. Suicide, for example, has such  
17 wide -- has such a wide impact in a community. And victim  
18 services providers, absolutely, serve those families as  
19 well.

20                   **MS. JOËLLE PASTORA SALA:** If families come to  
21 victim services and they have a missing loved one, and  
22 they're -- is it fair to say that they would not receive  
23 services offered by victim services in the NWT?

24                   **MS. LEANNE GARDINER:** Although I'm not -- you  
25 know, I haven't personally delivered the service, my

1 understanding of what's -- it's not my understanding that  
2 families would be turned away. Just knowing the -- you  
3 know, the way in which the programs are being delivered,  
4 those services are being delivered by community  
5 organizations. It's crime and tragedy, and that's the, kind  
6 of, the language we use when we're -- when we're -- if we're  
7 asked for support from those providers, that's the language  
8 we're using. So it's not my understanding. At the same  
9 time, there -- there have been times where it's possible  
10 that providers might see the role in a different way, yeah.  
11 But if it came to our attention, we would work with that  
12 community to address it. It's not my experience that that's  
13 the go-to position for the providers though.

14 **MS. JOËLLE PASTORA SALA:** Okay. Thank you.  
15 In answer to a -- a question yesterday about the challenges  
16 and gaps in delivery of service, you stated, and I'm  
17 paraphrasing, "That services are based -- one of the  
18 challenges is that services are based and delivered when all  
19 stakeholders are working well." Sorry, let me retry -- try  
20 that again. "Services are delivered well when all  
21 stakeholders are working well together."

22 **MS. LEANNE GARDINER:** Yes.

23 **MS. JOËLLE PASTORA SALA:** Is that -- do you  
24 recall saying that?

25 **MS. LEANNE GARDINER:** Yes. And it -- so

1 my -- I would just qualify and say I think the best service  
2 is when all stakeholders are working well together.

3 **MS. JOËLLE PASTORA SALA:** Thank you. To  
4 assist us in understanding how to move forward --

5 **MS. LEANNE GARDINER:** M'hm.

6 **MS. JOËLLE PASTORA SALA:** -- I'm wondering if  
7 you could provide concrete examples of the types of  
8 situations when different service providers are not working  
9 well together?

10 **MS. LEANNE GARDINER:** That's a good question.  
11 If I think of our two programs, the -- the Crown Witness  
12 Coordinator Program and our program, for example, because --  
13 and I'm -- this isn't a specific example because there's a  
14 general issue or concern there. But where there have been  
15 challenges in that relationship or in a relationship with  
16 the RCMP, for example, then the impact, if there isn't a  
17 good relationship between, for example, a Crown Witness  
18 Coordinator and a victim services provider at the community  
19 level, if they're not working well together, then, I think,  
20 some of the concerns that you mentioned when you were  
21 questioning Mr. Phelps about -- about having victims have to  
22 retell their -- their stories, for example, I think that  
23 that's what happens. I think if we're not -- if it's not a  
24 timely service that we're providing together, and if we're  
25 not communicating well, then I think that

1 that -- that is the risk, and I -- I think it happens.

2 **MS. JOËLLE PASTORA SALA:** Thank you.

3 **MS. LEANNE GARDINER:** So that would be an  
4 example. And I would include any of the relationships with  
5 police in that example as well.

6 **MS. JOËLLE PASTORA SALA:** Thank you.

7 **MS. LEANNE GARDINER:** I will say our FILU,  
8 like, our local FILU works quite closely with victim  
9 services as well, so I think it's less likely, mostly  
10 because it's all coming out of the same office. And we have  
11 a -- a more formal relationship there too. So the risk is  
12 -- is less in that case. But -- but we do things to  
13 mitigate those as well, including joint training  
14 initiatives, and -- and deliberate efforts to build those  
15 partnerships.

16 **MS. JOËLLE PASTORA SALA:** Thank you. I only  
17 have a couple minutes left, so I'm going to switch quickly  
18 to Ms. Giff-MacKinnon. Good morning.

19 **MS. NAOMI GIFF-MACKINNON:** Morning. You  
20 indicated yesterday that Justice Canada has funded the FILUs  
21 for \$11.7 million for the period of September 2016 to March  
22 2019, correct?

23 **MS. NAOMI GIFF-MACKINNON:** To March 31st,  
24 2019, yes.

25 **MS. JOËLLE PASTORA SALA:** Yeah. And if we do

1 an approximate calculation, and I'm not -- math is not my  
2 forte, but that would mean it would cost approximately \$4  
3 million per year for the operation of this program?

4 **MS. NAOMI GIFF-MACKINNON:** It's a -- yes,  
5 it's about \$4.6 million a year, but because they started  
6 mid-way through the year, that's the difference. Yeah.

7 **MS. JOËLLE PASTORA SALA:** And you indicated  
8 yesterday that you have been in operation for approximately  
9 a year and a half, and that you've serviced approximately  
10 400 individuals?

11 **MS. NAOMI GIFF-MACKINNON:** That the FILUs,  
12 yes, across the country. Yeah, I've done that.

13 **MS. JOËLLE PASTORA SALA:** And does this  
14 number include more than one contact per individual?

15 **MS. NAOMI GIFF-MACKINNON:** No. They're --  
16 they're each individual. Is -- is that what you mean by the  
17 -- the number of -- sorry. Maybe you could --

18 **MS. JOËLLE PASTORA SALA:** I guess, I'm trying  
19 to understand in -- when you say 400 persons, how -- how  
20 many times can family members access the FILUs, or how long  
21 approximately do the services last? And how many times are  
22 you interacting with the family members?

23 **MS. NAOMI GIFF-MACKINNON:** So that would vary  
24 between each FILU for -- for sure. That there would be  
25 different experiences and different questions that families

1 would have that they would bring to the FILU that would  
2 determine the nature of the work that the FILU would be  
3 doing to assist the family. It might be based on the -- the  
4 family would like to receive information. They might like  
5 to have meetings with each of the agencies. They might like  
6 to have one meeting with all of the agencies. So there can  
7 be lots of different opportunities for FILUs to work  
8 directly with family members. I'm not sure -- is it -- I --

9 **MS. JOËLLE PASTORA SALA:** Thank --

10 **MS. NAOMI GIFF-MACKINNON:** -- I could expand  
11 on that it if you'd like?

12 **MS. JOËLLE PASTORA SALA:** I think my -- well,  
13 you know, I'm going to try and squeeze in my last question.

14 **MS. NAOMI GIFF-MACKINNON:** Sure.

15 **MS. JOËLLE PASTORA SALA:** Do you have any  
16 specific objectives or expectations that you hope to  
17 achieve, essentially, from September 2016 to March 31st,  
18 2019 for FILUs?

19 **MS. NAOMI GIFF-MACKINNON:** That family  
20 members who have outstanding information gaps and are  
21 seeking information about their loved one, receives that  
22 information.

23 **MS. JOËLLE PASTORA SALA:** Thank you. Thank  
24 you all.

25 **MS. NAOMI GIFF-MACKINNON:** Thank you.



1                   **MS. MEREDITH PORTER:** Okay. So we've --  
2                   on -- again, we're scheduled for a break now. And I did  
3                   want to bring to the attention of the Commissioners that, I  
4                   believe, there's a typo on the schedule. We have a break  
5                   for 10:30 with reconvening at 11. So, I believe, unless --  
6                   I'll seek your instruction on that. Do we need a half hour  
7                   break? Or -- or can we request to change that, and come  
8                   back in say 15 or 20 minutes?

9                   **CHIEF COMMISSIONER MARION BULLER:** It says a  
10                  30-minute break --

11                  **MS. MEREDITH PORTER:** Yeah.

12                  **CHIEF COMMISSIONER MARION BULLER:** --  
13                  (Indiscernible) break.

14                  **UNIDENTIFIED SPEAKER:** Thank you.

15                  **CHIEF COMMISSIONER MARION BULLER:** Fifteen?  
16                  Twenty? I'm being -- I've been told 20 minutes.

17                  **MS. MEREDITH PORTER:** Twenty minutes, okay.

18                  **UNIDENTIFIED SPEAKER:** I said 15, this is  
19                  different. It's okay.

20                  **UNIDENTIFIED SPEAKER:** (Indiscernible) 30.

21   **(LAUGHTER)**

22                  **MS. MEREDITH PORTER:** So I'll just note --  
23                  note that to the parties, that we are going to reconvene  
24                  then in about 20 minutes. The other issue that I did  
25                  mention to -- to the parties already was that we -- one of

1 our witnesses is leaving early. So for any of the parties  
2 that are scheduled for their cross-examination later on in  
3 the day, perhaps, falling after -- falling into time after  
4 that witness has left, please identify yourselves to the  
5 member of the legal team, Francine Merasty, and indicate to  
6 her that you have some questions to put to Ms. Pottruff, and  
7 this is going to be your last opportunity to do so. So I  
8 would just note that to the parties who, again, are  
9 scheduled a little bit later in the day and may not have an  
10 opportunity to put their questions to her. And with that,  
11 we'll reconvene?

12 **CHIEF COMMISSIONER MARION BULLER:** Twenty  
13 minutes.

14 **MS. MEREDITH PORTER:** Thank you.

15 --- Upon recessing at 10:37 a.m.

16 --- Upon reconvening at 11:02 a.m.

17 **MS. MEREDITH PORTER:** I think we're due to  
18 get started again. I just -- before we get started, we're  
19 going to move now into the cross-examination of the witness  
20 who has to leave early this afternoon because we want to  
21 make sure the parties with-standing who have  
22 questions -- okay, we're starting back. We want to make  
23 sure that the parties who are due to leave this afternoon  
24 have an opportunity to put their questions to the witness.

25 I'm just going to set out very quickly how

1 the procedure for this is going to -- is going to go. We  
2 have five -- we have five parties -- or four parties,  
3 actually, including Commission counsel, who have questions  
4 that they want to put to the witness, and so we are going  
5 to start the clock, as we do with all other -- with all  
6 parties, and the time for the questions that are put to  
7 Ms. Pottruff will be deducted from the total time that the  
8 party has for their cross-examination.

9 I'll give you an example. If six minutes of  
10 questions are posed -- are put to the witness, later on  
11 this afternoon in your cross-examination of the other  
12 witnesses, that six minutes will be deducted from your  
13 total time. They're 23 minutes, for example, you have 17  
14 minutes remaining this afternoon for your cross-examination  
15 of the other witnesses.

16 That will also leave, of course, adequate  
17 time for any questions that the Commissioners may have as  
18 well for the witness. And then before the witness leaves  
19 this afternoon, there will be the allocation of time for  
20 her counsel to do her re-examine of the witness once all  
21 the questions have been put to the witness.

22 So the first party who has requested to put  
23 questions to Ms. Pottruff is from the Independent First  
24 Nations. I want to make sure I get the party's name. Yes,  
25 Independent First Nations, so I will invite that

1 representative up at this time to question Ms. Pottruff,  
2 and ask that -- I would -- and ask that 23 minutes be put  
3 on the clock, and we will take note at the end of the  
4 questions of how much time remains.

5 Thanks very much, Registrar.

6 **MS. SARAH BEAMISH:** All right, thank you.  
7 My name is Sarah Beamish, and I represent the Independent  
8 First Nations in Ontario. This is a group of 12  
9 unaffiliated Haudenosaunee, Oji-Cree and Anishinaabe First  
10 Nations. Each one of these First Nations has lost women to  
11 violence, most recently 23-year-old April Carpenter who was  
12 just found in the Red River last week.

13 These First Nations bring their greetings to  
14 the Commission and thank the Blackfoot Nation for hosting  
15 this Inquiry on their territory.

16 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

17 **CROSS-EXAMINATION BY MS. BEAMISH:**

18 **MS. SARAH BEAMISH:** So, Ms. Pottruff, I just  
19 want to ask you questions about two things. The first I  
20 would refer to Exhibit 20, page 18 of Exhibit 20. This was  
21 the -- this was a -- this -- page 18 of this report talks  
22 about some legislative enactments which included *The*  
23 *Victims of Interpersonal Violence Act*.

24 **MS. BETTY ANN POTTRUFF:** M'hm.

25 **MS. SARAH BEAMISH:** And I want to read you

1 one line from that page. It says: (As Read)

2 The use of the emergency provisions  
3 related to exclusive occupation of a  
4 home is considered by the Federal  
5 government to be in conflict with  
6 Federal authority relating to Indian  
7 Reserves.

8 So I'm wondering if you can tell me, does  
9 this mean that the emergency provisions related to  
10 exclusive occupation of a home are not enforced on reserves  
11 in Saskatchewan?

12 **MS. BETTY ANN POTTRUFF:** That's correct.

13 **MS. SARAH BEAMISH:** Okay. So just after  
14 that in the report it goes on to state: (As Read)

15 Although some Bands have attempted to  
16 adopt the emergency intervention order  
17 regime by band bylaw, the bylaws have  
18 not been approved by the Federal  
19 government.

20 Can you explain why these bylaws have not  
21 been approved by the Federal government?

22 **MS. BETTY ANN POTTRUFF:** I'm not sure I can  
23 give you the Federal explanation. This goes back to the  
24 early development of the emergency protection order regime,  
25 and -- and while there is an argument as to whether or not

1 those occupation clauses are *ultra viers* or not in terms of  
2 a residence on Indian Reserves, for caution sake we have  
3 suggested that -- that people not rely on those.

4 Bands have attempted to take the  
5 Saskatchewan provisions and replicate them in bylaws and  
6 sent them to Ottawa, and they have not been approved. Now,  
7 since that process, we also have the family property on  
8 reserve regime, which tries to replicate, again, the  
9 emergency intervention order provisions that are in the  
10 Saskatchewan legislation.

11 We have an option, obviously, of enacting  
12 those in the province. It requires that we designate a  
13 justice of the peace, and the province has been prepared to  
14 do that. But we consulted with First Nations leadership in  
15 terms of whether or not there was support for our doing so,  
16 and -- and they advised no. So we have not designated  
17 justice of the peace for that purpose.

18 We do have -- we do say the other provisions  
19 of the emergency protection order regime do apply on  
20 reserve, it's just with respect to the specific residence  
21 that there's an issue.

22 **MS. SARAH BEAMISH:** Okay, thank you. So my  
23 second set of questions is about -- I'm not sure if we've  
24 called it Exhibit 21 or 22, it's the Saskatchewan Final  
25 Report on Domestic Violence Stats.

1                   **MS. BETTY ANN POTTRUFF:** Okay.

2                   **MS. SARAH BEAMISH:** I think it's Exhibit 22.  
3                   So this report makes a number of recommendations that  
4                   include access to programs and services, such as domestic  
5                   violence treatment programs and parenting education  
6                   courses, that kind of thing. Would you agree that the  
7                   delivery of these kinds of programs and services is  
8                   typically designed for those who are either in or have easy  
9                   access to urban centres?

10                  **MS. BETTY ANN POTTRUFF:** Not necessarily.  
11                  The programs can be delivered by smaller organizations in a  
12                  community, and so I -- I think that we very much, when  
13                  we're developing these types of programs, we're looking to  
14                  community in terms of what are -- what are the local  
15                  organizations prepared to -- prepared to provide and -- and  
16                  is there some way to support that. So I don't think you  
17                  have to have an urban situation to be able to provide  
18                  programming.

19                  We have experience with communities like  
20                  Sandy Bay offering family centres and being able to provide  
21                  a lot of programming there, so I think that that shows it's  
22                  possible in a smaller community.

23                  **MS. SARAH BEAMISH:** Okay. So although it's  
24                  possible, would you say that people in more remote  
25                  Indigenous communities often have difficulty accessing

1 these programs, particularly if they're living with poverty  
2 or disabilities or they are caregivers?

3 **MS. BETTY ANN POTTRUFF:** Absolutely. Unless  
4 we can make the programs available locally, obviously  
5 travel costs are prohibitive to some people and  
6 particularly if the location is remote.

7 **MS. SARAH BEAMISH:** Okay. So would you  
8 agree that people living in remote Indigenous communities  
9 are often falling between the cracks of some of these kinds  
10 of programs and victim services?

11 **MS. BETTY ANN POTTRUFF:** I'm not sure that  
12 they're falling between the cracks, per se. I think the  
13 issue is, are we prepared to sort of penetrate all the  
14 communities with -- with sufficient programming? Is -- is  
15 there the financial and -- and human resource potential  
16 available to be able to -- to be in all communities?

17 **MS. SARAH BEAMISH:** Okay. So given  
18 Saskatchewan's experience with maybe trying to deliver some  
19 of these programs in more remote communities, are there  
20 recommendations you would make to the -- to the Commission  
21 about how these kinds of services can be made more  
22 accessible and more useful for Indigenous women and girls in  
23 those communities?

24 **MS. BETTY ANN POTTRUFF:** Well, I -- I think a  
25 lot of it has to do, as -- as I've indicated, with having



1 the financial resources to be able to support local  
2 programming and to be able to train local facilitators to  
3 provide the programming. Often, that requires that -- that  
4 we develop, sort of, the program outline and -- and matrix  
5 for the program so that the local providers don't have to  
6 start from square one, right? But they've got -- they've  
7 got a product that they can then implement and -- and adopt  
8 to the community culture or needs.

9 **MS. SARAH BEAMISH:** Okay. All right. I  
10 think that's all my questions for you. Thank you, Ms.  
11 Pottruff.

12 **MS. BETTY ANN POTTRUFF:** Okay, thanks.

13 **MS. MEREDITH PORTER:** Can we stop the clock?  
14 And I believe we had 16 minutes and 43 seconds left for that  
15 part of this afternoon, and at this time, I'm going to  
16 invite the representative for the Nishnawbe Aski Nation,  
17 Grand Council Treaty 3, and the Treaty Alliance of Northern  
18 Ontario to come up and put questions to Ms. Pottruff. I  
19 request that 23 minutes be once again put on the clock.

20 **MS. KRISTYN ORDYNIEC:** Good morning,  
21 (Speaking in Native language), *bonjour*. On behalf of my  
22 clients and Treaty Alliance Northern Ontario, which is made  
23 up of the Nishnawbe Aski Nation and Grand Council Treaty 3,  
24 I would like to thank the Blackfoot Nation for welcoming us  
25 so kindly here. I acknowledge the sacred items in the room

1 and thank you for the prayers and the drum song. Also, I'd  
2 like to acknowledge the traditional territory of Treaty 7  
3 and the Métis Nation Region 3 again.

4 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

5 **CROSS-EXAMINATION BY MS. ORDYNIEC:**

6 **MS. KRISTYN ORDYNIEC:** Ms. Pottruff, I --  
7 yesterday, in your testimony, you talked about barriers to  
8 going north. Could you just expand on that a little bit for  
9 context and -- and let us know what you meant by that?

10 **MS. BETTY ANN POTTRUFF:** Are you referring to  
11 barriers to continuing the -- to meet with the northern  
12 families?

13 **MS. KRISTYN ORDYNIEC:** That's right.

14 **MS. BETTY ANN POTTRUFF:** Okay. What  
15 happened, for example, is fires. Fire season led to  
16 cancellation, because obviously, it was not the first  
17 priority for the community to be dealing with -- with --  
18 with our -- our issues at -- at that time. Other issues  
19 that intervened were simply weather, other thing --  
20 elections, all of those things intervene with -- with being  
21 able to organize.

22 **MS. KRISTYN ORDYNIEC:** And would you agree  
23 with me that also the -- the distance in going up north  
24 would be a barrier?

25 **MS. BETTY ANN POTTRUFF:** That -- that's part

1 of it, because of the travel costs involved, and it's also  
2 part of -- for the northern communities as well. How do you  
3 -- how do you organize to have people accessible in -- in  
4 several communities and -- and try to cover the north?

5 **MS. KRISTYN ORDYNIEC:** Sure. So the  
6 remainder of my questions will focus on exhibit 20 and  
7 specifically page 15. You talk about a Northern  
8 Transportation and Support Initiative created in 2015, and  
9 obviously, you're familiar with this, correct?

10 **MS. BETTY ANN POTTRUFF:** Yeah.

11 **MS. KRISTYN ORDYNIEC:** Could you provide some  
12 context and backgrounds on how this initiative came to be?

13 **MS. BETTY ANN POTTRUFF:** Well, we've  
14 certainly had lengthy discussions with northern communities  
15 and representatives through organizations such as STOPS to  
16 Violence or Saskatchewan Aboriginal Women's Circle Corp and  
17 other partners about some of the challenges of northern  
18 Saskatchewan and how to address the issues.

19 Because we do not have transition houses or  
20 safe houses in most of those communities and -- and there  
21 are challenges to creating such facilities in those  
22 communities, and one of the things that we heard back from  
23 our partners was -- was the concern about -- that -- that  
24 people were, as good neighbours and friends, driving  
25 individuals out of the community or trying to find a way to

1 support them to flee, and they were, you know, this is a  
2 personal cost to them. And so we -- we developed the  
3 Northern Transportation Initiative to try to -- try to make  
4 sure that we offset that cost and made sure that there was a  
5 program that people could apply to for funding emergency  
6 relief to, in fact, help with the transportation costs and  
7 -- and resettling of people in a place where they would be  
8 safe.

9 **MS. KRYSYTN ORDYNIEC:** And is it only to do  
10 with emergency situations?

11 **MS. BETTY ANN POTTRUFF:** I -- pretty much,  
12 yes.

13 **MS. KRYSYTN ORDYNIEC:** Okay. And in the  
14 guidelines for delivery that are footnoted, you suggest,  
15 quote, "leaving in a hurry," which would support that. How  
16 quickly is an individual able to access the assistance from  
17 -- from when they determine they're in an emergency  
18 situation to when help is provided?

19 **MS. BETTY ANN POTTRUFF:** Immediately, because  
20 they can access the -- the northern victim services  
21 organization 24/7.

22 **MS. KRYSYTN ORDYNIEC:** And how did -- how do  
23 remote communities become aware of this initiative, aware  
24 that this is available to them?

25 **MS. BETTY ANN POTTRUFF:** There would have

1       been discussions with northern community service providers.  
2       Certainly, the police would be aware of it, and victim  
3       services would become aware through the police, I think, or  
4       through direct contact. Often, when you're dealing with  
5       northern communities, you're also making sure that  
6       organizations such as the local nurse and -- and others know  
7       about the services that are available. I don't know the  
8       specifics of how this program was -- was publicized, but  
9       those would be some of the processes we use. We often, as  
10      well, use Missinipi Radio to make sure that people are aware  
11      of the services.

12                   **MS. KRYSYTN ORDYNIEC:** And after an  
13      individual is supported to leave a community, what kind of  
14      supports are available to them when they are in a safe  
15      place?

16                   **MS. BETTY ANN POTTRUFF:** Often, they would be  
17      being supported into a transition home, either in -- in one  
18      of the northern locations or they would be linked to  
19      services that -- that are available to other individuals,  
20      whether they're Social Services, whether there's welfare,  
21      income services, whatever, they would be linked to those.

22                   **MS. KRYSYTN ORDYNIEC:** And Ms. Pottruff,  
23      would you agree with me that this is only one option and  
24      perhaps a better option would be to have those resources in  
25      the northern communities so that individuals fleeing violent

1 situations, specifically women, would not have to travel  
2 these far distances?

3 **MS. BETTY ANN POTTRUFF:** You mean in terms of  
4 resources for them to be able to have a safe place to stay?

5 **MS. KRYSYTN ORDYNIEC:** Right. That's right.

6 **MS. BETTY ANN POTTRUFF:** Yes. If -- if -- if  
7 we can think of how to do that in a way that will maintain  
8 their safety, which is the biggest concern.

9 **MS. KRYSYTN ORDYNIEC:** Thank you very much.

10 **MS. MEREDITH PORTER:** Thank you, and I'll  
11 ask --

12 **UNIDENTIFIED SPEAKER:** Excuse me. For the  
13 record, could we have counsel's name, please?

14 **MS. KRYSYTN ORDYNIEC:** I apologize. It's  
15 Krystyn Ordyniec.

16 **MS. MEREDITH PORTER:** Okay, and for the  
17 record, I'm just going to note that the clock stopped at  
18 17:30 for the party. The next party I'm going to invite up  
19 to question Ms. Pottruff is from the Native Women's  
20 Association of Canada. And again, if 23 minutes could be  
21 put on the clock?

22 **MS. VIRGINIA LOMAX:** Thank you. First --  
23 first, I'd like to begin by thanking Treaty 7 and the Métis  
24 Region 3 for welcoming us to their territory today. I'd  
25 also like to acknowledge the sacred items that are in the

1 room with us and thank the Elders for their prayers this  
2 morning.

3 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

4 **CROSS-EXAMINATION BY MS. LOMAX:**

5 **MS. VIRGINIA LOMAX:** And, Ms. Pottruff, you  
6 testified yesterday that you -- you have witnessed your  
7 staff and -- oh, no. You testified yesterday that, in the  
8 PPCMP, there was not a reporting relationship with the  
9 government because a reporting relationship with the  
10 government will put the government above other parties,  
11 thereby creating a non-partnership relationship. Is that  
12 correct?

13 **MS. BETTY ANN POTTRUFF:** That's correct.

14 **MS. VIRGINIA LOMAX:** And would you agree with  
15 the statement that a relationship with the government where  
16 one party is reporting to the government is not a  
17 partnership but is rather creating somewhat of a hierarchy?

18 **MS. BETTY ANN POTTRUFF:** It's -- it can be  
19 collaborative, but it is still a hierarchy, yes.

20 **MS. VIRGINIA LOMAX:** And yesterday you  
21 testified that you hoped that this inquiry would come out  
22 with practical -- practical, workable recommendations for  
23 you to begin implementing. Is that correct?

24 **MS. BETTY ANN POTTRUFF:** Correct.

25 **MS. VIRGINIA LOMAX:** So throughout the course

1 of this inquiry, we have heard many families give  
2 recommendations to the inquiry, and yesterday, you testified  
3 that, through the course of the PPCMP, families brought  
4 forward extremely important information and recommendations  
5 that were instrumental to the PPCMP. Is that correct?

6 **MS. BETTY ANN POTTRUFF:** This is correct.

7 **MS. VIRGINIA LOMAX:** And would you agree with  
8 the statement that recommendations from families who have  
9 testified before this inquiry are also important and  
10 instrumental to the inquiry's work?

11 **MS. BETTY ANN POTTRUFF:** I would assume so.

12 **MS. VIRGINIA LOMAX:** So would you agree that  
13 educating the public from coast to coast to coast about what  
14 really happened in residential schools is a practical,  
15 workable recommendation for you or other governments and  
16 their departments to begin to implement?

17 **MS. BETTY ANN POTTRUFF:** I believe so. I --  
18 I believe that's also a recommendation in the -- in the  
19 Truth and Reconciliation Report.

20 **MS. VIRGINIA LOMAX:** And would you agree  
21 with the statement that developing strategies and programs  
22 in partnership with Indigenous people to restore and  
23 promote Indigenous culture, spirituality, and languages is  
24 a practical, workable recommendation that you or other  
25 government departments could work to implement?



1                   **MS. BETTY ANN POTTRUFF:**   Certainly, I think  
2                   so.

3                   **MS. VIRGINIA LOMAX:**   And would you agree  
4                   with the statement that working in relationship with  
5                   Indigenous people to develop and implement strategies to  
6                   lift up and strengthen Indigenous families instead of  
7                   separating families through apprehension is a practical,  
8                   workable recommendation that you and other government  
9                   departments could work to implement?

10                  **MS. BETTY ANN POTTRUFF:**   I agree.

11                  **MS. VIRGINIA LOMAX:**   And would you agree  
12                  with the statement that creating more transparency and  
13                  enforceable rights for victims and families within the  
14                  criminal justice system is a practical and workable  
15                  recommendation that you and other government departments  
16                  could work to implement?

17                  **MS. BETTY ANN POTTRUFF:**   I -- I think  
18                  that's true in balance with always maintaining the balance  
19                  with the rights of the accused and the rights of the  
20                  community.

21                  **MS. VIRGINIA LOMAX:**   And would you agree  
22                  with the statement that funding and promoting honouring and  
23                  memorial projects or funds for families of missing and  
24                  murdered Indigenous women is a practical, workable  
25                  recommendation that you and other government departments

1 could work to implement?

2 **MS. BETTY ANN POTTRUFF:** I think you heard  
3 me speak about the challenges of using the word "memorial".

4 **MS. VIRGINIA LOMAX:** Yes, in certain  
5 circumstances.

6 **MS. BETTY ANN POTTRUFF:** Okay. And -- and  
7 so I would have to differ on that. I certainly support any  
8 community, any organization, any family who wants to  
9 develop some form of remembrance, but it doesn't have to be  
10 one form. Each community, each family, is different, and  
11 we need to honour that, as well. And -- and for -- for us,  
12 it was important to have a -- a symbol of remembrance, but  
13 there are many ways to do this, and I -- I would not  
14 presume to say for families or communities how it should be  
15 done.

16 **MS. VIRGINIA LOMAX:** And would you agree  
17 with the statement that closing the gap in health care  
18 delivery between non-Indigenous and Indigenous people,  
19 particularly children, is a practical, workable  
20 recommendation that you or other government departments  
21 could work to implement?

22 **MS. BETTY ANN POTTRUFF:** I think it's a  
23 very important recommendation, and -- and I think it's one  
24 that should be developed.

25 **MS. VIRGINIA LOMAX:** Would you agree with

1 the statement that releasing document about missing or  
2 murdered loves ones to families is a practical, workable  
3 recommendation that you or other government departments  
4 could work to implement?

5 **MS. BETTY ANN POTTRUFF:** I believe that's  
6 true, subject to the usual privacy and -- and other  
7 legislative restrictions.

8 **MS. VIRGINIA LOMAX:** And would you agree  
9 with the statement that addressing race and sex-based  
10 bullying in schools is a practical, workable recommendation  
11 that you or other government documents could work to  
12 implement?

13 **MS. BETTY ANN POTTRUFF:** I agree.

14 **MS. VIRGINIA LOMAX:** And would you agree  
15 with the statement that developing a 24-hour a day  
16 counselling service for families and survivors is a  
17 practical, workable recommendation that you or other  
18 governments could work to implement?

19 **MS. BETTY ANN POTTRUFF:** I think we need to  
20 develop counselling support. Whether it's practical to  
21 have 24 hour and how to do that, that would be the  
22 question.

23 **MS. VIRGINIA LOMAX:** And finally, would you  
24 agree with the statement that you and/or other government  
25 departments could begin to implement these practical and

1 workable recommendations in partnership in First Nations,  
2 Métis, and Inuit communities, families, and organizations  
3 before the release of the National Inquiry's final report?

4 **MS. BETTY ANN POTTRUFF:** I certainly think  
5 that governments and other organizations don't need to wait  
6 for a final report to continue good work. But once again,  
7 we're hoping that the final report would -- would help  
8 direct us down some pathways.

9 **MS. VIRGINIA LOMAX:** Thank you very much.

10 **MS. MEREDITH PORTER:** Thank you. And if we  
11 could stop the clock? And for the record, the clock was  
12 stopped at 1715, so that is the remaining time for that  
13 party this afternoon. And at this time, that concludes the  
14 parties that have requested to put questions to the  
15 witness. And at this time, I'd like to invite the  
16 commissioners to question Ms. Pottruff.

17 **CHIEF COMMISSIONER MARION BULLER:** Does the  
18 commission counsel have questions for her?

19 **UNIDENTIFIED SPEAKER:** No.

20 **UNIDENTIFIED SPEAKER:** I don't believe so.

21 **MS. CHRISTA BIG CANOE:** The questions were  
22 asked by another party, so -- so they've been asked and  
23 answered, so I do not need to use the time. Thank you.

24 **CHIEF COMMISSIONER MARION BULLER:** Thank  
25 you.

1                   **COMMISSIONER QAJAQ ROBINSON:** I -- I have  
2 one question, and it will sort of build what Ms. Lomax was  
3 working on. The -- or her style.

4 **QUESTIONS BY THE COMMISSIONERS:**

5                   **COMMISSIONER QAJAQ ROBINSON:** In terms of  
6 how -- I'm so bad with acronyms -- the PPCMP?

7                   **CHIEF COMMISSIONER MARION BULLER:** Yeah,  
8 that'll do. Partnership committee. That's easy.

9                   **COMMISSIONER QAJAQ ROBINSON:** The  
10 partnership committee? Okay. In terms of how that was  
11 structured and brought together, is this a model of  
12 inter-departmental and inter-stakeholder relationship that  
13 you would recommend for other decision-making bodies,  
14 power-holding bodies? I state that because I think we have  
15 to talk about more than just governments here. Everyone  
16 who is in a position to impact the lives of Indigenous  
17 women and girls plays a role in this issue, so I -- I tend  
18 to speak about power-holders, those with obligations, as  
19 opposed to just using the generic "government."

20                   **MS. BETTY ANN POTTRUFF:** I -- I think it  
21 worked well for us. I think it can work well in other  
22 situations. It is very dependent on relationships and on  
23 building trust. And -- and so those are two of the  
24 foundations for using the partnership approach. It's not  
25 unlike what's now called collective impact approaches, and

1 those have been very effective, too. So I think -- I think  
2 if you look at the literature on collective impact, you  
3 will find many similarities to what we unconsciously did.  
4 And I think that yes, it is -- it is a good practice. It  
5 may not work in every scenario.

6 **COMMISSIONER QAJAQ ROBINSON:** One of the  
7 things we've heard from families and grassroots  
8 organizations, particularly Indigenous feminist  
9 organizations, is a lack of having the seat at many of  
10 these tables. How in your partnership was -- was that  
11 addressed or considered?

12 **MS. BETTY ANN POTTRUFF:** Well, our partners  
13 included Indigenous organizations. We had the Federation  
14 of Saskatchewan Indian Nations, now the Federation of  
15 Sovereign Indigenous Nations, the Women's Commission  
16 membership, as well as Saskatchewan Aboriginal Women's  
17 Circle Corp. and -- and other organizations. So -- so we  
18 were certainly conscious of -- of having those voices at  
19 the table.

20 You also don't need to have the voice at the  
21 table to have the voice heard because you can have meetings  
22 with agencies, which we had, to -- to also hear  
23 perspectives and take those into account.

24 **COMMISSIONER QAJAQ ROBINSON:** And is that  
25 something that -- that's similar to my first question. Do

1       you think that other agencies and decision-makers should be  
2       engaging with that objective in mind?

3                   **MS. BETTY ANN POTTRUFF:** I think it's  
4       important to hear the voices from the different  
5       constituents. And -- and if -- depending on the mandate  
6       and -- and the purpose of -- of the group putting together,  
7       yes, it may be appropriate to have those individuals as  
8       part of the group, or it may be important to simply have  
9       another opportunity to hear those voices and -- and discuss  
10      what they have -- what they have suggested.

11                   **COMMISSIONER QAJAQ ROBINSON:** Those are all  
12      my questions.

13                   Do you have any? He doesn't have any  
14      questions.

15                   **CHIEF COMMISSIONER MARION BULLER:** Thank  
16      you.

17                   **COMMISSIONER QAJAQ ROBINSON:** Okay.

18                   **CHIEF COMMISSIONER MARION BULLER:** Okay. I  
19      have some questions.

20                   In looking at the document 113127 the  
21      document, "Part II: Institutional Hearings", which is  
22      Exhibit 20, Page 15, which was referred to by other  
23      counsel, by the Northern Transportation and Safety  
24      Initiative, isn't this premised on the assumption that the  
25      parties leaving the communities are women and children?

1           **MS. BETTY ANN POTTRUFF:** Primarily, yes.

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

3           What support, financial support, is there -- or any other  
4           type of support is there for alleged abusers to leave a  
5           community other than through the criminal justice system?

6           **MS. BETTY ANN POTTRUFF:** And -- and that can  
7           be a challenge, I agree. I'm not aware whether we've had  
8           situations where they've been supported to leave the  
9           community. It -- it may be that there have been, but I'm  
10          not aware of those.

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

12          So if we are looking at an emergency intervention order,  
13          and the alleged abuser or alleged offender is removed from  
14          the home, what resources, if any, are available to that  
15          alleged abuser to leave the community so that the order can  
16          be enforced, in other words?

17          **MS. BETTY ANN POTTRUFF:** Well, often there  
18          is that challenge in the community in terms of whether  
19          there is another location in the community that they can  
20          reside in, with family or friends, but we know the housing  
21          issues in many of those communities, and so they -- they  
22          may be looking for opportunities to leave the community. I  
23          really can't speak to it more than that.

24          **CHIEF COMMISSIONER MARION BULLER:** Assuming  
25          for the moment this scenario, a family of four, a mother,



1 two children and father/husband, or spouse, and the  
2 spouse -- father/spouse is an alleged abuser, because I'm  
3 going to say I know it works the other way, where women can  
4 be abusers as well, but for the time being we will say this  
5 scenario. Isn't it -- and I appreciate I'm asking an  
6 opinion here. Isn't it less disruptive to the family to  
7 remove the abuser from the community than to remove the  
8 rest of the family?

9 **MS. BETTY ANN POTTRUFF:** That's certainly an  
10 issue that has been raised by community and by partners in  
11 terms of the lack of adequate support for abusers in terms  
12 of housing, whether it's in a remote community or whether  
13 it's in a rural community, there are issues in terms of you  
14 don't want the abuser unnecessarily detained in jail, but  
15 there needs to be a place for them to go to. Some of the  
16 southern locations, of course, have -- have shelters which  
17 are provided available to men as well, but yes, it is one  
18 of the challenges.

19 **CHIEF COMMISSIONER MARION BULLER:** In  
20 considering programs that are offered to protect women and  
21 children and work that you've done, especially with -- I  
22 better get this right -- the partnership committee, have  
23 you taken the perspective of a women and children, human  
24 right to be safe and removing the abuser from the situation  
25 as opposed to removing the woman and her children from the

1 unsafe situation? Have you applied that lens to your  
2 programs?

3 **MS. BETTY ANN POTTRUFF:** Well, and I think  
4 that was the initial reasoning behind the emergency  
5 prevention orders, was, in fact, to have an intervention  
6 which would maintain the women and children in the home,  
7 and -- and so that's the whole focus behind that, is to be  
8 able to have an emergency response that would support the  
9 women and children staying in the home. But for a fulsome  
10 response you need to also look at how are you going to then  
11 support the abuser, where are they going to -- where are  
12 they going to go? And I would agree that we don't have a  
13 fulsome response on that process yet.

14 **CHIEF COMMISSIONER MARION BULLER:** So really  
15 in Saskatchewan the only way that a woman and her children,  
16 her family, can realistically remove an alleged abuser from  
17 not only the residence, but also the community, is through  
18 the criminal justice system?

19 **MS. BETTY ANN POTTRUFF:** The emergency  
20 protection order is a civil order, it's not a criminal  
21 order, so there are those. There's also peace bonds, you  
22 know, there's other processes that are used. And where at  
23 all possible, obviously, we hope that the woman and the  
24 children can stay in the community, can be safe with the  
25 emergency protection order or the peace bond or whatever.

1 But where it's important that -- because their safety  
2 cannot be maintained in the community, then -- then our  
3 resort is generally to remove them from the community.

4 I will note that, you know, we are  
5 continuing to have extensive consultations with our  
6 partners on how to address violence against Indigenous  
7 women and girls in Saskatchewan, and as well how to address  
8 interpersonal and domestic violence within the province,  
9 and we've had a number of raw discussions with our partners  
10 over the last two years trying to come up with how we move  
11 forward collaboratively with an action plan.

12 **CHIEF COMMISSIONER MARION BULLER:** Okay. In  
13 Saskatchewan you have the domestic violence courts?

14 **MS. BETTY ANN POTTRUFF:** Yes.

15 **CHIEF COMMISSIONER MARION BULLER:** Are  
16 there --

17 **MS. BETTY ANN POTTRUFF:** We have three of  
18 them.

19 **CHIEF COMMISSIONER MARION BULLER:** There are  
20 three of them in total. How -- how are the referrals made  
21 to get families into those courts? Is that through Crown  
22 counsel only?

23 **MS. BETTY ANN POTTRUFF:** The courts -- the  
24 three courts operate slightly differently, but, yes, it's  
25 through Crown counsel, but also through legal aid, in terms

1 of their clients have to be willing and interested in  
2 taking that approach. If they are not interested in a  
3 therapeutic approach, then -- then they will soon be  
4 screened out of domestic violence court.

5 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
6 Again, I appreciate I'm getting a little beyond your  
7 expertise. For women and their families who go through  
8 domestic courts, what, if any, supports are there for them  
9 through -- throughout that whole process?

10 **MS. BETTY ANN POTTRUFF:** They're fairly  
11 extensive supports. The domestic violence courts, the  
12 victim services are involved throughout with -- with  
13 supporting the victim, and as well the courts involve a  
14 collaborative approach between legal aid, it can be child  
15 protection, it can be mental health, it can be victim  
16 services and the Crown, to sort of case manage and support  
17 both the victim and the -- and the offender or the accused  
18 going through the process, and -- and we found it to be,  
19 I'd say, very effective.

20 That, by and large, that you -- you achieve  
21 earlier guilty pleas, so the matter is resolved earlier,  
22 and then the offender may be involved in treatment, but the  
23 victim is also provided treatment and support during that  
24 period of time often, and -- and as a result, the sentence  
25 for the offender is -- is affected, recognizing if they've

1 completed the treatment. And more frequently people in the  
2 therapeutic stream complete the treatment than those who  
3 are not, and that, in fact, our evidence, which may not be  
4 strong, but is persuasive, is that the level of violence is  
5 vastly reduced after going through this process, that we  
6 don't see as much re-offending.

7 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
8 Thank you, those are my questions.

9 **COMMISSIONER MICHÈLE AUDETTE:** *Merci chefs,*  
10 *commissaires, merci beaucoup, alors je vais procéder en*  
11 *français. Je veux juste me permettre Mme Pottruff, vous*  
12 *avez fait une belle introduction sur vos expériences, votre*  
13 *bagage et vos implications et étant une femme très, très*  
14 *impliquée pour le droit des enfants et je me souviens il y*  
15 *a plusieurs années sur toutes les questions pour faire en*  
16 *sorte qu'éventuellement le Canada a mis en place cette*  
17 *commission d'enquête là. Alors je vous remercie d'avoir*  
18 *contribué avec beaucoup de gens. Dans votre introduction,*  
19 *vous avez parlé de chaos qui règne, un chaos qui règne au*  
20 *saint des communautés et qui a de grands défis et parmi les*  
21 *obstacles, une des raisons pourquoi on se retrouve de même*  
22 *dans les communautés et un changement de leadership*  
23 *constant, ce qui arrive à travers le Canada, on est*  
24 *d'accord avec ça, et que les communautés doivent travailler*  
25 *avec plusieurs paliers de gouvernement et avec cette*

1 *réalité-là, il est difficile d'apporter un grand*  
2 *changement. Lorsque vous avez mentionner ça, oui je suis*  
3 *d'accord pour avoir entendu d'autres témoins, le vivre dans*  
4 *leurs propres communautés mais la question que je pose dans*  
5 *le cadre de ce mandat avec toutes vos années d'expérience*  
6 *et implication et académique aussi, professionnel, avez-*  
7 *vous réfléchi à des solutions? La solution magique mais à*  
8 *des solutions qui pourrais devenir des recommandations?*

9 **MS. BETTY ANN POTTRUFF:** Now, there's a big  
10 question. I think one -- one of the -- I'm getting some  
11 feedback here, so I'm trying to -- one of the things that  
12 impressed me, and it's not maybe everybody's solution, but  
13 certainly the consensus form of government that you see in  
14 the Northwest Territories and Nunavut is -- is a really  
15 interesting, different style of -- of governing. But I  
16 think it's more along the process of collaboration. And --  
17 and the expectation that to provide services to  
18 individuals, all levels of government have to be  
19 collaborative. And that we have to avoid, as much as  
20 possible, the partisan influence on really what are the  
21 big, complex, wicked questions as we call them. That if  
22 you want to see change, sustainable change, there has to be  
23 a commitment that crosses party lines, and crosses  
24 governments. To -- to be able create change in a  
25 generation, is what we all want. And there has to be a --

1 a sustained emphasis and momentum to do that. And, I  
2 think, people of goodwill can -- can create that.

3 **COMMISSIONER MICHÈLE AUDETTE:** *Merci. Alors*  
4 *qu'est-ce qui explique dans les années 90, 2000 et*  
5 *aujourd'hui à la fin des années 2000, au lieu avec toutes*  
6 *les recommandations, notamment ceux de vos rapports que vous*  
7 *nous avez présenté. Au lieu de voir une diminution au*  
8 *niveau de la violence faites aux femmes et au filles*  
9 *autochtones. Au lieu de voir une diminution au niveau des*  
10 *statistiques au niveau des disparitions et des meurtres ou*  
11 *des meurtres, des décès et des meurtres non résolus, et la*  
12 *liste est longue. Pourquoi on se recouvre avec une*  
13 *explosion de chiffres là, alarmante à travers le Canada et*  
14 *dans votre territoire aussi, province? D'après vous,*  
15 *qu'est-ce qui se fait qu'on se retrouve avec ça?*

16 **MS. BETTY ANN POTTRUFF:** I'm -- I'm getting  
17 feedback again, sorry. So I got to turn this down.

18 **COMMISSIONER MICHÈLE AUDETTE:** You understand  
19 me, yes?

20 **MS. BETTY ANN POTTRUFF:** Yeah. I -- I think,  
21 that in fact we have to be very careful with the numbers.  
22 The general social survey numbers from the Canadian Centre  
23 of Justice Statistics would tend to indicate that, in fact,  
24 we're not seeing an increase in crime. And that some crimes  
25 are -- are, perhaps, being decreased, and that includes

1 domestic violence, but that's not true in every community,  
2 right? So taking very general statistics and trying to draw  
3 from them what's happening, it's a very broad brush, and  
4 doesn't give you a very accurate picture. You really need  
5 to be talking to the community about what they see in their  
6 community or looking at more localized statistics.

7 The same with -- with criminal justice  
8 statistics. They're very broad strokes and they -- they  
9 don't tell you a lot, quite frankly. Because it's either  
10 about what's reported, or what's under reported, or you  
11 know, how comfortable people are with reporting. And so one  
12 of the challenges that -- that we faced since the Indian and  
13 Métis Justice Review Committee Reports in 1991, '92, was the  
14 request that there be more statistics, more accurate  
15 statistics. And we still aren't there. And -- and partly  
16 that is -- requires a discussion as to what it is we want to  
17 collect. What are we going to measure? And how are we  
18 going to measure it?

19 And -- and so the statistics in and of  
20 themselves it -- you know, just aren't much of an accurate  
21 measure given that so much is unreported, and -- and the --  
22 and the level of -- of violence that -- that individuals  
23 themselves, either are afraid to come forward, or feel they  
24 would manage themselves, or whatever.

25 I -- I think that the situation is much more



1 hopeful than you've indicated. It -- it is my belief that  
2 there is greater awareness now of -- of the issues of  
3 violence against Indigenous women and girls. And -- and  
4 that's thanks, in part, to the Commission and thanks much to  
5 the work of the Indigenous womens' organizations, and the  
6 families, in bringing these issues forward. I think there's  
7 a -- a large community awareness of violence, generally, in  
8 the "Me Too" movement. And others have -- have increased  
9 that.

10 What is needed is, I think, focus and tools  
11 and support for individuals, communities, and governments to  
12 work collaboratively on prevention and awareness. To work  
13 on community-based solutions because each community is  
14 different and has a different group of agencies or supports.  
15 And to work on systemic change.

16 And those are the three recommendations,  
17 actually, that came out of our consultations with Indigenous  
18 organizations and non-Indigenous organizations, on how to  
19 address violence against Indigenous women and girls in  
20 Saskatchewan. Those are the three areas that -- that were  
21 identified that need action.

22 **COMMISSIONER MICHÈLE AUDETTE:** *Merci*  
23 *beaucoup. Justement, c'est la prochaine question. À la*  
24 *lecture de vos documents, on semble comprendre que c'est une*  
25 *approche globale, pas globale mais qui va inclure les*

1 *premières nations, métis, et femmes de la Saskatchewan, et*  
2 *dans d'autres régions on va voir qu'il y a des politiques*  
3 *précisent qui sont des plans d'action pour les premières*  
4 *nations. Est-ce que chez vous, les groupes de femmes et les*  
5 *femmes qui ont participé à vos travaux veulent être incluses*  
6 *avec les canadiennes ou aimerais avoir une politique pour*  
7 *les femmes autochtones, un plan d'action pour les femmes*  
8 *autochtones et une approche spécifique pour les autochtones?*

9 **MS. BETTY ANN POTTRUFF:** What I think we've  
10 been successful in and -- it's getting -- turn this down,  
11 we'd had discussions on the issues of how do we address  
12 violence against Indigenous women and girls in Saskatchewan.  
13 We want -- or what we heard back from those discussions is  
14 that people want a Saskatchewan solution, okay. We've also  
15 heard that that solution needs to recognize the violence  
16 happens in families in communities. So it is not just  
17 Indigenous women and girls, although that is the primary  
18 focus. What we can't -- we forget there's violence against  
19 Indigenous boys too. There's violence against Indigenous  
20 men. You can't heal a community just by looking at one part  
21 of the equation, right? But we also don't want to lose the  
22 focus that now is there on -- on the violence against  
23 Indigenous women and girls.

24 Having said that, and having had those  
25 conversations, including what type of principles we would

1 use, and that includes human rights principles, and  
2 leadership, and community-based development, and -- and  
3 recognizing culture. And all -- all those issues we --  
4 we've taken into account in terms of looking at what would  
5 be some possible principles for moving forward. There --  
6 there was agreement that while the issues that face  
7 Indigenous women and girls are -- are critical to moving  
8 forward, this should not be separated from the issues that  
9 impact all women and girls. And -- and from the province as  
10 a whole, we're all living together in one place. We have to  
11 find a way to live together. And some of the violence, as -  
12 - as we know, against Indigenous women and girls is from  
13 non-Indigenous men and boys, right? So -- so we need to  
14 find a way to heal together and to live together.

15 And so we then had a consultation that --  
16 which involved our Indigenous partners as well as -- as  
17 community partners talking about what is Saskatchewan --  
18 what can be a Saskatchewan approach then to address the  
19 inter-personal violence and abuse. That doesn't mean that  
20 there wouldn't be a focus on specific issues important to  
21 Indigenous women and girls. What -- but it would be part of  
22 the overall approach to address violence, recognizing it  
23 affects everyone in the community.

24 What we want is a situation, hopefully, where  
25 everyone sees stopping violence as their responsibility.

1 And it's in -- and every business, every organization, every  
2 individual has that as a responsibility to prevent and  
3 respond to violence because it takes a community.

4 **COMMISSIONER MICHÈLE AUDETTE:** *Ma dernière*  
5 *question, merci beaucoup, ma dernière question. On voit que*  
6 *dans votre document le plus, avec les recommandations,*  
7 *l'évolution et l'état ou est rendu la recommandation. Ça*  
8 *c'est un outil je pense que tout le monde devrait se doter*  
9 *de ce suivi là au niveau des recommandations donc ma*  
10 *question est, et peut être que je l'ai manqué, qui s'assure*  
11 *ou est rendu tel recommandation? Est-ce que vous collaborer*  
12 *avec un groupe de travail dans lequel on retrouve des*  
13 *autochtones, des métis, des premières nations pour être*  
14 *partie prenante dans l'évolution des recommandations?*

15 **MS. BETTY ANN POTTRUFF:** In terms of  
16 the -- sorry, the partnership committee recommendations, or  
17 the death review recommendations?

18 **COMMISSIONER MICHÈLE AUDETTE:** Two then.

19 **MS. BETTY ANN POTTRUFF:** Both? Okay, all  
20 right. With the partnership committee recommendations then  
21 the responsibility is amongst the partners to make sure  
22 that we're reporting on the activity undertaken, but also  
23 then to look at where have we not followed up as much as we  
24 should and what should we be doing next, and so I'm  
25 assuming that will continue.

1           In terms of the death review, what we have  
2 indicated yesterday, when -- yesterday, last week when the  
3 Minister released the report, was that this will be part of  
4 the discussion with our partners about how does  
5 Saskatchewan move forward to create a strategic broad plan  
6 to address interpersonal and domestic violence.

7           **COMMISSIONER MICHÈLE AUDETTE:** *Merci.* I'm  
8 biting my tongue to stop. There's so much more.

9           **MS. BETTY ANN POTTRUFF:** Okay, thank you.

10          **COMMISSIONER MICHÈLE AUDETTE:** *Merci*  
11 *beaucoup.*

12          **MS. BETTY ANN POTTRUFF:** Okay, thank you.

13          **MS. MEREDITH PORTER:** Commissioner Eylofson,  
14 you have no questions? Okay, thank you.

15                 I have a note here that there are two  
16 parties who are scheduled to cross-examine the witnesses.  
17 In particular, I have the Manitoba Keewatinowi Okimakanak,  
18 or MKO, and I also have the Missing and Murdered Indigenous  
19 Women and Girls Manitoba Coalition. And I have a note here  
20 that these two parties, who are the next two parties  
21 scheduled to cross-examine the witnesses have, on consent,  
22 agreed to swap order of their cross-examination.

23                 And so at this time I am going to ask if I  
24 may, please, call the Missing and Murdered Indigenous Women  
25 and Girls Manitoba Coalition to cross-examine the witnesses

1 before our lunch break.

2 **UNIDENTIFIED SPEAKER:** Before the lunch  
3 break?

4 **MS. MEREDITH PORTER:** Before the lunch  
5 break. We are just before noon, it's --

6 **UNIDENTIFIED SPEAKER:** Thank you very  
7 much --

8 **CHIEF COMMISSIONER MARION BULLER:** Excuse  
9 me.

10 **MS. MEREDITH PORTER:** Just a minute.

11 **CHIEF COMMISSIONER MARION BULLER:** Excuse  
12 me, we have decided we will stop for lunch now and  
13 reconvene at one o'clock.

14 **UNKNOWN SPEAKER:** Thank you.

15 **MS. MEREDITH PORTER:** We have -- we will  
16 adjourn then for the lunch break and ask that the parties  
17 attend back to the room at one o'clock sharp to reconvene  
18 the cross-examination of the witnesses. Thank you.

19 --- Upon recessing 11:56 a.m.

20 --- Upon reconvening at 1:09 p.m.

21

22 **COMMISSIONER QAJAQ ROBINSON:** ...tragedies  
23 from across the country. Indigenous women lost to violence.  
24 We -- no day passes where we aren't reminded that this is  
25 ongoing. "Tragedy" seems like an -- a word that doesn't

1 quite cut it.

2 But we, the four of us NFAC members,  
3 grandmothers, and our team wanted to take a moment today, as  
4 we have learned that, in Thunder Bay, a -- a young woman was  
5 lost. There was also a tragedy -- two people's lives were  
6 lost in Iqaluit and a woman in BC recently. And I know that  
7 that's the tip of the iceberg, sadly. So we would like you  
8 all to join us and the nation to join us in a moment of  
9 silence, and Alvine, I'll pass the mic to you, and if you  
10 could lead us in this moment.

11 **MS. ALVINE EAGLE SPEAKER:** I just wanted to  
12 explain that, with the loved ones that we -- we don't know  
13 where we are, we don't know what happened to them, what -- I  
14 was -- we were asked, my husband and I were asked if we  
15 should do a memorial or how would we do it. Well, when we  
16 lose family members back home, it takes us a whole year to  
17 mourn, so the following year, the following year, we have a  
18 memorial for them. We have a big feast and everything to  
19 make -- to know that they're gone, that they're not going to  
20 come back. They'll be with us in spirit, but they won't be  
21 in a human form for us to see them. And that's how I see  
22 the loved ones that we've lost, the loved ones we don't know  
23 where they are.

24 And the best thing I can suggested [sic], and  
25 I suggested that, is just to have a moment of silence that

1 we're going to -- there's -- you know, we don't know where  
2 they are. And I'm -- I'm just as hurting as much as  
3 everybody is. I mean, I have family member, too, that I'm  
4 still wondering. I have the neighbours' daughter that we're  
5 still -- we still look for her, and she was one of my  
6 students when I was teaching. So the best thing we can do  
7 is just have a moment of silence.

8 In your own ways, you pray for the family  
9 members, especially the moms and dads, if any family that  
10 are still here. We're hurting. We're hurt every day.  
11 There's not a moment that we don't think about these  
12 precious people to us, and so that's why I suggested that we  
13 should have a -- a moment of silence from our hearts to give  
14 what we can. To strengthen each other and to strengthen the  
15 family members that are -- that are somewhere.

16 (SHORT PAUSE)

17 **MS. ALVINE EAGLE SPEAKER:** Thank you. *Merci.*  
18 Go ahead.

19 **MS. MEREDITH PORTER:** Thank you.  
20 Commissioners, I had announced prior to the lunch break that  
21 two parties had, on consent, swapped their order of cross-  
22 examination. I have since learned that those parties have  
23 requested that they swap back to their original order, so  
24 the next party that I would like to invite to pose questions  
25 to the witnesses is from the Manitoba Keewatinowi



1 Okimakanak, MKO, and the party will have 23 minutes for  
2 their questions.

3 **MS. JESSICA BARLOW:** Thank you. Hi, good  
4 afternoon. I'll begin with an acknowledgement of the  
5 Elders, the drummers, the singers, sacred items in the room,  
6 families, and the survivors that are either here today with  
7 us or back home in our communities. I'd also like to thank  
8 the Commissioners, the panel witnesses for your testimony.  
9 I'd also like to thank the nations of this territory for  
10 welcoming us here today to participate in this work in a  
11 good way. I'd like to recognize the lands that we're on as  
12 well, that being Treaty 7 and the MNA Region 3.

13 By way of introduction, for the record, my  
14 name is Jessica Barlow. I am legal counsel for the Manitoba  
15 Keewatinowi Okimakanak, or MKO, as it's commonly known. MKO  
16 is a non-profit political advocacy organization that focuses  
17 on providing a collective voice to issues such as inherent  
18 treaty, Aboriginal, and human rights for the citizens of the  
19 over 25 sovereign First Nations in northern Manitoba, of  
20 which these nations are signatories to Treaties 4, 5, 6, and  
21 10.

22 Many of my questions have been aptly asked  
23 and answered by my friends, and so I will make this very  
24 short for the panel members today.

25 **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

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

2                   **MS. JESSICA BARLOW:** I'll begin my  
3       questioning with you, Ms. Pottruff, if that's okay. You've  
4       spoken about -- about the -- the Northern Transportation  
5       Safety Initiative. You've been asked numerous questions on  
6       that, but I just wanted to touch on a few other points if I  
7       can. And so you've talked about how this initiative is  
8       intended to increase access to places of safety and provide  
9       transitional support for residents of the Northern  
10      Administration District who are fleeing circumstances of  
11      interpersonal violence and abuse, and so they're provided  
12      with a -- a place of safety and -- and resources to return  
13      to the community when the danger is reduced; is that  
14      correct?

15                   **MS. BETTY ANN POTTRUFF:** That's my  
16      understanding, yes.

17                   **MS. JESSICA BARLOW:** Thank you. And you've  
18      also provided evidence that speaks to the fact that there  
19      are no transition houses in northern and remote communities  
20      in your region; is that also correct?

21                   **MS. BETTY ANN POTTRUFF:** That's correct.  
22      There is a -- a transition house in La Ronge, but that's --  
23      that's as north as we have.

24                   **MS. JESSICA BARLOW:** Thank you. And so  
25      you've identified that there's no transition houses

1 available for these northern or remote communities, and --  
2 and so essentially, these individuals that are fleeing those  
3 circumstances would have to leave their communities in order  
4 to access these services. Is -- is that it?

5 **MS. BETTY ANN POTTRUFF:** That's correct.

6 **MS. JESSICA BARLOW:** And so they would  
7 essentially have to uproot themselves from -- from their  
8 communities and potentially their children or -- or  
9 dependents as well until it's assessed that the dangers are  
10 reduced; is that --

11 **MS. BETTY ANN POTTRUFF:** Correct.

12 **MS. JESSICA BARLOW:** Correct. And so, given  
13 this situation, would you agree that the -- the victims  
14 having to leave these communities in order to access safe  
15 spaces and -- and services, that they -- this might actually  
16 have the effect of perpetuating or essentially exacerbating  
17 or even causing further feelings of victimization, hardship,  
18 or distress on an individual?

19 **MS. BETTY ANN POTTRUFF:** I think it  
20 certainly causes additional trauma to have to leave your  
21 home and -- and whatever supports you have in the community  
22 to travel someplace else, yes.

23 **MS. JESSICA BARLOW:** Okay. Thank you.  
24 And -- and so would you agree that a recommendation for  
25 increased services in -- in these -- and funding in these

1 northern and remote communities to encompass both issues of  
2 safety and -- and also coupled with preventing trauma that  
3 you spoke to in these northern remote communities should be  
4 a priority?

5 **MS. BETTY ANN POTTRUFF:** I certainly think  
6 we need to look at solutions. We -- it really, I think,  
7 depends on further discussions with the communities is in  
8 terms of what those solutions are.

9 **MS. JESSICA BARLOW:** Perfect. Thank you.  
10 Those are my questions for you.

11 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

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

13 **MS. JESSICA BARLOW:** My next questions are  
14 for you, Ms. Giff-MacKinnon, if I may. In your testimony  
15 yesterday, you spoke about family information liaison  
16 units, or I've heard it both ways, FILUs and FILUs. Sorry.  
17 I'm not sure which is correct. But you did speak about  
18 that --

19 **MS. NAOMI GIFF-MACKINNON:** Either.

20 **MS. JESSICA BARLOW:** -- today, right? Or  
21 yesterday, sorry.

22 **MS. NAOMI GIFF-MACKINNON:** Yes. Yes, I did.

23 **MS. JESSICA BARLOW:** Okay. Thank you. And  
24 you stated that the program was federally funded, and that  
25 it actually began in September 2016; is that correct?

1                   **MS. NAOMI GIFF-MACKINNON:** That the funding  
2 was available in September 2016, yes. Yeah.

3                   **MS. JESSICA BARLOW:** Thank you. And in your  
4 testimony yesterday, you spoke briefly about geographic  
5 barriers to accessing information, particularly as it  
6 related to -- to northern and remote communities; is that  
7 correct?

8                   **MS. NAOMI GIFF-MACKINNON:** I did, yes, in  
9 terms of FILU's outreach with families, yes.

10                   **MS. JESSICA BARLOW:** Thank you. And are you  
11 aware that -- that these FILUs, particularly in northern  
12 and remote communities, specifically to northern Manitoba,  
13 have not been previously available before this program  
14 began? FILU, specifically.

15                   **MS. NAOMI GIFF-MACKINNON:** As far as I know,  
16 there was no Family Information Liaison Unit in place prior  
17 to the creation following the funding.

18                   **MS. JESSICA BARLOW:** Okay. Thank you. And  
19 you mentioned yesterday as well that -- that there's  
20 actually an increased demand for these -- the -- for these  
21 FILUs, and that it's actually growing and increasing; is  
22 that correct?

23                   **MS. NAOMI GIFF-MACKINNON:** That -- yes,  
24 that's what I'm hearing from my FILU colleagues across the  
25 country, yes.

1                   **MS. JESSICA BARLOW:** Okay. Thank you.  
2                   And -- and so in the instance that families and -- from  
3                   northern and remote communities that have been experiencing  
4                   barriers to accessing information about loved ones and have  
5                   now began forming these relationships of trust or bonds  
6                   with their -- the FILUs associated with their communities  
7                   who are assisting them and that demand for services are  
8                   going up, and that also given that the -- the funding is  
9                   expected to end in March of -- March 31st, 2019, I'm  
10                  wondering if you can speak to the potential anticipated  
11                  fate for these FILUs and the families in which they serve  
12                  beyond that date.

13                  **MS. NAOMI GIFF-MACKINNON:** Yes, that's a  
14                  really good question, and that's something that is being  
15                  raised by a lot of the FILU teams themselves. The funding  
16                  was announced in -- in -- as a complement to the National  
17                  Inquiry and the work of the National Inquiry, and that's  
18                  why the timelines are the way they are for the funding.  
19                  And it is set to sunset March 31st, 2019. At this point in  
20                  time, that -- that's the -- that's the funding authority  
21                  that we have to work with. We're always looking at what is  
22                  successful. We're always looking for opportunities  
23                  to -- to further successful initiatives, but at this point  
24                  in time, the funding is set to -- to sunset March 31st,  
25                  2019.

1                   **MS. JESSICA BARLOW:** Thank you. And has  
2 Justice Canada considered any options in delivering these  
3 services through Indigenous organizations?

4                   **MS. NAOMI GIFF-MACKINNON:** Directly  
5 to -- through Indigenous organizations?

6                   **MS. JESSICA BARLOW:** Yes.

7                   **MS. NAOMI GIFF-MACKINNON:** We haven't  
8 considered that at this point in time. The funding is  
9 being flowed -- flowed through provincial/territorial  
10 victims services division at this time, so that -- that  
11 would be something to look at.

12                   **MS. JESSICA BARLOW:** Okay. And to your  
13 knowledge, has Justice Canada ever received any proposals  
14 for the delivery of FILUs or FILUs from a regional First  
15 Nations perspective?

16                   **MS. NAOMI GIFF-MACKINNON:** We -- so have we  
17 received proposals from a -- an -- an Indigenous  
18 organization to deliver the FILU services? Is that what  
19 you mean?

20                   **MS. JESSICA BARLOW:** Yes.

21                   **MS. NAOMI GIFF-MACKINNON:** Yes, we have.  
22 Yeah.

23                   **MS. JESSICA BARLOW:** Okay. And earlier on  
24 in answer to one of Ms. McGregor's questions about the work  
25 done in Manitoba, you had indicated that there was

1 engagement held in Manitoba that may have been conducted  
2 through Ka Ni Kanichihk and MKO; is that correct?

3 **MS. NAOMI GIFF-MACKINNON:** Sorry. I missed  
4 the first part of your question.

5 **MS. JESSICA BARLOW:** So earlier in  
6 Ms. McGregor's questioning, you had mentioned that there  
7 had been work conducted in Manitoba with those two  
8 organizations; is that correct?

9 **MS. NAOMI GIFF-MACKINNON:** As -- as I  
10 remember, I think that I had mentioned that it was raised  
11 to my attention that there was some work going on pre- the  
12 FILU operations.

13 **MS. JESSICA BARLOW:** And just one final  
14 question for you. As a senior policy analyst for the  
15 Centre for Victims Services, are you aware of the Families  
16 First approach and report in Manitoba?

17 **MS. NAOMI GIFF-MACKINNON:** Yes, I am.

18 **MS. JESSICA BARLOW:** Thank you. Those are  
19 all of my questions. Thank you. Good afternoon.

20 **MS. MEREDITH PORTER:** Thank you. So as I  
21 had mentioned those two parties had swapped back, but we do  
22 actually have another request on consent from two parties  
23 to exchange the order of their cross-examination.  
24 According to the schedule, the next party that was  
25 scheduled to pose questions to the witnesses was the



1 Missing and Murdered Indigenous Women and Girls Manitoba  
2 Coalition, but it's my understanding that there has been,  
3 on consent and agreement between them and the Native  
4 Women's Association of Canada, to swap the order of their  
5 cross-exams of the witnesses. So I will ask, then, to call  
6 the Native Women's Association of Canada. And the Missing  
7 and Murdered Indigenous Women's Manitoba Coalition then  
8 will revert down to the 14 -- to number 14 on the order of  
9 cross-examination.

10 So at this time I will invite the  
11 representative from the Native Women's Association of  
12 Canada, and as had been noted on the record this morning,  
13 the Native Women's Association of Canada has 17 minutes and  
14 15 seconds remaining of their cross-examination of the  
15 witnesses. I'll just wait for that to be put on the clock.

16 **UNIDENTIFIED SPEAKER:** (Indiscernible).

17 **MS. MEREDITH PORTER:** Oh.

18 **UNIDENTIFIED SPEAKER:** Okay. They can't do  
19 seconds. They'll round up.

20 **MS. MEREDITH PORTER:** Okay. I think they  
21 do.

22 **UNIDENTIFIED SPEAKER:** (Indiscernible).

23 **MS. MEREDITH PORTER:** Good enough. Okay.  
24 Thank you. That's fine. Thank you.

25 **MS. VIRGINIA LOMAX:** So thank you very much

1 for welcoming me back. I would first like to begin with  
2 Mr. John Phelps.

3 **JOHN PHELPS, Previously Affirmed:**

4 **CROSS-EXAMINATION BY MS. LOMAX:**

5 **MS. VIRGINIA LOMAX:** So your department  
6 works closely with victims to help them navigate the  
7 criminal justice system; is that correct?

8 **MR. JOHN PHELPS:** Yes.

9 **MS. VIRGINIA LOMAX:** And during your  
10 testimony, you referred to the Canadian Victims Bill of  
11 Rights, and it was entered into evidence as Exhibit 3; is  
12 that correct?

13 **MR. JOHN PHELPS:** I'm not certain that it  
14 was entered. We did refer to it earlier, though.

15 **MS. VIRGINIA LOMAX:** I believe it was  
16 entered. Could I get a check? Teller teller it was in the  
17 materials given to the parties with standing, but it was  
18 not entered yesterday as an exhibit on the record. So  
19 the -- the parties all were given a copy of it, but  
20 yesterday it was not sought to be put on the record. And I  
21 don't have a problem of anyone referring to it, obviously.

22 **CHIEF COMMISSIONER MARION BULLER:** It  
23 wasn't marked as an exhibit, but certainly we can take  
24 judicial notice of legislation.

25 **MS. VIRGINIA LOMAX:** Okay. All right.

1 That's fine with me, if that's okay with everyone else.  
2 Thank you.

3 So your department engages with victims  
4 through the Canadian Victims Bill of Rights; is that  
5 correct?

6 **MR. JOHN PHELPS:** The -- we engage with  
7 victims as a result of our function as the prosecution  
8 service, and we comply with the Canadian Victim Bill of  
9 Rights, yes.

10 **MS. VIRGINIA LOMAX:** And so your department  
11 and your staff, you would say that you have a great deal of  
12 experience helping victims assert their rights under this  
13 bill?

14 **MR. JOHN PHELPS:** A great deal of experience  
15 supporting --

16 **MS. VIRGINIA LOMAX:** Yes.

17 **MR. JOHN PHELPS:** -- victims, yes.

18 **MS. VIRGINIA LOMAX:** And so you're familiar  
19 with the practical application of victims asserting -- or  
20 helping victims use these rights, and that's correct?

21 **MR. JOHN PHELPS:** Yes.

22 **MS. VIRGINIA LOMAX:** So does the *Victims*  
23 *Bill of Rights* grant victims the right to information about  
24 the criminal justice system and the role of victims in that  
25 system?

1           **MR. JOHN PHELPS:** Yes, we -- we provide that  
2 information to victims in every case where we have contact  
3 with victims.

4           **MS. VIRGINIA LOMAX:** And does the *Victims*  
5 *Bill of Rights* grant victims the right to services and  
6 programs like restorative justice?

7           **MR. JOHN PHELPS:** I'm not certain if there's  
8 a right to services, but if it's in there, then I would  
9 acknowledge that we -- as I indicated earlier, and it's not  
10 as a result of the CVBR, but a recognition of the  
11 individual needs of victims, that we do our best to ensure  
12 that they get that assistance. It's not through our  
13 organization, but by referral.

14           **MS. VIRGINIA LOMAX:** So would you agree with  
15 a statement that the rights generally -- and I'll spare you  
16 going through all of the details of these rights. Would  
17 you agree with a statement that these are important rights  
18 for victims to have within the criminal justice system?

19           **MR. JOHN PHELPS:** Yes, I do.

20           **MS. VIRGINIA LOMAX:** Would you agree with a  
21 statement that whatever is defined as a right under this  
22 Act is something that a victim should be entitled to  
23 receive?

24           **MR. JOHN PHELPS:** Yes, I would.

25           **MS. VIRGINIA LOMAX:** And would you agree

1 that victims should be able to secure and enforce these  
2 rights?

3 **MR. JOHN PHELPS:** Yes, I do.

4 **MS. VIRGINIA LOMAX:** And with permission,  
5 I'd like to read Section 25 of *The Canadian Victims Bill of*  
6 *Rights*. This section is known as the remedies section, and  
7 it reads: (As Read)

8 Every victim who is of the opinion that  
9 any of their rights under this Act have  
10 been infringed or denied by a federal  
11 department, agency or body, has the  
12 right to file a complaint in accordance  
13 with the complaints mechanism.

14 And Section 25 sub 2 reads: (As Read)

15 Every victim who as exhausted their  
16 recourse under the complaints mechanism,  
17 and who is not satisfied with the  
18 response of the federal department,  
19 agency or body, may file a complaint  
20 with any authority that has jurisdiction  
21 to review complaints in relation to that  
22 department, agency or body.

23 Now, Mr. Phelps, could you give me an idea  
24 of who that authority might be that victims could review a  
25 decision under a complaint? At the very least in your

1 jurisdiction?

2 **MR. JOHN PHELPS:** Off the top of my head,  
3 sorry, I don't know where the next plausible route would  
4 be. As I indicated in my testimony, we've never had a  
5 complaint, period, so we've never gotten to that point in  
6 the process.

7 **MS. VIRGINIA LOMAX:** Yes, and I do remember  
8 that part of your testimony, so I was wondering if  
9 hypothetically you could answer a question for me of  
10 whether the CWC would guide the complaining victim through  
11 this process, if they were to appeal a complaint or  
12 complain?

13 **MR. JOHN PHELPS:** The expectation is that  
14 they would make certain that they're aware of that  
15 opportunity and where to find the information with respect  
16 to the complaint. It hasn't come to my attention that  
17 there's been a request for assistance, for example, in  
18 filling out a form or otherwise. I would have no concern  
19 should they -- should they do that though.

20 **MS. VIRGINIA LOMAX:** Thank you. So with  
21 permission I'll read Section 25(3), which reads that: (As  
22 Read)

23 Every federal department, agency or body  
24 that is involved in the criminal justice  
25 system must have a complaints mechanism

1 that provides for a review of complaints  
2 involving alleged infringements or a  
3 denial of rights under this *Act*, the  
4 power to make recommendations to remedy  
5 such infringements and denials and the  
6 obligation to notify victims of the  
7 results of those reviews of the  
8 recommendations if any were made.

9 Yet Section 28 reads that: (As Read)

10 No cause of action or right to damages  
11 arises from an infringement of or a  
12 denial under this *Act*.

13 And Section 29 reads that: (As Read)

14 No appeal lies from any decision or  
15 order solely on the ground that a right  
16 under this *Act* has been infringed or  
17 denied.

18 So earlier I asked you if you would agree  
19 that victims should be able to secure or enforce rights  
20 under this *Bill*; is that still correct?

21 **MR. JOHN PHELPS:** I have no concern with  
22 that statement, no.

23 **MS. VIRGINIA LOMAX:** So is it reasonable to  
24 conclude that although victims have a right to file a  
25 complaint, they have no right to bring an action for

1 damages or otherwise if a right under this Act is actually  
2 violated; yes or no?

3 MR. JOHN PHELPS: That would be my read of  
4 it as well, yes.

5 MS. VIRGINIA LOMAX: And it's also  
6 reasonable to conclude that victims would have no means of  
7 appeal to the decisions related to their complaints; yes or  
8 no?

9 MR. JOHN PHELPS: That would appear to be  
10 the case, yes.

11 MS. VIRGINIA LOMAX: And so it's reasonable  
12 to conclude that although the *Canadian Victims Bill of*  
13 *Rights* contains rights for victims, that there is no  
14 enforcement mechanism available for these rights; yes or  
15 no?

16 MR. JOHN PHELPS: Not beyond what you've  
17 highlighted already.

18 MS. VIRGINIA LOMAX: So does the *Victims*  
19 *Bill of Rights* presently contain a process for victims to  
20 obtain standing in criminal trials or any status beyond  
21 observer status in the criminal justice system?

22 MR. JOHN PHELPS: Not that I'm aware of, no.

23 MS. VIRGINIA LOMAX: So would you agree with  
24 a statement that providing victims standing in criminal  
25 trials would amount to criminal justice reform in favour of



1 victims' rights?

2 **MR. JOHN PHELPS:** I'm not certain that  
3 I -- I can provide an opinion on that.

4 **MS. VIRGINIA LOMAX:** So would you agree with  
5 a statement that providing victims a mechanism to enforce  
6 rights contained in this *Bill*, rather than to simply  
7 complain about violations, would amount to criminal justice  
8 reform in favour of victims' rights?

9 **MR. JOHN PHELPS:** It would seem to advance  
10 their rights, yes.

11 **MS. VIRGINIA LOMAX:** Thank you very much.

12 **MR. JOHN PHELPS:** Sorry, I'm not trying to  
13 be argumentative, I just haven't thought that through.

14 **MS. VIRGINIA LOMAX:** Neither am I.

15 So I have questions for Ms. Leanne Gardiner.

16 **LEANNE GARDINER, Previously Affirmed:**

17 **CROSS-EXAMINATION BY MS. LOMAX:**

18 **MS. VIRGINIA LOMAX:** Yesterday you testified  
19 that your staff and volunteers received trauma-informed  
20 training; is that correct?

21 **MS. LEANNE GARDINER:** Yes, to varying  
22 degrees. There isn't a formal training program to that,  
23 but, yes, I can give you details, if you'd like, about --

24 **MS. VIRGINIA LOMAX:** Yes, and specifically  
25 could you comment how much training staff or volunteers

1 would receive?

2 **MS. LEANNE GARDINER:** Are you asking  
3 specifically, sorry, for trauma-informed practice training?

4 **MS. VIRGINIA LOMAX:** Yes.

5 **MS. LEANNE GARDINER:** Okay.

6 **MS. VIRGINIA LOMAX:** Specifically for  
7 trauma-informed practice.

8 **MS. LEANNE GARDINER:** Right now there is  
9 not -- trauma-informed practice training is not a formal  
10 part of regular training for victim services providers. We  
11 haven't -- we haven't found that that request necessarily  
12 comes from that particular group. I think probably because  
13 many of them come from a background that includes that type  
14 of approach. But what I will share is through other  
15 initiatives that are part of my responsibilities outside of  
16 that particular program, I've been able -- or our division  
17 has been able in the last 18 months or so to take a  
18 particular focus on trauma-informed practice training, so  
19 we've trained about 70 people, frontline workers in the  
20 justice system, including corrections, police,  
21 victim -- some victim services providers, other providers  
22 in other departments, GNWT departments and federal,  
23 including some Crown Witness Coordinators, in a two-day  
24 trauma-informed practice course, which we received good  
25 feedback on for sure, for its relevance to the work that

1       they do.

2                   **MS. VIRGINIA LOMAX:** Thank you. And so do  
3 your staff or volunteers ever receive training specific to  
4 issues relevant to two spirit, LGBTQ plus and gender  
5 diverse people?

6                   **MS. LEANNE GARDINER:** It's my understanding  
7 that it has been a topic that has been addressed on  
8 occasion as part of ongoing conversations in that network  
9 of providers, but I'm not aware of specifics as far as my  
10 staff advancing it as a topic.

11                   **MS. VIRGINIA LOMAX:** And do staff or  
12 volunteers ever receive training specific to issues  
13 relevant to youth's needs?

14                   **MS. LEANNE GARDINER:** To youth? Sorry, what  
15 was --

16                   **MS. VIRGINIA LOMAX:** The needs of youth?

17                   **MS. LEANNE GARDINER:** The needs of youth.  
18 Again, it would be a category that's discussed often and  
19 one of the training opportunities that happened this last  
20 March with our territorial Crown Witness Coordinators and  
21 our victim services providers, was child witness court  
22 accompaniment training. It's a three-day course by  
23 professional trainers with experience in that -- in that  
24 area, so that particular -- to help with the skill set  
25 around supporting children who -- who may be going through

1 that criminal justice -- through the court process as a  
2 witness. And that was at the request -- that really came  
3 from our community level providers saying that that was a  
4 skill set they wanted to build.

5 **MS. VIRGINIA LOMAX:** And so you testified  
6 that one of the main activities you engage in with the  
7 victims you assist is safety planning; is that correct?

8 **MS. LEANNE GARDINER:** Local community victim  
9 service providers do that. I don't personally. But, yes,  
10 the -- absolutely, it's a main activity of the service  
11 providers.

12 **MS. VIRGINIA LOMAX:** So do you know if any of  
13 the service providers have safety planning strategies  
14 specific to the needs of 2SLGBTQ+ youth and gender diverse  
15 people?

16 **MS. LEANNE GARDINER:** I'm not aware of a -- a  
17 process or an approach that's different than what the  
18 materials they use for non -- for people who are not two-  
19 spirited. But I -- I would submit that it tends to be and  
20 it -- a person-centered service, so they really do address  
21 the needs of people who present themselves for assistance.  
22 And I know them in general to be providing that kind of  
23 service.

24 **MS. VIRGINIA LOMAX:** And so what are some  
25 strategies that you have seen for creating culturally

1 appropriate safety planning?

2 **MS. LEANNE GARDINER:** I have to say, I have  
3 not personally seen those strategies as I'm not in a  
4 position to be reviewing someone's safety plan, helping them  
5 create it. Those plans are -- are done, as we mentioned,  
6 through funding we provide to local organizations, and  
7 Indigenous governments, and hamlet councils. So as far as  
8 how they would ensure that those plans took into  
9 consideration one's Indigenous status, I -- I couldn't give  
10 you specific examples, except that our model is built on the  
11 -- that understanding that the community is providing that  
12 service and has that lens.

13 **MS. VIRGINIA LOMAX:** And so you testified  
14 yesterday that the RCMP entered into an MOU to formalize the  
15 process between RCMP and victim services in 2008; is that  
16 correct?

17 **MS. LEANNE GARDINER:** We have an MOU between  
18 the department and the RCMP that was entered into in 2008,  
19 yes.

20 **MS. VIRGINIA LOMAX:** And has the process  
21 described in that MOU been revisited since 2008?

22 **MS. LEANNE GARDINER:** Not to my knowledge.  
23 There is a clause at -- near the end of the MOU, which you  
24 might have noticed, it says, "We should revisit it as needed  
25 by June" -- I believe, I don't the -- it right in front of

1 me right now, but "... by June of each year where  
2 necessary." And there's -- I certainly have that in process  
3 right now.

4 **MS. VIRGINA LOMAX:** Thank you. So you  
5 testified that one of the greatest challenges that you have  
6 is to create impactful relationships; is that correct?

7 **MS. LEANNE GARDINER:** I -- I would say that  
8 that's correct. I would only qualify and say sustained  
9 trusting relationships at that community level with all the  
10 stakeholders, that should be included, yes.

11 **MS. VIRGINA LOMAX:** So do you have any  
12 specific strategies to encourage trusting, safe, and  
13 meaningful relationships with 2SLGBTQ+ and gender diverse  
14 people in your communities?

15 **MS. LEANNE GARDINER:** No. I -- I  
16 wouldn't -- I wouldn't say that. No, not specific to that  
17 group.

18 **MS. VIRGINA LOMAX:** Would you have specific  
19 strategies for encouraging trusting, safe, and meaningful  
20 relationships with youth in the communities?

21 **MS. LEANNE GARDINER:** Not specific, other  
22 than, and I -- I should qualify my answer to the last  
23 question as well. Other than partnerships that we establish  
24 and that we have from our office. So, again, we're not the  
25 service providers, but we do have those relationships with

1 RCMP and with, of course, with our sponsoring organizations  
2 as far as victim service delivery. But we have those  
3 relationships too with youth organizations, LGBTQ  
4 organizations, locally and across the territory where they  
5 exist. So that could -- that looks different depending on  
6 the organization. Sometimes it looks like funding  
7 initiatives, or youth programs separate from victim  
8 services, but still within my responsibility. And sometimes  
9 that looks less formal as an -- a relationship.

10 **MS. VIRGINA LOMAX:** And so you testified  
11 yesterday that you have witnessed your staff and volunteers  
12 come up with effective and creative strategies for outreach  
13 in the communities; is that correct?

14 **MS. LEANNE GARDINER:** It is.

15 **MS. VIRGINA LOMAX:** Can you comment if you  
16 have witnessed any of these strategies focused on outreach  
17 to 2SLGQ [sic] -- LGBTQ+ communities?

18 **MS. LEANNE GARDINER:** None of those examples  
19 come to mind. It's -- again, because I'm involved at the  
20 front-line level with the development, I -- I don't know  
21 that that would mean that they don't exist.

22 **MS. VIRGINA LOMAX:** And so I suppose, if I  
23 were to ask you that if you could comment on witnessing any  
24 of these strategies with outreach for youth in the  
25 communities, would you be able to comment on that?

1                   **MS. LEANNE GARDINER:** What was the first part  
2 of your question, sorry?

3                   **MS. VIRGINA LOMAX:** Witnessing any strategies  
4 focused on outreach for youth.

5                   **MS. LEANNE GARDINER:** What I would say is  
6 youth are often identified in the sponsoring organization's  
7 work plan. So part of the process when -- when an  
8 organization would like to deliver victim services, or in an  
9 annual, bi-annual process that we go through is my staff  
10 work with communities to develop their annual work plans for  
11 the funding. And included in that are outreach activities.  
12 Often, those outreach activities include youth. I don't  
13 recall seeing activities specific to LGBTQ youth. But I  
14 certainly recall reference to youth, as it's often a focus  
15 of the engagement.

16                   **MS. VIRGINA LOMAX:** Well, thank you very  
17 much. I've reached the end of my time.

18                   **MS. LEANNE GARDINER:** Thank you.

19                   **MS. MEREDITH PORTER:** Thank you. The next  
20 party that I would like to invite to pose questions to the  
21 witnesses is from the Eastern Door Indigenous Women's  
22 Association. And the Indigenous -- the Eastern Door  
23 Indigenous Women's Association will have 23 minutes for  
24 questioning.

25                   **MS. NATALIE D. CLIFFORD:** Thank you. My name



1 is Natalie Clifford, and I am external counsel for the  
2 Eastern Door Indigenous Women's Association. We represent  
3 where the regional interests of Native women's --  
4 specifically Mi'Kmaq and Maliseet Indigenous women in our  
5 region come together. And that is why we are taking part in  
6 the Inquiry today. Well, I appreciate the scope of your  
7 institutional representation here today does not necessarily  
8 apply to the east coast, or I'm going to try to ask some  
9 questions that might help us in our submissions.

10 So I'd like to start with Mr. Phelps.

11 **JOHN PHELPS, Previously Affirmed:**

12 **CROSS-EXAMINATION BY MS. CLIFFORD:**

13 **MS. NATALIE D. CLIFFORD:** I note that the CWC  
14 Program is run, sort of, under the umbrella of the PPSC in  
15 the territories. Is this a unique scenario based on your  
16 understanding of counterparts?

17 **MR. JOHN PHELPS:** I -- I'm not certain how it  
18 happens from region to region. I think there are various  
19 models, whether they're housed with the RCMP, housed with  
20 the province, or housed with the prosecution service. So  
21 there may be others. I'm not familiar with the models all  
22 across Canada.

23 **MS. NATALIE D. CLIFFORD:** Okay. But the  
24 direction from the Attorney General, like, in the exhibit  
25 that you shared, is that something that would be given

1 across the country?

2 **MR. JOHN PHELPS:** That's only within the  
3 Federal Prosecution Service of Canada. So it's national  
4 with our organization, but dealing with victims is unique to  
5 the north.

6 **MS. NATALIE D. CLIFFORD:** Okay. So not --  
7 it's not necessarily so that public prosecution services  
8 across Canada would have internal CWCs working with them in  
9 their offices?

10 **MR. JOHN PHELPS:** Not necessarily the case,  
11 no. And they would have their own individual directives  
12 provincially.

13 **MS. NATALIE D. CLIFFORD:** Okay. Thank you.  
14 So in your model, then, I'll just focus on this model, and I  
15 presume that as a prosecution service, and again, focusing  
16 even more narrowly on the Yukon, you would have a robust  
17 conflict determination process for determining -- maybe you  
18 could enlighten me on the conflict process for determining  
19 who can prosecute certain cases in your region?

20 **MR. JOHN PHELPS:** The only time that -- or  
21 the times that conflict would arise in our office are in  
22 relation to relationships themselves. So if a file were to  
23 involve a family member of one of our staff, then we would  
24 consider ourselves in -- in conflict. Individuals may have  
25 friendships within the witness list of a particular file,

1 and they would be in conflict to dealing with that file. It  
2 such a -- so it's a -- it's a determination on a case-by-  
3 case basis as to what the nature of the individual  
4 relationship might be. For example, were it to involve  
5 myself, then we would get somebody from outside our region  
6 to deal with the matter.

7 **MS. NATALIE D. CLIFFORD:** Okay. So I'd like  
8 to hone in on the conflict issue because one of our victim  
9 services representatives has told our organization that --  
10 and I'll just offer you this statistic, and maybe you can  
11 respond. Based on her own data collection in the past year,  
12 of the 33 -- 33 percent of her clients in the last year were  
13 both accused and victim, and of those 33 percent, 17 percent  
14 of those previously reported physical violence involving the  
15 same victim and accused in reversing roles. So given the  
16 CWCs are working under the umbrella, and whether this is an  
17 experience that you have seen in -- in the Yukon, in your  
18 region, how, under your model, are CWCs to deal with this?  
19 Because I'm imagining a scenario when, at one point,  
20 prosecutor was adversarial to an accused, and then at  
21 another point within the near future, the same would be  
22 hopefully taking advantage of the services of the CWC, and  
23 how this plays out.

24 **MR. JOHN PHELPS:** And sometimes at the same  
25 time, and that does exist, and I'm sure it's a national

1 issue, not -- not unique to our organization.

2 What we do is we do our -- our best to inform  
3 the victim that we're dealing with, even though they're an  
4 accused or have been an accused in another capacity, again,  
5 of their rights and how we would be able to support them  
6 through the process, acknowledging that, if they have a --  
7 an existing file for which they're an accused, we're --  
8 we're going to have to notify their counsel and make sure  
9 that their counsel is okay with the services that we're  
10 providing in our -- our capacity as a prosecution team.

11 So it becomes complex. It's very common to  
12 have accused-victim-accused-victim through time, for sure,  
13 and we just do our best to work through that and support  
14 individuals on a case-by-case basis. I wish I had a magic  
15 answer for that. It's -- it's an extremely complex scenario  
16 and what we want to do is make sure we're able to provide  
17 the support ourselves or make sure we're -- that there's a  
18 referral to an organization like the victim services branch  
19 in the Yukon Territory so that they have that support  
20 through the process. And -- and we do partner with those  
21 organizations as well, so there's an information-sharing  
22 relationship with victim services to make sure the same  
23 level of support is provided.

24 **MS. NATALIE D. CLIFFORD:** And what about -- I  
25 think you touched on it yesterday, but I just wanted to

1 clarify. A victim's correspondence with a CWC is not  
2 confidential?

3 **MR. JOHN PHELPS:** That's correct, so if -- if  
4 the content gives rise to information that would be relevant  
5 to the prosecution, then we're obliged to share that with  
6 the others.

7 **MS. NATALIE D. CLIFFORD:** For any case, not  
8 just the case?

9 **MR. JOHN PHELPS:** Pardon me?

10 **MS. NATALIE D. CLIFFORD:** For any other case  
11 as well, not just the case that --

12 **MR. JOHN PHELPS:** It would be for the case  
13 that's -- that it -- it corresponds, is relevant to.

14 **MS. NATALIE D. CLIFFORD:** Thank you. Would  
15 it be fair to say that this is a barrier to the trust, the  
16 relationships and building trust that the CWC program hopes  
17 to foster?

18 **MR. JOHN PHELPS:** I -- I would suggest it is,  
19 yes. I think it's important -- it's -- it's an important to  
20 note, and we're happy, again, to partner with other  
21 organizations that can provide support in a different way  
22 than we do. Often, it's the case that we're dealing with  
23 victims that, for their own reasons, don't take advantage of  
24 those other supports, so we're the support of last resort,  
25 and that's the majority of cases, yeah.

1           **MS. NATALIE D. CLIFFORD:** Thank you. So I'm  
2 going to switch topics now, but stay with you, Mr. Phelps.  
3 On the topic of restitution, CWCs have an obligation for the  
4 Attorney General's directive to notify victims of their  
5 right to request restitution, correct?

6           **MR. JOHN PHELPS:** Correct, and that's in the  
7 legislation as well.

8           **MS. NATALIE D. CLIFFORD:** Section 16 in the  
9 CVBR codifies this, correct? It's a -- actually, maybe you  
10 could read the section if you have it in front of you,  
11 because I would submit that it elevates the -- the right to  
12 actually having the application considered, which isn't --

13           **MR. JOHN PHELPS:** That's correct, yes.

14           **MS. NATALIE D. CLIFFORD:** Okay. So this is  
15 for all victims?

16           **MR. JOHN PHELPS:** Yes.

17           **MS. NATALIE D. CLIFFORD:** Not just Indigenous  
18 victims?

19           **MR. JOHN PHELPS:** That's correct, yes.

20           **MS. NATALIE D. CLIFFORD:** And to be clear, as  
21 a prosecutor, you don't represent victims?

22           **MR. JOHN PHELPS:** That's correct.

23           **MS. NATALIE D. CLIFFORD:** The CWCs have  
24 certain obligations, but do they represent victims?

25           **MR. JOHN PHELPS:** No. In the -- in the

1 context of restitution, the CWCs would work with the  
2 prosecutor in order to facilitate a request in court, so the  
3 CWC informs the victim of the right if there has been a  
4 monetary loss. They advise them of the information that  
5 would be required to present in court in order to make a  
6 claim for restitution and our prosecutors would make that  
7 application on their behalf.

8 **MS. NATALIE D. CLIFFORD:** And in your view,  
9 is that restitution limited to monetary loss, or are we  
10 looking at broader compensation for the loss of lives?

11 **MR. JOHN PHELPS:** Generally speaking, it's  
12 -- it's monetary or -- or physical items that are lost.

13 **MS. NATALIE D. CLIFFORD:** Sticking with you,  
14 Mr. Phelps, my next question is simply to confirm that there  
15 is not a national mandate to ensure Indigenous  
16 representation in CWC roles?

17 **MR. JOHN PHELPS:** No.

18 **MS. NATALIE D. CLIFFORD:** Do you face funding  
19 security as an issue in provision of CWC service?

20 **MR. JOHN PHELPS:** I -- I would imagine that,  
21 at any point in time where the department is facing a  
22 budgetary crunch, all of our services would be in jeopardy.  
23 At this point in time, it's not a concern. We've -- we've  
24 expanded to the numbers that I referenced over the last  
25 couple of years, so it's quite supported by the PPSC across

1 the North. It's something that's given a lot of importance.

2 **MS. NATALIE D. CLIFFORD:** And so just to  
3 confirm once again that you cannot speak to CWC programs in  
4 other jurisdictions, correct?

5 **MR. JOHN PHELPS:** That's correct, yes.

6 **MS. NATALIE D. CLIFFORD:** Would you agree  
7 that, in order for the commission to make meaningful  
8 recommendations about victim services across the country, it  
9 would be important for them to hear about not necessarily  
10 the great models, as we have in the territories, but perhaps  
11 the broader scope of models as are experienced across the  
12 country?

13 **MR. JOHN PHELPS:** I'd -- I think it's  
14 important to look at all of the models and for them to take  
15 that into account when they're determining their  
16 recommendations for this type of a service. I -- I'm not  
17 advocating that ours is necessarily the one that would be  
18 recommended, it's just an example of one that exists and --  
19 and how it works.

20 **MS. NATALIE D. CLIFFORD:** Thank you. I have  
21 a couple of questions for you, Ms. Giff-MacKinnon.

22 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

23 **CROSS-EXAMINATION BY MS. CLIFFORD:**

24 **MS. NATALIE D. CLIFFORD:** It was your  
25 evidence that you took part in the planning stages of FILU,



1 we call on the east coast typically, FILU. Pre-funding,  
2 pre-the announcement of funding, or --

3 **MS. NAOMI GIFF-MACKINNON:** Once the funding  
4 was announced.

5 **MS. NATALIE D. CLIFFORD:** -- identifying the  
6 need --

7 **MS. NAOMI GIFF-MACKINNON:** Yeah. I -- sorry,  
8 excuse me, yes. In terms of the development of the funding  
9 model and the -- and the initiative Federally, yes, I -- I  
10 helped develop that.

11 **MS. NATALIE D. CLIFFORD:** So is it fair to  
12 say that indeed there were gaps for -- for families of  
13 missing and murdered women, specifically, to access and  
14 navigate the system prior to FILU?

15 **MS. NAOMI GIFF-MACKINNON:** To -- to navigate  
16 information systems? Yes.

17 **MS. NATALIE D. CLIFFORD:** And so, at this  
18 point, can you confirm you don't have data collected about  
19 the national experience on FILU?

20 **MS. NAOMI GIFF-MACKINNON:** So we've got -- we  
21 don't have firm numbers right now. We have agreements in  
22 place that have reporting requirements, so we expect that  
23 all the FILU teams across the country will be submitting  
24 more robust data about their activities and about the work  
25 that they've done to gather that information that families

1 are seeking. We would expect to have that this summer.

2 **MS. NATALIE D. CLIFFORD:** So can we expect a  
3 public reporting?

4 **MS. NAOMI GIFF-MACKINNON:** I don't know that  
5 there's a -- a plan to publicly report that, but that  
6 information is public information.

7 **MS. NATALIE D. CLIFFORD:** So I'm curious  
8 about, prior to any political announcement for future  
9 funding, at this point, with the -- the end of FILU coming  
10 within one year, what is the exit plan for those current  
11 families accessing FILU services, to ensure that they aren't  
12 traumatized on the day it's over?

13 **MS. NAOMI GIFF-MACKINNON:** Right. So that  
14 is something that all the FILU teams across the country are  
15 thinking about and talking about and exploring. Right now  
16 the funding that we have is set until March 31st, 2019.

17 **MS. NATALIE D. CLIFFORD:** And whose  
18 responsibility will it be if funding is not renewed? Who  
19 does it -- who bears the responsibility to help coordinate  
20 what FILU had coordinated in the past couple of years?

21 **MS. NAOMI GIFF-MACKINNON:** I think that's  
22 something that will have to be looked at on a jurisdiction  
23 by jurisdiction basis, if there's no funding after March  
24 31st, 2019.

25 **MS. NATALIE D. CLIFFORD:** Can you comment

1 on -- you mentioned different structures for FILU  
2 implementation across the country, can you comment on  
3 what -- where some are housed with Indigenous organizations  
4 versus the province?

5 **MS. NAOMI GIFF-MACKINNON:** Sure. So I can  
6 highlight a couple of the -- the examples where the FILU  
7 teams are co-located with Indigenous community  
8 organizations and victim services.

9 In Nova Scotia the Native Women's  
10 Association of Nova Scotia is a partner in the delivery of  
11 the FILU model, and there are three FILU team members  
12 located across the province and one within victim services.  
13 There is also in Ontario the -- the -- one of the FILU team  
14 members is located in the Indigenous justice division --

15 **MS. NATALIE D. CLIFFORD:** M'hm.

16 **MS. NAOMI GIFF-MACKINNON:** -- within the  
17 Ministry of the Attorney General, and then there are three  
18 FILU team members located in community organizations across  
19 the province.

20 I'm just doing a visual across -- as I  
21 go across the province. In Saskatchewan as well there's a  
22 partnership with the Federation of Sovereign Indigenous  
23 Nations, and a FILU team member within victim services.

24 In Manitoba there are partnerships in place  
25 within victim services and Ka Ni Kanichihk and MKO as well.

1 In Alberta they have outreach offices across the province.  
2 In British Columbia there's a satellite office in Prince  
3 George, in the Friendship Centre there.

4 In NWT there's a partnership with the Native  
5 Women's Association of the Northwest Territories. In the  
6 Yukon there is a partnership with the Yukon Aboriginal  
7 Women's Council.

8 **MS. NATALIE D. CLIFFORD:** So looking forward  
9 to future plans to fill these gaps and facilitate  
10 communication, I'm wondering if the reporting mechanisms  
11 that you are -- that you have out and the information that  
12 you're expecting to receive and ultimately by the time it  
13 reaches the public, will that reflect the different models  
14 and challenges associated, and successes associated with  
15 the different models?

16 **MS. NAOMI GIFF-MACKINNON:** I think those  
17 would -- I would expect that those would be elements that  
18 would be included in how the FILU team reports on their  
19 results and what they've achieved. There would be an  
20 expectation that they would reflect on the challenges in  
21 moving forward, they would reflect on ways that they have  
22 overcome or attempted to overcome those challenges, they  
23 would reflect on the strengths and how they've achieved  
24 their objectives, as well as quantitative data that would  
25 illustrate the reach of the services that they're

1 providing.

2 **MS. NATALIE D. CLIFFORD:** Okay. And finally  
3 I just wanted to confirm, how do FILUs access victims and  
4 families?

5 **MS. NAOMI GIFF-MACKINNON:** How do -- how do  
6 they access? So they have a variety of outreach  
7 initiatives underway, which certainly does vary across the  
8 country. There are, of course, websites. They have -- in  
9 collaboration with community organizations, they are  
10 attending community events and they have a presence at  
11 community events to reach out to community members and  
12 families. They have been also on site wherever there's  
13 been a community hearing of the National Inquiry to also be  
14 available and do that outreach with families.

15 **MS. NATALIE D. CLIFFORD:** But they're not  
16 allowed to directly contact families?

17 **MS. NAOMI GIFF-MACKINNON:** They -- I  
18 don't -- as I understand it, I think there might be a  
19 reluctance to directly contact a family member. I -- as I  
20 understand it, the approach that the FILUs would take would  
21 be that they would make their service known to as wide an  
22 audience as they can in all the different ways they can,  
23 but it would be important for families to choose to contact  
24 them.

25 **MS. NATALIE D. CLIFFORD:** So given that

1 arrangement, it would be quite important, would you agree,  
2 for FILUs to be well networked with, accepted by and  
3 trusted by, for lack of a better word, grassroots or  
4 women's organizations in the jurisdiction?

5 **MS. NAOMI GIFF-MACKINNON:** Yes.

6 **MS. NATALIE D. CLIFFORD:** Thank you. That's  
7 all my questions.

8 **MS. MEREDITH PORTER:** Thank you. The next  
9 party that I would like to invite to pose questions to the  
10 witnesses is from the Nishnawbe Aski Nation, Grand Council  
11 Treaty 3 Treaty Alliance of Northern Ontario. And that  
12 party has a remaining 17 minutes and 30 seconds. We will  
13 round up to 18 as we did last time, I suppose.

14 **MS. KRISTYN ORDYNIAC:** Thank you. For the  
15 record again it's Christen Ordyniec for Northern Treaty  
16 Alliance Nishnawbe Aski Nation and Grand Council Treaty 3.  
17 And I would just like to start by apologizing, I was out of  
18 the room for some of the questions, so if I repeat them, I  
19 do apologize. If Commission counsel or counsel for the  
20 witnesses can tell me that they've already asked and  
21 answered, I would really appreciate that.

22 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

23 **CROSS-EXAMINATION BY MS. ORDYNIAC:**

24 **MS. KRISTYN ORDYNIAC:** My questions are  
25 going to be mostly directed at Ms. Giff-MacKinnon in

1       respect of your work mostly with the FILUs, but also I'd  
2       like to ask about something that's found in your biography.  
3       In the third paragraph down it says that you organized and  
4       collaborated with territorial partners to develop northern  
5       specific training on essential skills in northern  
6       environments and working with child victims, and I wonder  
7       if you could just talk a little bit about that?

8                   **MS. NAOMI GIFF-MACKINNON:** Sure. So in the  
9       context to the reference to the north, in this description  
10      of work, it's mostly within the territories. So the work  
11      that I described here was something actually that  
12      Ms. Gardiner mentioned earlier in terms of the essential  
13      skills curriculum for northern service providers. So  
14      working with the Northern Institute of Social Justice and  
15      all three territories, there was a training curriculum  
16      developed that focused on the commonalities between the  
17      three territories to create a pan-territorial training  
18      curriculum. So that has been one way to provide a  
19      pan-territorial opportunity to develop tools that can be  
20      used across each territory. Of course there were lots of  
21      adaptations, but the core essential skills of working in a  
22      northern environment and northern communities was the focus  
23      of that -- that work.

24                   In terms of the child victims, that was  
25      about working as a team to support child victims in

1 northern communities, and that was building on some of  
2 the -- the work that was done in the -- in the provinces  
3 and in the south and adapted to the north.

4 **MS. KRISTYN ORDYNIEC:** Thank you. So you  
5 mentioned that it's in the territories, are there any  
6 initiatives that you know of that has that -- have that  
7 same approach across other provinces that have communities  
8 and northern remoteness issues?

9 **MS. NAOMI GIFF-MACKINNON:** In terms of my  
10 biography or in terms of --

11 **MS. KRISTYN ORDYNIEC:** No, any other --

12 **MS. NAOMI GIFF-MACKINNON:** -- just  
13 generally?

14 **MS. KRISTYN ORDYNIEC:** -- work that you've  
15 done, specifically?

16 **MS. NAOMI GIFF-MACKINNON:** Well, the -- the  
17 work to create -- to organize a national conference was  
18 focussed not just on the territories, but to bring together  
19 service providers from the northern parts of the provinces  
20 as well to come together in a northern community to discuss  
21 and explore different ways to build on strengths of  
22 northern victims and survivors and moving forward together.

23 **MS. KRISTYN ORDYNIEC:** And do you think that  
24 work should continue?

25 **MS. NAOMI GIFF-MACKINNON:** Yes, I think it



1 will. I think that the focus of my -- from my perspective  
2 and what I do, the focus of my work has been focused on the  
3 last few years in terms of advancing specialized supports  
4 for families of missing and murdered Indigenous women and  
5 girls.

6 **MS. KRISTYN ORDYNIEC:** Thank you. Next I'll  
7 move to the FILU program specifically. Would you agree  
8 that most of the information provided through this  
9 initiative is reactive to a tragic situation, so namely the  
10 death of a loved one. So coroner's reports. You mentioned  
11 burial sites. Would you agree that it's reactive?

12 **MS. NAOMI GIFF-MACKINNON:** That the service  
13 provided is reacting to a situation that brings the -- the  
14 family members to that -- that unit? Yes, I do.

15 **MS. KRISTYN ORDYNIEC:** And the information  
16 provided is reactive information is what I'm asking.

17 **MS. NAOMI GIFF-MACKINNON:** I'm not sure that  
18 I understand. Is there another way that you can --

19 **MS. KRISTYN ORDYNIEC:** Sure. So had -- had  
20 the situation not happened, that family would not have  
21 needed that information?

22 **MS. NAOMI GIFF-MACKINNON:** Yes.

23 **MS. KRISTYN ORDYNIEC:** Thank you. And  
24 within dealing with families in this -- in this context,  
25 are they asking -- are you aware if they're asking for any

1 other information that may be outside the scope of that  
2 mandate?

3 **MS. NAOMI GIFF-MACKINNON:** Yes, they are.  
4 They're working -- families are bringing to FILUs questions  
5 about how to bring remains back to their home community  
6 when they're in another jurisdiction. They're asking  
7 about -- they're asking about deaths of children in  
8 residential schools, as well, and records there. They're  
9 asking for assistance in organizing family gatherings and  
10 opportunities for families to come together. The -- and a  
11 lot -- there are lots of different questions that they're  
12 bringing to the FILUs that are outside of what we might  
13 consider the agencies holding -- the agencies that we might  
14 think that would hold the information families would be  
15 seeking.

16 **MS. KRISTYN ORDYNIEC:** Right. And -- and  
17 the FILU are able to assist them or -- or how do they deal  
18 with the situation when they cannot provide the information  
19 that the family is asking?

20 **MS. NAOMI GIFF-MACKINNON:** That's a really  
21 good question. And when the information is not available,  
22 that is something that FILUs talk very openly and honestly  
23 with family members. That is something that FILUs talk  
24 early on in their work with family members, to identify  
25 that not all the information that they are -- they are

1 asking to have, it might not be available. So they have  
2 that conversation early on. And then the agencies who hold  
3 the information would be responsible for making that  
4 assessment. And if it's possible, the FILU teams seek to  
5 bring those decision-makers or people or those who are  
6 interpreting the -- the directives in the legislation in  
7 terms of what information they can or can't release, to  
8 bring them together to talk to families to try and have an  
9 opportunity for families to understand the underpinnings of  
10 why that information might not be available.

11 **MS. KRISTYN ORDYNIEC:** Thank you. And  
12 I -- I used the word "reactive" before to preface my next  
13 question. Do you think it would be valuable for an  
14 initiative to provide proactive information to Indigenous  
15 women and girls so they could understand entitlements and  
16 rights under other government documents and legislation  
17 that they might not be aware of?

18 **MS. NAOMI GIFF-MACKINNON:** So if -- do you  
19 mean to make it very clear about what information is  
20 available and make sure that -- that people know what  
21 information they can begin asking for?

22 **MS. KRISTYN ORDYNIEC:** That's right. Or  
23 even to help understand certain things, like an amendment  
24 to an Act, whereas some people might not be able to access  
25 that information or understand what it means.

1                   **MS. NAOMI GIFF-MACKINNON:** Yeah, I think  
2 that's very important. Yeah.

3                   **MS. KRISTYN ORDYNIEC:** Thank you. And in  
4 remote communities, and I understand -- and I'll speak from  
5 what you just said about Ontario specifically. There are  
6 three workers for the -- for the province. In remote  
7 communities, how does the information get to the  
8 individuals? Is it personally delivered? Is it done by  
9 email? Is it done by phone?

10                  **MS. NAOMI GIFF-MACKINNON:** It's done in  
11 person to the extent possible. Many of the FILUs have  
12 built into their work travel in terms of costing it out and  
13 creating a work plan that includes travel to families to  
14 make sure that wherever they -- wherever they possibly can,  
15 they're meeting with -- with families in person to have the  
16 information shared in person.

17                  **MS. KRISTYN ORDYNIEC:** And if it can't be  
18 shared in person, then -- then how is it delivered?

19                  **MS. NAOMI GIFF-MACKINNON:** That would be how  
20 families would like to proceed. I can't imagine that it  
21 would be through email as one of the examples that you  
22 provided. If there are logistical issues that prevent the  
23 FILU team from being able to be with the family member or  
24 that prevent other partners to be with the family member,  
25 then they would work out the best way with families.

1           **MS. KRISTYN ORDYNIEC:** I think that you  
2 confirmed in a previous question that the funding for the  
3 FILUs runs out at the end of March 2019. As far as  
4 experience goes, in terms of accessing the kind of  
5 information that you're asking for, sometimes that's a  
6 lengthy process. And I'm wondering what kind of mechanism  
7 is in place for the ongoing work that would have to be done  
8 if the program was not funded again.

9           **MS. NAOMI GIFF-MACKINNON:** M-hm. So  
10 this -- this was something that we -- we spoke about, as  
11 well. And it is -- it's a very good question. So the  
12 funding is -- the funding authority that we have right now  
13 is until March 31st, 2019. What that might look like  
14 afterward would have to be -- if there is no funding, that  
15 would have to be looked at by each jurisdiction.

16           **MS. KRISTYN ORDYNIEC:** Okay. I'm -- I'm  
17 just more concerned from -- from a family that has already  
18 started in the process, and they're expecting or waiting  
19 for information, what would happen to them in terms of the  
20 trusting relationship that they're building.

21           **MS. NAOMI GIFF-MACKINNON:** Yeah. That's a  
22 good question. I see what you mean about the  
23 clarification. I would -- I can't speak on of each of the  
24 FILU teams, but I would expect that if they have a working  
25 relationship right now with families and they're working

1 with families to gather that information, that they would  
2 see that through.

3 **MS. KRISTYN ORDYNIEC:** And would it be  
4 recommendation that you would -- would you recommend that  
5 the work that is being done by the FILUs continue at the  
6 organization level that -- that the partnership level that  
7 you're working with various organizations at?

8 **MS. NAOMI GIFF-MACKINNON:** Would I recommend  
9 that the funding continue?

10 **MS. KRISTYN ORDYNIEC:** Would you recommend  
11 that the work continue in the event that this program is  
12 not funded?

13 **MS. NAOMI GIFF-MACKINNON:** I -- I think it's  
14 a good model. I think it's doing great work. Those aren't  
15 decisions that -- that I make.

16 **MS. KRISTYN ORDYNIEC:** If there is  
17 information that is upsetting to families through this  
18 process, I wonder if you could speak about specific  
19 mechanisms and supports in place in the event that there is  
20 no organization in a community that can provide that  
21 directly to -- to an individual.

22 **MS. NAOMI GIFF-MACKINNON:** I think that the  
23 FILUs would -- if there was information that families were  
24 requesting and that had been available to be shared, and  
25 that it was upsetting, and if the FILU team felt that the

1 right supports were not in place, as I understand it in  
2 terms of they're operating, the principles that  
3 they -- that they ground their work in, that in such a  
4 situation, they would not create an environment where  
5 families didn't have the right supports.

6 **MS. KRISTYN ORDYNIEC:** And perhaps you've  
7 already answered this question again, and I do apologize.  
8 Given that you are -- you said you are in the process of  
9 collecting data for the purposes of analyzing how this  
10 program is working. Will there be a report at the end  
11 of -- at the end of 2019?

12 **MS. NAOMI GIFF-MACKINNON:** So, yes, we are  
13 collecting on an annual basis. That data is due this  
14 summer. And we are expecting qualitative and quantitative  
15 data through the -- the regular reporting requirements that  
16 we would have for all of our funded partners. I had  
17 mentioned earlier that we don't -- at this point in time,  
18 there's not an idea to publicly share the data, but that  
19 data is publicly available. But we can definitely look at  
20 communicating the overall results of the initiative.

21 **MS. KRISTYN ORDYNIEC:** So --

22 **MS. NAOMI GIFF-MACKINNON:** And we will  
23 actually -- sorry. If I'll just add. We do -- all this  
24 work is operating within a federal victims strategy, which  
25 is the -- the larger initiative that I'm a part of. And we

1 do -- do a summative report every five years, and  
2 the -- the -- the results of the program and policy levers  
3 that we have and how we've used them to support specialized  
4 services for families will be part of that evaluation, as  
5 well.

6 **MS. KRISTYN ORDYNIEC:** And you're  
7 obviously -- and correct me if I'm wrong -- using the  
8 information that you're receiving through the community  
9 organizations, as well, which will be included in that  
10 report?

11 **MS. NAOMI GIFF-MACKINNON:** Yes, absolutely.  
12 And there is also -- we did work with all the FILU teams to  
13 create consistent reporting tools. So each jurisdiction,  
14 each FILU team, can report as they wish with -- with a few,  
15 you know, form instructions as we have them with  
16 our -- with our funded project agreements. But we did work  
17 to create some tools that would permit us, hopefully, to  
18 report on a national level in terms of the impact of the  
19 FILU initiative, because it really is national in scope.  
20 And it's operating in each jurisdiction, they -- the FILU  
21 teams are really working together because there is so much  
22 interjurisdictional collaboration and  
23 information-gathering. So we -- and part of that -- part  
24 of that suite of tools that we worked on, reporting tools,  
25 was also to seek input from families in terms of how they



1 felt with -- with the FILU service.

2 **MS. KRISTYN ORDYNIEC:** And are you seeking  
3 input from the families on an ongoing basis during the  
4 implementation and -- through this program?

5 **MS. NAOMI GIFF-MACKINNON:** That's part of  
6 the -- the tools -- the tools that were developed. So  
7 we've asked each FILU team to reflect and identify how they  
8 can best get that information from families about the  
9 success of their initiative or -- or where  
10 they -- they -- they stumbled or where they fell, and get  
11 that input from families directly. And that would be  
12 through the -- the community organizations, as well as  
13 within the victims services divisions.

14 **MS. KRISTYN ORDYNIEC:** So then that  
15 information would be directly found in the report as well?

16 **MS. NAOMI GIFF-MACKINNON:** Sorry? I --

17 **MS. KRISTYN ORDYNIEC:** That information will  
18 be in the report, as well? The --

19 **MS. NAOMI GIFF-MACKINNON:** I hope so.

20 **MS. KRISTYN ORDYNIEC:** -- the family input?

21 **MS. NAOMI GIFF-MACKINNON:** I hope so.

22 **MS. KRISTYN ORDYNIEC:** Okay. Thank you.

23 Thank you very much. Thank you to the commissioners.

24 Those are my questions.

25 **MS. MEREDITH PORTER:** Thank you.

1           Okay. Commissioners, we do have a few more  
2 parties that are on the schedule to cross-examine the  
3 witnesses. However, commission counsel is mindful that our  
4 witness is scheduled to leave early. So at this point in  
5 time, I'm going to ask to call counsel for that witness to  
6 proceed with her re-examination of the witness. We have a  
7 23-minute period of time allocated for re-examination,  
8 which will be shared amongst the counsel for all of the  
9 witnesses. So dividing that into four, of course, that  
10 would allocate roughly -- roughly five-point something  
11 minutes. And I am certainly -- I am sure that we can round  
12 that up to six. Thank you.

13           **CHIEF COMMISSIONER MARION BULLER:**

14           Certainly.

15           **MS. MEREDITH PORTER:** Thank you.

16           **MS. BARBARA MYSKO:** Not entirely sure that  
17 we'll be using all of that time.

18           **BETTY ANN POTTRUFF, Q.C., Previously Affirmed:**

19           **CROSS-EXAMINATION BY MS. MYSKO:**

20           **MS. BARBARA MYSKO:** I only have a couple of  
21 questions for Betty Ann on re-exam. The first is there was  
22 a question posed earlier today --

23           **MS. MEREDITH PORTER:** Just a second. We  
24 just want to get the time on the clock. They don't have  
25 the time on the clock yet properly.

1 CHIEF COMMISSIONER MARION BULLER: Six.

2 MS. MEREDITH PORTER: Thank you. Proceed.

3 Thank you.

4 MS. BARBARA MYSKO: There was a question  
5 earlier today about client satisfaction surveys or victim  
6 services evaluations, and I just wanted to ask you about  
7 that, Betty Ann. Has anything similar been done with  
8 respect to the victim services programming in Saskatchewan?

9 MS. BETTY ANN POTTRUFF: Yes, to my  
10 knowledge, we do annual surveys of victim satisfaction with  
11 the program and have done this for -- again, I'm not sure  
12 of the exact time period, but I'd say ten years. There's  
13 one available for 2015-2016 and one in the process of being  
14 completed for 2016-17. We use a standard survey stool.

15 MS. BARBARA MYSKO: Thank you. And do you  
16 have any information readily available as to the results of  
17 those surveys?

18 MS. BETTY ANN POTTRUFF: Just from my  
19 recollection of past surveys. And -- and generally, we've  
20 seen 90 percent satisfaction from victims for these  
21 services provided.

22 MS. BARBARA MYSKO: Thank you. And just one  
23 more question for you on re-exam. You had briefly  
24 responded to a question in relation to terminology about a  
25 recent program that has been developed around survivors of

1 sexual violence, and I wanted to give you an opportunity to  
2 speak in more detail about that program.

3 **MS. BETTY ANN POTTRUFF:** Okay. This is a  
4 program to provide legal advice, free legal advice, to  
5 survivors of sexual violence throughout the province of  
6 Saskatchewan with the cooperation of the private bar.  
7 We've got a roster of approximately 26 lawyers who've  
8 agreed to provide this free legal advice to the client.  
9 The lawyers get paid \$88 an hour, which to them seems free.  
10 So -- but I'm very grateful for their support.

11 We're providing the program through Public  
12 Legal Education Saskatchewan, who's actually hosting it, so  
13 it's arm's-length from government. And when we say  
14 survivors of -- of sexual violence, this is broader than  
15 the programs currently in place in Nova Scotia and Ontario  
16 which are focussed on -- on just sexual assault.  
17 And -- and we determined that we needed to have a broad  
18 program so that, in fact, it -- it could allow all sorts of  
19 victims or survivors of violence to come forward, whether  
20 it was residential school violence, whether it's violence  
21 within the workplace, whether it's sexual violence in -- in  
22 an organization or experienced otherwise or whether these  
23 were simply victims who -- who needed to have some advice  
24 about what their justice options were in terms of civil  
25 action or criminal action.

1           We also have no age limits on who can apply,  
2           and they can contact the program through email, by text, by  
3           phone, and then once initial intake information is  
4           provided, then they are provided with -- there's a conflict  
5           check with the lawyers, and then they're provided with the  
6           name of a lawyer to contact.

7           And so we've -- we've put the responsibility  
8           and the control back in the hands of the survivors to  
9           decide how they want to move forward. And -- and we think  
10          that it will be helpful to some who are ready to take that  
11          step, to get that advice. Obviously not all survivors are.  
12          In the first month of the program, we've had 25 referrals  
13          so far, and they get up to two hours initially of free  
14          legal advice, and if more is needed, then they can apply  
15          for more.

16                   **MS. BARBARA MYSKO:** Thank you. And just as  
17          a follow-up question to that, are there any gender  
18          limitations on that program?

19                   **MS. BETTY ANN POTTRUFF:** No, none.

20                   **MS. BARBARA MYSKO:** Thank you. That  
21          concludes my questions on re-exam.

22                   **MS. MEREDITH PORTER:** Thank you. At this  
23          point, we have a break scheduled to begin in about five  
24          minutes.

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

1 We'll take the break now.

2 **MS. MEREDITH PORTER:** We'll take the break.

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

4 **MS. MEREDITH PORTER:** So it is scheduled  
5 for -- well, again, there seems to be an error. A half an  
6 hour. When -- when would you like to -- to re-convene  
7 after the break?

8 **CHIEF COMMISSIONER MARION BULLER:** We will  
9 reconvene at 2:45.

10 **MS. MEREDITH PORTER:** At 2:45. Thank you.  
11 So I will ask the parties to reconvene in the hearing room  
12 at 2:45. At this point we'll adjourn for the break.

13 --- Upon recessing at 2:26 p.m.

14 --- Upon resuming at 2:49 p.m.

15 **MS. MEREDITH PORTER:** Okay. We'll continue  
16 on with the cross-examination of the witnesses. I'll just  
17 give them an opportunity to take their seats.

18 The next party that I'd like to invite us to  
19 pose questions to the witnesses are from the Inuit Tapiriit  
20 Kanatami, ITK. So I'd like to invite the representative  
21 from that organization to come to the podium. And the ITK  
22 will have 23 minutes to pose questions to the witnesses.

23 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

24 **CROSS-EXAMINATION BY MS. ZARPA:**

25 **MS. ELIZABETH ZARPA:** Hi. My name is

1 Elizabeth Zarpa. I'm counsel with Inuit Tapiriit Kanatami,  
2 which is a national organization that represents all Inuit  
3 in Canada. I want to say thank you to everybody for your  
4 expert -- for your -- for your testimony, and I also thank  
5 the Blackfoot people for allowing me to be on their  
6 territory.

7 So to start off, I have some questions with  
8 regards to Ms. Giff-MacKinnon. Under Exhibit 15, victims  
9 services in Canada. So on page 4, it says, "Victims  
10 Services of Canada and the Provinces and the Territories."  
11 And in this list here, is there any recognition of  
12 Nunatsiavut?

13 **MS. NAOMI GIFF-MACKINNON:** In the --

14 **UNIDENTIFIED SPEAKER:** Page 4. Page 4,  
15 sorry.

16 **MS. NAOMI GIFF-MACKINNON:** No, it's not  
17 included.

18 **MS. ELIZABETH ZARPA:** Is there any mention of  
19 Nunavik?

20 **MS. NAOMI GIFF-MACKINNON:** It's not included.

21 **MS. ELIZABETH ZARPA:** Is there any mention of  
22 Inuvialuit?

23 **MS. NAOMI GIFF-MACKINNON:** It's not included.

24 **MS. ELIZABETH ZARPA:** And FILU is a national  
25 organization that represents all Indigenous groups within

1 Canada, correct?

2 MS. NAOMI GIFF-MACKINNON: I'm sorry, I  
3 didn't hear you?

4 MS. ELIZABETH ZARPA: So FILU is a national  
5 organization that seeks the -- to represent the interests of  
6 families of all Indigenous people within Canada, correct?

7 MS. NAOMI GIFF-MACKINNON: So, yes. The --  
8 they're -- the FILU service is intended to serve all  
9 families, yes, across Canada.

10 MS. ELIZABETH ZARPA: All right. Are you  
11 familiar with Inuit Nunangat?

12 MS. NAOMI GIFF-MACKINNON: I -- I'm not  
13 familiar to talk about, no. Sorry.

14 MS. ELIZABETH ZARPA: So Inuit Nunangat is  
15 predominantly the area -- the Inuit homelands of -- in the  
16 northern region, above the 60th parallel. And I would  
17 recommend that the exclusion of those regions within this  
18 list, also excludes the families of those regions who could  
19 also be represented within FILU programming.

20 MS. NAOMI GIFF-MACKINNON: If -- if I may  
21 say, the -- the -- this exhibit is an overview of the victim  
22 services models. And it's -- it's not just the FILUs. So  
23 the -- the FILU service structure is organized by provincial  
24 and territorial government.

25 MS. ELIZABETH ZARPA: All right. And



1 throughout Inuit Nunangat, the Nunatsiavut, Nunavik, and  
2 Inuvialuit have their own regional governments. And I -- I  
3 put to you that these aren't on page 4 listed, but they are  
4 governments that represent Inuit.

5 **MS. NAOMI GIFF-MACKINNON:** Yes.

6 **MS. ELIZABETH ZARPA:** And the exclusion is a  
7 very -- it's -- it will -- it's reflective that there's a  
8 huge portion of the Indigenous population that's not  
9 represented in this.

10 **JOHN PHELPS, Previously Affirmed:**

11 **CROSS-EXAMINATION BY MS. ZARPA:**

12 **MS. ELIZABETH ZARPA:** So my -- my second set  
13 of questions will go to Mr. Phelps. Hi. So throughout  
14 Nunavut, Yukon, and the Northwest Territories, this is sort  
15 of the -- CWC's, sort of, area that you've focused on  
16 throughout your testimony, correct?

17 **MR. JOHN PHELPS:** Yes. That's -- that's  
18 our -- the territories proper -- at the areas where we have  
19 responsibility for other criminal code prosecutions.

20 **MS. ELIZABETH ZARPA:** And is it implicit that  
21 Inuvialuit is within those areas?

22 **MR. JOHN PHELPS:** Sorry, I'm -- regionally,  
23 if -- if they're within the territory. I'm not as familiar  
24 with the east coast as I am with the west coast. But  
25 the -- the regional boundaries would be the -- the regional

1 boundaries set by -- set in Canada for that territory.  
2 Well, if there are overlapping groups, such as in -- in the  
3 Yukon territory, the Kaska First Nation would overlap with  
4 British Columbia. We would only provide service to the  
5 Kaska members that reside within the territory of the Yukon.

6 **MS. ELIZABETH ZARPA:** So is it fair to say  
7 that Inuvialuit is not represented in your testimony?

8 **MR. JOHN PHELPS:** Again, to the extent, and  
9 I'm not familiar, I'm having a hard time with the geography,  
10 but if they're not within Nunavut, if there aren't  
11 settlements within the boundaries of Nunavut, then they  
12 would not be covered. If there are then they would.

13 **MS. ELIZABETH ZARPA:** Are there Inuit that  
14 reside in the Yukon?

15 **MR. JOHN PHELPS:** No, there aren't.

16 **MS. ELIZABETH ZARPA:** Are there Inuit that  
17 reside in the Northwest Territories?

18 **MR. JOHN PHELPS:** As far as I'm aware, yes.

19 **MS. ELIZABETH ZARPA:** Okay. So you mentioned  
20 that within the training of CWC, many of the individuals  
21 that are -- it's mandatory that they take First Nations 101  
22 when they become a staff member, correct?

23 **MR. JOHN PHELPS:** Yes. That's for the Yukon  
24 region, yes.

25 **MS. ELIZABETH ZARPA:** Okay. And is there a

1 Inuit specific 101?

2 **MR. JOHN PHELPS:** There is in Nunavut, yes.  
3 There's a program, it's a modular based program that was  
4 developed for training purposes for -- for cultural  
5 sensitivity. It's mandatory, I believe, for all employees  
6 including the CWCs.

7 **MS. ELIZABETH ZARPA:** And is this training  
8 also Inuit specific 101, also offered within the Northwest  
9 Territories?

10 **MR. JOHN PHELPS:** It's -- it would be  
11 available to all employees within our department. So it  
12 would be available within the Northwest Territories as well  
13 because it's -- it's relevant in the Northwest Territories.  
14 It -- it hasn't been used in my territory.

15 **MS. ELIZABETH ZARPA:** Okay, thank you.  
16 I -- so would you -- would you -- so the CWC is essential to  
17 the work of Crown throughout all these territories, right?

18 **MR. JOHN PHELPS:** That's correct. Yes.

19 **MS. ELIZABETH ZARPA:** And you mentioned that  
20 communication with the survivor is essential for the CWC to  
21 fulfill its responsibilities?

22 **MR. JOHN PHELPS:** Yes.

23 **MS. ELIZABETH ZARPA:** Okay. So is there --  
24 is there access to cell phone service all throughout the  
25 Yukon?

1           **MR. JOHN PHELPS:** Yes, there is. In -- in  
2 all of the communities there is cell phone coverage, yes.

3           **MS. ELIZABETH ZARPA:** Is there access to cell  
4 phone coverage throughout all the communities in the  
5 Northwest Territories?

6           **MR. JOHN PHELPS:** I'm not certain that there  
7 is in the -- in the east. I would -- I would be guessing if  
8 I -- if I was to give that answer. I -- I don't believe  
9 it's available, but I don't know the -- the answer to that.

10          **MS. ELIZABETH ZARPA:** Is there access to  
11 full-coverage cell phone service throughout Nunavut?

12          **MR. JOHN PHELPS:** Pardon me?

13          **MS. ELIZABETH ZARPA:** Is there access to full  
14 cell phone coverage throughout Nunavut?

15          **MR. JOHN PHELPS:** I'm -- I'm not certain that  
16 there is, no.

17          **MS. ELIZABETH ZARPA:** Would you agree that  
18 not having access to full coverage cell phone service  
19 affects CWC -- CWC's work?

20          **MR. JOHN PHELPS:** Yes, certainly. Access to  
21 cell phones and -- and access to programs that provide cell  
22 phones to -- to victims such as we have in the Yukon, and  
23 -- and we heard about in the NWT greatly impact our ability  
24 to communicate with victims. It's very important, yes.

25          **MS. ELIZABETH ZARPA:** So it's an essential

1 government service?

2 MR. JOHN PHELPS: Pardon me?

3 MS. ELIZABETH ZARPA: It's an essential  
4 government service that's lacking?

5 MR. JOHN PHELPS: It's certainly a very  
6 important aspect of the work we do, yes.

7 MS. ELIZABETH ZARPA: So is there -- is there  
8 full, efficient, effective internet all throughout Northwest  
9 Territories?

10 MR. JOHN PHELPS: I -- I'm not too certain  
11 with respect to the most remote locations as to how  
12 effective it is, and I know in Nunavut, it's an ongoing  
13 problem. Even it where it is provided, the connectivity is  
14 a problem.

15 MS. ELIZABETH ZARPA: And would you -- would  
16 you agree with me that this affects the ongoing work of the  
17 essential service of CWC?

18 MR. JOHN PHELPS: I would, yes.

19 MS. ELIZABETH ZARPA: And would you agree  
20 with me that it's a government service that should be made  
21 fully available to all the three territories?

22 MR. JOHN PHELPS: It would certainly benefit  
23 the work that we do with victims across all three  
24 territories, yes.

25 MS. ELIZABETH ZARPA: Great, thank you. So

1 I'm going to read to you a -- a hypothetical situation. I  
2 want to just quickly go over it. So -- so I'm going say  
3 that I'm a -- a 60 year-old Elder Inuit woman who  
4 predominantly only speaks Inuvialuktun, which is like a  
5 dialect from Inuvialuit in the Inuktitut language. Recently,  
6 in Whitehorse, who has left Inuvialuit, my home, because  
7 I've experienced extensive struggles due to the -- due to  
8 the issue of substance misuse in my 500-population  
9 community. My community of 500 is now receiving lots of  
10 money from a diamond mine in our territory, which has  
11 increased the level of drugs and alcohol in my community. I  
12 am fleeing my partner who is struggling with substance  
13 misuse until he gets help. He was charged last week for  
14 break and enter into our son's home, and damage to personal  
15 property. I was staying there when he smashed out the  
16 window, and he was angry I didn't open the door. He was  
17 under the influence, and this is his first charge. He has  
18 never been aggressive before.

19 He is Inuit too, from Inuvialuit, and has  
20 been receiving payments from the residential school survivor  
21 payout, and the Impact Benefit Agreement from the mine.  
22 He's struggling too with this -- with his own traumas from  
23 residential school and the slaughter of his dog team in the  
24 '50s. I'm a survivor of several changes and challenges over  
25 the last century, who is seeking to -- a better life in the

1 capital of Whitehorse. I'm homeless because I just arrived  
2 today. Will my case be handled by an Inuit RCMP officer?

3 **MR. JOHN PHELPS:** I'm -- I'm unable to answer  
4 that question, I -- I don't know.

5 **MS. ELIZABETH ZARPA:** Are there Inuit RCMP  
6 officers in the Yukon?

7 **MR. JOHN PHELPS:** I -- I don't know one way  
8 or another. I'm not familiar, no.

9 **MS. ELIZABETH ZARPA:** Are many of the RCMP  
10 officers that come into the Yukon predominately non-  
11 Yukoners?

12 **MS. ANNE TURLEY:** I'm sorry, Chief  
13 Commissioner, I'm going to object at this.

14 **MS. ELIZABETH ZARPA:** Can we pause the time,  
15 please?

16 **MS. ANNE TURLEY:** I'm going to object at this  
17 point because Mr. Phelps is not here on behalf of the RCMP  
18 and he would not be aware of the RCMP's recruitment policies  
19 and the complement of their officers, so I think this goes  
20 well beyond the bounds of his testimony.

21 **CHIEF COMMISSIONER MARION BULLER:** Ms. Zarpa,  
22 any submissions?

23 **MS. ELIZABETH ZARPA:** No submissions.

24 **MS. ANNE TURLEY:** Yeah, I --

25 **MS. MEREDITH PORTER:** As Commission counsel,

1 I -- it would be my position that the witness oversees a  
2 program developing -- delivering services to victims, and he  
3 is acutely aware, I'm imagining, from his expertise and his  
4 knowledge and his experience, as to whether or not he can  
5 answer the question as to whether or not he himself has ever  
6 dealt with RCMP officers, for example, of Inuit descent. So  
7 I think it would be appropriate for the witness to answer  
8 the question to the best of his knowledge with respect to  
9 the program that he oversees in the three territories.

10 **CHIEF COMMISSIONER MARION BULLER:** The  
11 witness can answer the question, but of course, he can  
12 always say he doesn't know. Go ahead.

13 **MR. JOHN PHELPS:** Thank you. It -- it --  
14 could you repeat the questions?

15 **MS. ELIZABETH ZARPA:** So the -- will my case  
16 be handled by an Inuit RCMP officer?

17 **MR. JOHN PHELPS:** I -- I'm not -- I'm not  
18 certain whether it would or not. My expectation would be  
19 that they would make their best efforts and arrangements to  
20 be able to understand the complaint, so I -- I don't know  
21 how they would go about it, though, if -- if they have  
22 anybody on staff. I don't know the answer to that.

23 **MS. ELIZABETH ZARPA:** Are there any Inuit  
24 lawyers throughout the Northwest Territories are -- that are  
25 Crown prosecutors or defence?



1           **MR. JOHN PHELPS:** I don't believe currently,  
2 within the complement of the Public Prosecution Service of  
3 Canada, that there are. There have been in the past, and  
4 certainly the previous iteration of the law school in  
5 Nunavut was supported by the PPSC and we were fortunate to  
6 have some on staff as a result of that process. I'm not  
7 certain that there are any within the PPSC currently.

8           **MS. ELIZABETH ZARPA:** Are there any Inuit  
9 judges throughout any of the territories, or Justice of the  
10 Peace?

11           **MR. JOHN PHELPS:** I couldn't answer the  
12 question with respect to Justices of the Peace because those  
13 tend to be resident within particular communities and  
14 hamlets. I'm not aware of any judges.

15           **MS. ELIZABETH ZARPA:** Would you make the  
16 recommendation that there could be Inuit judges within the  
17 territories that would hear the cases from Inuit victims of  
18 violence?

19           **MR. JOHN PHELPS:** I -- I could see that as  
20 being appropriate, yes.

21           **MS. ELIZABETH ZARPA:** Okay, thank you. So  
22 Exhibit 3 was entered, which is the CVBR common checklist.

23           **MR. JOHN PHELPS:** Yes.

24           **MS. ELIZABETH ZARPA:** So I -- I -- I note on  
25 the second page of the -- the opposite side of the CBR --

1 CVBR common checklist. It -- it outlines that there's  
2 restorative justice options.

3 MR. JOHN PHELPS: Sorry, I'm just looking for  
4 the --

5 MS. ELIZABETH ZARPA: So it's under "Initial  
6 Contact," so it's -- it's not the front page, but it's the  
7 second page.

8 MR. JOHN PHELPS: Under "Information and  
9 Rights?" Is that what you're referring to?

10 MS. ELIZABETH ZARPA: Yes.

11 MR. JOHN PHELPS: Okay. Yes.

12 MS. ELIZABETH ZARPA: So in the hypothetical  
13 situation with my -- my husband, what restorative justice  
14 options would he have in the Yukon, Northwest Territories,  
15 and Nunavut?

16 MR. JOHN PHELPS: With respect to domestic  
17 violence, in Nunavut, there is a domestic violence court in  
18 Rankin Inlet, if that was available to the individual. It's  
19 only the one court, though, in the entire territory. Given  
20 that the accused is residing, I think, in your scenario, in  
21 Nunavut, then the services available in Nunavut would be  
22 offered. In the Yukon territory, there's domestic violence  
23 treatment option court as well as community wellness court,  
24 and depending on the needs of the offender in your scenario,  
25 either one of those courts would be an option for them

1 within the Yukon Territory. Sorry, there -- there's a  
2 domestic violence and wellness court also available in the  
3 Northwest Territories.

4 Within the Yukon Territory specifically,  
5 there are several First Nations that offer restorative  
6 justice options within their community, and the opportunity  
7 to participate in those programs on domestic violence cases  
8 is dealt with on a case-by-case basis. In -- in your  
9 scenario, it may very well be an appropriate case for an  
10 individual to go through one of the restorative justice  
11 programs as long as they're addressing the risk factors of -  
12 - of your -- I believe you said 50-something-year-old  
13 accused.

14 **MS. ELIZABETH ZARPA:** And would he have to  
15 plead guilty before pursuing restorative justice or wellness  
16 court?

17 **MR. JOHN PHELPS:** In those specialty courts,  
18 there is a requirement for there to be a guilty plea.

19 **MS. ELIZABETH ZARPA:** Which means he'll get a  
20 criminal record?

21 **MR. JOHN PHELPS:** It means that a criminal  
22 record is -- is possible. Again, first-time offender with,  
23 you know, without a criminal record in the age range that  
24 you're referring to, it may very well be the case that they  
25 would end up without a criminal record. It's just on a

1 case-by-case basis and it depends.

2 **MS. ELIZABETH ZARPA:** So the option of  
3 restorative justice and wellness court is available with the  
4 possibility of pleading guilty and perhaps getting a  
5 criminal record, but it's case-by-case-dependent. Are these  
6 options -- are these options pursued throughout the  
7 territories, these -- these different wellness courts and  
8 restorative justice? Are they used frequently?

9 **MR. JOHN PHELPS:** I don't know the statistics  
10 in the other two territories, but the ones in the Yukon  
11 territory are, yes. They're busy courts for us.

12 **MS. ELIZABETH ZARPA:** And are they driven by  
13 sort of specific -- for example in -- in Nunavut, is -- is  
14 that driven by Inuit legal orders or Inuit-specific  
15 protocols and processes of dealing with restorative justice?

16 **MR. JOHN PHELPS:** I -- I'm sorry, I don't  
17 know the particulars of the specialty courts in -- in  
18 Nunavut. I only know really intimately the ones in the  
19 Yukon territory. I can say, in the Yukon territory, that the  
20 Council of Yukon First Nations is involved in the steering  
21 committees of both courts.

22 **MS. ELIZABETH ZARPA:** Okay. Thank you. So  
23 I'm going to read a very fast hypothetical situation. Thank  
24 you for your question -- or your answers.

25 **LEANNE GARDINER, Previously Affirmed:**

1       **CROSS-EXAMINATION BY MS. ZARPA:**

2                   **MS. ELIZABETH ZARPA:** To Ms. Gardiner, from  
3 the Northwest Territories, would you agree that the services  
4 which are provided through the victim services in the  
5 Northwest Territories are essential to ensuring Indigenous  
6 women and girls receive the care they need in some of their  
7 most vulnerable moments?

8                   **MS. LEANNE GARDINER:** Yes.

9                   **MS. ELIZABETH ZARPA:** Okay. I'm going to  
10 read you a quick hypothetical scenario.

11                   **MS. LEANNE GARDINER:** Sure.

12                   **MS. ELIZABETH ZARPA:** So I'm -- I'm an Inuit  
13 woman who speaks -- only speaks Inuktitut, who lives in  
14 Tuktoyaktuk. Just last week, my daughter committed suicide,  
15 and after that, her father became violent towards me. He  
16 has been charged with assault and I'm emotionally,  
17 physically, and psychologically impacted by both the sudden  
18 and unexpected death of my daughter and the experience of  
19 being assaulted by her father just days after and being  
20 blamed for her passing. This is his first charge ever. I  
21 live in Tuktoyaktuk and I have no means to leave the  
22 community, nor do I wish to leave my community, but I want  
23 counselling and I want it in my own language. So I contact  
24 your office and seek help. What options are available to me  
25 in my community of Tuktoyaktuk?

1                   **MS. LEANNE GARDINER:** What I can tell you is  
2                   that the victim services providers in Inuvik serve  
3                   Tuktoyaktuk and they're well-connected to all the local  
4                   stakeholders, including mental health supports, Indigenous  
5                   governments, the Gwich'in and the Inuvialuit, and often make  
6                   those connections with and for clients. They will respond  
7                   to clients in person whenever possible. There's a position  
8                   specifically dedicated to outreach that would include  
9                   Tuktoyaktuk.

10                               As far as exactly where community  
11                   counsellors are, for example, and what language that  
12                   counselling is provided in, I apologize, I can't provide  
13                   that, I don't know it to provide it. It's in another  
14                   department of the -- of the government that I'm not aware  
15                   of all of the details of where those resources are and what  
16                   languages they're provided in. I can tell you that as far  
17                   as victim services provided, those individuals hired at the  
18                   community level make use of resources available in the  
19                   community as far as interpreters or translators are  
20                   concerned and --

21                               **MS. ELIZABETH ZARPA:** Is it fair to say that  
22                   there's no counselling in Inuktitut?

23                               **MS. LEANNE GARDINER:** I don't know if that's  
24                   fair to say or not.

25                               **MS. ELIZABETH ZARPA:** Would you agree that

1 its important to have counselling services in Inuktitut  
2 throughout the different Inuvialuit communities?

3 **MS. LEANNE GARDINER:** I agree that  
4 counselling in someone's first language is -- is very  
5 important, and in those cases, yes.

6 **MS. ELIZABETH ZARPA:** Okay. Just bear with  
7 me for one moment. Okay, so on page 26 of Exhibit 11,  
8 "Staying Safe".

9 **MS. LEANNE GARDINER:** Yes, I have it here in  
10 front of me.

11 **MS. ELIZABETH ZARPA:** So the third  
12 paragraph, it outlines that: (As Read)

13 The Northwest Territories has  
14 specialized counselling programs to help  
15 people stop using violence. These  
16 programs are available inside jails and  
17 in the community. Specialized domestic  
18 violence treatment option court helps  
19 people who are charged with family  
20 violence offences to take responsibility  
21 for their actions and stop hurting  
22 family members. Wellness court helps  
23 people who are willing to set and follow  
24 a wellness plan to work on the things  
25 that help them to stay out of jail.

1                   Would this be accessible to the father of my  
2 daughter?

3                   **MS. LEANNE GARDINER:** Sorry, can you clarify  
4 what page you were reading from?

5                   **MS. ELIZABETH ZARPA:** 26.

6                   **MS. LEANNE GARDINER:** 26?

7                   **MS. ELIZABETH ZARPA:** Yes. Sorry, I'm just  
8 trying to go fast because the time is staring at me in the  
9 face.

10                  **MS. LEANNE GARDINER:** I'm cognitive of the  
11 time as well. So your question is if the domestic violence  
12 treatment option court is available to --

13                  **MS. ELIZABETH ZARPA:** The father of my  
14 daughter in the hypothetical situation.

15                  **MS. LEANNE GARDINER:** Although I'm not  
16 regularly involved in exactly the eligibility requirements  
17 of that court, it's my understanding that domestic violence  
18 cases are considered for that court pending certain  
19 agreements, similar to what we heard from Mr. Phelps  
20 before.

21                  **MS. ELIZABETH ZARPA:** And is this court  
22 available throughout all the different communities  
23 throughout the Northwest Territories?

24                  **MS. LEANNE GARDINER:** No, it is not.

25                  **MS. ELIZABETH ZARPA:** And is that because



1 there's no access to cell phone service and Internet  
2 service?

3 **MS. LEANNE GARDINER:** I'm not sure that  
4 that -- I'm not sure what the barrier is or the plan for  
5 where that court will or should or is operating. And  
6 you're right, and I should clarify that given the location  
7 I'm not sure if that court is an option or not.

8 **MS. ELIZABETH ZARPA:** Okay, thank you.  
9 That's all my questions.

10 **MS. LEANNE GARDINER:** Thank you.

11 **MS. MEREDITH PORTER:** The next party I'd  
12 like to invite to put questions to the witnesses in  
13 cross-examination is the Interdependent First Nations, so  
14 if the representative from Independent First Nations would  
15 like to come to the podium. There are 16 minutes and 43  
16 seconds, 17 minutes I suppose, remaining in their time for  
17 cross-examination.

18 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

19 **CROSS-EXAMINATION BY MS. BEAMISH:**

20 **MS. SARAH BEAMISH:** Okay. Hi again, Sarah  
21 Beamish for Independent First Nations.

22 So my first set of questions is for  
23 Ms. Giff-MacKinnon. Your Exhibit 14 states that the FILU  
24 project was intended to complement this inquiry. Do you  
25 know if the funding for the FILU project was set to end in

1 March 2019 because of the timeline of this inquiry?

2 **MS. NAOMI GIFF-MACKINNON:** That was the  
3 thinking, yes.

4 **MS. SARAH BEAMISH:** Okay. So if the mandate  
5 for the inquiry is extended, do you believe the funding for  
6 the FILU should also be extended?

7 **MS. NAOMI GIFF-MACKINNON:** That -- that  
8 would be a good alignment, yes.

9 **MS. SARAH BEAMISH:** Okay. You indicated  
10 earlier today that if the FILUs had ongoing working  
11 relationships with any of the families at the point when  
12 the funding ends, that they would "See it through", so I'm  
13 wondering how this would be achieved if there's no funding  
14 available?

15 **MS. NAOMI GIFF-MACKINNON:** So I hope what I  
16 said was that it was my understanding that because of the  
17 principles of how FILUs operate that they would, and the  
18 work of the victim service divisions, hopefully they would  
19 be able to carry on the work that they had started with  
20 families and see it through. If the funding is not -- that  
21 would be something that would have to be looked at within  
22 each jurisdiction because at this point in time the Federal  
23 funding authority does sunset March 31st, 2019.

24 **MS. SARAH BEAMISH:** Okay. So would you  
25 agree that the decision to potentially end the FILU support

1 in the middle of a family's time of need is not consistent  
2 with the program's purported trauma-informed approach?

3 **MS. NAOMI GIFF-MACKINNON:** I do, yeah.

4 **MS. SARAH BEAMISH:** Okay. And although this  
5 decision is not in your control, I know that, would you  
6 recommend that the FILU program be funded for as long as it  
7 is needed?

8 **MS. NAOMI GIFF-MACKINNON:** I think that so  
9 far it's proven to be a new way of doing some important  
10 work, and I think that to date there have been some really  
11 important achievements, and through that lens I think that  
12 I would always support work that's successful in meeting  
13 its objectives.

14 **MS. SARAH BEAMISH:** Okay. Do FILUs have  
15 access to any funding for interpretation and translation in  
16 accordance with the language needs of the families?

17 **MS. NAOMI GIFF-MACKINNON:** Yes, yeah.

18 **MS. SARAH BEAMISH:** Okay. And is there a  
19 formal agreed definition or understanding of what family  
20 means among FILUs across the country, particularly one that  
21 would include people without blood or spousal or adoptive  
22 ties to the person?

23 **MS. NAOMI GIFF-MACKINNON:** That is a shared  
24 definition.

25 **MS. SARAH BEAMISH:** Okay, thank you. And I

1 guess the last question about FILUs, in Exhibit 14 it  
2 states that FILUs strive to provide culturally responsive  
3 and grounded services. I just want to understand a little  
4 bit more about what that means, so can you explain what  
5 this would mean in practice and whether the working  
6 understandings of culture in a given situation are informed  
7 by discussions with families on a case by case basis?

8 **MS. NAOMI GIFF-MACKINNON:** So how the  
9 culturally grounded aspect of FILUs is realized through the  
10 operations? So I think it comes -- it is advanced in many  
11 different ways. I think one of the ways that the FILUs are  
12 culturally grounded is in their relationships with  
13 Indigenous community organizations to provide advice to how  
14 FILUs operate, to provide advice on protocol and ceremony,  
15 to provide links to culturally grounded grief and trauma  
16 counselling for families as well.

17 Many FILU teams have embedded in their  
18 operations input -- direct input from an Elder's advisory  
19 committee or Elders from the community that provide  
20 guidance and also provide assistance to families.

21 **MS. SARAH BEAMISH:** Okay.

22 **MS. NAOMI GIFF-MACKINNON:** Those are some of  
23 the ways. I think FILUs also, with families' direction and  
24 community organizations together, provide opportunities for  
25 families to have ceremonies, different types of ceremonies

1 depending on whether they are receiving the information or  
2 releasing ceremonies, various ceremonies as well for  
3 families.

4 **MS. SARAH BEAMISH:** Okay, thank you. That's  
5 all my questions for you, thank you.

6 **JOHN PHELPS, Previously Affirmed:**

7 **CROSS-EXAMINATION BY MS. BEAMISH:**

8 So next I have a few questions for  
9 Mr. Phelps. So looking at Exhibit 3 which is the Canadian  
10 Victims Bill of Rights common checklist, is this checklist  
11 a common document that's used nationwide, or was it  
12 designed specifically for use in your region?

13 **MR. JOHN PHELPS:** It was designed  
14 specifically for use in the north.

15 **MS. SARAH BEAMISH:** In the north, okay. So  
16 when I reviewed the common checklist I did not see any  
17 obvious place where the Indigenous identity of a victim  
18 would be ascertained, or where the needs of Indigenous  
19 people in particular would be drawn out or given special  
20 attention, beyond perhaps there was a part about  
21 interpretation needs. Am I missing anything, or would you  
22 say that that's an accurate impression of this document?

23 **MR. JOHN PHELPS:** I would agree with your  
24 comment, yes.

25 **MS. SARAH BEAMISH:** So given that, would you

1 recommend the revision of this document or perhaps the  
2 creation of a new tool specifically for use with Indigenous  
3 victims?

4 **MR. JOHN PHELPS:** I would certainly give  
5 that some consideration, as to how we might go about it and  
6 whether or not that go into a form. We don't currently ask  
7 individuals to self-identify, however their -- their  
8 Indigenous heritage may come about obviously in other ways,  
9 and it might be appropriate to put it in place in some  
10 fashion. Most of these conversations take place over the  
11 telephone, so I don't think that we would take the position  
12 that we should request that information, but I would  
13 certainly -- I'll leave here giving that some thought for  
14 sure.

15 **MS. SARAH BEAMISH:** So earlier you had said  
16 that normally at the initial point of contact or intake  
17 everyone is treated basically the same, and then if -- if  
18 the workers become aware of particular needs of an  
19 Indigenous victim then they might try to accommodate that  
20 somehow going forward. So I guess I'm wondering how -- is  
21 there some sort of standardized way or point in the process  
22 at which they would become aware of those needs, or is the  
23 expectation that the person they're speaking with  
24 will -- will proactively sort of start that, will bring  
25 that up?

1           **MR. JOHN PHELPS:** It's generally through,  
2           you know, multiple conversations, dialogue. It's something  
3           that would evolve throughout the development of the  
4           relationship as opposed to, you know, pointed and abrupt  
5           questions. It's something that they're always aware of  
6           that they -- that they need to make note of if -- if  
7           it -- you know, if it gives rise in that relationship.

8           **MS. SARAH BEAMISH:** Okay.

9           **MR. JOHN PHELPS:** I think it's something  
10          that comes about during that period of time, rather  
11          than -- rather than directed.

12          **MS. SARAH BEAMISH:** Okay. Do you think that  
13          that the current approach creates the risk of missed  
14          opportunities to make the services as effective as possible  
15          for Indigenous victims?

16          **MR. JOHN PHELPS:** I think it's -- it's  
17          certainly important to ensure that we're meeting those  
18          needs, whether it's in this document in that initial  
19          contact or whether or not we, as was suggested earlier, we  
20          consider a chapter on dealing with victims or a combination  
21          of the two, I'm not certain. It's a very good point  
22          though, and it's something that, again, I will leave here  
23          and give some consideration to how we can move forward and  
24          learn from the opportunity being here today.

25          **MS. SARAH BEAMISH:** Okay. Now, I guess on

1 the note of the directive that we discussed earlier, I know  
2 that the directive and the common checklist are both, you  
3 know, sort of flowing from the legislation itself, and so  
4 looking to that legislation it doesn't have any content  
5 that's specific to Indigenous victims. Do you think that  
6 the legislation itself should be reviewed and possibly  
7 amended to better reflect the needs of Indigenous victims?

8 **MS. ANNE TURLEY:** I just want to make sure  
9 that we're all clear that --

10 **MS. SARAH BEAMISH:** Can we stop the clock if  
11 there's an objection?

12 **UNIDENTIFIED SPEAKER:** Please stop the  
13 clock.

14 **MS. SARAH BEAMISH:** Thank you.

15 **MS. ANNE TURLEY:** -- that Mr. Phelps is not  
16 here as an expert to opine on the Canadian Victim Bill of  
17 Rights, so if you're asking him a fact-based question,  
18 let's just be clear that he's not here to give opinion  
19 evidence on the interpretation or application of the Bill  
20 of Rights.

21 **MS. SARAH BEAMISH:** I understand that, but  
22 he is here to talk about programs that implement things  
23 flowing from that legislation, so I think it's useful to  
24 hear his view on whether -- you know, the best way or one  
25 useful way of responding to potential gaps in the services



1 is to look at the legislation itself.

2 **CHIEF COMMISSIONER MARION BULLER:** Crown's  
3 position? Sorry, Commission counsel's position?

4 **MS. MEREDITH PORTER:** It -- I take the  
5 party's question and also the objection -- I'm assuming  
6 this is a formal objection by counsel for the witness, I  
7 don't know, she hadn't mentioned this on the record that  
8 this was actually an objection, but maybe some redirection  
9 on the question. Are you asking to rephrase the question  
10 or to --

11 **MS. ANNE TURLEY:** Well, I'm suggesting that  
12 it be --

13 **MS. MEREDITH PORTER:** -- move to a different  
14 line?

15 **MS. ANNE TURLEY:** -- clear whether -- you  
16 know, it's clear he is not being called as a witness, so I  
17 think it has to be clear in your question because I don't  
18 think your question is clear. To me it can be interpreted  
19 as he's -- you're asking for an expert opinion.

20 **MS. SARAH BEAMISH:** I'm asking for his  
21 opinion as someone who deals with the implementation of  
22 this bill as a part of his professional role.

23 **CHIEF COMMISSIONER MARION BULLER:** You can  
24 ask the question based on his experience what is his  
25 practice, but he's not qualified to give expert opinion

1 evidence.

2 **MS. SARAH BEAMISH:** Okay, I'll move on.

3 **CHIEF COMMISSIONER MARION BULLER:** So his  
4 answer is limited only to his experience.

5 **MS. SARAH BEAMISH:** Okay. Then I think  
6 that's all my questions for you, Mr. Phelps, thank you. So  
7 I'll move on to Ms. Gardiner.

8 **LEANNE GARDINER, Previously Affirmed:**

9 **CROSS-EXAMINATION BY MS. BEAMISH:**

10 **MS. SARAH BEAMISH:** So first I want to ask  
11 you something about victim fine surcharges. You told us in  
12 your earlier testimony that some of the programs in your  
13 region are funded through the victim fine surcharges, and I  
14 believe you said it was about \$100,000 last year?

15 **MS. LEANNE GARDINER:** The programs -- thank  
16 you for your question. The core programs, the service  
17 delivery, are not funded by that fund, so those frontline  
18 victim service providers, but yes, about \$100,000 a year,  
19 as recommended by the victim assistance committee.

20 **MS. SARAH BEAMISH:** Okay. Now, there are  
21 some serious concerns about the impacts of these surcharges  
22 on impoverished offenders, and particularly Indigenous  
23 offenders, and the constitutionality of these charges is  
24 currently being challenged before the Supreme Court. So  
25 looking at that context, I guess, I'm wondering if victim

1 fine surcharges were decreased or perhaps eliminated, what  
2 would -- what do you think might happen to the services  
3 that they currently fund in your region? Would they be  
4 eliminated, or might they be replaced by the funds that  
5 fund the other services?

6 **MS. LEANNE GARDINER:** I could -- what I'll  
7 say is that the -- as director responsible for the program,  
8 though I see those projects as fundamental to really  
9 support the work that's happening frontline and the other  
10 outreach activities, so I would -- I would do my best to  
11 find a way to continue that.

12 I'll say also that currently I don't have an  
13 appropriation within the budget I'm responsible for to  
14 replace it if all -- if all of those hypotheticals were to  
15 occur. But I can say that I would -- I would work with my  
16 partners in whatever way I could to -- to address it, but I  
17 don't -- I wouldn't have it as it stands right now.

18 **MS. SARAH BEAMISH:** Okay. And what -- can  
19 you give a couple examples of what kinds of services are  
20 being funded by the victim fine surcharge money?

21 **MS. LEANNE GARDINER:** Yes, if you will just  
22 give me a quick sec, I'm cognizant of your time, but I have  
23 got a list or I'll -- I can tell you right offhand that  
24 there's a program that has been funded for at least three  
25 years in a row now through the Native Women's Association

1 of the Northwest Territories, who is also our victim  
2 services provider in Yellowknife, that provides financial  
3 assistance for families of homicide victims to attend  
4 court.

5 Other programs have been in the -- they have  
6 previously funded training opportunities or training  
7 sessions for volunteers. Just this last year I believe it  
8 was -- there was an elder and youth program in the Beaufort  
9 Delta Region that was funded by that -- that fund. It's  
10 based on proposals received from community organizations.

11 **MS. SARAH BEAMISH:** Okay. So would you -- I  
12 guess based on your proximity to these programs, you're  
13 seeing the importance of them in the communities, would you  
14 recommend that governments ensure that if victim fine  
15 surcharges, you know, were reduced or eliminated that  
16 equitable and adequate funding for these things is ensured  
17 by the government?

18 **MS. LEANNE GARDINER:** I would recommend that  
19 governments address how -- what that impact would be. I  
20 think there's always a balancing act that happens when  
21 those changes -- in my experience, when those changes  
22 happen. Whether they're, you know, jurisdictional changes  
23 that we actually have control over because those fines are  
24 made up of territorial and federal fines as determined  
25 by -- by the Court. So in the best of our ability, yes, we

1 should be offsetting or trying to find ways.

2 And within my own mandate, in my job, that  
3 would be part of my job, is to respond to those changing  
4 conditions, whatever those are.

5 **MS. SARAH BEAMISH:** Okay. I want to ask you  
6 a couple questions about Exhibit 5, which is the MOU  
7 between the RCMP and the -- and the GNWT about the victim  
8 services program. So you've already been asked a question  
9 about this, but I want to dig a little bit deeper. So I'm  
10 looking at Section 8.1 of the MOU, and that's the section  
11 that states that there will be an annual review by the  
12 agencies to determine if changes are needed.

13 **MS. LEANNE GARDINER:** M'hm.

14 **MS. SARAH BEAMISH:** I know you told us today  
15 that one such review is underway now, but I note that the  
16 MOU provided to the inquiry was signed in 2008 and does not  
17 appear to have been amended since then. Am I right about  
18 that or have the agencies done any of these annual reviews?

19 **MS. LEANNE GARDINER:** I'm not aware of an  
20 annual -- I haven't undertaken, since I came to this  
21 position in September 2016, a formal review. My  
22 understanding of what would have happened in the past is  
23 that as issues would arise we would look at the MOU to see  
24 if it's -- if it's sufficient to cover the challenges that  
25 might be coming up, and if it wasn't -- I hate to

1       assume -- but I -- I would assume that they would have  
2       looked at the MOU, but I'm not sure. I'm not sure. Prior  
3       to me coming on, I'm not aware of how it was handled.

4               **MS. SARAH BEAMISH:** Okay. So the review  
5       that's currently under way, what kind of consultation with  
6       Indigenous victims, Indigenous communities, is happening as  
7       part of that review?

8               **MS. LEANNE GARDINER:** What will happen is a  
9       consultation through our victim services providers because  
10      right now, our -- as far as stakeholders go and -- and the  
11      challenges, the best place that we're aware of to go to see  
12      and to kind of have another stock, a formal taking stock of  
13      what challenges exist, would be that network.

14              **MS. SARAH BEAMISH:** Okay.

15              **MS. LEANNE GARDINER:** And, of course, the  
16      R -- the conversation with the RCMP, as well, because  
17      they're party to it, and it will work that way. But as far  
18      as what I would bring to the table as part of my  
19      discussion, it's reaching out to my partners in those  
20      communities.

21              **MS. SARAH BEAMISH:** Okay. So will that  
22      include contact with people who've dealt with these service  
23      providers, as well? Will you be talking with anyone in the  
24      community who's supposed to be benefitting from these  
25      services?

1           **MS. LEANNE GARDINER:** I don't have a formal  
2 plan. I wouldn't exclude that as a -- absolutely.  
3 They -- they do often serve as our experts in that regard,  
4 but I wouldn't exclude talking to other partners that we  
5 aren't in formal victim service-delivery relationships  
6 with.

7           **MS. SARAH BEAMISH:** Okay. So just a couple  
8 more questions. Looking at Section 4.4 of the MLU, there's  
9 a part in there that states that those in communities  
10 without victim services -- without a victim services  
11 program may use the resources of the program located in the  
12 town nearest to them where resources allow. So those three  
13 words there, "where resources allow", I'm just curious sort  
14 of how that works in practice. Do resource constraints  
15 sometimes result in -- in people being turned away?

16           **MS. LEANNE GARDINER:** It's not my  
17 understanding. I'm not aware of a situation where we have  
18 or aware of service providers we are connected with, who we  
19 are providing funding for, have turned away a victim  
20 looking for services. What it might be is that they may be  
21 unable to give in-person services. That happens on  
22 occasion for all manner of reasons in the North. But I'm  
23 not aware of any situation where the support itself would  
24 not be denied for those in -- yeah.

25           **MS. SARAH BEAMISH:** Okay. Well, that's all

1 my questions. Thank you.

2 **MS. MEREDITH PORTER:** Thank you. The next  
3 party that I'd like to invite up for posing questions to  
4 the witnesses is from the Missing and Murdered Indigenous  
5 Women and Girls Manitoba Coalition. And the representative  
6 will have 23 minutes for questioning.

7 **MS. CATHERINE DUNN:** Yes, thank you. My  
8 name is Catherine Dunn, and on behalf of my client, the  
9 Manitoba Coalition, I would thank the Blackfoot for  
10 allowing us to proceed today on Treaty 7 territory, and as  
11 well, Region 3 for the Métis.

12 **MS. CATHERINE DUNN:** The Manitoba Coalition  
13 has asked for standing for the National Inquiry as of May  
14 2017. However, they did not receive funding to appear  
15 before the National Inquiry until May the 18th of this  
16 year, 2018. And I would like to begin today by entering a  
17 formal protest on behalf of my clients for the late  
18 contribution for their ability to participate.

19 My question for the panel is whether any of  
20 the panel members are experts for the purposes of the  
21 National Inquiry with respect to their individual programs  
22 that they are testifying about today.

23 **MS. MEREDITH PORTER:** I think that that  
24 question has already been clarified a couple of times on  
25 the record, that the witnesses that are appearing here on



1 this panel are not qualified as experts, nor is this  
2 intended to be an expert panel or expert hearing.

3 **MS. CATHERINE DUNN:** Thank you. Are any of  
4 the panel members able to say that they have the ability to  
5 fund their individual programs after the contract of  
6 funding expires? (Unreportable sound).

7 **UNIDENTIFIED SPEAKER:** Oh, my goodness.

8 **UNIDENTIFIED SPEAKER:** Sorry.

9 **MS. MEREDITH PORTER:** Okay. If we could  
10 get --

11 **CHIEF COMMISSIONER MARION BULLER:** We'll  
12 stop the clock. And -- and we'll take a short break.

13 **MS. MEREDITH PORTER:** Take a short break.

14 --- Upon recessing at 3:37 p.m.

15 --- Upon reconvening at 3:48 p.m.

16 **MS. MEREDITH PORTER:** Start back with --

17 **MS. CATHERINE DUNN:** Yeah, I am.

18 **MS. MEREDITH PORTER:** -- the questioning, and  
19 -- and so I will -- you to proceed with the next question  
20 that you had for -- for the witnesses. Will -- are we --  
21 are we back? Sorry. I'm sorry. Just a second. We --  
22 we're back, are we? Yeah, okay, thank you. Proceed with  
23 your next question, then.

24 **MS. CATHERINE DUNN:** Thank you. I guess my  
25 next question is, how do you like me so far?

1 (LAUGHTER)

2 JOHN PHELPS, Previously Affirmed:

3 CROSS-EXAMINATION BY MS. DUNN:

4 MS. CATHERINE DUNN: This is a question for  
5 Mr. Phelps, and it involves his program. Mr. Phelps, prior  
6 to my recess, I was asking you whether you were responsible  
7 for the funding of your particular program.

8 MR. JOHN PHELPS: Sorry, responsible for or  
9 what -- I -- is the question whether or not it's permanently  
10 funded?

11 MS. CATHERINE DUNN: Yes.

12 MR. JOHN PHELPS: Yes, it is.

13 MS. CATHERINE DUNN: Okay, and so whether or  
14 not -- and this program has been running since 1991, I  
15 believe.

16 MR. JOHN PHELPS: It has, yes, and it's grown  
17 since 1991.

18 MS. CATHERINE DUNN: Right. And that program  
19 is -- steps into a position of starting as a result of a  
20 charge being laid; is that correct?

21 MR. JOHN PHELPS: Yes, we -- we get engaged  
22 with the matter once a charge is laid, yes.

23 MS. CATHERINE DUNN: Okay, and if no charge  
24 is laid, your program, which has been running since 1991,  
25 does not come into play.

1           **MR. JOHN PHELPS:** Our program does not,  
2           that's correct.

3           **MS. CATHERINE DUNN:** Okay, so if you have a  
4           victim who is reluctant to lay a charge; your program  
5           doesn't help that individual?

6           **MR. JOHN PHELPS:** In fact, we would not know  
7           about that, that's correct.

8           **MS. CATHERINE DUNN:** If that individual comes  
9           to your program as a witness and is too afraid to testify,  
10          your program is not able to assist that witness?

11          **MR. JOHN PHELPS:** If a charge has been laid  
12          and the individual is a necessary witness or a victim, as  
13          the case may be, then we would support them through the  
14          process. Then we would assess their needs and we would make  
15          application in court in order to utilize testimonial aids.  
16          However, if, for one reason or another, the matter ends at  
17          that point with -- with the reluctance to proceed, then our  
18          services would end at that point in time as well and we  
19          would refer them outside of our organization. I hope that  
20          answers your questions.

21          **MS. CATHERINE DUNN:** Yes, so the witness who  
22          refuses to testify in -- in the circumstances which we've  
23          discussed not only does not have access to your program, but  
24          that witness is theoretically, at least, subject to  
25          prosecution by your department, not your program, but by

1 your department for avoiding giving testimony.

2 **MR. JOHN PHELPS:** Theoretically, yes. In  
3 practice, no.

4 **MS. CATHERINE DUNN:** Well, theoretically or  
5 not, the *Criminal Code* is designed in such a way as to  
6 forcefully encourage witnesses to give their testimony, and  
7 if they don't give that testimony, then there may be  
8 sanctions, and in particular, there may be criminal  
9 sanctions; is that fair?

10 **MR. JOHN PHELPS:** Yeah, I don't disagree  
11 with that statement.

12 **MS. CATHERINE DUNN:** Okay. And if you take  
13 it one step further and talk about remote communities, if  
14 you are a victim or a witness and you have pressures from  
15 your own family about whether or not to charge your abuser  
16 or from your extended family or from your spouse's extended  
17 family, that makes it all the more difficult to access your  
18 program, because you need a charge to start it.

19 **MR. JOHN PHELPS:** That's -- that's correct,  
20 yes. We don't engage unless there's a charge. It's a  
21 prosecution service. There is a territorial victim service  
22 in the Yukon that would provide that service, but it's not  
23 through our office.

24 **LEANNE GARDINER, Previously Affirmed:**

25 **CROSS-EXAMINATION BY MS. DUNN:**

1                   **MS. CATHERINE DUNN:** Okay. My next question  
2 is for Ms. Gardiner. And, Ms. Gardiner, with respect to  
3 the MOU -- I believe it was Exhibit 5 -- that's the  
4 memorandum of understanding that your department has with  
5 various community-based organizations; is that right? The  
6 RCMP is responsible for connecting with community  
7 organizations; is that right?

8                   **MS. LEANNE GARDINER:** To clarify, the MOU  
9 that we entered as an exhibit is between my department and  
10 the RCMP.

11                   **MS. CATHERINE DUNN:** Okay.

12                   **MS. LEANNE GARDINER:** It is -- it is not the  
13 agreement that we have with other organizations.

14                   **MS. CATHERINE DUNN:** Okay. Who actually  
15 reaches out to the community at the community level? Is it  
16 the RCMP?

17                   **MS. LEANNE GARDINER:** For -- relating to  
18 what?

19                   **MS. CATHERINE DUNN:** To providing services.

20                   **MS. LEANNE GARDINER:** When a victim needs  
21 services?

22                   **MS. CATHERINE DUNN:** That's right.

23                   **MS. LEANNE GARDINER:** Our program  
24 is -- there are several ways that victims can access the  
25 community-based program. They can self-refer. They can

1 also be referred by the RCMP, as per in this MOU in  
2 practice.

3 **MS. CATHERINE DUNN:** Okay. So I am correct,  
4 then, at least in part, that the RCMP is responsible for  
5 engaging your program with the community; is that fair?

6 **MS. LEANNE GARDINER:** Yes. Yes.

7 **MS. CATHERINE DUNN:** Okay. So in essence,  
8 the RCMP is responsible for who gets the services and who  
9 doesn't, rather than the victim?

10 **MS. LEANNE GARDINER:** I would -- I would not  
11 characterize our -- our program and the accessibility to  
12 victims the way that you've stated it, that -- that they're  
13 in -- in control of who gets access to that program. I  
14 mentioned previously in testimony all the ways that these  
15 community-based organizations reach out to their community  
16 members to make sure that everyone is aware of who they  
17 are, where their office is, what services they provide, a  
18 whole range of -- of services. One of the ways -- and  
19 they're -- absolutely, RCMP are a key partner, there's no  
20 doubt, in -- in that critical point where the RCMP are  
21 involved to refer to victim services.

22 **MS. CATHERINE DUNN:** I'm not talking about  
23 so much about key partners, but key funders.

24 **MS. LEANNE GARDINER:** Funders?

25 **MS. CATHERINE DUNN:** Yeah.

1                   **MS. LEANNE GARDINER:** The RCMP does not fund  
2 this program.

3                   **MS. CATHERINE DUNN:** It's the -- does the  
4 RCMP funnel money through MOEs? Who gets the money for  
5 your particular program? Like, how does that money get  
6 disbursed into the community and who makes those decisions?

7                   **MS. LEANNE GARDINER:** The Government of the  
8 Northwest Territories. My organization, I work for the  
9 Department of Justice.

10                   **MS. CATHERINE DUNN:** Right.

11                   **MS. LEANNE GARDINER:** I have a budget that  
12 includes almost a million dollars in this case that's to be  
13 transferred through -- or contribution agreements to  
14 community-based organizations: Indigenous governments,  
15 hamlet councils, for the delivery of victim services.

16                   **MS. CATHERINE DUNN:** And is it -- is it your  
17 government that decides who gets the funding or how much  
18 you get or how it's disbursed?

19                   **MS. LEANNE GARDINER:** It's partly my  
20 government. We -- some of our funding comes from the  
21 Department of Justice Canada to contribute certain aspects  
22 of the program, including some that goes directly to  
23 communities, but it is an appropriation within my  
24 department and my division's budget.

25                   **MS. CATHERINE DUNN:** So the community itself

1 does not have any ability to decide how much money they're  
2 going to get for victim services or how they're going to  
3 deliver those victim services because they don't have  
4 control of how much money goes into their community or for  
5 what purpose.

6 **MS. LEANNE GARDINER:** I would agree that  
7 they don't have control over the -- the process that the  
8 government uses to appropriate the money -- the funding,  
9 sorry. However, the way our program works is it's based on  
10 a proposal received from the community. So I agree, they  
11 don't have control over the amount that's allocated for  
12 that community. They do have control over how that service  
13 is delivered in our program. Absolutely, there are some  
14 fundamental things we ask to see in the proposals,  
15 including direct victim services, but as far as how that is  
16 delivered, that's entirely up to the sponsoring  
17 organization.

18 **MS. CATHERINE DUNN:** And do you think it is  
19 important that the community participate not only through  
20 partnership, but by having the authority to have funding  
21 made directly through their community?

22 **MS. LEANNE GARDINER:** I think that agency  
23 and autonomy is key for communities to be able to address  
24 their own -- whether it be justice issues or others.

25 **MS. CATHERINE DUNN:** And that can be



1 improved on in the future?

2 **MS. LEANNE GARDINER:** Absolutely.

3 **MS. CATHERINE DUNN:** Because right now,  
4 there are no communities who have that ability, to get  
5 funding on their own, to create their own programming, to  
6 sit as a partner, a true partner, at the funding table?

7 **MS. LEANNE GARDINER:** My only hesitation is  
8 that we have various First Nations and Indigenous  
9 governments in the Northwest Territories who have -- I'm  
10 not an expert in, but varying self-control agreements and  
11 at different stages of implementation. So -- but just with  
12 that caveat, then -- then I would agree.

13 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

14 **CROSS-EXAMINATION BY MS. DUNN:**

15 **MS. CATHERINE DUNN:** Thank you. These  
16 questions are for Ms. MacKinnon, Giff-MacKinnon. And I'm  
17 going to refer you to what's been entered as Exhibit 15.  
18 I'm going to direct you -- as -- if I understand your  
19 evidence correctly, you are familiar with the program FILUs  
20 nationally; is that fair to say?

21 **MS. NAOMI GIFF-MACKINNON:** Correct, yes.

22 **MS. CATHERINE DUNN:** Okay. And at Exhibit  
23 15, at page -- I believe it's 29 or 30, there is a  
24 reference to Manitoba Indigenous organizations that receive  
25 funding; is that fair to say?

1 MS. NAOMI GIFF-MACKINNON: Page 30, yes.

2 MS. CATHERINE DUNN: Yes.

3 MS. NAOMI GIFF-MACKINNON: I see that, yeah.

4 MS. CATHERINE DUNN: And on behalf of my  
5 client, they are grateful to have so many Indigenous  
6 organizations who get funding through your program.  
7 However, similarly, they don't sit as equal funding  
8 partners at the funding table, do they? They don't get to  
9 decide how much they get. For example, Ka Ni Kanichihk  
10 does not decide how much money they will get in any  
11 particular period, how they will use that money, whether it  
12 will be forever and ever or whether it will be a term; is  
13 that fair?

14 MS. NAOMI GIFF-MACKINNON: Just to make sure  
15 that we're -- we're looking -- we're thinking about the  
16 content in the same way, the materials on the -- the  
17 references on page 30 are in relation to Manitoba victim  
18 services.

19 MS. CATHERINE DUNN: That's right.

20 MS. NAOMI GIFF-MACKINNON: Yes.

21 MS. CATHERINE DUNN: That -- that's the  
22 questions I'm directing is what's happening in Manitoba.  
23 And in Manitoba, what I am -- I am asking you to comment on  
24 is these individual Indigenous organizations do not get to  
25 say at any particular funding moment how much they will get

1 or how long it will go on.

2 **MS. NAOMI GIFF-MACKINNON:** So I -- I can't  
3 speak to Manitoba victim services contribution agreements or  
4 their -- their policies or practices with funding. I think  
5 it's probably closer to how you described it, but I can't --  
6 I can't confirm that. I -- I would mention that there are  
7 some programs that we in the Department of Justice are  
8 funding through the community-based trauma and grief  
9 counselling funding that we have for families of missing or  
10 murdered Indigenous women and girls that, as you say, the --  
11 the ongoing nature of the funding is not secured.

12 But we work with community organizations to  
13 identify which activities they'd like to advance and what  
14 those costs would be. So we don't prescribe -- there are  
15 -- just -- just to point out that there are some examples  
16 where the community organization does, in fact, identify  
17 what the budget would be. There are parameters, yes.

18 **MS. CATHERINE DUNN:** Do you think it is  
19 important as a recommendation going forward from this  
20 inquiry that community-based service organizations have more  
21 autonomy and control over their funding?

22 **MS. NAOMI GIFF-MACKINNON:** I think that that  
23 is a -- an important way to move forward to build community  
24 strength and capacity in response to the justice issues that  
25 they're facing, yes.

1                   **MS. CATHERINE DUNN:** Would you say it's  
2                   critical?

3                   **MS. NAOMI GIFF-MACKINNON:** I -- I think it is  
4                   a critical component to moving forward, yes.

5                   **MS. CATHERINE DUNN:** Thank you. With respect  
6                   to the -- the FILUs, are -- is that program funded for  
7                   survivors?

8                   **MS. NAOMI GIFF-MACKINNON:** The FILU program  
9                   is intended primarily for families of missing or murdered  
10                  Indigenous women and girls, so the -- it's not part of the  
11                  regular suite of victim services programs that might be in  
12                  place for the -- the broader experiences of -- of crime and  
13                  harm that survivors might experience. That doesn't mean  
14                  that survivors of crime, where they are family members who  
15                  have questions, couldn't work with the FILU as well.

16                  **MS. CATHERINE DUNN:** But they can't -- they  
17                  can't access services for themselves directly through your  
18                  program?

19                  **MS. NAOMI GIFF-MACKINNON:** For the FILU?

20                  **MS. CATHERINE DUNN:** Yeah.

21                  **MS. NAOMI GIFF-MACKINNON:** The -- the FILU is  
22                  intended to primarily work directly with families of missing  
23                  or murdered Indigenous women and girls.

24                  **MS. CATHERINE DUNN:** So I am correct?

25                  **MS. NAOMI GIFF-MACKINNON:** You're correct,

1       yeah.

2                   **MS. CATHERINE DUNN:** Now, we've heard a  
3       number of times, and I won't overemphasize this, but your  
4       funding for FILU is -- is up in March of 2019, correct?

5                   **MS. NAOMI GIFF-MACKINNON:** Correct, yes.

6                   **MS. CATHERINE DUNN:** You have no control over  
7       whether that funding will go forward from -- from that point  
8       on?

9                   **MS. NAOMI GIFF-MACKINNON:** Correct.

10                  **MS. CATHERINE DUNN:** You don't have any  
11       instructions from your Minister to give direction to the  
12       National Inquiry as to the way they would like the funding  
13       to go after March of 2019?

14                  **MS. NAOMI GIFF-MACKINNON:** I don't have any  
15       instructions of that nature, no.

16                  **MS. CATHERINE DUNN:** Do you feel it would  
17       have been important to have a member, a high-level Minister  
18       or Assistant Deputy Minister, available to the National  
19       Inquiry to give that sort of undertaking or direction for  
20       their consideration?

21                  **MS. NAOMI GIFF-MACKINNON:** Do you mean, do I  
22       think that it would be important to have someone of that  
23       position --

24                  **MS. CATHERINE DUNN:** Yes.

25                  **MS. NAOMI GIFF-MACKINNON:** -- provide that

1 recommendation to the Inquiry?

2 **MS. CATHERINE DUNN:** Somebody of that level  
3 who could come physically to the Inquiry and say to them, I  
4 guarantee as a Minister of the Crown that this program will  
5 continue, or, I say as a Minister of the Crown that this  
6 program will not continue for A, B, and C. I think that  
7 evidence is critical for the National Inquiry to hear, and  
8 you can't give that information because you're -- you're not  
9 at that level.

10 **MS. NAOMI GIFF-MACKINNON:** I think what I've  
11 been able to contribute was -- were some of the -- the ways  
12 that FILUs, to date, are being -- are -- are achieving some  
13 key results for families, and through sharing that with the  
14 -- with the Commissioners and with all the other witnesses,  
15 that is one expression, perhaps, of -- of ways to consider  
16 when the Commission makes their recommendations.

17 **MS. CATHERINE DUNN:** So it would be nice to  
18 have a high-level Minister here to give a position.

19 **MS. ANNE MCCONVILLE:** I'm going to interject  
20 at this point.

21 **MS. CATHERINE DUNN:** In -- in any event, I  
22 will move on. I -- so those are my questions. Before I  
23 stop, I would like to thank each panel member individually  
24 for their careful evidence that they gave over the last  
25 couple of days, and I know it's been very onerous at times

1 to be the subject of cross-examination, and I thank you very  
2 much.

3 **MS. MEREDITH PORTER:** Thank you. So at this  
4 point, that concludes the cross-examination by the parties  
5 withstanding. We still do, however, have one last  
6 questioning by Commission counsel, and so at this point, I  
7 will invite up my colleague, Christa Big Canoe, as  
8 Commission counsel to cross-examine the witnesses, and  
9 Commission counsel will have 23 minutes.

10 **MS. CHRISTA BIG CANOE:** (Speaking in Native  
11 language) Blackfoot Nation, Métis Region 3, (Speaking in  
12 Native language). Hello, I'm Christa Big Canoe, Commission  
13 counsel. Like my colleagues before me, I just want to thank  
14 the Blackfoot Nation and Métis Region 3, as well as the  
15 Elders for their prayers, the drum, and for welcoming us  
16 into their territory. I would also like to acknowledge  
17 their Creator, grandparents, and the spirits of our sisters.  
18 Thank you, Mr. Phelps, Ms. Gardiner, Ms. Giff-MacKinnon, and  
19 Ms. Pottruff, who's now left, for the evidence you have  
20 given in your testimony yesterday and as well as with the  
21 testimony today in cross-examination.

22 I will first be setting up a few premises to  
23 base my questions to each of you on. The Royal Commission  
24 on Aboriginal Peoples is one of the reports listed in the  
25 terms of reference, the terms that gives authority to this

1 National Inquiry. During the address for the launch of the  
2 report of RCAP in 1996, Georges Erasmus stated, (as read)

3 Aboriginal reality in Canada has become  
4 a vicious circle of cause and effect.

5 If that vicious circle is to become a  
6 healing circle, the roots of injustice  
7 must be addressed. Instead of problem  
8 feeding problem, solution must feed  
9 solution.

10 The RCAP was released in 1996, 22 years ago.  
11 In some ways, we can see, and based on evidence you've  
12 provided over the last two days, that there has been some  
13 cultural shifts in thinking, some relationship-building  
14 gains, and acknowledge some progress that has occurred. But  
15 I want to start on the premise on what the Commissioners  
16 have heard in our Part 1 Community Hearings.

17 First of -- first, one of those premises  
18 would be, not all, but many of the witnesses that testified  
19 in the community hearings felt that the government-delivered  
20 -- sorry, that government-delivered or government-supported  
21 victim services were not serving their interests in a number  
22 of ways that we've heard. A cultural perspective, not  
23 serving their interests in a manner that truly recognizes  
24 intergenerational harms that colonial legacy has had on  
25 Indigenous people and communities, and that although there



1 has been some inclusion of Indigenous participation in  
2 various programs, that programs generally, we heard at the  
3 National Inquiry, were created or designed for Indigenous  
4 people, not by Indigenous people or in full partnership.

5           While listening to family members and  
6 survivors of violence, including sexual violence, that the  
7 -- that -- that we heard the vicious circle has not yet  
8 become a full healing circle. We've heard each of you today  
9 and yesterday acknowledge barriers and needs for  
10 improvement. And on that basis, I would like to ask each of  
11 you three, again, I don't care which preference you have,  
12 whether or not you would agree that all of the services or  
13 funding for services, because I do acknowledge,  
14 Ms. Gardiner, you're talking more about funding services as  
15 opposed to delivering it, you have referenced from the  
16 position how you deliver or fund these programs. If -- and  
17 we just heard my last colleague talk about partnerships. If  
18 there are at all real or true partnerships, that the  
19 communities are able to come to the table with the same  
20 level and capacity of decision making? And I'm not sure who  
21 wants to go first.

22           And I understand that there are reasons why  
23 that's not possible, but I would appreciate your answer on  
24 it.

25 **LEANNE GARDINER, NAOMI GIFF-MACKINNON, JOHN PHELPS,**



1 challenging question because I do greatly rely on  
2 communities to decide how that -- how the current program  
3 is delivered. But I acknowledge that the -- even just the  
4 basic framework for the program is something that someone  
5 else has come up with.

6 **MS. CHRISTA BIG CANOE:** Right. So it is  
7 fair, would you particularly agree with me, that in the  
8 current structure or system there isn't that opportunity  
9 for there to be full partnership, and that's because it is  
10 a process driven by government services?

11 **MS. LEANNE GARDINER:** Yes.

12 **MS. CHRISTA BIG CANOE:** Okay, thank you.  
13 And to the other two the same question, in terms of how you  
14 envision the partnership would enable Indigenous  
15 communities, families and individuals, to actually have a  
16 seat at the table that would allow them decision making  
17 capacity?

18 **MS. NAOMI GIFF-MACKINNON:** I think that's a  
19 very -- it is a difficult question, it's a good question.  
20 It's difficult because there are structures in place that  
21 we work within and as we move forward. So we identify -- I  
22 know I do, and I imagine that some others on the panel do  
23 as well, is to look for opportunities to build those  
24 partnerships, to look at all opportunities to build  
25 partnerships to be -- to listen and to have opportunities

1 to have conversations, to find out what in this  
2 situation -- in the situation we're talking about right  
3 now, what families are asking for, what the gaps are, what  
4 the needs are, and to look for those opportunities to  
5 identify funding sources, and then continue that dialogue.  
6 So as -- as Ms. Gardiner mentioned, I do recognize that  
7 there are times in those -- that process, there are steps  
8 in those opportunities that are defined by outside  
9 community or family input. But finding opportunities to  
10 listen and be ready to grab on to those opportunities when  
11 they arise, to move them forward and to continue hearing  
12 from families or whomever is using the victim services as  
13 it moves forward and to -- and to be flexible, to make sure  
14 that it can he evolve and stay current and meaningful.

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

16 Mr. Phelps?

17 **MR. JOHN PHELPS:** Thank you for the  
18 question. You know, because our service is within the  
19 prosecution service and that specialized role, I can't  
20 envision, at least on the spot, an avenue for full  
21 partnership with us in decision making and funding with  
22 respect to the program.

23 I can say that as self governing First  
24 Nations draw down on their justice authorities and are  
25 negotiating their way forward, we have been at the table,

1 and most recently with the Kwanlin Dun First Nation who  
2 looking to hold court on their traditional territory, even  
3 though they're within White Horse, a meaningful approach  
4 to -- a Gladue approach to court, and we have had dialogue  
5 and are in agreement with an ongoing relationship whereby  
6 they have meaningful input into how we would staff that  
7 court so that, you know, we develop a strong and important  
8 relationship with them as they move forward with their  
9 initiative, and we have a meaningful participation in their  
10 program.

11 **MS. CHRISTA BIG CANOE:** So it's fair, just  
12 based on the answers that you've provided me, that in the  
13 current structure there's no opportunity for devolution or  
14 to have the full partnership at the table in a manner that  
15 would give Indigenous communities or individuals the power  
16 to make those decisions; am I correct?

17 **MR. JOHN PHELPS:** I would just say within  
18 our program, no. But as they draw down on their various  
19 powers, that's contemplated that they would drawn down the  
20 ability to have their own programs completely separate and  
21 apart from ours, which I would encourage. I think it would  
22 be a vast improvement.

23 **MS. CHRISTA BIG CANOE:** But despite  
24 progress, we're just not there yet. So, Mr. Phelps, I do  
25 have some additional questions for you. Thanks to a number

1 of my colleagues representing parties with standing, a  
2 number of the questions I did have, have been answered  
3 already. So I have one for you in particular. If I could  
4 draw your attention to, I believe it is Exhibit 4, which is  
5 the desk -- the office of the director's public  
6 prosecution?

7 **MR. JOHN PHELPS:** Yes.

8 **MS. CHRISTA BIG CANOE:** Specifically at page  
9 6, at point 4.3, the alternative measures, in the third  
10 paragraph there's reference to Rule 6 and 7 of the Canadian  
11 Victim Bill of Rights. Specifically, just in that  
12 paragraph, and I'm not going to read the whole paragraph  
13 in, they're talking about alternative measures. So, for  
14 instance: (As Read)

15 Not all offences require criminal  
16 proceeding, in some cases the interests  
17 of the victims, offenders and society  
18 may not be properly addressed through  
19 the use of alternate measures.

20 As a caveat, I'm not trying to get under  
21 prosecutorial discretion here. My question, though, is  
22 when we look at the Victim Bill of Rights, specifically  
23 Rules 6 and 7, and I believe that is Exhibit 3 -- Exhibit  
24 3, we see on Rule 7, that one of the rights of every victim  
25 is the right on request to information about the status and

1 outcome of the investigation into an offence, is one of  
2 them, and also the location of proceedings in relation to  
3 the offence.

4 For the sake of my question, assume that  
5 it's true that the commissioners have heard repeatedly from  
6 families that testified in Part 1 that when alternative  
7 measures occur they're often not consulted by what would be  
8 like your CWCs or similar services or the prosecutors,  
9 about the decision-making process to stream something into  
10 an alternative process. And we -- the commission has  
11 actually heard on a number of occasions from families that  
12 they've actually showed up at proceeding to only learn then  
13 that the process has been streamed somewhere else, either  
14 through an alternative method or by withdrawn or being  
15 stayed.

16 In some instances that means the family  
17 hasn't been advised even when they've requested the  
18 information, and so theoretically, I'm not asking whether  
19 or not it has happened in your jurisdiction that you  
20 oversee, but based on the desk guide that guides your work  
21 and the law, would you agree that victims have rights under  
22 Rule 7, and the example I just shared with you would be a  
23 breach of provision 7?

24 **MR. JOHN PHELPS:** I don't -- I don't  
25 disagree with that. Our practice is to inform, and

1 certainly if it comes to -- sorry, when it comes to  
2 alternative measures, to seriously consider the views of  
3 the victim, if we're going down that road.

4 **MS. CHRISTA BIG CANOE:** Right. So the  
5 phrase you just used is "seriously consider the concerns of  
6 the victim" opposed to the language in Rule 7, which, you  
7 know -- I'm sorry, provision 7, which was that they have a  
8 right, if requested, to the status, not the outcome. I  
9 know that you've explained to us earlier what happens when  
10 an outcome occurs, that the CWC will then advised the  
11 victim, but the status. Would the status not include  
12 whether or not an alternative measure or something like a  
13 withdrawal or stay of the proceeding, would that not invoke  
14 the right under 7 to be advised of that before it happened  
15 or --

16 **MR. JOHN PHELPS:** Yes. And, again, that's  
17 our practice.

18 **MS. CHRISTA BIG CANOE:** You described  
19 recruitment and sustainability issues with retaining CWCs,  
20 and employees in general, on your service. Other -- I just  
21 had a couple quick clarification questions. So you  
22 explained how you post for those positions in terms of  
23 recruitment, I was wondering about a couple of the other  
24 types of criteria that might be in place. For example, if  
25 someone was applying for the CEWC position, would one of



1 the requirements be that they -- they have to have a  
2 criminal records check demonstrating they don't have a  
3 criminal record?

4 **MR. JOHN PHELPS:** It's not part of the  
5 application process, but if they're the chosen candidate in  
6 the process, then there would be the requirement for  
7 security screening in order to work in our office, yes.

8 **MS. CHRISTA BIG CANOE:** Yes. And what would  
9 the -- the interview process entail if they were a  
10 successful candidate? Would it -- is it a rigorous or, you  
11 know, a robust process?

12 **MR. JOHN PHELPS:** It varies from process to  
13 process. It can be rigorous and robust. That would be fair  
14 to say. It can, at times, not be quite so rigorous, but --

15 **MS. CHRISTA BIG CANOE:** M'hm.

16 **MR. JOHN PHELPS:** -- I -- I would suggest  
17 that the standard is perhaps a written test or something  
18 like that, or an interview that's thorough. Yes.

19 **MS. CHRISTA BIG CANOE:** Do you think that  
20 potentially part of that process may end up discouraging  
21 some Indigenous individuals from actually entering into the  
22 process?

23 **MR. JOHN PHELPS:** I do. Yes.

24 **MS. CHRISTA BIG CANOE:** I've only got one  
25 more question for you. In terms of you did discuss cultural

1 competency training, a two-day online modular form, I  
2 understand?

3 **MR. JOHN PHELPS:** Cultural competency either  
4 two days in person training; a program that's put on for  
5 various government entities through the Yukon College. And  
6 either at various organizations, or the modular, which is a  
7 self-study.

8 **MS. CHRISTA BIG CANOE:** Right. And although  
9 those are a benefit, and you know, the First Nations 101 or  
10 Inuit 101 may be helpful in expanding some knowledge. Would  
11 you agree with me that you can't make any person on any  
12 subject competent in two days?

13 **MR. JOHN PHELPS:** Yes.

14 **MS. CHRISTA BIG CANOE:** Okay. Those are my  
15 questions for you. Thank you. Ms. Giff-MacKinnon, in  
16 Exhibit 14, particularly on page 6, there's a discussion, so  
17 I'll give you a moment to grab the Exhibit 14. There's an  
18 explanation in your overview, and I understood that you  
19 write the overview?

20 **MS. NAOMI GIFF-MACKINNON:** Right. Yes.

21 **MS. CHRISTA BIG CANOE:** So there's an  
22 explanation on page 6, that not all required information is  
23 available. And you did have the opportunity to explain, and  
24 I'm sorry, I say Filucas (sic) that's what I -- FILU, FILU.  
25 FILU, the FILU aren't able to get it because there's privacy

1 law and legislation in place that will sometimes prevent  
2 people from getting information. Is that fair?

3 **MS. NAOMI GIFF-MACKINNON:** That's correct,  
4 yes.

5 **MS. CHRISTA BIG CANOE:** One of the things,  
6 and I just want to make sure it's clear, that in many of  
7 these jurisdictions, and please answer based on your  
8 knowledge, in many of these jurisdictions whether or not  
9 there were FILU's, people would have an entitlement to  
10 request this information through a Freedom of Information  
11 request.

12 **MS. NAOMI GIFF-MACKINNON:** Absolutely, yes.

13 **MS. CHRISTA BIG CANOE:** Would you agree that  
14 process is a bit onerous?

15 **MS. NAOMI GIFF-MACKINNON:** Yes.

16 **MS. CHRISTA BIG CANOE:** It's hard to fill out  
17 forms with a lot of legalistic language. Is that fair?

18 **MS. NAOMI GIFF-MACKINNON:** I think -- I think  
19 that the forms are -- they -- they can be onerous, yeah, I  
20 do. I agree.

21 **MS. CHRISTA BIG CANOE:** So what we're seeing  
22 with the -- the FILU's or what your position is that this  
23 program has enabled people a better access into making  
24 Freedom of Information requests?

25 **MS. NAOMI GIFF-MACKINNON:** Yes, it's been a

1 supportive team to help families to -- to get through those  
2 requests, and to -- to make many requests at once from  
3 multiple agencies.

4 **MS. CHRISTA BIG CANOE:** That's right.

5 **MS. NAOMI GIFF-MACKINNON:** And particularly  
6 between jurisdictions as well.

7 **MS. CHRISTA BIG CANOE:** And there has been a  
8 lot of discussions, and I'm not going to ask you the same  
9 recommendation that you've been asked a couple times, 'cause  
10 you've clearly made the position that you're not in a  
11 position to make the recommendation, but are there other  
12 ways and means that -- that the access process could be  
13 easier to access information? That it should be more  
14 broadly and publicly available, so that families understand  
15 that they're entitled and have rights to that information?

16 **MS. NAOMI GIFF-MACKINNON:** Yeah, and I -- I  
17 agree. And I think that goes back to a question that  
18 another counsel had about being more proactive, and  
19 opportunities to ensure families know what information they  
20 can seek.

21 **MS. CHRISTA BIG CANOE:** Thank you. On page  
22 4, you talk about the FILU's mandate limits. Before I ask  
23 you questions of this, I'm going to ask, do you have any  
24 familiarity with the terms of reference for FILU? So what  
25 terms were put into place to even make FILU initiate?

1           **MS. NAOMI GIFF-MACKINNON:** I'm not sure I  
2 know what you mean. Sorry.

3           **MS. CHRISTA BIG CANOE:** So in order for the  
4 program to commence, were there terms of reference issued by  
5 the Federal Government to set up the program? The FILU  
6 program?

7           **MS. NAOMI GIFF-MACKINNON:** So in terms of  
8 funding criteria and eligibility criteria that we would have  
9 shared with provincial/territorial victim services? Is that  
10 what you mean?

11           **MS. CHRISTA BIG CANOE:** Yes, but was -- when  
12 the program was actually announced and launched --

13           **MS. NAOMI GIFF-MACKINNON:** Yes.

14           **MS. CHRISTA BIG CANOE:** -- at the same time  
15 this National Inquiry --

16           **MS. NAOMI GIFF-MACKINNON:** M'hm.

17           **MS. CHRISTA BIG CANOE:** -- there were terms  
18 of reference. Are you familiar with those terms?

19           **MS. NAOMI GIFF-MACKINNON:** Oh, of the -- the  
20 Inquiry's terms of reference?

21           **MS. CHRISTA BIG CANOE:** Not the -- not the  
22 Inquiry's.

23           **MS. NAOMI GIFF-MACKINNON:** Okay. Sorry.

24           **MS. CHRISTA BIG CANOE:** Of setting up the  
25 FILU. The Family Information Liaison Unit?

1           **MS. NAOMI GIFF-MACKINNON:** I'm not sure which  
2 terms of reference you're thinking about.

3           **MS. CHRISTA BIG CANOE:** Okay. So when you  
4 describe the FILU mandate limits --

5           **MS. NAOMI GIFF-MACKINNON:** M'hm.

6           **MS. CHRISTA BIG CANOE:** -- what -- what --  
7 what is informed what those limits are?

8           **MS. NAOMI GIFF-MACKINNON:** Why are the -- why  
9 are the -- the limits in place?

10          **MS. CHRISTA BIG CANOE:** M'hm.

11          **MS. NAOMI GIFF-MACKINNON:** The limits are in  
12 place so that the -- the -- the FILU team members, their  
13 focus is about advocating and working with families. Their  
14 -- the skill set of the FILU teams, the objectives they were  
15 trying to seek were very much focused on working with  
16 families to gather the information. These were decisions  
17 made to ensure that the FILU teams were not becoming legal  
18 advocates, because that would not be the skill set that they  
19 would bring to their work with families.

20          **MS. CHRISTA BIG CANOE:** M'hm.

21          **MS. NAOMI GIFF-MACKINNON:** Yeah.

22          **MS. CHRISTA BIG CANOE:** But in terms of what  
23 they cannot do, so on page 5, undertake to participate in  
24 investigations, provide legal advice, it says with legal  
25 action. What does that derive from? That's not the FILUs

1 themselves just saying, hey, we can't do this. Is there a  
2 mandate or a term of reference that was provided by the  
3 Federal Government for you?

4 **MS. NAOMI GIFF-MACKINNON:** Yes, those were  
5 decisions made early on in the federal development of the  
6 initiative. Yes.

7 **MS. CHRISTA BIG CANOE:** I may have one more  
8 question for you, but I'm actually going to turn my  
9 attention to Ms. Gardiner, please. So --

10 **MS. NAOMI GIFF-MACKINNON:** May I -- may I say  
11 that, just to add to that, if the about the -- the FILU  
12 mandate limits, that where the FILU team member is not able  
13 to help the family member directly with those situations and  
14 those legal proceedings --

15 **MS. CHRISTA BIG CANOE:** Yes, ma'am.

16 **MS. NAOMI GIFF-MACKINNON:** -- they are very  
17 committed to --

18 **MS. CHRISTA BIG CANOE:** Referring them.  
19 Yeah.

20 **MS. NAOMI GIFF-MACKINNON:** -- making sure  
21 that they know where they can do that.

22 **MS. CHRISTA BIG CANOE:** Thank you. Yeah, you  
23 did touch on that previously. Thanks. Ms. Gardiner, at  
24 Exhibit 5, and one of my colleagues just asked a question  
25 about this too. In relation to the memorandum of

1 understanding between the Royal Canadian Mounted Police --  
2 and she did talk quite a bit, so I'm going to limit my  
3 question 'cause it's already been asked in terms of the  
4 monitoring. The monitoring body and/or the signatories, and  
5 she asked you about the current process. And you had  
6 indicated that the communities, particularly Indigenous  
7 communities or service providers, don't have a seat at that  
8 table. Was -- did I understand that correctly?

9 **MS. LEANNE GARDINER:** They're not technically  
10 a signatory to the agreement. That's correct.

11 **MS. CHRISTA BIG CANOE:** And even though  
12 they're not a signatory to the agreement, do you think that  
13 it would be beneficial to add, as part of the review  
14 process, particular chairs at a table to at least advise?

15 **MS. LEANNE GARDINER:** It -- absolutely. And  
16 it's been a conversation of late of how we do that, given  
17 -- given the relationship, and how many different  
18 organizations we are involved with across the territory. So  
19 it would mean adding eight more seats at the table, and a  
20 conversation about how -- what that looks like. And yes,  
21 valuable to answer your question.

22 **MS. CHRISTA BIG CANOE:** Thank you. I don't  
23 need you turn up Exhibit 10, but Exhibit 10 is the Victim  
24 Assistance -- Community Victim's Assistance Fund. There's a  
25 high, and we've heard without getting into specific details



1 of statistics, but you have agreed over the course of the  
2 last couple of days that there is a high without getting  
3 into a specific rate; high rate of victimization amongst  
4 Indigenous women and girls. Do you agree with that?

5 **MS. LEANNE GARDINER:** Yes.

6 **MS. CHRISTA BIG CANOE:** Would you agree that  
7 there should be a proportional amount of funding dedicated  
8 to the representative group of victims? So for example, out  
9 of the Victim Assistance Fund, do you think that there  
10 should be a mechanism in place that recognizes the level of  
11 victimization, that at least pays the same amount, dedicates  
12 part of that fund specifically to the victims that are  
13 accessing the fund?

14 **MS. LEANNE GARDINER:** I would agree. I -- my  
15 only hesitation is that in our territory, those projects  
16 that are -- that are approved from the fund, are serving  
17 Indigenous people. So that would be my only --

18 **MS. CHRISTA BIG CANOE:** M'hm.

19 **MS. LEANNE GARDINER:** -- kind of additional  
20 piece of information is that they're being delivered by  
21 local organizations serving Indigenous people, primarily  
22 Indigenous people.

23 **MS. CHRISTA BIG CANOE:** Thank you. So my  
24 last question; I was a little surprised that in -- in your  
25 examination in-Chief there wasn't an offer of more

1 recommendations. I understand and respect that you're not  
2 experts, but based on the knowledge you share and the  
3 process that we've had that has entitled witnesses, even in  
4 the "Part I" to make recommendations that you didn't. So my  
5 last question would offer each and any one of you if you  
6 choose to make a recommendation to the Commissioners, or  
7 make recommendations to the Commissioners based on your  
8 experience on anything you haven't already addressed in the  
9 past two days.

10 **MS. LEANNE GARDINER:** I'll start with -- as  
11 I mentioned, when it comes to really -- and I mentioned  
12 some of the stakeholders that we're dealing with, they're  
13 different levels of government, they're different agencies,  
14 Indigenous government. Although there's not always a need  
15 to rely on a formal establishment of relationships because  
16 some communities in some situations work better than  
17 others, I would suggest that those approaches -- we've  
18 heard a bunch of that, especially from Betty Ann, over the  
19 last two days, but I suggest in my experience that a  
20 formalization of that is helpful because of the nature of  
21 the impact when those things don't happen.

22 The impact is so significant when those  
23 connections don't happen, when -- when our own government  
24 kind of mandates might hamper efforts, there's all sorts of  
25 things, and having those formal documents to lean on I

1 think is helpful.

2 **MS. CHRISTA BIG CANOE:** I don't know if the  
3 other two want to expand on that one? I know I'm over my  
4 time, but the question came in before the end of my time,  
5 so --

6 **MR. JOHN PHELPS:** If you're -- sorry, I  
7 didn't come prepared to make recommendations, I didn't see  
8 that -- and I apologize if it was expected, I didn't see  
9 that as my purpose. I would suggest one thing though, that  
10 I certainly do notice, particularly in the Yukon territory,  
11 is that there is funding for Indigenous court workers in  
12 every community, so every First Nation is receiving funding  
13 for assistance, culturally appropriate assistance for  
14 accused people in the justice system, and we do not see an  
15 equivalent in place for victims within the communities.  
16 And some of our challenges that I've talked about, in  
17 particular our ability to communicate with and provide our  
18 version of the support, is certainly hindered with the  
19 ability to access people within the community. I think  
20 that that would go a long ways to improve the overall  
21 services to Indigenous victims within the Yukon territory,  
22 for sure.

23 **MS. NAOMI GIFF-MACKINNON:** As I think about  
24 recommendations I think about the call to action number 40

1 which really covers a lot of really key elements to moving  
2 forward. Recommendation 40 speaks to the importance of  
3 ensuring accessible, properly evaluated, Indigenous led  
4 victim -- adequately funding victim services programs for  
5 Indigenous victims and survivors of crime, regardless of  
6 the crime that they've experienced and the harm that  
7 they've experienced, so I would -- I would draw attention  
8 to that. I'm sure the Commission is very much aware of  
9 that call to action, but I think there's a lot of really  
10 key elements in that CTA that I think we can move forward  
11 and build on.

12 **MS. CHRISTA BIG CANOE:** Thank you. Thank  
13 you, Commissioners. Thank you, witnesses and counsel.

14 **MS. MEREDITH PORTER:** Thank you. So at this  
15 time that concludes the cross-examination by the parties  
16 with standing. I would like to invite the Commissioners  
17 with questions for the witnesses. And just --

18 **LEANNE GARDINER, Previously Affirmed:**

19 **QUESTIONS BY THE COMMISSIONERS**

20 **CHIEF COMMISSIONER MARION BULLER:** In case I  
21 forget at the end of my questions, I want to thank all of  
22 the panelists who have been here and helped us. I  
23 appreciate all that you've done, and also to your counsel  
24 for helping us through the process too.

25 Ms. Gardiner, I'll start with you. Looking

1 at the broad picture of victim services in the NWT, there  
2 are opportunities for emergency protection orders and  
3 protection orders, depending on the circumstances; that's  
4 correct?

5 **MS. LEANNE GARDINER:** Yes.

6 **CHIEF COMMISSIONER MARION BULLER:** And in  
7 terms of those protection orders, emergency or not, can  
8 include granting the applicant, assuming that's the victim,  
9 exclusive occupation of a residence and a provision  
10 directing a peace officer immediately, or within a  
11 specified period of time, to remove the respondent,  
12 assuming the abuser, from the residence. So there is the  
13 option of removing the alleged offender or abuser, because  
14 there's no charge yet, from the residence?

15 **MS. LEANNE GARDINER:** I believe if that's  
16 from the *Protection Against Family Violence Act* that you  
17 just read the section from --

18 **CHIEF COMMISSIONER MARION BULLER:** Correct.

19 **MS. LEANNE GARDINER:** Yes.

20 **CHIEF COMMISSIONER MARION BULLER:** So if  
21 under law there is the opportunity to remove the alleged  
22 offender, then why are the services aimed at removing the  
23 alleged victim and/or her children from the community?

24 **MS. LEANNE GARDINER:** I -- I'm not sure how  
25 to -- how to answer that. Honestly, the services that I'm

1 aware of are available, should -- should victims want to go  
2 to a shelter. Again, not directly within my  
3 responsibility, but I'm aware of those services. As  
4 to -- as to why they developed that way historically and  
5 why there isn't a mechanism right now to -- or not just a  
6 mechanism because there is a mechanism obviously through  
7 the Act, but why that isn't happening, or if that isn't  
8 happening and the other is, I don't know how to answer -- I  
9 don't have the answer.

10 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
11 Without belabouring the point, in Exhibit 11, your document  
12 called "Staying Safe", it does set out a variety of  
13 services available to victims and their children to keep  
14 them safe. There isn't anything in that document, other  
15 than at the very end, that speaks to any services available  
16 or any plan available for getting the alleged offender out  
17 of the community; is that correct?

18 **MS. LEANNE GARDINER:** I have it in front of  
19 me. I haven't read every word. I am assuming it does  
20 reference EPOs as a tool. I believe it does reference it  
21 as a tool. In my staff's preparation of the document and  
22 my review, my -- my understanding of our approach was to  
23 balance the safety planning piece, which would include  
24 sometimes as part of the plan to leave a community, with  
25 the tools available.

1 I know what we tend to -- if we're speaking  
2 about the use of emergency protection orders as part -- as  
3 a tool that's part of someone's plan, I know what  
4 I've -- what I've heard from our community based  
5 organizations, either the ones responsible for victim  
6 services or other organizations, is that it is important  
7 that we consider it as a tool because it is still a piece  
8 of paper, and we know dynamics of family violence and we  
9 have to -- have to consider that. If we're talking about  
10 the practical needs of a victim, that we have to make sure  
11 we -- we consider that as one tool available.

12 Do I think that the way our system has  
13 developed with this reliance on removing -- and we've heard  
14 testimony and questions earlier in the day about is it fair  
15 that the way to keep someone safe is to uproot someone and  
16 their -- a woman and their children from their own  
17 community and take them somewhere else? I would agree that  
18 that's not fair. I can't speak to why it's developed that  
19 way.

20 **CHIEF COMMISSIONER MARION BULLER:** Okay,  
21 thank you. Going to Exhibit number 8, which is the  
22 community impact statement, just to clarify a few points on  
23 that document. Who is allowed, if that's the correct  
24 terminology, who is allowed to prepare this type of  
25 document?

1           **MS. LEANNE GARDINER:** Who is allowed?

2           **CHIEF COMMISSIONER MARION BULLER:** Yeah.

3           **MS. LEANNE GARDINER:** It's my understanding  
4 that community members can -- can do that. That's the  
5 extent of my knowledge when it comes to -- it's not my  
6 understanding that it's a tool or a document that's used  
7 very often, definitely not as often as a victim impact  
8 statement.

9           **CHIEF COMMISSIONER MARION BULLER:** M'hm.

10          **MS. LEANNE GARDINER:** We certainly see  
11 situations where we can imagine that it would be a tool,  
12 but how it's being used and who's applying for it, I'm not  
13 -- I'm not sure.

14          **CHIEF COMMISSIONER MARION BULLER:** Earlier  
15 today, you referred to a -- a program, and I didn't get the  
16 name down correctly. It was a child court accompaniment  
17 program or ...

18          **MS. LEANNE GARDINER:** I'm just going to grab  
19 from my bag the accurate name of it.

20          **CHIEF COMMISSIONER MARION BULLER:** Sure.

21          **MS. LEANNE GARDINER:** Maybe I don't -- it was  
22 -- it was a three-day course provided by the Canadian Child  
23 Abuse Association out of Calgary, actually, that we brought  
24 instructors up to Yellowknife and provided that -- that  
25 three-day course to victim services providers as well as



1 Crown Witness Coordinators in the Northwest Territories  
2 together. And it really was about steps to take and  
3 considerations to understand in the preparation or work that  
4 these service providers might do with children who are being  
5 required or -- required or asked to provide testimony in  
6 court, either as a witness or a victim themselves.

7 **CHIEF COMMISSIONER MARION BULLER:** Is this  
8 going to develop into a separate program regarding children,  
9 or is this going to be blended into the existing program?

10 **MS. LEANNE GARDINER:** I would -- I wouldn't  
11 call it a program. What it was was a training opportunity  
12 for the existing service deliverers. So to answer your  
13 question, it's -- it's not part of what we're doing right  
14 now to commence a whole separate program. They're -- victim  
15 services providers are supporting those families now. What  
16 this was about was adding an additional skill set as part of  
17 our responsibility to do so and at the request of providers  
18 to give them that training.

19 **CHIEF COMMISSIONER MARION BULLER:** If we can  
20 go to Exhibit number 6, which, I've sort of got my notes all  
21 over here -- the victim services -- NWT victim services  
22 program.

23 **MS. LEANNE GARDINER:** Sorry, ma'am, is that  
24 the pamphlet?

25 **CHIEF COMMISSIONER MARION BULLER:** Yes, it

1 is. I was under the impression that victims or people who  
2 have experienced violence can self-refer to victim services;  
3 is that correct?

4 **MS. LEANNE GARDINER:** Yes.

5 **CHIEF COMMISSIONER MARION BULLER:** However,  
6 the document says, "You can use victim services at any time  
7 after a crime happens, throughout the court process, and  
8 after the court process ends." Can you tell me how I  
9 rationalize your testimony with that?

10 **MS. LEANNE GARDINER:** Sorry, can you refer to  
11 which part of the pamphlet?

12 **CHIEF COMMISSIONER MARION BULLER:** This -- I  
13 suppose it's the -- the back page, but on -- very far right-  
14 hand side. It says, "When can I use these services?"

15 **MS. LEANNE GARDINER:** So the -- the intention  
16 is, as I see, well, I know what our intention was in -- in  
17 putting it out was that "after a crime happens" doesn't  
18 necessarily mean after the RCMP has determined it's a crime  
19 or after charges have been laid. I guess, if I were to have  
20 another look at that, I would have added the words "or  
21 tragedy" because that is a service that they're providing  
22 and it's right in our -- our agreements with communities  
23 with -- with sponsoring organizations on the service that  
24 they're providing includes "victims of crime and tragedy".  
25 So I would agree it's -- it's misleading, it could be

1 misleading, and I can only assure that our outreach, as --  
2 as far as I'm aware of it, includes victims of crime and  
3 tragedy.

4 **CHIEF COMMISSIONER MARION BULLER:** Looking at  
5 the same document, the same brochure, and documents similar  
6 to that that we have in evidence; what languages are these  
7 published in?

8 **MS. LEANNE GARDINER:** Right now, they're  
9 published in English. And we have a project underway with  
10 our Indigenous language secretariat and the GNWT to  
11 determine which of the other nine official Indigenous  
12 languages to -- to do or to have translated or interpreted  
13 which documents.

14 **CHIEF COMMISSIONER MARION BULLER:** Thank you.  
15 Let's go to -- I believe it's Exhibit 6, the "NWT Victim  
16 Services Program". And I'd like you to turn to page 9,  
17 please. There's a -- the beginning of a table of  
18 statistics.

19 **MS. LEANNE GARDINER:** Yes, I have it here.

20 **CHIEF COMMISSIONER MARION BULLER:** Can you  
21 tell me how you define "continuing cases?"

22 **MS. LEANNE GARDINER:** Continuing cases would  
23 be what -- so this is the aggregate of all of the program's  
24 data together, and that would be a -- a client that victim  
25 service -- victim services providers were assisting from at

1 least the prior fiscal year. So at the beginning of the  
2 year, they were still assisting and -- this many across the  
3 Northwest Territories. That wouldn't necessarily mean that  
4 matter started the year before. It could have been even  
5 before that, like, it really just depends on -- on each  
6 situation.

7 **CHIEF COMMISSIONER MARION BULLER:** Okay, and  
8 going over the page, I would appreciate an example of what  
9 you're referring to on the fourth line down of referrals for  
10 ongoing services. Could you give an example of that,  
11 please?

12 **MS. LEANNE GARDINER:** I -- sorry. I would,  
13 as an ongoing service, that would be other services that are  
14 offered out of that -- well, I would say outside of that  
15 organization, but some of our sponsoring organizations  
16 actually offer other services that a victim might need. So  
17 it's not necessarily outside of their organization, but a  
18 non-victim-services service. That could be mental health  
19 supports, that could be -- I think, quite often, it's mental  
20 health supports because the service providers are not  
21 technically or across-the-board trained as ongoing mental  
22 health service providers. But it could -- it could be other  
23 services as well, and -- such as housing, if they've -- if  
24 they've connected them to whatever those needs are that  
25 present and that a victim indicates they need assistance

1 with.

2 **CHIEF COMMISSIONER MARION BULLER:** Okay. And  
3 going further down that column, just above the first bold  
4 total, is O-D-A-R-A; what does that mean, please?

5 **MS. LEANNE GARDINER:** That is the Ontario  
6 Domestic Abuse Risk Assessment. It's a standardized tool.  
7 It was developed in Ontario and it's, to my understanding,  
8 I'm not an expert, but I -- it's been relatively rigorously  
9 evaluated as being a risk assessment tool for the likelihood  
10 that you might use domestic violence in the future.

11 **CHIEF COMMISSIONER MARION BULLER:** Thank you.

12 **MS. LEANNE GARDINER:** It's a point in time.

13 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
14 Then going three lines below that, there's the -- a note or  
15 a -- a line referring to "other office in person." What  
16 does that mean?

17 **MS. LEANNE GARDINER:** What that means is that  
18 the victim services provider has provided a service in  
19 person to a victim who was referred or -- or referred  
20 themselves, but not in their office, not at the victim's  
21 home. So that could be a variety of places. That could be  
22 the RCMP detachment, that could be if they were referred  
23 from another service provider -- I'm trying to think of an  
24 example --

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

1                   **MS. LEANNE GARDINER:** -- other than what I've  
2 given you, but ...

3                   **CHIEF COMMISSIONER MARION BULLER:** Further  
4 down the page, there's "referrals to other agency," and I  
5 just want to be clear on how this is calculated. If a  
6 person is referred to more than one agency, for example,  
7 RCMP and a shelter, are they counted?

8                   **MS. LEANNE GARDINER:** Yeah. Yes. That line  
9 is correct.

10                   **CHIEF COMMISSIONER MARION BULLER:** Okay, then  
11 going to Exhibit number 5, that's the "Memorandum of  
12 Understanding with the RCMP".

13                   **MS. LEANNE GARDINER:** Yes, ma'am.

14                   **CHIEF COMMISSIONER MARION BULLER:** Looking at  
15 Section 3.0 under definitions, I understand that there's a  
16 special -- or -- or there is an incorporation of the  
17 definition of victim from the *Victims of Crime Act*, and D  
18 says "substantial impairment of their fundamental rights."

19                   **MS. LEANNE GARDINER:** M'hm.

20                   **CHIEF COMMISSIONER MARION BULLER:** In your  
21 work, how do you interpret that?

22                   **MS. LEANNE GARDINER:** I would interpret that  
23 as someone who, through some set of circumstances is not  
24 able to exercise their own -- I don't know how to interpret  
25 it without using the same language. I'm not sure how to

1 answer your question, to be honest.

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

3 Thank you. I'm going over the page, or at least in the  
4 hard copy, to 6.3. In terms of RCMP roles and  
5 responsibilities, it says that, "In situations where the  
6 victim requires immediate assistance, the RCMP will contact  
7 the on-call victims services worker to attend if it is safe  
8 to do so."

9 So I'm taking from that that there's 24/7  
10 victims services available?

11 **MS. LEANNE GARDINER:** There are, in most  
12 communities. That -- the way that plays out depends on  
13 the -- on the community and how the program is delivered.  
14 If I picture Yellowknife, for example, it's the largest  
15 centre. They use volunteer victim services to do that, so  
16 that's, like, the volunteer workers to do the on-call part.

17 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
18 When you develop a document or a relationship like that's  
19 set out in the memorandum of understanding --

20 **MS. LEANNE GARDINER:** M-hm.

21 **CHIEF COMMISSIONER MARION BULLER:** -- as  
22 well as your service delivery and how you fund -- and I'll  
23 stay away from the Victim Assistance Fund for now.

24 **MS. LEANNE GARDINER:** Okay.

25 **CHIEF COMMISSIONER MARION BULLER:** So your

1 correspond funding, do you ask yourself or do you ask your  
2 staff or does anyone ask anyone how by delivering this  
3 service or entering into this relationship, we are ensuring  
4 that we are meeting the established human rights of  
5 Indigenous women and girls and are we meeting the *Charter*  
6 rights guaranteed by Indigenous women and girls? Do you  
7 look through those lenses?

8 **MS. LEANNE GARDINER:** I would say  
9 that -- that it is not a common deliberate practice to  
10 apply that particular lens. Like, if you're asking me if I  
11 asked myself, I do -- I ask myself other questions, but  
12 I -- that's not really what you're asking me about. So I  
13 often ask myself, is this allowing that community to  
14 address these issues in the way that they see as most  
15 appropriate and all manner of other things, but that  
16 specific question, no, I would say.

17 **CHIEF COMMISSIONER MARION BULLER:** To your  
18 knowledge, does anyone else in your ministry that these  
19 documents, relationships, funding agreements, from that  
20 perspective?

21 **MS. LEANNE GARDINER:** To my knowledge, no,  
22 put I don't know that it would extend to --

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

24 **MS. LEANNE GARDINER:** -- everybody's role.

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



1 Thank you very much.

2 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

3 **QUESTIONS BY THE COMMISSIONERS:**

4 **CHIEF COMMISSIONER MARION BULLER:**

5 Ms. Giff-MacKinnon. I have some questions about FILUs or  
6 FILUs. I note that documents that can be requested can  
7 include records of incarceration, parole records, and  
8 things of that nature. But what about documents arising or  
9 flowing from mental health review board matters or health  
10 matters? Are they see included?

11 **MS. NAOMI GIFF-MACKINNON:** For example, in a  
12 non-criminally responsible situation at those review boards  
13 in those situations, yes, they would be included.

14 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
15 Again, similar question. In examining your service  
16 delivery, examining your goals and objectives for FILUs  
17 across Canada, do you examine your work and the  
18 relationships you build, documents that you work from, is  
19 there an analysis from the perspective of how are we, if at  
20 all, guaranteeing the basic human rights of Indigenous  
21 women and girls? And are we not breaching and actually  
22 upholding the *Charter* rights of Indigenous women and girls?  
23 Is that analysis done by you or anyone else?

24 **MS. NAOMI GIFF-MACKINNON:** Just as  
25 Ms. Gardiner had mentioned, I wouldn't -- I wouldn't want

1 to indicate that we take that specific lens to the  
2 development -- that we did take that specific lens to the  
3 development of the FILU initiative. Our minister makes it  
4 very clear how important Indigenous rights are, and we  
5 bring that to our work, for certain, as we move forward.  
6 That is how we ground our policies and our programs, so  
7 that's one lens we take. And I think that we do look at  
8 Section 35 rights, for sure.

9 **CHIEF COMMISSIONER MARION BULLER:** M-hm.

10 **MS. NAOMI GIFF-MACKINNON:** But could I  
11 identify a particular human rights lens? Like, perhaps  
12 you've heard about through the expert hearings? I don't  
13 think I can identify a definitive lens. However, we do  
14 see -- we do move forward our work in -- in -- with a view  
15 to providing space for claiming and reclaiming power.

16 **CHIEF COMMISSIONER MARION BULLER:** Okay.  
17 I'll move on. I want to talk or ask you some questions  
18 about training for FILU staff. I've heard your description  
19 of different types of training programs and options for  
20 training for FILU staff. I haven't heard anything that may  
21 include some type of holistic approach to their training or  
22 an Indigenous approach to their training. Can you give me  
23 any insight on that?

24 **MS. NAOMI GIFF-MACKINNON:** Through the  
25 collaboration and the partnership building with Indigenous

1 community organizations who have knowledge about the  
2 experiences of Indigenous victims and survivors of crime  
3 and the experiences of families of missing or murdered  
4 Indigenous women and girls, through that network there is  
5 some substantial training that's provided and some -- where  
6 the FILU team requires cultural competencies, the  
7 Indigenous organizations that the FILU team works with  
8 provides that. That's one of the main ways that that  
9 training is -- is provided.

10 **CHIEF COMMISSIONER MARION BULLER:** Okay. In  
11 your evidence, you've referred to test -- to ceremonies and  
12 working with Elders. Is that for staff training or is it  
13 for other people who may be referred to services outside of  
14 FILUs? Where do those two elements fit?

15 **MS. NAOMI GIFF-MACKINNON:** So the FILUs, it  
16 fits primarily with FILUs making -- hearing from families  
17 about whether they would like to have ceremonies included  
18 in their work with FILUs, and working with Elders, working  
19 with community partners to provide those ceremonies as they  
20 go through with the different points, at the very  
21 beginning, and throughout and when the information is  
22 shared. So the FILU -- some of the FILU team members are  
23 able to help families directly with the ceremony. They  
24 work very closely with families. They are from the -- the  
25 community. They have lived experience, and so they can

1 help make those connections. A lot of the FILU teams are  
2 helping families with releasing ceremonies. They're  
3 helping identify some of the -- the places where their  
4 loved one was last -- was last known to be. And those are  
5 some of the ceremonies that they're having.

6 **CHIEF COMMISSIONER MARION BULLER:** Who bears  
7 the costs of those ceremonies and attendance of Elders?

8 **MS. NAOMI GIFF-MACKINNON:** That's part of  
9 the FILU funding model.

10 **CHIEF COMMISSIONER MARION BULLER:** It is?  
11 Okay. Thank you. Thank you very much.

12 **JOHN PHELPS, Previously Affirmed:**

13 **QUESTIONS BY THE COMMISSIONERS:**

14 **CHIEF COMMISSIONER MARION BULLER:**  
15 Mr. Phelps, I have some questions. Let's go to Exhibit 3,  
16 which is the checklist, please. Did I hear you correctly  
17 that this was a checklist prepared specifically for the  
18 North?

19 **MR. JOHN PHELPS:** That's correct, yes.

20 **CHIEF COMMISSIONER MARION BULLER:** Is the  
21 same form used for both adults and children who are victims  
22 or witnesses?

23 **MR. JOHN PHELPS:** We only have one version  
24 of the form, yes.

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

1                   **MR. JOHN PHELPS:** I'm not -- to be honest  
2 with you, that's an excellent question because I'm not  
3 certain this form would necessarily be filled out when  
4 we're dealing with children, particularly in the Yukon  
5 because we have a collaborative approach to dealing with  
6 children, child victims of crime, in the Yukon territory,  
7 and it's a -- it's a different approach to providing all of  
8 these services, but this is the only form we have, yes.

9                   **CHIEF COMMISSIONER MARION BULLER:** Okay.  
10 Let's just move away from the form for a moment. Can you  
11 tell us more about this collaborative approach that you say  
12 you have with respect to child victim witnesses?

13                   **MR. JOHN PHELPS:** It's -- it's entitled the  
14 Lynx program in the Yukon territory. It's coordinated  
15 through the territorial government and the victim services  
16 office with personnel from victim services, dedicated  
17 personnel, dedicated representatives from our office, from  
18 the RCMP, from health and social services. I'm sorry, I'm  
19 not too sure if there are other representatives at the  
20 table or not. Off the top of my head, there may be  
21 education as well. And it's designed to ensure that there  
22 is ongoing training and a collaborative approach in how to  
23 deal with children who suffer harm through -- through  
24 crime.

25                   And, sorry, I should add to that that the

1 intention being then that there -- I hesitate to use the  
2 word specialized, but there are dedicated individuals  
3 within each organization to deal with those files. So in  
4 our office we have a primary and a secondary prosecutor,  
5 for example, to deal with files that involve child victims,  
6 rather than broadly fanning them out throughout the office.

7 **CHIEF COMMISSIONER MARION BULLER:** Thank  
8 you. Going back to the form now. Under the initial  
9 contact, and it has needs assessment and travel, there's a  
10 check box about the victim is unavailable due to holidays,  
11 medical appointments, exams. I note that there's no  
12 "other" category, which might include things like seasonal  
13 hunting or fishing activities, or seasonal ceremonial  
14 activities. Do you think it might be wise to amend the  
15 form sometime?

16 **MR. JOHN PHELPS:** I would see -- it's not  
17 meant to be an inclusive list, but I would certainly see no  
18 harm in making sure that that is on there so that that  
19 information is in the mind of the individual having the  
20 dialogue. That would make sense.

21 **CHIEF COMMISSIONER MARION BULLER:** Turning  
22 now to information rights, which is on the back page.

23 **MR. JOHN PHELPS:** Thank you.

24 **CHIEF COMMISSIONER MARION BULLER:** Just by  
25 way of background, can you tell us whether the policy

1 and/or practice in your office is to subpoena victim  
2 witnesses?

3 **MR. JOHN PHELPS:** That is the practice, yes.

4 **CHIEF COMMISSIONER MARION BULLER:** Okay. So  
5 under information rights I don't see any place to check off  
6 that the victim was offered information about the impact or  
7 effects of being subpoenaed, and Section 704 and Section  
8 705 of the *Criminal Code*, which would allow a warrant to be  
9 issued for the arrest of the victim witness should they not  
10 appear?

11 **MR. JOHN PHELPS:** You're correct, yes.

12 **CHIEF COMMISSIONER MARION BULLER:** Do you  
13 think that's something you may want to change on the form?

14 **MR. JOHN PHELPS:** Again, it -- not being an  
15 exhaustive list, but absolutely it makes sense to add that  
16 to the list and make sure that victims are aware  
17 that -- not only that they will be subpoenaed, the -- the  
18 relationship does evolve, and this is the initial contact  
19 that we have and covering off that initial stage where  
20 we're hopefully having contact pre-plea and the -- the  
21 concept of the trial and what's going to happen at trial is  
22 covered at a later stage, and it's not necessarily a living  
23 document throughout the process. By the time we get to  
24 that stage there's an ongoing relationship and more  
25 information being covered than is in the checklist. That

1 being said, absolutely.

2 **CHIEF COMMISSIONER MARION BULLER:** Yeah. It  
3 certainly would go to, if nothing else, the individual's  
4 Section 7 *Charter* rights, don't you think?

5 **MR. JOHN PHELPS:** I do agree. That's a good  
6 idea.

7 **CHIEF COMMISSIONER MARION BULLER:** Okay. In  
8 filling out this form and arranging for travel costs,  
9 witness fees, that sort of thing, how far does the funding  
10 go in terms of the victim witness and perhaps a support  
11 person to come with them or other family members? Is there  
12 funding available for that type of person?

13 **MR. JOHN PHELPS:** It -- it depends on the  
14 needs of the victim. It's -- so the funding does not come  
15 with specific limitations on -- on amounts, for example,  
16 the funding is primarily for the victim to travel. But  
17 being the funding authorization within my jurisdiction,  
18 it's quite frequent, particularly in certain types of  
19 offences, that we do provide the opportunity for a support  
20 person. Certainly if a child is involved, we provide that  
21 support, and it's frequent, if not always the case, that in  
22 the case of a sexual offence that we would provide that  
23 service as well.

24 **CHIEF COMMISSIONER MARION BULLER:** M'hm.

25 **MR. JOHN PHELPS:** And it's not limited to



1 that, there's an ability to request in other offences as  
2 well.

3 **CHIEF COMMISSIONER MARION BULLER:** When we  
4 were in White Horse and other locations we heard from  
5 family members who were not necessarily called as  
6 witnesses, but wanted to attend court to watch the  
7 proceedings because it had direct effect on them because of  
8 their lost loved one. They said very clearly that of  
9 course some of these trials can go for very long periods of  
10 time, weeks and months, and that there was very little  
11 funding available for them to attend court, other than  
12 perhaps through their Bands. So because they're not  
13 necessarily witnesses, they wouldn't be caught in your  
14 program; is that correct?

15 **MR. JOHN PHELPS:** They wouldn't be caught in  
16 our program, no. There are a variety of funding sources  
17 through the victim services branch, if they're connected  
18 with victim services. The scenario that you refer to, I'm  
19 not certain if they would fund it or not, but it's not  
20 available through our organization, no.

21 **CHIEF COMMISSIONER MARION BULLER:** Turning  
22 now to the domestic violence courts and the wellness courts  
23 and the role of the CWCs. Can you tell me at what point  
24 the decision is made, and by whom, for a matter to go into  
25 one of these courts from the main stream court?

1                   **MR. JOHN PHELPS:** Certainly. If it's all  
2 right I'll speak to the practice in the Yukon, which is the  
3 one I'm most familiar with. In the -- in the Yukon the  
4 domestic violence treatment option court is available in  
5 White Horse, it's not an option that's available in the  
6 communities. For all domestic violence offences that occur  
7 within Whitehorse the first appearance takes place within  
8 the domestic violence treatment option court and the  
9 accused has to opt out of that option and into the main  
10 stream.

11                   With respect to the community wellness  
12 court, which deals with an array of issues such as alcohol,  
13 drug abuse, mental health and cognitive disorders, that is  
14 something that an accused opts into because it's not  
15 something that's obviously readily identifiable at the time  
16 of the offence. And that decision is made at the first  
17 instance by -- typically by the accused or accused's  
18 counsel or somebody supporting the accused. It might be  
19 recommended by our office as an option, a viable option for  
20 an accused. And if they decide to go through or if they  
21 decide they're interested in that option, then there's a  
22 period of time where there's a screening process in order  
23 to determine whether or not they're suitable for that  
24 court. It's a two-week turnaround.

25                   **CHIEF COMMISSIONER MARION BULLER:** What roles

1 then do the CWC workers, if that's not redundant, have in  
2 the specialized courts? Do they stay with the victim  
3 throughout?

4 **MR. JOHN PHELPS:** Yes, they do, yeah.  
5 We -- with respect to the domestic violence treatment option  
6 court, due to the nature of when the first appearance  
7 occurs, we have an assigned Crown Witness Coordinator for  
8 that court. With respect to the Community Wellness Court,  
9 the file remains with the -- the Crown Witness Coordinator  
10 that it was assigned to, but we do have an assigned  
11 individual to make sure that we have an attendance in every  
12 court. It's a shared responsibility for updating.

13 **CHIEF COMMISSIONER MARION BULLER:** So when  
14 the offender's time is finished in the court, that is when  
15 the CWC worker finishes with the victim; is that correct?

16 **MR. JOHN PHELPS:** Yes, once the -- once the  
17 sentencing occurs. That's correct, yes.

18 **CHIEF COMMISSIONER MARION BULLER:** Okay,  
19 okay, that's it. Thank you all very much. Commissioner  
20 Audette?

21 **MS. MEREDITH PORTER:** Thank you. Chief  
22 Commissioner and Commissioners, one of the witnesses has  
23 requested a five-minute bathroom break.

24 **CHIEF COMMISSIONER MARION BULLER:** Certainly.

25 **(LAUGHTER)**

1                   **MS. MEREDITH PORTER:** Five minutes? Oh, so  
2 we will take a five-minute break, returning at 3:20, no  
3 5:20.

4 --- Upon recessing at 5:13 p.m.

5 --- Upon reconvening at 5:24 p.m.

6                   **MS. MEREDITH PORTER:** Commissioner Audette?

7                   **COMMISSAIRE MICHÈLE AUDETTE:** *Oui.*

8                   **MS. MEREDITH PORTER:** I'm inviting you; do  
9 you have any questions for any of the witnesses?

10                   **COMMISSAIRE MICHÈLE AUDETTE:** *Merci beaucoup.*

11 *J'ai -- oui, je vais parler en français. J'avais demandé à*  
12 *la Commissaire en chef, à ce moment-ci, j'aurais aimé ça*  
13 *avoir le bâton que les juges ont en cour. C'est sûr qu'on*  
14 *n'a pas la traduction pour la plupart des gens.*

15                   *Écoutez, tout d'abord, encore une fois, un*  
16 *gros merci à tous les gens qui se sont déplacés ici pour*  
17 *venir nous expliquer quels sont vos programmes, nous*  
18 *expliquer quelles sont vos réalités et surtout de répondre*  
19 *aux questions qui émanent de la salle ici venant des parties*  
20 *intéressées.*

21                   *De mon côté, quelques questions, évidemment.*  
22 *Je commencerais avec M. John Phelps. Je suis consciente que*  
23 *vous représentez ou vous nous avez présenté, pardon, un très*  
24 *grand territoire. Moi, je viens de Schefferville. Le nord*  
25 *c'est petit, mais c'est quand même ce qu'on appelle, nous,*

1        *une communauté isolée. Seuls le train ou l'avion peuvent se*  
2        *rendre, sinon le portage et le Ski-doo, mais c'est très loin*  
3        *dans le nord.*

4                    *Je peux facilement dire que le grand*  
5        *territoire, le Yukon, Territoires du Nord-Ouest et Nunavut,*  
6        *c'est immense, et pour avoir entendu des familles lors des*  
7        *audiences que nous avons tenues en janvier à Yellowknife, on*  
8        *comprendait comment le territoire est immense, la même chose*  
9        *à Whitehorse ou à Rankin Inlet.*

10                   *On nous a parlé de plusieurs choses, mais je*  
11        *vais vous poser des questions de ce que vous nous avez*  
12        *présenté, Monsieur John, et ensuite essayer de faire des*  
13        *liens avec la vérité qui a été partagée par les femmes, les*  
14        *hommes, les survivants et les gens qui ont eu le courage de*  
15        *venir nous voir.*

16                   *Quand vous parlez des coordonnateurs de*  
17        *témoins de la Couronne, les CTC en français, l'acronyme,*  
18        *est-ce que c'est pour tout le monde ou c'est un programme*  
19        *spécifique pour les Autochtones? Première question.*

20                   **MR. JOHN PHELPS:** I apologize for the delay,  
21        and -- and I'll have to respond --

22                   **COMMISSIONER MICHÈLE AUDETTE:** That's my  
23        life.

24                   **MR. JOHN PHELPS:** -- I'll have to respond in  
25        English, if that's all right.

1                   **COMMISSAIRE MICHÈLE AUDETTE:** C'est correct.

2                   **MR. JOHN PHELPS:** It's -- it's available to  
3 everyone.

4                   **COMMISSAIRE MICHÈLE AUDETTE:** O.k.

5 *Merci.*

6                   *Alors, dans ce cas, dans la vingtaine*  
7 *d'employés CTC, combine de gens sont issus des Premières*  
8 *nations et du monde inuit? nguage*

9                   **MR. JOHN PHELPS:** The breakdown is at 100  
10 percent in Nunavut, so all eight employees. One in the  
11 Northwest Territories currently and one in the Yukon  
12 currently, and that's -- those ratios have varied. They're  
13 not designated positions one way or another. It's been  
14 based on our competitions and what's available to us to --  
15 to -- who's -- who's available to us to make offers to.

16                   **COMMISSAIRE MICHÈLE AUDETTE:** O.k. *Justement*  
17 *vous nous avez parlé de la difficulté de garder les gens en*  
18 *poste. Et quand on regarde la description ou le mandat des*  
19 *CTC, c'est beaucoup. C'est beaucoup demander à ces gens-là,*  
20 *beaucoup d'information et de connaissances du milieu*  
21 *juridique, pénal, carcéral, et aussi de ce qui existe en*  
22 *terme de soutien à travers le grand territoire.*

23                   *Qu'est-ce qu'on demande comme diplôme à ces*  
24 *gens-là ou bagage ou expérience?*

25                   **MR. JOHN PHELPS:** That -- that's varied over

1 the years. Of the last, you know, poster, the job  
2 advertisement that was put out trying to attract individuals  
3 to our regional office, the requirement was a grade 12  
4 education, so graduation from high school. Previous to  
5 that, we have had secondary -- post-secondary education  
6 requirements, but the -- the number of applicants that we  
7 would see was significantly reduced as a result, so we do  
8 work, for example, in the Yukon, we do work with the Yukon  
9 College and we do take placements within their program to  
10 facilitate educational purposes but also to expose them to  
11 what we do and hope that perhaps they take an interest, and  
12 we have -- we have been able to hire a couple of employees  
13 through that program.

14 So it -- it's a balance between attracting  
15 individuals with the knowledge or -- or with the recognition  
16 that there's a significant amount of knowledge and by, you  
17 know, erring on attracting more individuals and doing in-  
18 house training and taking the time and energy required to do  
19 that, or at least attracting more interest in the program.

20 **COMMISSAIRE MICHÈLE AUDETTE:** *Donc, si je*  
21 *comprends bien... I'll rewind. Je comprends que vous avez*  
22 *la flexibilité pour vous adapter à la réalité du territoire,*  
23 *la géographie des gens qui habitent là?*

24 **MR. JOHN PHELPS:** Correct.

25 **COMMISSAIRE MICHÈLE AUDETTE:** *O.k. Merci.*

1                    *En même temps, les CTC, je comprends qu'ils*  
2                    *doivent expliquer aux familles, aux victimes et à leurs*  
3                    *proches quels sont leurs droits, et c'est là où je veux*  
4                    *faire un parallèle avec le mandat des CTC, de votre*  
5                    *présentation, et ce que nous avons entendu comme*  
6                    *commissaires. Sur les 1 200 témoignages, je vais essayer de*  
7                    *me restreindre au Territoires du nord-ouest et du Yukon,*  
8                    *évidemment de Rankin Inlet aussi, les gens qu'on a*  
9                    *rencontrés dans le nord.*

10                   *Il y a quelque chose... on va prendre Yukon.*  
11                   *Ça c'est votre territoire. C'est votre chez-vous. Il y a*  
12                   *un fil conducteur dans chaque famille que j'ai entendu... je*  
13                   *vais parler pour moi... ou de survivantes. Elles ont toutes*  
14                   *et tous partagé ces enjeux-là de façon publique ou en privé,*  
15                   *l'isolement, les défis face à l'isolement dont défis*  
16                   *d'accéder à une ville ou quelque chose de proche où elles*  
17                   *habitent, le manque de ressources, maisons d'hébergements,*  
18                   *maisons pour la santé mentale, un centre, pardon, de*  
19                   *guérison pour la santé mentale ou thérapeutique ou de*  
20                   *désintoxe. Elles nous ont parlé du manque de counselling,*  
21                   *du manque d'information sur le processus judiciaire et*  
22                   *pénal, notamment quels sont leurs droits, quelles sont les*  
23                   *accusations dont le tribunal est saisi, par exemple, et*  
24                   *aussi que les avocats de la Couronne ne représentent pas les*  
25                   *victimes. Ça, c'a été pour plusieurs surprenant. Ensuite,*



1       *que ce sont les procédures judiciaires auxquelles les*  
2       *victimes devraient s'attendre. Donc, elles ne sont pas au*  
3       *courant de ça ou elles ne comprennent pas et elles ne savent*  
4       *pas quel sera le processus de la comparution jusqu'à la*  
5       *sentence ou l'acquittement.*

6               *Donc, vous nous présentez un service, un*  
7       *programme, mais sur le terrain, il n'est pas articulé de la*  
8       *même manière ou il n'est pas reçu de la même manière.*

9               *Est-ce que vous avez entendu ce que moi j'ai*  
10       *entendu au fil des années?*

11               **MR. JOHN PHELPS:** I -- I'm going to answer  
12       the question, yes. That -- that I have -- I have heard  
13       that. And, you know, our program is something that has  
14       evolved even over the last few years, it has evolved  
15       significantly in the way we're trying to do our -- our work  
16       across the north. The criminal justice system is no doubt  
17       an extremely complex system. And points that you've made,  
18       such as the fact that the Crown doesn't represent the  
19       victim, are -- are very difficult and surprising concepts to  
20       hear, and difficult for -- for victims to understand because  
21       we're working with them to try and get the best evidence  
22       before the court.

23               So it's -- it's not uncommon in my  
24       interactions with leadership, or justice committees, or  
25       otherwise throughout the territory, that there's a concern

1 about the information that's received. You know, we -- we  
2 do our best to relay it as clearly as possible with the  
3 limitations, some which you've already pointed to. But  
4 that's certainly something that could be improved, and --  
5 and we're always striving to improve. The -- the  
6 expectation is that it's not just the responsibility of a  
7 Crown Witness Coordinator. That's a part of their job.

8 Particularly, you know, right -- right at the  
9 first instance of there's been a charge, this is who we are,  
10 this is what we do. When we get to the stage of trial, the  
11 expectation and the standard would be for a prosecutor also  
12 to meet with the victim and provide supplemental information  
13 with respect to the system because of the complexities. The  
14 -- the other reasons for it as well is to develop a relation  
15 and -- and make sure that there's a -- a comfort level with  
16 proceeding with the -- with the trial. So it is a concern.  
17 I -- I recognize that. I've -- I've met with families  
18 myself, who are -- are suffering from loss and just  
19 desperately, desperately want something to occur within the  
20 criminal justice system that isn't available to them. And  
21 it can be a very lengthy and -- and very difficult  
22 conversation to have.

23 And my practice, and I hope the practice  
24 of -- of my prosecutors and Crown Witness Coordinators, is  
25 to take as much time as I can to try and relay that. I'm

1 certain though, regardless of the time and effort put in,  
2 that people will leave both dissatisfied and perhaps in --  
3 in disbelief, and -- and perhaps still with a -- a lack of  
4 understanding as to the intricacies of -- of why those  
5 decisions are. And that -- that's a reality we face. And  
6 I'm not too sure what the answer is to prove that, other  
7 than, to continue to move forward and try the best we can to  
8 make sure that we're -- we're making contact and we're  
9 having meaningful dialogue with victims as we go.

10 **COMMISSAIRE MICHÈLE AUDETTE:** *Merci pour*  
11 *votre généreuse réponse. I'll rewind. Merci pour votre*  
12 *généreuse... votre réponse généreuse.*

13 *Dans ce cas-là, vous avez mentionné dans*  
14 *votre présentation que, si j'ai bien compris, aucune femme,*  
15 *aucune victime a porté plainte par rapport à votre*  
16 *programme.*

17 *Pouvez-vous m'expliquer, dans ce cas-ci,*  
18 *pourquoi on ne porte pas plainte sachant qu'il y a des*  
19 *lacunes ou des choses qui devraient être améliorées?*

20 **MR. JOHN PHELPS:** I -- I don't have an  
21 explanation for that. You know, I -- I believe I mentioned,  
22 or I intended to mention in my testimony, that I'm certainly  
23 available and I ensure that my lawyer -- my prosecutor who's  
24 the prosecutor supervisor is available, should there be  
25 concerns with the conduct of the individuals in our office.

1 Our complaint process, if you're to look it up, is not  
2 designed to receive complaints about the criminal justice  
3 system.

4 **COMMISSIONER MICHÈLE AUDETTE:** Okay.

5 **MR. JOHN PHELPS:** Or the decisions of the  
6 judge, for example. It's about our conduct and, I think, a  
7 lot of the discontent that I've heard is more in line with  
8 the system itself. I -- I don't recall having left a -- a  
9 meeting where there was anger or -- or -- expressed towards  
10 myself. But people have been upset because they don't --  
11 they -- it's not the answer that they want. They -- they  
12 want answers through the criminal justice system. And at  
13 times they -- they're seeking closure through the criminal  
14 justice system that's not available. So I -- I don't  
15 know -- I don't know the answer to that.

16 **COMMISSIONER MICHÈLE AUDETTE:** Okay.

17 **MR. JOHN PHELPS:** I don't.

18 **COMMISSAIRE MICHÈLE AUDETTE:** *Merci beaucoup.*  
19 *Donc, je comprends que le processus de*  
20 *plaintes ou la possibilité de porter plainte c'est plus sur*  
21 *un comportement fait par un employé? C'est ce que je*  
22 *comprends.*

23 **MR. JOHN PHELPS:** It would be -- no, it --  
24 it's in place, sorry, to -- to also raise concerns with  
25 respect to whether or not we've met --

1                   **COMMISSIONER MICHÈLE AUDETTE:** Okay.

2                   **MR. JOHN PHELPS:** -- their [sic] -- our,  
3                   sorry, obligations under the CVBR. That would be an  
4                   appropriate purpose of it and we encourage our Crown Witness  
5                   Coordinators to make sure that they're aware of that. And  
6                   again, this is the front-end conversation, not the tail-end  
7                   conversation. So they're meant to be, at -- at least, made  
8                   aware. And -- and whether or not that resonates, I -- I  
9                   can't say.

10                   **COMMISSAIRE MICHÈLE AUDETTE:** *Alors, dans ce*  
11                   *cas-ci, croyez-vous qu'il serait possible d'avoir comme*  
12                   *recommandation de mettre en place justement un processus*  
13                   *pour que les victimes, si on se fie à la Charte... je veux*  
14                   *bien dire son nom... la Charte des droits des victimes,*  
15                   *laquelle vos employés doivent suivre et respecter et*  
16                   *informer les victimes, de créer un espace pour ces victimes-*  
17                   *là, pour ces femmes, pour les hommes et les femmes, mais on*  
18                   *va parler pour les femmes ici, puissent avoir un endroit et*  
19                   *dire « On m'a pas appelée; on m'a pas informée de mes*  
20                   *droits; on m'a pas dit que la personne qui a commis le crime*  
21                   *est finalement libérée » et ainsi de suite?*

22                   **MR. JOHN PHELPS:** I -- I do think it's  
23                   important that they're afforded that opportunity. I would  
24                   say within -- within the Yukon, as I've -- I've repeated  
25                   throughout the last two days, there -- there are other

1 entities. And in particular, there's the victim services  
2 program within the territorial government that's fully aware  
3 of the opportunity to lodge a complaint as well. And, you  
4 know, we have a collaborative relationship, and I would  
5 expect them to relay that information as well because we've  
6 shared it with them. But I -- I don't disagree.

7 It -- it may be, you know, it may be too onerous. It may be  
8 considered to be too onerous a process. It's a requirement  
9 that there be a complaint in writing, essentially, to  
10 myself, or my equivalent in the region. Perhaps, that's too  
11 intimidating. And as you -- as you indicated, a -- a better  
12 environment to do so. I -- I would welcome that because the  
13 feedback's important. And if we're -- if we're missing  
14 individuals and we're not providing them with the  
15 information that we're mandated to do, then I would like to  
16 know about it. And absent the complaints process, or open  
17 dialogue with the Crown Witness Coordinator, I wouldn't get  
18 that information.

19 **COMMISSIONER MICHÈLE AUDETTE:** A tough  
20 question now.

21 **MS. MEREDITH PORTER:** So she's switching to  
22 English.

23 **COMMISSIONER MICHÈLE AUDETTE:** No, no, no,  
24 no. Okay. The question could be in English because it's a  
25 tough one. Do you follow the news and media?

1                   **MR. JOHN PHELPS:** Yes.

2                   **COMMISSIONER MICHÈLE AUDETTE:** *Parfait.* I'm  
3 glad. Where were you? No, just kidding. In -- in March  
4 5th, an article from CBC was saying that putting Yukon,  
5 N.W.T., and Nunavut very low in the rank of -- how do we  
6 say in English? The -- at the bottom of the justice system  
7 report card, very low. So I don't want to criticize that,  
8 but did you see that article or --

9                   **MR. JOHN PHELPS:** I -- I did, yes.

10                  **COMMISSIONER MICHÈLE AUDETTE:** You did?

11                  **MR. JOHN PHELPS:** Yes.

12                  **COMMISSIONER MICHÈLE AUDETTE:** So did  
13 you -- and I'm sure you did. I know I'm not allowed to say  
14 that, but it's me. When you saw that *reportage*, did you  
15 said to yourself or whatever that what can we do to  
16 improve? Because we're the last one on 13 provinces and  
17 territories. What can we do to improve? And that would  
18 become, I guess, the recommendation that we could also on  
19 our end propose to -- to this important task.

20                  **MR. JOHN PHELPS:** It's always disconcerting  
21 when you're at the bottom end of any measurement. And  
22 there's a -- you know, in the study, there's a broad array  
23 of things that are looked at to rank organizations. And,  
24 you know, we share responsibility for -- for some of that,  
25 certainly, but it looks at issues like Legal Aid and access

1 to justice and -- and those kinds of issues, as well, which  
2 I would say are -- are outside of my purview with respect  
3 to the -- the hat I wear within the public prosecution, but  
4 certainly not with my involvement with the Law Society, so  
5 it is -- it is disconcerting. But, you know, we -- we  
6 continue to strive to change and improve our program, and  
7 in the ideal world, my view -- in the ideal world, we would  
8 serve to provide a supportive element to the support for  
9 victims in the system and not be the entire support for  
10 victims. We -- we have a system in place because  
11 when -- when it -- when this program commenced and  
12 continuing today, there are victims that go without support  
13 within the justice system, and it's important to us to  
14 provide some support to them in -- in the context of what  
15 we do. It would be ideal if there was complete support  
16 being provided from harm, whatever -- whenever that occurs,  
17 through to completion of, you know, the lack of the need  
18 for the support. And if we could come in and complement  
19 that service -- and that's the type of that relationship  
20 that we have with the victims services branch in the  
21 Territory where they're engaged. And -- and their mandate  
22 is different than ours, so we have to be engaged with all  
23 victims due to their -- ensuring their rights. And if  
24 they're not engaged with another program, then it falls on  
25 us to do so.



1                   So -- sorry. I rambled on there. But  
2                   I -- I hope I answered your question. If not, I would ask  
3                   you to rephrase it.

4                   **COMMISSIONER MICHÈLE AUDETTE:** Well, my last  
5                   question will be - je vais le switcher en français si vous  
6                   me permettez.

7                   **MR. JOHN PHELPS:** If the clock was running,  
8                   it would be better, but --

9                   **UNIDENTIFIED SPEAKER:** Pardon me?

10                  **MR. JOHN PHELPS:** I said if the clock was  
11                  running, I would appreciate this more.

12                  **COMMISSIONER MICHÈLE AUDETTE:** Okay, *mais ça*  
13                  *va être très court. Écoutez, l'objectif moi*  
14                  *personnellement, l'objectif de cette enquête c'est pour le*  
15                  *bien être des familles et des survivants qui va faire en*  
16                  *sorte que tout le monde va en bénéficier. Alors l'enquête*  
17                  *doit proposer, vous le savez, des recommandations et je*  
18                  *vous dirais que si on est capable de collaborer ensemble*  
19                  *jusqu'au dépôt du rapport, seriez-vous d'accord avec moi*  
20                  *pour dire comme votre collègue Betty Ann, qui est partie,*  
21                  *c'est pour avoir une réussite sur le terrain, s'il faut la*  
22                  *faire avec les autochtones et non pour les autochtones.*  
23                  *Êtes-vous d'accord avec le message de Betty Ann? La*  
24                  *collaboration?*

25                  **MR. JOHN PHELPS:** Absolutely, yes. As I

1 thought of the recommendation that I put forward earlier,  
2 the opportunity to work with a form of service that's First  
3 Nation-based, addressing the specific needs of the  
4 individual First Nation within the community would be an  
5 ideal opportunity for -- from our perspective, yes.

6 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

7 **QUESTIONS BY THE COMMISSIONERS:**

8 **COMMISSIONER MICHÈLE AUDETTE:** *Merci*  
9 *beaucoup. Madam -- Madam Naomi, en français, quelques*  
10 *questions. Vous avez parlé en 2016 des ULIFs, en français,*  
11 *les unités de liaison ont collaboré avec les familles.*  
12 *Êtes-vous en mesure de nous dire si ça été systématique à*  
13 *travers le Canada ou c'est certains ULIFs qui ont collaboré*  
14 *avec les familles, pour la mise sur pied?*

15 **MS. NAOMI GIFF-MACKINNON:** So in -- as I  
16 understand it, all the FILU teams took some form of input  
17 from family members in their province or territory. Some  
18 of those forms of engagement were very -- were very, very  
19 robust. And --

20 **COMMISSIONER MICHÈLE AUDETTE:** Very what?

21 **MS. NAOMI GIFF-MACKINNON:** They were very  
22 full. And they would have -- they would have included, as  
23 I mentioned earlier, an advisory committee, or it would  
24 have been formal or informal -- I'm wondering why it sounds  
25 funny, and I just realized I've got that on.

1       Would -- for -- as I mentioned, formal or informal direct  
2       consultations. So it did vary. That's something that  
3       definitely does vary in terms of the fullness of it,  
4       because some were very full, and some weren't as full when  
5       you reflect on some of the others. But they all took input  
6       from families as they developed.

7               And I think I would mention, too, that in  
8       their work, because it is a few initiative and they are  
9       really learning from families as they go, so that is one of  
10      the -- the really interesting aspects of the FILU networks  
11      is that there isn't rigidity. It's -- it's meant to be  
12      flexible. It's meant to respond to where it's not doing  
13      well and -- and shift and change how it does its work and  
14      learn from, directly from the families that they're  
15      assisting.

16              **COMMISSIONER MICHÈLE AUDETTE:** Okay. *Puis,*  
17      *vous avez un début et une fin comme l'enquête nationale et*  
18      *vous recevez là beaucoup, beaucoup d'information pour*  
19      *informer les familles qui en ont fait la demande. Une*  
20      *question pour -- sachant que vous avez un début et une fin,*  
21      *mais c'est important pareil comment on évalue là dans ce*  
22      *contexte ici alors pour vous, comment vous évaluer*  
23      *l'atteinte de vos objectifs? Ça c'est ma première*  
24      *question, pis la sous question, et est-ce que les familles*  
25      *des survivants vont participer dans cette évaluation? -- It*

1 went to Québec. Now it's got to Calgary.

2 **MS. NAOMI GIFF-MACKINNON:** So if I  
3 understand your question, you're wondering about what kind  
4 of evaluation mechanisms are in place to make sure that the  
5 FILUs are meeting their objectives, given this time frame,  
6 and then how are families involved in -- in telling that  
7 story within the FILU operations.

8 So there -- there -- there are some  
9 very -- very detailed tools that each of the FILUs have to  
10 help with their evaluation process. So they will be  
11 reporting annually and providing that input about the three  
12 objectives that we've identified for the FILU teams. So  
13 they'll -- they'll be expected to report on how they  
14 provided that dedicated, coordinated support and assisted  
15 families to gather all of the information that was  
16 available, the nature of their inter agency collaboration  
17 with agencies who -- that hold the information. They'll  
18 also be expected to speak to how their -- their model and  
19 their approach was culturally grounded and -- and  
20 the -- and how they -- how they delivered a trauma-informed  
21 approach. So those three principles will guide how they  
22 report.

23 And there is also -- we have -- in  
24 discussion, we have requested that all the FILUs build  
25 in -- and we've provided some tools to assist them -- they

1 build in in their reporting, and they -- they ensure that  
2 they connect with families to find out how they felt about  
3 the service and to get that feedback from family members.

4 **COMMISSIONER MICHÈLE AUDETTE:** Thank you.

5 The reason why -- because of the time that -- the reason  
6 why I'm asking this question, and it's going to be my last  
7 question for you, right away you mentioned trauma informed,  
8 we were blessed to travel across Canada, and I did most of  
9 the hearing with the -- with the families and survivors, so  
10 I was able to hear outside of the hearing process what went  
11 very well and what went very -- what was very difficult or  
12 hard on families and survivors.

13 There's some places where they do more than  
14 they're supposed to do, very -- I'll speak for a place I'm  
15 very aware, you can tell with my accent, Quebec. He's  
16 alone, but he's always there making sure that they get the  
17 aftercare also or we will work with the inquiry. So we  
18 hope that it's happening across Canada.

19 But other places that broke my heart when  
20 families come to us in the informal way to say I was just  
21 brought in a room with no explanation, with a pile of  
22 documents. I know how to read, I'm intelligent, but this  
23 is a world that -- it's not my cup of tea. So the person,  
24 not FILU, but this process wasn't there or the system or  
25 the structure wasn't there to explain what happened to the

1 loved one, to explain what went wrong or what went the way  
2 it was supposed to. So we've heard that many times.

3 Other places we've heard also that the  
4 trauma inform wasn't -- wasn't even there, that it was very  
5 cold and we were just making harder for the families.

6 Did you hear about those events or issues?  
7 If yes, what did you do to make sure that it doesn't happen  
8 again?

9 **MS. NAOMI GIFF-MACKINNON:** There were a  
10 couple of occasions where FILUs, as part of our network  
11 that we have our weekly conversations, FILU teams, I've  
12 heard of a couple of occasions where the FILU teams have  
13 shared some of -- maybe they're the same situations that  
14 you're describing, and they -- they identified how they did  
15 not create the right situation at the time.

16 And again, I wasn't there, but I'm -- as I  
17 understand it from what they've shared with us, and they  
18 tried to learn from that experience -- they didn't try,  
19 they did learn from that experience. And I hope that those  
20 situations would not happen again. I hope that the FILU  
21 network across the country has an opportunity to learn from  
22 each other when those experiences happen and to identify  
23 them and talk about them openly, about where they  
24 have -- where they have stumbled or where they have failed,  
25 and to -- and to look at how that he can do better.

1                   **COMMISSIONER MICHÈLE AUDETTE:** I was  
2 supposed to have a last, last, last, but you opened a door.  
3 Quickly, we sadly said we have to put a -- a stop, hoping  
4 that it's not forever, for the community hearings, or this  
5 phase, Part 1, because of we're waiting to see if there's  
6 an extension or not. And is -- family can come to you,  
7 even though the Part 1 is done with this -- with this  
8 inquiry and ask until the end what happened to my loved  
9 one?

10                   **MS. NAOMI GIFF-MACKINNON:** Yes, I think  
11 that's where there's -- one of the ways that the FILUs and  
12 the inquiry are separate illustrates that, because the  
13 FILUs would be available to families who did or didn't  
14 participate in the inquiry and regardless of how or when  
15 they participated in the inquiry.

16                   **COMMISSIONER MICHÈLE AUDETTE:** *Merci*  
17 *beaucoup*, I have so much question, but --

18                   **MS. NAOMI GIFF-MACKINNON:** We can talk any  
19 time.

20                   **COMMISSIONER MICHÈLE AUDETTE:** I'll see you,  
21 I'm sure. *Merci*, I'll leave my other colleagues the space  
22 and the time, *merci beaucoup, beaucoup*.

23                   **COMMISSIONER QAJAQ ROBINSON:** I'll begin  
24 just expressing my gratitude for you being here and for  
25 being patient. I know the clock is -- it's getting late

1 and I've tried to narrow them down, my questions, as much  
2 as possible. I thank the parties with standing as well as  
3 my colleagues with helping me with narrowing my questions.

4 Naomi, if I can -- can I call you Naomi?

5 **MS. NAOMI GIFF-MACKINNON:** Of course, yes.

6 **COMMISSIONER QAJAQ ROBINSON:** Please call my  
7 Qajaq, not Commissioner Robinson. I'm going to start with  
8 you just to sort of follow up. As Michele was just asking  
9 you some questions, and this speaks to more so the  
10 locations of FILU offices. Are you aware of any FILU  
11 offices or staff that are located in Inuit Nunangat? And I  
12 will define what that geographical space is.

13 Inuit Nunangat is the territory that is the  
14 land of the Inuit. It encompasses or includes the Nunavut  
15 territory in entirety. Nunavik, Northern Quebec, the  
16 territory of -- that covers the James Bay Northern Quebec  
17 agreement, Nunatsiavut which is Northern Labrador and is  
18 defined by that agreement and self-government agreement,  
19 and the Inuvialuit region in the Northwest Territories  
20 which geographically is defined by their land claim  
21 agreement.

22 They work together, the four regions, and  
23 that forms ITK, and they work within this space, their  
24 land. And it is the land of the majority of Inuit women  
25 and families and girls.



1                   So within that geographical space that I  
2 just outlined, are there any FILU offices and staff?

3                   **MS. NAOMI GIFF-MACKINNON:** As far as I  
4 understand it, I don't think there are. I think -- I'm  
5 just trying to reflect on the geography, and I don't think  
6 that there are FILU team members located in those  
7 territories.

8                   **COMMISSIONER QAJAQ ROBINSON:** Including  
9 Nunavut?

10                  **MS. NAOMI GIFF-MACKINNON:** There is -- I  
11 apologize, I apologize, yes, there are. There's a FILU  
12 team located in victim services, but not the -- not a  
13 community organization.

14                  **COMMISSIONER QAJAQ ROBINSON:** Okay, yeah, I  
15 mean geographically --

16                  **MS. NAOMI GIFF-MACKINNON:** That was what I  
17 was thinking.

18                  **COMMISSIONER QAJAQ ROBINSON:** -- not within  
19 an organization.

20                  **MS. NAOMI GIFF-MACKINNON:** Oh, I see, okay.  
21 Sorry, I thought you meant within a community organization.  
22 So, yes, there is a FILU team located Iqaluit. The  
23 organization, the FILU teams, are using provincial and  
24 territorial victim services divisions geographical spaces,  
25 so Nunavik, for example, would work with the Quebec FILU,

1 Nunatsiavut would work with the Newfoundland and Labrador  
2 FILU, and then an NWT would work with the NWT office in  
3 Yellowknife and Inuvik.

4 **COMMISSIONER QAJAQ ROBINSON:** And in terms  
5 of the determination of where those offices and those staff  
6 are located, that is a provincial and territorial decision;  
7 that is correct?

8 **MS. NAOMI GIFF-MACKINNON:** Yes, in dialogue  
9 and consultation through their engagements, yes.

10 **COMMISSIONER QAJAQ ROBINSON:** Was there any  
11 thought in your mandate, and with the funding formula or  
12 agreements with those jurisdictions, to ensure that those  
13 service providers were located in Indigenous territory?  
14 Was that contemplated?

15 **MS. NAOMI GIFF-MACKINNON:** I --

16 **COMMISSIONER QAJAQ ROBINSON:** For example,  
17 on reserves or, like I said, within Nunatsiavut, for  
18 example?

19 **MS. NAOMI GIFF-MACKINNON:** We didn't add  
20 that as an eligibility criteria for the funding. We did  
21 ask that each -- each victim services division work with  
22 community organizations to -- to consider their FILU  
23 operations.

24 **COMMISSIONER QAJAQ ROBINSON:** So it was a  
25 consultative obligation --

1 MS. NAOMI GIFF-MACKINNON: Yes.

2 COMMISSIONER QAJAQ ROBINSON: -- as opposed  
3 to --

4 MS. NAOMI GIFF-MACKINNON: Correct.

5 COMMISSIONER QAJAQ ROBINSON: Okay, thank  
6 you. Now, the way the FILU program is described in your  
7 material, is really strikes me as a stopgap program to  
8 comply with what I would -- it's a stopgap program to  
9 address the issues in what -- what counsel for the inquiry  
10 described as the barriers for accessing information.

11 MS. NAOMI GIFF-MACKINNON: When you say  
12 stopgap, do you mean a --

13 COMMISSIONER QAJAQ ROBINSON: Well --

14 MS. NAOMI GIFF-MACKINNON: -- a quick fix  
15 or --

16 COMMISSIONER QAJAQ ROBINSON: Well, an  
17 interim fix for the -- let me go back. Families, the  
18 individuals who FILO's -- FILU's serve are entitled to that  
19 information. They have legal rights to it. There are  
20 existing mechanisms, Access to Information, et cetera, et  
21 cetera, et cetera, that currently exist with or without the  
22 FILU's to access that information.

23 MS. NAOMI GIFF-MACKINNON: Right.

24 COMMISSIONER QAJAQ ROBINSON: But it's a  
25 labyrinth to go through, and you've heard in the pre-Inquiry

1 that it is so onerous that families aren't getting to the  
2 information that they need.

3 **MS. NAOMI GIFF-MACKINNON:** Right.

4 **COMMISSIONER QAJAQ ROBINSON:** So I guess if  
5 you have a program that is insuring that these rights are  
6 met, yet it sets --

7 **MS. NAOMI GIFF-MACKINNON:** M'hm.

8 **COMMISSIONER QAJAQ ROBINSON:** -- within a  
9 certain period of time, it is a stop gap. It is a temporary  
10 fix. It is not something long term. That's what I mean by  
11 stopped.

12 **MS. NAOMI GIFF-MACKINNON:** It's not -- it's  
13 not sustaining. And it's -- right. I see what you're  
14 saying, that this is a right of all individuals to have  
15 access to this information, and families are -- have right  
16 to this information. And while this -- the -- the FILU  
17 operations provide a navigation function and provide a  
18 coordination function to help families access the  
19 information that they have a right to access, given that we  
20 only have Federal funding 'til March 31st, 2019, it does  
21 restrict and -- and -- and create some challenges for the  
22 sustainability of that -- that -- that support network to  
23 help families navigate to -- to access their rights. I  
24 agree.

25 **COMMISSIONER QAJAQ ROBINSON:** Now, would you

1 agree with me that state and state agencies, as the holders  
2 of this information, have an obligation; like, I recognize  
3 that families have these rights, but with rights come  
4 obligations. Would you see this as being a continued issues  
5 with the protection and fulfillment of these Access to  
6 Information rights if these issues and barriers aren't  
7 lifted in a long-term basis?

8 **MS. NAOMI GIFF-MACKINNON:** So that's about  
9 the -- the processes in place that each of the agencies  
10 have, in terms of how they share -- how they -- how they  
11 respond -- or this -- the policies and the -- the process  
12 that they set up to access the information. Is that what  
13 you mean?

14 **COMMISSIONER QAJAQ ROBINSON:** Yes. In  
15 essence, that there is -- families have these rights, and  
16 it's up to the state agency, whether it's FILU or any other  
17 who holds this information to ensure that those rights are  
18 protected and fulfilled. So there's somewhat of a proactive  
19 obligation. Would you agree with me?

20 **MS. NAOMI GIFF-MACKINNON:** Yes, I would. I  
21 think that goes -- that's similar to some of the other --  
22 it's -- it's -- it's thematically related to some of the  
23 other questions about having the agencies be more proactive  
24 and clear about how families can access -- access that  
25 information to achieve their rights to that information.

1                   **COMMISSIONER QAJAQ ROBINSON:** And whether  
2 it's to FILU or not, those barriers need to be addressed.

3                   **MS. NAOMI GIFF-MACKINNON:** Those are  
4 significant barriers, yes.

5                   **COMMISSIONER QAJAQ ROBINSON:** M'hm. Thank  
6 you. And that would be something that this Inquiry might  
7 want to recommend? You can answer that if you want.

8                   **MS. NAOMI GIFF-MACKINNON:** Do you think --  
9   **(LAUGHTER)**

10                   **COMMISSIONER QAJAQ ROBINSON:** I appreciate  
11 you might not want to answer that, but I'd leave it out  
12 there in the air if you want.

13                   **MS. NAOMI GIFF-MACKINNON:** I think any time  
14 we do public legal education and information, any time we  
15 make sure people know what their rights are, any time we  
16 make sure people know all the services that are available  
17 and entitled to, I think that's great.

18                   **LEANNE GARDINER, Previously Affirmed:**

19                   **QUESTIONS BY THE COMMISSIONERS:**

20                   **COMMISSIONER QAJAQ ROBINSON:** Thank you. I  
21 agree. Ms. Gardiner, if I can turn to you. Thank you,  
22 Naomi. We spoke a little bit yesterday about the funding  
23 that goes to the service -- victim services. And I think it  
24 was 1.6 million that you quoted for me. Is that per program  
25 out of the 11, or is that your overall budget for

1 distribution for service providers?

2 **MS. LEANNE GARDINER:** That's an approximate  
3 overall budget. Just the way that it's divvied up with  
4 responsibilities, I say approximate. It's very close to  
5 that. Between the Federal funding, the program, our  
6 division accesses and what the GWT puts towards that as  
7 well.

8 **COMMISSIONER QAJAQ ROBINSON:** And the -- you  
9 can correct me if my numbers are wrong, but there's 11  
10 active programs currently, or service providers, but eight?

11 **MS. LEANNE GARDINER:** Yeah. So --

12 **COMMISSIONER QAJAQ ROBINSON:** So that's --

13 **MS. LEANNE GARDINER:** Oh, sorry.

14 **COMMISSIONER QAJAQ ROBINSON:** So eight  
15 programs with 11 staff in total?

16 **MS. LEANNE GARDINER:** Yes.

17 **COMMISSIONER QAJAQ ROBINSON:** Okay.

18 **MS. LEANNE GARDINER:** That's correct.

19 **COMMISSIONER QAJAQ ROBINSON:** And how long  
20 have each of these eight locations, service providing hubs  
21 been operational?

22 **MS. LEANNE GARDINER:** That varies. The first  
23 two programs were in Fort Smith and Yellowknife, and they  
24 were funded at a lower level than they are today. As of  
25 1999, so when the territories split when Nunavut was

1 created, there were four programs running. Two were in  
2 Nunavut and went -- programs and funding to the Nunavut  
3 government, and then Yellowknife and Fort Smith. Since that  
4 time, it's varied. The program has grown over time and  
5 communities have indicated interest and developed their  
6 programs. I don't have the details with me and which year  
7 exactly all of those programs came to be, but basically  
8 those were the first two, and then they developed over time.

9 **COMMISSIONER QAJAQ ROBINSON:** So it's grown?  
10 Okay.

11 **MS. LEANNE GARDINER:** Yes. Yes.

12 **COMMISSIONER QAJAQ ROBINSON:** Are there any  
13 issues with sustainability? And -- and I'll frame my  
14 question. You provided information that the contribution  
15 agreements are annual. Moving forward it's every two years.  
16 I can imagine that that might create difficulty for  
17 stability of service. Stability for staffing. Is this  
18 something that you've experienced or heard from your service  
19 providers as being challenges in the NWT?

20 **MS. LEANNE GARDINER:** Yes. Yes. Absolutely.  
21 One of the challenges, and it's one of the reasons why we  
22 took this small, but for me and -- and what I've heard, an  
23 important step to even just go to two -- two years. I  
24 believe there was a hesitance before as we talked about  
25 public budgets and committing longer than that, et cetera.



1 But we found a way to at least go to two for now. With the  
2 goal to being to offset some of those challenges. To let --  
3 let them -- let those organizations have the assurance that  
4 that commitment is there for a bit of a longer period of  
5 time.

6 **COMMISSIONER QAJAQ ROBINSON:** So I did a bit  
7 of the math. I'm not -- they say I'm a lawyer, so you can  
8 hire accountants, right? That joke. But from sort of how I  
9 break down that 1.6, it looks like the bulk of what that  
10 money would cover would be salaries. Is that fair?

11 **MS. LEANNE GARDINER:** Salaries for the front  
12 line --

13 **COMMISSIONER QAJAQ ROBINSON:** Yeah.

14 **MS. LEANNE GARDINER:** -- victim services  
15 providers? Yes. It's -- for the most part, it's salaries.  
16 So just less than a million dollars of the 1.6 is the direct  
17 to communities funding, and the majority of each of those  
18 agreements is about the salary of a full-time and in one  
19 case a part-time -- or a provider.

20 **COMMISSIONER QAJAQ ROBINSON:** So in terms of  
21 providing the office space and all that sort of  
22 infrastructure for the delivery of this service, that falls  
23 to the community-based organization that you've contracted  
24 with. Is that --

25 **MS. LEANNE GARDINER:** It falls to that

1 organization to address that need in their -- in their  
2 submission. What we find -- so when I look at a proposal,  
3 there's a budget included. One of those lines is typically  
4 an administration fee, perhaps, which is standard. And with  
5 most funding agreements as well as typically a rent or that  
6 kind of a smaller line item included in the overall  
7 proposal. And often, the organizations, what they do is  
8 it's a service added to existing services that they have  
9 wherever possible --

10 **COMMISSIONER QAJAQ ROBINSON:** Yeah.

11 **MS. LEANNE GARDINER:** -- 'cause they are  
12 very --

13 **COMMISSIONER QAJAQ ROBINSON:** And that's --

14 **MS. LEANNE GARDINER:** -- good at making the  
15 best of what's available to them, of course.

16 **COMMISSIONER QAJAQ ROBINSON:** I -- I think  
17 they've been -- what we have heard in the communities in --  
18 in Yellowknife, in particular from -- from grassroots  
19 organization is that challenge of there being a lack of  
20 infrastructure, lack of space.

21 **MS. LEANNE GARDINER:** M'hm.

22 **COMMISSIONER QAJAQ ROBINSON:** How, as a  
23 grassroots organization it -- to provide this service, you  
24 kind of have to be -- you kind of have to become a jack of  
25 all trades so that you can access a number of different pots

1 of money --

2 **MS. LEANNE GARDINER:** M'hm.

3 **COMMISSIONER QAJAQ ROBINSON:** -- to ensure  
4 your continued existence period. And is this something that  
5 you've observed, and do you see this as being a barrier for  
6 the delivery of victim services directly to the clients?

7 **MS. LEANNE GARDINER:** I have observed it.  
8 I've heard it from our partners. Either a victim services  
9 or other NGO's that we deal with as one of the challenges  
10 and the barriers to delivering the service. Absolutely,  
11 I've heard it.

12 **COMMISSIONER QAJAQ ROBINSON:** Thank you.

13 Now --

14 **MS. LEANNE GARDINER:** I agree.

15 **COMMISSIONER QAJAQ ROBINSON:** -- I've also  
16 heard from some families, particularly in smaller  
17 communities, issues with nepotism, issues with power  
18 dynamics. We've also heard that there's particularly the  
19 -- the legacy of the *Indian Act*, there is huge power  
20 imbalances. And if you're contracting or -- and I -- I  
21 truly believe in community-based programming, but there are  
22 these -- these issues that fundamentally need to be  
23 addressed as well. When you're engaging in these agreements  
24 with either municipalities or -- or specific groups that  
25 have a specific interest, how does the department ensure

1 equitable and fulsome access to all victims is -- of all the  
2 victims and survivors at the community level? Is there a  
3 mechanism to ensure equity and fulsome access?

4 **MS. LEANNE GARDINER:** So just so I  
5 understand, when you're referring to equity and fulsome  
6 access in this, it's in particular to do with potential  
7 conflicts or where the -- the provider, for whatever reason,  
8 might not be a good fit for a victim and they require  
9 service from someone else? Is that what you're referring  
10 to?

11 **COMMISSIONER QAJAQ ROBINSON:** Yeah, and --  
12 and how do you ensure that a program has mechanisms to  
13 protect against that?

14 **MS. LEANNE GARDINER:** What our practice is is  
15 that those services are provided by other community  
16 programs. There's a network. The -- we ensure that our  
17 partners are all aware of that -- that network, those  
18 providers are a part of that and a part of the reality.  
19 There is a potential gap there, I would suggest when it  
20 comes to -- because what that would require, in some cases  
21 is for victim services, the local provider to say themselves  
22 that there is a conflict there, and if -- if they're part of  
23 that then that can be a challenge. Our -- what our practice  
24 is is, our partners know, so the RCMP knows that that's an  
25 option.

1           It's -- it actually is a regular occurrence,  
2           and that's at the perception of a conflict. Not someone  
3           having to prove that a conflict exists, for example, if that  
4           -- that distinction, in my experience, matters. That if  
5           someone perceives a conflict that impacts the kind of  
6           support and how supported they feel, so whenever that  
7           happens another provider is connected with them by phone.  
8           Whenever we're aware of it or the providers are made aware  
9           of it.

10          **JOHN PHELPS, Previously Affirmed:**

11          **QUESTIONS BY THE COMMISSIONERS:**

12                   **COMMISSIONER QAJAQ ROBINSON:** Thank you.  
13           Those -- those are all my questions, so thank you very much.  
14           And John, Mr. Phelps? In terms of the origins or the  
15           genesis of the CWC, and I look back to 1991, I'm -- I'm born  
16           and raised in Nunavut, so I have some appreciation for the  
17           history of the establishment of the current judicial system  
18           in the territories. And in terms of the genesis being a  
19           means to close a cultural gap, I think it's fair to say that  
20           part of the objective of the CWC program was -- I can't say  
21           this in a -- in a -- to grease the wheels of the machine.  
22           That -- that this -- it was to facilitate the administration  
23           of the Euro-Canadian criminal justice system in -- in the  
24           North. You can agree with me or disagree with me, but I  
25           think that that has been known. So you can disagree with me

1 if you want to debate it, but I'll go on to my next question  
2 if you don't want to.

3 **MR. JOHN PHELPS:** I -- I don't intend to  
4 disagree with you if you -- if you wish to go on, yes.

5 **COMMISSIONER QAJAQ ROBINSON:** Okay. But I  
6 think it's also fair to say that as the introduction of the  
7 *Canadian Victims Bill of Rights*, as well as other human  
8 rights legislation, and I look at this internationally and  
9 domestically, that the role of the CWCs has evolved beyond  
10 being an -- an asset to facilitate prosecutions and it's now  
11 a means of ensuring compliance and fulfillment of legal  
12 obligations of the Crown as an agent of the state. Do you  
13 -- is that a fair ...

14 **MR. JOHN PHELPS:** I believe that's a fair  
15 statement, yes.

16 **COMMISSIONER QAJAQ ROBINSON:** And now, I look  
17 at your policies, the Deskbook and -- and the program, the  
18 CWC program. Am I correct, did I hear you right, that at a  
19 territorial, sort of pan-territorial level, Yukon, Nunavut,  
20 and Northwest Territories, that you do play a bit of a  
21 leadership role when it comes to policies and the -- the  
22 program development?

23 **MR. JOHN PHELPS:** Yeah. We have a -- of the  
24 21 positions there's one position that reports to Ottawa  
25 directly, and that position is responsible for developing

1 the pan-northern policies, procedures, and practices, and --  
2 and training, so there's -- there's regular training for  
3 CWCs that occurs face-to-face on practice once every two  
4 years, but certainly pan-northern because of the unique  
5 nature of what we do in the north in the organization. We  
6 do meet annually, as well as the senior management for the  
7 territories, separate and apart from -- from the rest of the  
8 Public Prosecution Service of Canada to work on initiatives  
9 that are unique to our -- our circumstances, although  
10 different because of the geography.

11 And the Crown Witness Coordinator positions  
12 are -- are one of those, so we have dialogues regularly.  
13 Dialogues? Dialogue regularly with respect to the program;  
14 what's working well, what's not working well, how we need to  
15 change it, and -- and working with that Coordinator position  
16 to -- to assist in facilitating that -- that movement or --  
17 or that -- those policy changes.

18 **COMMISSIONER QAJAQ ROBINSON:** Okay.

19 **MR. JOHN PHELPS:** So yes, I think that's the  
20 answer, yes.

21 **COMMISSIONER QAJAQ ROBINSON:** Now, as certain  
22 evolutions occur in Canadian jurisprudence or legislation,  
23 or even as Canada signs onto international instruments, what  
24 mechanisms do you have at the PPSC to ensure that the -- the  
25 policies are fulfilling those obligations that might be

1 created? How do you ensure that the CWC program and the  
2 services that you provide to victims, whether it be the  
3 actual service or their development, continue to conform  
4 with the evolution of law?

5 **MR. JOHN PHELPS:** The -- the position, the  
6 Coordinator position, reports, as I mentioned, to our -- our  
7 headquarters, which is located in Ottawa. The position  
8 reports to an individual in Ottawa, a -- a former  
9 prosecutor, former Chief Federal Prosecutor, or -- or did  
10 until just a couple weeks ago and now he's a judge, but it  
11 reports to that position, and -- and that position is  
12 responsible for effectively supporting the north from a --  
13 from a headquarters perspective.

14 So they have a responsibility to coordinate -  
15 - or keep informed of initiatives that their eight  
16 headquarters' counterparts are involved in, be it FPT groups  
17 or otherwise, and to be aware of changes in the law and to  
18 work with their counterparts in order to inform the  
19 territories with respect to changes that are coming so that  
20 we're not caught by surprise. And -- and to assist us in  
21 -- in the necessary work that we would need to do to conform  
22 to whatever those changes are.

23 And the -- the Coordinator position reporting  
24 to that position, then, that's where the -- the connect  
25 comes with respect to the Crown Witness Coordinators and --



1 at the point in time it was a he, he had the responsibility  
2 to direct the work that would be done by the Coordinator as  
3 a result of those changes and then to work with us to both  
4 finalize and implement. So I hope I answered your question,  
5 but the -- it comes through our headquarters.

6 **COMMISSIONER QAJAQ ROBINSON:** Is it a regular  
7 exercise or it's as laws change?

8 **MR. JOHN PHELPS:** It's in -- it's a permanent  
9 position for the position at headquarters to provide the  
10 support to the territories, specifically because we do the  
11 criminal law. So it's -- it's to provide us with  
12 information as it evolves and then, of course, the  
13 Coordinator position for the CWCs reporting to him, and  
14 that's a permanent effective change in evolution.

15 **COMMISSIONER QAJAQ ROBINSON:** Are you aware  
16 of any plans to look at the program, whether it's -- it's  
17 delivery or policies around it, in light of Canada's  
18 unqualified signing on to the UN declaration on the rights  
19 of Indigenous peoples?

20 **MR. JOHN PHELPS:** Specifically, with respect  
21 to that, then I'm not certain as to what the steps are  
22 being taken.

23 **COMMISSIONER QAJAQ ROBINSON:** Okay. Thank  
24 you. You raised an interesting recommendation that with  
25 respect to initial -- providing a court worker program-type

1 equivalent for -- for victims. Is it accurate to say that  
2 if a -- a victim of crime or a witness right now had issues  
3 and concerns about her rights, either under the Canadian  
4 Victim Bill of Rights or even implications as Marion  
5 described on what happens if she doesn't comply with  
6 a -- with a subpoena, is there mechanisms in the Yukon to  
7 ensure she has access to independent legal advice?

8 **MR. JOHN PHELPS:** It -- I think my -- my  
9 answer might be a qualified "yes." There was a study done  
10 to address various issues, including that issue that you've  
11 just raised, that resulted in the creation of a women's  
12 advocate within the Yukon territory, which is a  
13 territory-wide responsibility. The decision made -- and  
14 this certainly wasn't mine. It was a territorial  
15 government initiative. The decision made was not to have  
16 that position filled by a lawyer, but to have it filled by  
17 somebody that could facilitate getting that assistance to  
18 individuals that -- that required it.

19 **COMMISSIONER QAJAQ ROBINSON:** Okay. But  
20 your recommendation for the court worker equivalent would  
21 be something to make that service more robust and more  
22 available in terms of the rationale for your  
23 recommendation?

24 **MR. JOHN PHELPS:** Yes. That service is  
25 available based out of Whitehorse, as is the case with most

1 services in the Yukon. We have a lot of services available  
2 to people, as long as they come to Whitehorse and access  
3 them. And, you know, just as the court worker program  
4 would assist the Legal Aid program, I envision that  
5 representation, First Nation-based programming and  
6 representation in the community, would assist the victims  
7 in whatever system. Accessing the women's advocate is a  
8 great example of it. Accessing us for information is  
9 another great example of it when -- when we either haven't  
10 provided sufficient information or we're having difficulty  
11 connecting or we're going through a -- a period of a  
12 staffing shortage or something that's -- they're not  
13 receiving the -- the information to the level that they  
14 deserve, then being able to access us is important.

15 **COMMISSIONER QAJAQ ROBINSON:** Okay. Final  
16 question, and this again is sort of building on that issue  
17 of responses when witnesses refuse to testify. And Marion,  
18 the Chief Commissioner, identified the different provisions  
19 of the *Criminal Code* which may be invoked, including her  
20 arrest and -- and detention and being compelled to appear  
21 in court. You indicated that, yes, this is a risk, but  
22 it's not enforced and it's not in practice. Where does  
23 that directive come to not utilize those provisions of the  
24 *Criminal Code*? Because we have heard in other  
25 jurisdictions that it has been invoked in certain

1 situations where witnesses who refuse to attend are  
2 actually arrested and detained. And this is not in the  
3 Yukon, but these provisions apply across the country.  
4 Where and how in the Yukon has it been decided that  
5 that -- those -- those provisions are not invoked?

6 **MR. JOHN PHELPS:** We do have a -- a chapter  
7 on domestic violence which would extend to a lot of the  
8 scenarios that -- that would give rise to the desire, I  
9 would suggest, to issue a -- or request a witness warrant,  
10 a material witness warrant, for a victim. And in that  
11 Desk-book policy, there are strict conditions to be very  
12 wary of re-victimizing somebody by going through that  
13 process. And one of the safeguards in place is the  
14 requirement for somebody in my position to provide  
15 approval.

16 **COMMISSIONER QAJAQ ROBINSON:** Okay.  
17 Those -- those are all my questions. Thank you all very  
18 much.

19 **MR. JOHN PHELPS:** Thank you.

20 **COMMISSIONER BRIAN EYOLFSON:** Thank you very  
21 much for your patience. I realize it's getting late. I  
22 have a couple of questions. I have a couple of questions  
23 about FILUs.

24 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

25 **QUESTIONS BY THE COMMISSIONERS:**



1                   **COMMISSIONER BRIAN EYOLFSON:** Okay. And are  
2 you able to comment on anything like given the -- the type  
3 of information that FILU workers are -- are helping obtain,  
4 what type of background checks might be done, what type of  
5 training is done across the country?

6                   **MS. NAOMI GIFF-MACKINNON:** For the FILU team  
7 members?

8                   **COMMISSIONER BRIAN EYOLFSON:** Yes.

9                   **MS. NAOMI GIFF-MACKINNON:** So -- and you're  
10 wondering in terms of the privacy of information, the  
11 safety of the information that they're -- they may see?

12                   **COMMISSIONER BRIAN EYOLFSON:** Yes.

13                   **MS. NAOMI GIFF-MACKINNON:** So each FILU team  
14 has a very -- a very concrete process in place. They've  
15 got access to information forms that they fill out with the  
16 family member that the family member provides them. If the  
17 family member would like to be part of receiving that  
18 information from the agency so they could be that conduit  
19 in some jurisdictions where that's the place -- or where  
20 that's the situation, there -- there's a whole  
21 infrastructure in place to ensure all the privacy  
22 requirements and everything that they do respects the  
23 privacy of how the information gets from the agency to the  
24 family member. I think each FILU would be able to very  
25 clearly describe the process they have in place to ensure

1 the safety and confidentiality of the information, that  
2 they're not -- none of the work that they do interferes  
3 with that.

4 **COMMISSIONER BRIAN EYOLFSON:** But in terms  
5 of actually hiring FILU workers, like, what sort of  
6 training? Is there any standardized training? Are they  
7 subjected to, you know, background checks that other  
8 government employees would be subjected to, that sort of  
9 thing? Are you able to comment on that?

10 **MS. NAOMI GIFF-MACKINNON:** I -- I  
11 would -- I'm not a hundred percent certain. As I would  
12 understand it, I would -- I would suggest that  
13 they -- there are those -- those background checks, because  
14 of the nature of the work that they're doing and the -- and  
15 in some cases, the information that they are privy to.

16 **COMMISSIONER BRIAN EYOLFSON:** Okay. Thank  
17 you. And you had commented at one point about the numbers.  
18 I think you had said that there were 400 clients, families,  
19 working with FILU teams across the country? Was that  
20 correct?

21 **MS. NAOMI GIFF-MACKINNON:** Yes. So I -- I  
22 did -- I mentioned that there were 400 family members who  
23 were currently working with FILUs across the country.  
24 Yeah. I would suggest that's a low number, but I feel that  
25 that's a safe number to say.

1                   **COMMISSIONER BRIAN EYOLFSON:** Okay. Do you  
2 have any other information about the numbers? Do you know  
3 if that number is increasing over time or -- or when  
4 that -- that number -- number was taken, from what date?

5                   **MS. NAOMI GIFF-MACKINNON:** So I got that  
6 number from about two weeks ago. And FILU teams have  
7 reported that there are -- that -- the number of families  
8 that are contacting them and seeking their assistance to  
9 gather the information is increasing all the time.

10                   **COMMISSIONER BRIAN EYOLFSON:** Okay. Thank  
11 you. And I think one last question. I believe you said  
12 that FILU teams had funding available for the ceremony?

13                   **MS. NAOMI GIFF-MACKINNON:** Yes.

14                   **COMMISSIONER BRIAN EYOLFSON:** What about for  
15 any counselling service needs that may arise out of  
16 families obtaining and seeing information that might be  
17 quite upsetting?

18                   **MS. NAOMI GIFF-MACKINNON:** Yes. So yes,  
19 they do have funding for culturally grounded grief and  
20 trauma counselling or any other type of counselling that  
21 they would like to access as a result of their -- the  
22 trauma of the loss that they've experienced, as well as the  
23 potential further trauma that might cause by going through  
24 the journey of receiving the information. I think I  
25 mentioned also that we do, in addition to that, that



1 mechanism of that type of support, we do have funding as  
2 well for community based organizations outside of FILUs as  
3 well to fill some of the gaps across the country to provide  
4 culturally grounded grief and trauma counselling for  
5 families, so they're organizations that have expertise and  
6 they're organizing not only the counselling, but also  
7 family gatherings, or they're hosting weekly workshops with  
8 families, with beading and drum making, and they're  
9 creating peer support networks for family.

10 So that is another investment which I  
11 haven't been talking about much over the last two days  
12 because I've been speaking primarily about the FILUs, but  
13 that is another investment that's complementary as well.

14 **COMMISSIONER BRIAN EYOLFSON:** Okay, thank  
15 you.

16 **MS. NAOMI GIFF-MACKINNON:** I would say it's  
17 not enough though, definitely.

18 **COMMISSIONER BRIAN EYOLFSON:** Thanks. I  
19 think those are all my questions, so I just want to thank  
20 all the panelists very much and their counsel as well for  
21 spending a couple of days with us and sharing all your  
22 evidence. I very much appreciate it. Thanks.

23 **MS. MEREDITH PORTER:** Thank you, we are now  
24 moving into witness -- counsel for the witnesses,  
25 opportunity to redirect their witnesses, but there was a

1 request that prior to moving into the re-exam, five minutes  
2 break. Okay.

3 So a five-minute break. It is -- that gets  
4 us back into at the hearing room at 20 minutes to 7.

5 --- Upon recessing at 6:34 p.m.

6 --- Upon resuming at 6:44 p.m.

7 **MS. MEREDITH PORTER:** Okay, thank you, we're  
8 going to reconvene, and I -- I -- we are going to proceed  
9 with counsel for the witness, redirect of their witness,  
10 and I understand that the counsel for Mr. Phelps and  
11 counsel for Ms. Giff-MacKinnon are both from Canada, and  
12 they have agreed between the two of them to pool -- each  
13 get six minutes. They've agreed to pool their time as  
14 opposed to each getting their six minutes. So if I could  
15 request that 12 minutes be put on the clock, and I  
16 was -- it was indicated to me that Ms. McCorville would  
17 like to proceed first with her redirect.

18 **NAOMI GIFF-MACKINNON, Previously Affirmed:**

19 **RE-EXAMINATION BY MS. MCCORVILLE:**

20 **MS. ANNE MCCORVILLE:** Ms. Giff-MacKinnon,  
21 one question for you. In answer to some questions you  
22 referred to the counselling supports that are available  
23 through the FILUs, are those supports provided by the FILUs  
24 themselves in all instances?

25 **MS. NAOMI GIFF-MACKINNON:** Those supports

1 are sometimes provided within the FILU team if they have  
2 qualified -- a qualified team member to help with that, or  
3 they are provided by an outside agency that the FILU team  
4 is working with. Lots of different organizations,  
5 depending on what the family member would like.

6 **MS. ANNE MCCORVILLE:** Okay. So in some  
7 jurisdictions FILUs will rely on outside resources for the  
8 counselling services?

9 **MS. NAOMI GIFF-MACKINNON:** Correct, and the  
10 funding is available for that.

11 **MS. ANNE MCCORVILLE:** Those are my  
12 questions.

13 **MS. MEREDITH PORTER:** Okay, thank you. And,  
14 Ms. Turley?

15 **JOHN PHELPS, Previously Affirmed:**

16 **RE-EXAMINATION BY MS. TURLEY:**

17 **MS. ANNE TURLEY:** Thank you. People will be  
18 happy to know that I only have two questions because the  
19 Commissioners asked some in redirect, so I have two very  
20 brief questions.

21 First of all, Mr. Phelps, in answer to a  
22 question by counsel for the Regina Treaty of Status Indian  
23 Services you referred to a 2010 study undertaken about the  
24 review of the CWC program?

25 **MR. JOHN PHELPS:** Yes.

1                   **MS. ANNE TURLEY:** I'm showing you a copy of  
2 a final report entitled Crown Witness Coordinator Program  
3 Sub-Study dated March 29th, 2010. I have provided a copy  
4 to the Registrar, and if it is entered as an exhibit I will  
5 provide an electronic copy to parties with standing.

6                   **MR. JOHN PHELPS:** Yes, this was the document  
7 I was referring to.

8                   **MS. ANNE TURLEY:** And are you familiar with  
9 this document?

10                  **MR. JOHN PHELPS:** Somewhat, yes.

11                  **MS. ANNE TURLEY:** And who was the document  
12 prepared by? Who undertook this study?

13                  **MR. JOHN PHELPS:** The Federal Government  
14 Department of Justice. I've forgotten the acronym. At the  
15 time the funding was through the Federal Government  
16 Department of Justice Victim Services Organization. Sorry,  
17 it's been a long day and I'm stumped as to the name of the  
18 branch.

19                  **MS. ANNE TURLEY:** And that's who provided  
20 the funding?

21                  **MR. JOHN PHELPS:** That's correct.

22                  **MS. ANNE TURLEY:** And who actually undertook  
23 the evaluation of it? Was it an independent agency?

24                  **MR. JOHN PHELPS:** I apologize, there was a  
25 consultant that provided the report, did the work and

1 provided the report.

2 **MS. ANNE TURLEY:** I'd ask, Chief  
3 Commissioner, that this report be -- or study be entered as  
4 the next exhibit to this panel.

5 **CHIEF COMMISSIONER MARION BULLER:** Given  
6 your undertaking to provide electronic copies, the Final  
7 Report Crown Witness Coordinators Program Sub-Study 2010  
8 will be Exhibit 23, please.

9 **MS. ANNE TURLEY:** Thank you.

10 --- **EXHIBIT NO. 23:**

11 "Crown Witness Coordinator Program Sub-  
12 Study: Final Report," (March 29, 2010)  
13 Justice Canada Public Prosecution  
14 Service (73 pages)

15 **MS. ANNE TURLEY:** And my final question,  
16 Mr. Phelps, you were asked a question in cross-examination  
17 about relationship building in the communities, does this  
18 factor into FILU assignments of CWCs in the program?

19 **MR. JOHN PHELPS:** The importance of the  
20 building of the relationship within the communities refers  
21 to communities outside of Whitehorse, which we would  
22 call -- even though they're accessible by road, we would  
23 call them remote communities in the Yukon, and we assign  
24 Crown Witness Coordinators to those communities for a  
25 duration. We try to do so for a two-year period to ensure

1 continuity on -- on files, but also so they can become  
2 familiar with the community and develop relationships  
3 within the community.

4 **MS. ANNE TURLEY:** Thank you, those are my  
5 questions.

6 **MS. MEREDITH PORTER:** Thank you. So  
7 Commissioners, that concludes the questioning, the  
8 cross-examination and the redirect of the witnesses for the  
9 victim services panel. Unless there are any other issues  
10 that we need to address from your perspective. I did want  
11 to make one announcement before we move to the closing of  
12 today's hearing.

13 **CHIEF COMMISSIONER MARION BULLER:** As part  
14 of the closing, the Commissioners and I have one thing that  
15 we want to do. It won't take long, bear with us, please.

16 As has been our tradition with all of the  
17 witnesses because we're so grateful for the gifts you've  
18 given us, being your knowledge and your experience, and  
19 especially your time, we have a gift to give you in return.  
20 They're eagle feathers, and we were told from a long time  
21 ago now to give all of the witnesses eagle feathers. There  
22 are cultural significances of course, but I think the  
23 common theme is that eagle feathers will hold you up and  
24 lift you up when you need that, and they will take  
25 you -- help you to go to heights you thought you never

1 could reach. So by being here you've gone further than we  
2 thought all of us could go. Go ahead.

3 **COMMISSIONER MICHÈLE AUDETTE:** Thank you so  
4 much, Chief Commissioner. And my grandmother, Penelope,  
5 spiritual grandmother for the National Inquiry, told me  
6 that when we're giving an eagle feather it's also making  
7 you accountable. You came here, and what she says, if you  
8 give an eagle feather to a person who represents the  
9 government, sometimes we fight, sometimes we disagree,  
10 sometimes we try to work together, sometimes we work  
11 together, so she says make sure that they highly respect  
12 the eagle feather and they make sure that they will be part  
13 of the change. *Merci.*

14 **(SHORT PAUSE)**

15 **COMMISSIONER QAJAQ ROBINSON:** I think, from  
16 our perspective, that sort of concludes, but I'll, I  
17 suppose, formally adjourn until tomorrow morning at -- oh,  
18 announcements?

19 **MS. MEREDITH PORTER:** We will, yeah. Just, I  
20 had one announcement --

21 **COMMISSIONER QAJAQ ROBINSON:** Okay.

22 **MS. MEREDITH PORTER:** -- that I -- that I did  
23 want to make for the parties before we move to the -- the  
24 actual closing, and I do understand that we do have some  
25 formal closing that's scheduled for the end of the day, but

1 I did want to mention to the parties that some of the  
2 parties have been asking about drawing numbers for the order  
3 of cross-examination on the next panel on health services.  
4 And there are two members of the legal team that you can go  
5 see. They're -- will be located in the part -- the room for  
6 the parties down the hall. Francine Merasty and Mary --  
7 Mary Ojay (ph) will also be there, and they will assist you  
8 with the process of drawing numbers for the cross-  
9 examination for the next panel. Again, they'll be there for  
10 30 minutes following the adjournment of today's hearing.

11 **CHIEF COMMISSIONER MARION BULLER:** We're  
12 adjourned for today. We will reconvene tomorrow morning  
13 with our opening at 8 a.m., and so that we close today in a  
14 good way, would our Elders please close us with a prayer  
15 this afternoon? This evening, I guess. Thank you.

16 **UNIDENTIFIED SPEAKER:** That's you, young  
17 fellow.

18 **(LAUGHTER)**

19 **CHIEF COMMISSIONER MARION BULLER:** Louise?  
20 And Louise? You have some work to do, too. You have some  
21 work to do, too.

22 **MS. TERRELLYN FEARN:** Just before we close, I  
23 just want to acknowledge all our witnesses today and thank  
24 you for -- your time, your patience, your knowledge, your  
25 wisdom, your endurance. We're very grateful for your



1 sharing today. To the Commissioners, to the NFAC, to the  
2 grandmothers, to all the supporters, and to all the parties,  
3 and to the family members and survivors that are witnessing  
4 and sharing, I want to acknowledge you and raise my hands to  
5 you for participating and -- and guiding us in this process.

6 Just a little reminder tomorrow, get good  
7 sleep tonight. I know this is a room full of lawyers that  
8 stay up late, but get well-rested, get hydrated, and we'll  
9 see you in the morning. I'm going to hand it over to our  
10 Elders, Alvine, Spike, and Gerald, and then we'll close at  
11 the very end with Louise extinguishing the Qulliq.

12 **MR. SPIKE EAGLE SPEAKER AND MS. ALVINE EAGLE**

13 **SPEAKER:** (Speaking in Native language)

14 **MR. SPIKE EAGLE SPEAKER:** Good night.

15 **(LAUGHTER)**

16 **MS. TERRELLYN FEARN:** And we'll have Louise  
17 extinguish the Qulliq for us.

18 **MS. LOUISE HAULLI:** I -- I noticed the Qulliq  
19 from this morning, when we started this, and about half an  
20 hour later, when we started, the Qulliq's flame was going up  
21 and down. Feeling the energy. But now, we're calm. We  
22 calm it as well. So I'm going to turn it off.

23 **(LAUGHTER)**

24 **UNIDENTIFIED SPEAKER:** I love you, Louise.

25 **MS. LOUISE HAULLI:** So thank you.

1

(APPLAUSE)

2

--- Upon adjourning at 6:59 p.m.

LEGAL DICTA-TYPIST'S CERTIFICATE

I, Krystle Palynchuk, 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.



Krystle Palynchuk

May 29, 2018