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1 April 21, 2026 Formal Hearing Day 1 2 3 COMMISSIONER QUPEE: 4 (Speaking in Innu-aimun.) 5 COMMISSIONER IGLOLIORTE: 6 Amen. Tshinashkumitin, Nastash. 7 Respecting the Innu culture, the Innu language 8 has been a large part of how we wanted to conduct 9 this Inquiry right from scratch. And we're so 10 grateful to Nastash for being able to reflect -- 11 give our reflection today. 12 Moving on now with the welcome from 13 Commissioner Devine. 14 COMMISSIONER DEVINE: 15 Okay. Good morning, everybody, and welcome to 16 these formal hearings. The -- these formal 17 hearings will run on for three days. The first 18 two days will be almost entirely playing videos 19 of expert witnesses presenting their reports. On 20 Thursday -- and that will be recorded. 21 On Thursday, we will hear from those parties, 22 who have limited standing, as well as, but most 23 importantly, I think, the six families whose 24 child, as -- we completed investigations on. The	1 the testimony of Judge Bill English, who will 2 present his work on the -- on legal 3 representation and the court process. 4 Judge English's testimony will continue into 5 tomorrow, as we do not expect to have the time to 6 conclude it before we wrap up today at about 7 5 p.m. We will finish Judge English's testimony 8 tomorrow. 9 And tomorrow, we will also hear from the last 10 of the expert witnesses, Drs. Barbara Fallon and 11 Tara Black, who will present their findings under 12 the analysis of child protection data. 13 COMMISSIONER IGLOLIORTE: 14 Thank you very much. I'll now hand it over to 15 Kelsie to continue with the session for today. 16 KELSIE LOCKYER: 17 Thank you. Thank you very much. Good morning, 18 everybody. My name is Kelsie Lockyer. And I am 19 one of the counsel for the Inquiry. Welcome this 20 morning. 21 As the Commissioners have introduced, we will 22 be listening to the pre-recorded testimony of 23 Kenn Richard and Tara Petti this morning. The 24 first portion of this is one hour and 20 minutes
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1 final submissions will be live on the screen on 2 Thursday. And it will not be pre-recorded. 3 Translation is not available this week. But 4 we will have all of the week's proceedings 5 translated later and available to people. And 6 will be posted on the website for people to look 7 at at their -- when it's available -- when 8 they're available to watch it. Thank you. 9 COMMISSIONER IGLOLIORTE: 10 Thank you, Commissioner Devine. And I'll hand it 11 over now to Commissioner Qupee for her welcome to 12 you all. 13 COMMISSIONER QUPEE: 14 Thank you. Our witnesses this morning will be 15 Mr. Kenn Richard and Mrs. -- Ms. Tara Petti, who 16 are the lead investigators and co-investigators 17 for the six death investigations of the 18 Commissioners' order. 19 They will present their final report, whose 20 focus is on systemic issues identified over the 21 course of the six investigations. We expect 22 their testimony to take most, if not all, of the 23 day. 24 Later -- late this afternoon, we will begin	1 long. After which, we will take a 10-minute 2 break. 3 We'll be camera-off during this, as we expect 4 and hope that everybody's attention would be 5 towards the video. But just a note, we will have 6 a 10-minute break after this first video, which, 7 again, is an hour and 20 minutes. Thank you. 8 9 (Video is played) 10 11 KELSIE LOCKYER: 12 You're not able to hear us? And can you not hear 13 the video there? Was anybody able to hear the 14 recording there that time? 15 UNIDENTIFIED MALE: 16 Everyone's on mute. 17 COMMISSIONER IGLOLIORTE: 18 Okay. They're all reporting that they never saw 19 it -- or heard it. 20 KELSIE LOCKYER: 21 Okay. 22 (General chitchat re technical difficulties.) 23 24 (Video is played - Kenn Richard & Tara Petti)

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1 KELSIE LOCKYER:
 2 All right. Good afternoon, everybody. This
 3 session -- this -- we don't actually all have to
 4 rise, considering we're online. But this
 5 Commission of Inquiry is now open. And it is now
 6 in session.
 7 This afternoon, we will be hearing from the
 8 investigators for the Inquiry, Tara Petti and
 9 Kenn Richard. They are the -- they were
 10 independent investigators for the Inquiry. And
 11 we are having them declared as experts in the
 12 area of Indigenous child -- excuse me.
 13 Indigenous child welfare.
 14 They'll be providing their evidence on the
 15 overall report and their investigation process.
 16 Following their direct evidence, which I'll be
 17 leading, the parties with full standing may ask
 18 questions not already discussed within their
 19 scope. And then limited standings parties may
 20 ask questions which have not already been
 21 discussed.
 22 If counsel for any of the parties have any
 23 questions that they're not able to get to today,
 24 we do have some overflow time at the 20th to the

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1 24th of April. There is some proceeding
 2 scheduled. I'm not exactly sure of the time yet.
 3 But hopefully, we won't need it. But just in
 4 case it is needed, we do have that time.
 5 Some questions will be directed specifically
 6 towards an investigator. Others will be
 7 open-ended, where a question is open to either.
 8 Both investigators do not have to respond if they
 9 feel the other has sufficiently answered the
 10 question.
 11 In the initial bit, I'll be first directing
 12 some questions towards Mr. Richard and then
 13 towards Ms. Petti. That'll just be the
 14 qualifications. So as I said previously, we are
 15 having Mr. Richard and Ms. Petti declared as
 16 experts in Indigenous child welfare. At the
 17 initiation of their testimony, they'll go through
 18 their qualifications. And then if counsel have
 19 any questions at that time regarding
 20 qualifications, they may ask. We'll then proceed
 21 with their direct evidence proper. And then, as
 22 I said, go through the cross.
 23 Okay. So unless there's anything arising
 24 first, we'll -- I'll get the investigators sworn

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1 in. I would also note -- this is specifically
 2 towards the family lawyers. Up to this point,
 3 I've been given permission by all of the family
 4 lawyers to say the names of the children and the
 5 families who have been involved. I've received
 6 that confirmation via e-mail from each of the
 7 family counsel.
 8 So unless there has been a change to that, we
 9 will be allowing the investigators to use the
 10 names of the children and the families involved
 11 within the death investigations. But if there is
 12 any objection to that, could family counsel
 13 please let me know now.
 14 Seeing no hands or any objections, I will
 15 continue on. Okay.
 16 So, Mr. Richard, we will get you -- would you
 17 rather swear or affirm? You got the Bible there.
 18 Okay.
 19
 20 MR. KENNETH D. RICHARD, S W O R N
 21
 22 KELSIE LOCKYER:
 23 Thank you very much. And, Tara, would you like
 24 to be sworn or affirmed?

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1 TARA PETTI:
 2 Affirmed.
 3 KELSIE LOCKYER:
 4 Okay.
 5
 6 MS. TARA PETTI, AFFIRMED
 7
 8 KELSIE LOCKYER:
 9 Okay. So we'll begin first with Mr. Richard.
 10
 11 MR. KENNETH D. RICHARD,
 12 EXAMINED BY MS. KELSIE LOCKYER
 13 (ON QUALIFICATIONS AND EXPERIENCES)
 14 Q. Mr. Richard, can you please describe your
 15 educational background for us.
 16 A. I have a master's degree in social work from the
 17 University of Manitoba in 1978. I have a
 18 bachelor's degree in social work, as well. Yeah.
 19 Q. And please describe any relevant work experience
 20 that contributed to your role as an investigator?
 21 A. I've had a pretty long career, so I'll just --
 22 I'm glancing at my own resume here to remind
 23 myself of what I've done. I'll focus on child
 24 welfare related. Because I've done other things

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1 in my life.
 2 I was the founder and executive director of
 3 Native Child and Family Services of Toronto for
 4 over, I dare say, 40 years. I -- in that role, I
 5 did all things related to child welfare and child
 6 protection. I was the only staff person and
 7 built the organization as a fully authorized
 8 child protection service coming from a holistic
 9 and Indigenous cultural base. It was the first
 10 one in any urban centre. It exists today, large,
 11 holistic multi-service agency. And I would say
 12 that I'm the -- well, I am the founder and
 13 long-term executive director.

14 I have also been active federally. I am the
 15 vice-president of the First Nations Caring
 16 Society, which you'll know by our executive
 17 director, Cindy Blackstock. So I've been at the
 18 activist role on national issues. I have
 19 participated in multiple inquiries in the past,
 20 including an inquest associated with the deaths
 21 of children in child protection under my
 22 authority when I was a child welfare authority
 23 at -- in Toronto.

24 I -- yeah. I have written. I have taught

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1 social work for -- I'm a long-serving sessional
 2 instructor at the University of Toronto, School
 3 of Social Work, that is supposedly one of the top
 4 ten social work schools in the world. Not to
 5 brag, the old Toronto brag, but I've been
 6 fortunate to be at the centre of so many
 7 significant events in child welfare.

8 I've also participated in my own little
 9 company, Boutique Consulting Company, since I
 10 retired at Native Child and significant child
 11 welfare-related projects. I assisted the 60's
 12 Scoop Healing Foundation in their national
 13 engagement process and in their final report that
 14 established this service model. In that process,
 15 I interviewed, across Canada, victims, we'll say,
 16 some survivors of the child welfare system.

17 I have been an expert witness in class
 18 actions. I was part of the presentations at the
 19 Human Rights Tribunal. I can go on a little bit
 20 more. But I also did frontline protection on a
 21 motorcycle in downtown Winnipeg back in the '70s.
 22 So I started right on that front line and worked
 23 my way into the world that I have inhabited.

24 And my final qualification, I suppose, relates

Page 11

1 to the work that I've been doing with the inquest
 2 itself -- excuse me, with the Inquiry itself, as
 3 a investigator and how fulfilling that project
 4 has been. And all the skills and knowledge that
 5 I have brought to it, hopefully, has -- well,
 6 we'll find out how -- its impact. But -- so
 7 thank you. I appreciate being here. And I think
 8 that's all I should say about that.

9 Q. Yes.

10 A. I think I just want to say I've won a few awards.
 11 And I rarely talk about them. But they're
 12 certainly related to some of this work. I have a
 13 Meritorious Service Cross. Some people, when
 14 they see that MSC, they think it's master's of
 15 science. That would be furthest from my reality.
 16 But I am -- I have a medal, quite a chunky one,
 17 related to my volunteer work in -- as an activist
 18 at the national level. So there's some pride
 19 there. And I won a few other awards, as well.
 20 So -

21 Q. Excellent.

22 A. - not to blow my own horn too much. But thanks
 23 again.

24 Q. Thank you. You mentioned that you'd been

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1 qualified as an expert in court before. What
 2 have you been qualified as?

3 A. As a child welfare expert. These are mostly in a
 4 context at the base -- at the case level with
 5 regard to identity of Indigenous children, the
 6 best approaches, best practices from the
 7 frontline, based on my experience, both as a
 8 frontline worker and as the developer of some of
 9 the other child protection initiatives.

10 Q. Good. Thank you. Throughout your work, was
 11 there anything that limited your understanding
 12 within the area that you're being qualified as an
 13 expert at -- as? And if so, how did you work
 14 around that?

15 A. You know, I've never been asked that. You know,
 16 I think I got as big -- as fulsome as one can
 17 get. I don't think there's much has been
 18 limiting at this point. Thankfully, I'm at a age
 19 and stage where that's all jettisoned. I'm free
 20 to speak my mind.

21 Q. Thanks. Thank you. Okay. And how and when did
 22 you become engaged with the Inquiry?

23 A. Yeah. I was involved in the three -- up --
 24 almost three years ago, initially, in the

Page 13

1 development of the role. For example, in terms
2 of the Inquiry's development of its circle
3 process, the four stages. I was instrumental in
4 that acting as a general advisor in terms of the
5 process in the investigation themselves.

6 I forget when my first investigation was. And
7 that would be with Tara. That's 18 months ago,
8 probably like that. So it's been three years. A
9 year and a half or so of development, kind of,
10 engagement. And then the final being the
11 investigation process and the reporting and where
12 we are today.

13 Q. Thank you. And what was your role within the
14 Inquiry?

15 A. Well, the investigator role was an agreed-on
16 role. And it's -- I -- am I allowed to refer to
17 notes? Or I can wing it, too. But it's better.

18 Q. Yes. I just ask, if you're referring to any
19 notes, that you identify what they -- that you're
20 referring to them.

21 A. It's just --

22 Q. And we'd have to provide everything.

23 A. Yeah. I'm just -- what I wrote, actually, is the
24 notes that I'm looking at in my preliminary to

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1 almost every investigation report. So, you know,
2 I just want to -- I'm looking at it. Yeah. We
3 were -- are -- continue to be independent
4 consultants. We report to the Commission
5 directly. We certainly, day-to-day, work with
6 the lawyers and anybody else that is -- you know,
7 and these other stakeholders. But we have that
8 kind of direct, independent relationship.

9 Our job is to receive orders -- was to receive
10 orders from the Commission with respect to areas
11 of inquiry that have been agreed on between the
12 stakeholders, through their consultations. And
13 in those orders, to engage with the record on
14 each and every file and to speak with the family,
15 particularly, but also to all others who had
16 carriage of the file, like from CSSD, for
17 example. And in those engagements, attend to the
18 orders and craft a report summarizing a
19 systemic -- the systemic issues that were evident
20 in each individual report.

21 So yeah. I think I'll stop there.

22 Q. Thank you. All right. So you kind of discussed
23 it there briefly. But were there any specific
24 tasks, direction, or instructions given to you as

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1 an investigator?

2 A. Yeah. Each case got a specific -- a set of
3 orders, basically, questions that were really
4 negotiated through the parties. And they were
5 what I would call marching orders that told us
6 what to do. But it also told us what not to do.
7 And we found that, you know, in these complex,
8 difficult files, the structure that assisted us
9 in actually getting the job done.

10 Q. Thank you. And was there anything that limited
11 your work in this role?

12 A. The weather was big in terms of family
13 engagement. The weight of the work. What I mean
14 by that, we're not talking about, you know,
15 anything lightly. This is as heavy as it gets.

16 So we had to be mindful to take our time and
17 give good thoughts and the -- keeping the client,
18 if you will, the families and their good and
19 welfare. Because they were fragile. They all
20 were in their own way. So you know, these
21 weren't limiting so much as strong considerations
22 that we had to attend to.

23 But the big limitations were the weather. And
24 you know, I mean, these things always take a lot

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1 longer than people anticipate. And we were
2 dragged into that, as well. And I'm not sure our
3 role in that. But yeah. But nothing -- you
4 know, truly nothing I -- could I stand up and say
5 this was a huge compromise.

6 The only other thing would be that some
7 witnesses were not enthusiastic about the
8 engagement. I think they had their own lawyers,
9 as you know they did. And so it -- you know, it
10 became a little more difficult to have the kind
11 of conversations we wanted to have. Because we
12 weren't looking to blame and shame. We were
13 looking to identify the bigger issues.

14 But you know, that's the nature of this work.
15 And we worked around it. And they didn't turn
16 out to be huge limitations. But you know,
17 everything takes time.

18 Q. Thank you very much.

19 KELSIE LOCKYER:

20 To the other counsel on the call, if anybody has
21 any questions for Mr. Richard regarding his
22 qualifications and experience in the role as an
23 expert in Indigenous child welfare, I'll invite
24 you to bring forth your questions now before we

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1 move on to Ms. Petti.
 2 Okay. I see nobody raising hands or speaking
 3 up. I will move on now to Ms. Petti and her
 4 experiences and qualification.
 5
 6 MS. TARA PETTI, EXAMINED BY MS. KELSIE LOCKYER
 7 (ON QUALIFICATIONS AND EXPERIENCES)
 8 Q. All right. Ms. Petti, could you please describe
 9 your educational background?
 10 A. Sure. I have a bachelor of arts from the
 11 University of Winnipeg in -- from 1997. I have a
 12 bachelor of social work from the University of
 13 Manitoba. I obtained that in 2007. I have a
 14 master's of social work from the University of
 15 Calgary. And I got that in 2015. I'm currently
 16 a PhD student with the University of Manitoba in
 17 the Faculty of Health, College of Community and
 18 Global Health Sciences.
 19 Q. Thank you. And can you describe any relevant
 20 work experience?
 21 A. Sure. I've spent approximately 20 years working
 22 within the Manitoba child welfare system. I've
 23 worked for my First Nation, which is Peguis. I
 24 have also worked with another agency called

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1 Anishinaabe Child and Family Services. Both of
 2 those agencies served First Nations in the
 3 Interlake area of Manitoba.
 4 And then I went on to work in the Southern
 5 First Nations Network of Care, which is a child
 6 and family services authority that provided
 7 services to First Nation child and family
 8 services agencies in Southern Manitoba. In each
 9 of those agencies, I had exposure and work
 10 experience working in frontline work, as well as
 11 licensing foster homes, working with agency legal
 12 counsel.
 13 And then in the Southern First Nations Network
 14 of Care, I worked with a development of the --
 15 what was called the Vision Keepers, which is the
 16 quality assurance portion. So developing
 17 measures of compliance with the First Nation
 18 agencies to ensure that they're meeting the
 19 Manitoba child welfare standards, communication
 20 with all levels of governments, and education in
 21 the workforce, and hearing complaints. That work
 22 also included working alongside the Manitoba
 23 Child Advocate and the Office of the Chief
 24 Medical Examiner, looking at critical incidents,

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1 including child death.
 2 Q. Thank you.
 3 A. I'll also add that in the last several years,
 4 I've worked as a consultant. And I have worked
 5 in areas that deal with First Nations child
 6 welfare agencies implementing case management
 7 systems. I've also worked with First Nations
 8 that are in different stages of implementing
 9 their own nation-based child welfare law. And
 10 I've worked also as an expert witness on a
 11 Canadian Human Rights Tribunal case that looked
 12 at -- that was brought forward by First Nations
 13 in Manitoba, looking at the Manitoba and Canadian
 14 governments to look at the end to unnecessary
 15 out-of-home placements of First Nations children.
 16 Q. Thank you very much. Do you have any
 17 publications, honours, awards, or anything that
 18 you haven't already discussed that you would like
 19 to note?
 20 A. So I have been involved in some publications. So
 21 notably, I've been involved with the First
 22 Nations studies of incidents of child abuse and
 23 neglect. So there were two studies that I was
 24 involved in, which was in 2008 and then in 2019.

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1 Both of those have reports involved in some
 2 publications around the -- looking at, like, the
 3 information -- and developing an information
 4 sheet that describes the -- kind of the child
 5 welfare system in Manitoba. And later, looking
 6 at essential services and at-risk and child
 7 protection during the COVID-19. So looking at,
 8 you know, how do we prioritize chronic needs?
 9 And then I've also involved -- been involved
 10 in some confidential reports, looking at the
 11 reports that were developed for the Human Rights
 12 Tribunal case, where I was -- served as an expert
 13 witness. So in those cases, we looked -- we
 14 created a report focusing on the out-of-home
 15 placement of First Nations children in Manitoba.
 16 And then we also produced a reply report with a
 17 similar name, which was in response to the
 18 government's review of that report.
 19 And I have done several presentations --
 20 academic presentations regarding the First
 21 Nations incident studies, looking at community
 22 wellness and engagement processes, and also
 23 looking at trajectories of First Nations,
 24 particularly the Northern Cree and the Blackfoot

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1 in Alberta and how to -- you know, how to support
 2 them. So yeah. And other ones related to the
 3 incident study.
 4 Q. Thank you very much. Throughout your work with
 5 the Inquiry, was there anything that limited your
 6 understanding in this field? And if so, how did
 7 you work around that?
 8 A. Not directly to the subject matter, like, to the
 9 work. But you know, any kind of questions that I
 10 had logistically were answered very, very
 11 sufficiently by the Inquiry team.
 12 Q. Thank you very much. How and when did you become
 13 engaged with the Inquiry?
 14 A. I answered a call for -- in response to
 15 information about the hiring of an investigator.
 16 So I sent my resume and was eventually contacted
 17 for an interview and hired in December of 2024.
 18 Q. Okay. Thank you. All right. And what was your
 19 role within the Inquiry?
 20 A. So I was hired as an independent investigator
 21 working with the lead investigator, so my
 22 colleague, Kenn.
 23 Q. Okay. And what was your mandate as an
 24 investigator?

Page 22

1 A. Well, to conduct investigations onto six
 2 applicants or families who each had experienced a
 3 loss of their child. And each of those children
 4 had experience in the child welfare system in
 5 Newfoundland. So to investigate circumstances as
 6 directed through specific orders of the family.
 7 Q. And following that work with the specific cases,
 8 was there anything further that you produced?
 9 A. Well, we produced a report for each of the cases.
 10 And then we also created kind of a summary report
 11 and participated in the circle hearings.
 12 Q. Okay. So were there any specific task,
 13 direction, or instruction given to you as
 14 investigators?
 15 A. Well, they would have been the orders that then
 16 described what the -- what we were -- what we
 17 were supposed to investigate. And then
 18 conducting our investigation according to kind of
 19 a methodology that was set prior to me joining
 20 the Inquiry team that was examined and followed
 21 to the best of our ability.
 22 Q. I'll ask you some further questions about that
 23 methodology afterwards. But thank you very much.
 24 And was there anything that limited you in your

Page 23

1 work?
 2 A. I would agree with Kenn that oftentimes there --
 3 like, weather was a factor and travel. I was
 4 coming from, you know, Manitoba. So there were a
 5 few times where plane delays and reschedules
 6 impacted my ability to be in the community and
 7 where I had to participate in a couple of the
 8 hearings online.
 9 Q. Thank you very much.
 10 KELSIE LOCKYER:
 11 Now, turning to counsel on the call, unless
 12 anybody has any further questions for Ms. Petti
 13 regarding her qualifications and experience as an
 14 expert in Indigenous child welfare, we'll move on
 15 to their direct examination proper.
 16 Okay. I see no hands from anybody or any
 17 concerned faces. I'll move on now. So from this
 18 point on, unless specified, the questions will be
 19 directed toward both Mr. Richard and Ms. Petti.
 20 And they may choose to answer -- they may both
 21 choose to answer, or if one of them wants to
 22 answer the question and the other one feels it's
 23 sufficient, they don't both need to answer all
 24 questions.

Page 24

1 So I'm going to begin first by bringing you to
 2 your overall report. And everybody -- all
 3 parties on this call now should have been
 4 provided a copy of that report. Please let me
 5 know if you have not been, so we can have one
 6 sent to you as quickly as possible, as we will --
 7 as the investigators will be likely referring to
 8 it throughout their testimony.
 9
 10 MR. KENNETH D. RICHARD & MS. TARA PETTI,
 11 EXAMINED BY MS. KELSIE LOCKYER (CONT'D)
 12 Q. Okay. All right. So what was the purpose of
 13 authoring a final or overall report?
 14 KENN RICHARD:
 15 A. The Commission needed a synthesis of the six
 16 reports that really allowed us to make conclusive
 17 statements about systemic issues. The simplest
 18 way to look at this is to think about it as the
 19 common experience of the families. And there was
 20 a common experience. And anybody who's read the
 21 case files will see how redundant - and I say
 22 that in a very negative way - the information
 23 became.
 24 So that had to be rolled up and presented.

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1 Because that is the test of systemic. And so a
 2 document that would summarize clearly and
 3 concisely, you know, a lot of work, a thousand --
 4 over a thousand pages of recording, many
 5 interviews with multiple people on very difficult
 6 subjects for them, you know. You can imagine
 7 when you're talking about the death of a child to
 8 their family, how difficult those conversations
 9 could be.

10 So there was a lot there. And what I would
 11 consider to be important is that it be processed
 12 in a way that it'd be useful to the Commission's
 13 final report. So that's the fundamental purpose
 14 of that document. And it's one that can be
 15 released publicly. Because it's not --
 16 non-identifying yet doesn't take away from the
 17 client's -- the family's experience.

18 So it would be a useful one for the families,
 19 as well. That while they each have their
 20 individual reports, one that they could circulate
 21 without having to display the -- all the issues
 22 the family went through to third parties, you
 23 know. So we hope that it would be a document
 24 that had utility and legs, if you will, in

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1 multiple areas of consideration.
 2 Q. Thank you.
 3 KENN RICHARD:
 4 A. Tara might have her own views on this, as well.
 5 Q. Tara, do you have anything you'd like to add
 6 there?
 7 TARA PETTI:
 8 A. No. I believe Kenn has covered that
 9 sufficiently.
 10 KENN RICHARD:
 11 A. Yeah.
 12 TARA PETTI:
 13 A. Thank you.
 14 KENN RICHARD:
 15 A. I'm going to give Tara the next question.
 16 KELSIE LOCKYER:
 17 Q. What direction were you given in creating that
 18 final report? You had mentioned some nature and
 19 scope orders. Was there one provided for this?
 20 TARA PETTI:
 21 A. No. Not to -- not that I have seen. But there
 22 was an understanding that we would pull together
 23 a report that, as Kenn mentioned, you know,
 24 didn't provide, like -- that kind of

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1 de-identified all of the families. But provided
 2 an overall report about the common experience and
 3 the systemic issues that came up in each of the
 4 reports.

5 KELSIE LOCKYER:

6 Q. And what methodology -- or sorry. Kenn, I'll
 7 give you an opportunity to respond to that, if
 8 you have anything to add there.

9 KENN RICHARD:

10 A. No. And I know your next question, I kind of
 11 anticipate. You can keep going with Tara.

12 KELSIE LOCKYER:

13 Q. Okay. What methodology did you use in drafting
 14 the report?

15 TARA PETTI:

16 A. Well, we used the reports -- the six reports that
 17 were written. And conducted kind of a -- more of
 18 a high-level analysis of the six reports, looking
 19 at each of the systemic issues. And then, you
 20 know, for lack of a better word, grouping them
 21 into more common systemic issues that we could
 22 then list, you know. I believe there was a
 23 number of systemic issues. And I'm just looking
 24 at the, I believe, 12 -- 11 or 12 kind of broad

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1 systemic issues that captured, you know, what we
 2 found in each of the reports.

3 KELSIE LOCKYER:

4 Q. Thank you. And I will, you know, take you guys
 5 through each of those issues for a discussion of
 6 those later on, once we've gotten through how
 7 you've conducted this report. But thank you
 8 very, very much.

9 So you've mentioned that the reports were
 10 written with information from the death
 11 investigations. How was information compiled in
 12 each of those investigations?

13 TARA PETTI:

14 A. So that's directed to me or to Kenn?

15 KENN RICHARD:

16 A. You can take the methodology -

17 TARA PETTI:

18 A. Okay.

19 KENN RICHARD:

20 A. - completely. Yeah.

21 TARA PETTI:

22 A. For sure. Okay. So I just want to ensure that I
 23 understand the question correctly. So you're
 24 wanting to get an understanding of the

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1 methodology of each of the reports?

2 KELSIE LOCKYER:

3 Q. Yes. Each of the individual reports that then

4 led into the larger one.

5 TARA PETTI:

6 A. Sure. Okay. So we did have a -- you know,

7 somewhat of a guide, you know, that was

8 developed. The focus of the process, you know,

9 of our investigation was really family first, you

10 know. So we wanted to hear from the families,

11 you know, their understanding of their orders,

12 their experience, questions that they had that

13 maybe gave more emphasis on, you know, particular

14 order or particular piece of the order.

15 So we -- you know, so we had the opportunity

16 to review case or file information that was

17 specific to the orders that was vetted and

18 prepared for us, as investigators. And then draw

19 from an extensive list of potential witnesses,

20 which, again, with our Inquiry staff, set out to

21 contact them, request interview time, schedule

22 interviews. So the -- you know, that was, you

23 know, more of an administrative process as to --

24 got to the point where we then were able to

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1 interview the witnesses. And we followed, you

2 know, the nature and scope orders as a basis for

3 our interviews and the kind of questions that we

4 asked.

5 The interviews were recorded and transcribed.

6 And then, so with the recordings, the

7 transcriptions, and then the file information,

8 that then gave us, you know, the data, you know,

9 to then analyze and produce a report.

10 And I'll hand it over to Kenn if he has

11 anything to add to that.

12 KENN RICHARD:

13 A. No. Thank you for that, Tara.

14 KELSIE LOCKYER:

15 Q. Thank you. Were there any limitations in how you

16 were able to gather that data and get that

17 information while you did those investigations?

18 TARA PETTI:

19 A. I'll comment a little bit about the witnesses.

20 You know, there were many witnesses identified.

21 Not all of them were either in a position or in

22 agreement to be interviewed. And I felt that,

23 you know, in some of those cases, there were some

24 pretty key people that we missed.

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1 KELSIE LOCKYER:

2 Q. How did you --

3 KENN RICHARD:

4 A. Can I just -- I'll just add to that. There were

5 also -- we were given a select set of

6 documentation on each file. And it was only

7 documents that all parties had agreed on. So a

8 lot of significant documents would not have been

9 forwarded to us.

10 I don't know how big a limitation that would

11 have been. Because I don't know what was in

12 those documents. But we know that, you know, we

13 didn't have a fulsome picture, necessarily. And

14 then, well, some of them had a -- so much

15 redactions that, you know, not much sense could

16 be made of them. So that was just another one.

17 But I quite agree with Tara. Significant

18 witnesses just were not interviewed. And that's

19 unfortunate.

20 KELSIE LOCKYER:

21 Q. And how did you address those limitations within

22 the reports?

23 KENN RICHARD:

24 A. Well, he had to work around them. Simple as

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1 that. And without -- I mean, we heard enough

2 from other parties to have belief in what was

3 told. So, you know, I don't believe that the

4 reports were compromised, such that they lost

5 their integrity. They were not. They were just

6 not as good, I think, as they might have been.

7 KELSIE LOCKYER:

8 Q. Tara, do you have anything to add there?

9 TARA PETTI:

10 A. No. I believe that was -- you know, that was

11 kind of the biggest limitation. Actually, I

12 would like to add that we didn't always have -- I

13 also think we could have spent, like, more time,

14 you know, interviewing the families. But we --

15 you know, it was an effort, you know, to get that

16 time. And then we had to, you know, work on, you

17 know, building the -- our relationship and you

18 know, working along with the families. Sometimes

19 there were language barriers.

20 And like Kenn said, you know, we worked with

21 what we had. We felt that we were able to get,

22 you know, a lot of good information and insight,

23 develop relationships, trust, and communicate

24 with the families in a good way.

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1 KELSIE LOCKYER:
 2 Q. Thank you. Is there any background information,
 3 context, or history that you think we should
 4 understand or discuss before delving into the
 5 content of your overall report?
 6 KENN RICHARD:
 7 A. Not from me.
 8 TARA PETTI:
 9 A. No. I believe we've discussed it extensively in
 10 our report.
 11 KELSIE LOCKYER:
 12 Q. Excellent.
 13 TARA PETTI:
 14 A. The background. Yeah.
 15 KELSIE LOCKYER:
 16 Q. Okay. So I'm going to begin to -- by taking you
 17 through your report. So your report discusses
 18 systemic issues. How was a systemic issue
 19 defined in your work?
 20 KENN RICHARD:
 21 A. A systemic issue is one -- well, on the ground,
 22 it's often a common experience. But that common
 23 experience has certain elements. And that is
 24 that the structures that engaged -- and the

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1 processes and the professionals and all the
 2 various components of a system act in a way that
 3 there's a risk of doing harm or harm has been
 4 actually done by those -- by the system itself.
 5 So that would be what we would call an issue.
 6 So an example of that would be that child
 7 welfare's predicated. It's complaints-driven and
 8 forensic. And that social work assessments are
 9 actually investigations. That, in the case of
 10 service to Innu, was a failed approach with
 11 respect to social work. And that's documented in
 12 the experiences of the families themselves.
 13 So the forensic nature of social work was not
 14 adopted by the social workers. They didn't do
 15 anything wrong, per se. But their approach to
 16 helping was not an approach that did anything.
 17 It did not help. Indeed, it can be well
 18 documented in the experience of the families that
 19 it actually did harm.
 20 So that's a systemic problem. That the
 21 services provided in child protection -- even the
 22 word "child protection" is a difficult word.
 23 These all work in tandem to create this harmful
 24 scenario by which these families experienced, and

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1 end result was the tragic deaths of their
 2 children.
 3 Do you want to add to that, Tara, in terms of
 4 systemic?
 5 TARA PETTI:
 6 A. You know, like, you have provided a good outline
 7 of that. A systemic issue is a problem that's
 8 embedded within, you know, the larger structure,
 9 the -- you know, in the policies, in the
 10 practices, and even the culture of the system.
 11 In child welfare, particularly, for First Nations
 12 children and their families, these issues
 13 manifest as they -- you know, they end up being,
 14 you know -- resulting in a harmful or inequitable
 15 treatment and disproportionate outcomes and
 16 overrepresentation.
 17 KELSIE LOCKYER:
 18 Q. Thank you very much. So you both identified, I
 19 believe, it was 12 systemic issues in your
 20 report. All those systemic issues identified,
 21 were each of those present in the individual
 22 death investigations?
 23 KENN RICHARD:
 24 A. Yes.

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1 KELSIE LOCKYER:
 2 Q. Okay. Okay. So I'll now take you through each
 3 issue. So we'll discuss what the issue is, what
 4 it means, the implications for Innu people and
 5 the system, and then examples of how it was
 6 presented in the cases we examined. And then if
 7 there's anything -- once we get through all of
 8 that, if there's anything else from the overall
 9 report that you'd like to note, we can do that
 10 then.
 11 So I'll ask, to begin, with the first systemic
 12 issue that you identified, which was the colonial
 13 legacy of intergenerational trauma. So what is
 14 or what does this issue refer to?
 15 KENN RICHARD:
 16 A. Well, it refers to the experience of the Innu
 17 people themselves historically and how that
 18 reverberates within the communities today. And I
 19 don't think you want a Innu timeline from me.
 20 But we do know that the themes associated with
 21 the Innu relationship with the government at
 22 provincial -- both levels was one of displacement
 23 and one of neglect and one of cultural -- forced
 24 cultural assimilation through multiple ways in

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1 which that's undertaken, starting with
 2 faith-based ministries, but also, in all things,
 3 that -- you know, that define our everyday
 4 living.
 5 So the Innu come at this through a couple of
 6 -- a few generations now -- two generations of
 7 trauma, related to that displacement. The Davis
 8 Inlet experience. I harken back because I was a
 9 outside observer at that point to the suicides
 10 that were rampant in the '90s, the
 11 gasoline-sniffing crisis that became a national
 12 scandal that went away very quickly,
 13 unfortunately, for the Innu.
 14 But there's a number of markers that are
 15 well-articulated by Innu people themselves that
 16 will demonstrate why the Innu struggle still with
 17 some of the problems that were the very stuff of
 18 this investigation. So it's -- and trauma is
 19 carried collectively and individually. And each
 20 family that we observed, although we were not
 21 party to their problems, per se, because they've
 22 been well assessed -- poorly assessed, in most
 23 cases already. That wasn't our -- the parameters
 24 of our investigation.

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1 But we know full well that they inherited all
 2 that collective trauma in their personal lives.
 3 And that was part of their -- the reason why
 4 child welfare intervened, creating an even more
 5 difficult scenario and additional harm.
 6 KELSIE LOCKYER:
 7 Q. Thank you. Tara, do you have anything to add
 8 there?
 9 TARA PETTI:
 10 A. No. I believe Kenn has described it very well.
 11 KELSIE LOCKYER:
 12 Q. Okay. Thank you.
 13 KENN RICHARD:
 14 A. So Tara can take the next one. That's how we'll
 15 work it, if that's okay. We're going to go
 16 between us. Yeah.
 17 KELSIE LOCKYER:
 18 Q. Yeah. I will just ask. I know you said some --
 19 throughout, some of the implications for the Innu
 20 people and for the system, but do any examples of
 21 this issue being present in the cases examined,
 22 you know, spring forth in your memory, or
 23 anything stand out?
 24

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1 TARA PETTI:
 2 A. Definitely. So the impacts -- the
 3 intergenerational impacts of the relocation of
 4 the Innu, their loss of their land-based ways of
 5 life, erosion of language and culture. And then
 6 just the -- you know, the -- I think we describe
 7 it as an imposition, you know, of the Western
 8 systems of governance, including -- and
 9 additionally, education, out-of-home care, child
 10 protection. It's resulted in a collective and
 11 intergenerational trauma that we have seen come
 12 out in the investigations and in discussion with
 13 the families and documents that we've reviewed.
 14 You know, with, you know, high rates of mental
 15 distress, substance use, family violence, child
 16 welfare involvements, incarceration, and untimely
 17 deaths. So that's how -- that's all I would add.
 18 KELSIE LOCKYER:
 19 Q. Thank you. Kenn, do you have anything you'd like
 20 to add there?
 21 KENN RICHARD:
 22 A. No, that's fine.
 23 KELSIE LOCKYER:
 24 Q. And while I recognize that, you know, the

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1 Commissioners will be the ones that make the
 2 final recommendations, your experience and your
 3 knowledge as experts in this field is assistive
 4 to them. So in dealing with the colonial legacy
 5 of intergenerational trauma, how do you think we
 6 can better address this, moving forward?
 7 KENN RICHARD:
 8 A. So this Inquiry, actually, is a good thing.
 9 So -- but it's about reconciling the events of
 10 the past, the reality of the past, establishing
 11 new kinds of relationships and moving forward
 12 with a recognition that the Innu, with
 13 assistance - and I'm going to underline that -
 14 will be moving and should be moving to service
 15 sovereignty. And what I mean by that is control
 16 their child and family service programs. We
 17 won't even call it protection anymore. Because
 18 that word never worked, that word. Yeah. So
 19 that's my response to that.
 20 Tara?
 21 TARA PETTI:
 22 A. Yeah. I think that there are many things
 23 happening, both federally and also within the
 24 jurisdiction of Newfoundland and Labrador, that

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1 are kind of responding to the impacts of
2 colonialism and, you know, the structural
3 conditions, you know, that have had major impact
4 on the well-being of the Innu people and their
5 families and their children.

6 And that the Inquiry, as Kenn mentioned, you
7 know, is, you know, something that is going to
8 help with, you know, a whole body of information
9 and analysis of their child welfare system and
10 the treatment of Innu people so that it will
11 inform collectively, you know, the Innu Nation,
12 the governments that are supporting the
13 transition through frameworks, such as Bill-C92,
14 and opportunities to develop more of a
15 nation-based way of looking at family well-being.

16 KELSIE LOCKYER:

17 Q. Thank you. Okay.

18 TARA PETTI:

19 A. I just -- sorry. I just want to add, also, that
20 the hearings that were conducted in a way that
21 was done like in the fashion of the circle was
22 also very -- you know, an important step in
23 recognizing and looking at, you know, sitting
24 together and seeing, you know, what can we do to

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1 solve this problem by talking about it.

2 KELSIE LOCKYER:

3 Q. Thank you. Okay. So unless either of you have
4 anything else you'd like to expand on with regard
5 to that systemic issue, I'll move on to the next
6 one.

7 So the next issue you identified was
8 disempowerment of Innu families and youth. So
9 could you expand on what that issue is and what
10 it's meant?

11 KENN RICHARD:

12 A. I don't mind -- Tara, whatever you want.

13 TARA PETTI:

14 A. I can -- yeah. So the disempowerment of Innu
15 families and youth looks at -- is really the --
16 you know, the structural conditions of the child
17 welfare system, you know, led to Innu people not
18 having a voice, not having, you know, opportunity
19 to, you know, be involved in decisions in --
20 regarding their children. You know, having
21 the -- and I know there's another systemic issue
22 that looks at communication but just not having
23 effective communication.

24 The families felt that they were often

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1 excluded, you know, from participation. And they
2 were inadequately informed of their children's
3 experiences, issues that their children may have
4 had while they were in other placements, and even
5 an understanding of what kind of treatment, you
6 know, they were receiving in their out-of-home
7 placements. And so those were some, I guess,
8 factors, you know, that contributed to our
9 understanding of the disempowerment.

10 KENN RICHARD:

11 A. You know --

12 TARA PETTI:

13 A. Yeah.

14 KENN RICHARD:

15 A. I can weigh in a little bit, too, you know.

16 TARA PETTI:

17 A. Yeah. I was just going to add, too -

18 KENN RICHARD:

19 A. Yeah.

20 TARA PETTI:

21 A. - just other youth that --

22 KENN RICHARD:

23 A. Okay. Go ahead.

24

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1 TARA PETTI:

2 A. Well, two things. Youth that were either
3 siblings or you know, were in placements with the
4 children that we investigated also talked about,
5 you know, not really having an understanding of
6 what was happening, where they were going, and
7 you know, not -- you know, I guess that was the
8 biggest thing, you know, not having a good
9 understanding about what was happening, where
10 they were going, why there were going.

11 And the -- you know, the whole -- like, the
12 institutions, you know, of child welfare, whether
13 it's the case managers and supervisors or the
14 service providers and placement resources, were
15 often -- you know, made decisions. And the
16 children and their families were more treated as,
17 you know, passive recipients and not as active
18 participants.

19 And I'll hand it over to you, Kenn. Kenn,
20 you're --

21 KELSIE LOCKYER:

22 Q. Kenn, you're muted. Kenn, you're still muted
23 there.

24 KENN RICHARD:

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1 A. Sorry. I've got a dog here.
 2 We often say in social work, you know, that
 3 the client knows best, right? And it's easy to
 4 toss off these cliches. Innu parents did not
 5 feel like they were treated like they knew best,
 6 like they were experts in their own lives.
 7 Although that's the rhetoric, the reality was, as
 8 Tara pointed out, that they were marginalized.
 9 Although the people went through the motions
 10 of communicating - like they got consents of
 11 medications, and they got, you know, all that
 12 stuff - the communications themselves were
 13 faulty. Tara already spoke to that. I'll speak
 14 to that further. So the -- even the question of
 15 informed consent is very much at play here.
 16 So yeah. It's a -- talk about a common
 17 experience. Every family have felt this at a
 18 very basic level. And probably was the biggest
 19 motivation, I believe, for them becoming
 20 applicants. Because their fundamental rights,
 21 moral, in their mind, rights as parents -- as
 22 loving parents was to be active participants.
 23 And none of them really felt that they were. And
 24 that's disempowerment, you know, at -- real time.

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1 KELSIE LOCKYER:
 2 Q. Thank you. Tara, do you have anything to add
 3 there from what Kenn has said?
 4 TARA PETTI:
 5 A. No. Yeah.
 6 KELSIE LOCKYER:
 7 Q. Thank you very much. And again, recognizing that
 8 the Commissioners will be making the final
 9 recommendations, aside from the general
 10 transitioning of the authority with the child
 11 welfare system to the Innu people, how do you
 12 think we can address this issue moving forward?
 13 KENN RICHARD:
 14 A. The -- and you know, I want to beg to differ from
 15 some of the rhetoric that's out there. The word
 16 "devolution" doesn't sit well with me. Because
 17 when you think about devolution, it means going
 18 backwards. We are talking about restoration,
 19 however. And restoration of authorities to make
 20 decisions in the life of your children and what
 21 services best serve you and who controls those
 22 services and what kind of data you capture -- you
 23 know, all that stuff is the solution to the
 24 problem.

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1 Not to say it's perfect. Because you can
 2 miscommunicate to your -- you know, to your own
 3 people, as well as to those who aren't. But
 4 there's promise there to find new ways of
 5 relating. Because so much of this comes down to
 6 relationship, quality of relationship, quality of
 7 trust and clarity and understanding. That should
 8 be improved with service sovereignty.
 9 And conducting the world in the Innu language
 10 will go so far in terms of empowering people.
 11 Because language differentials were throughout
 12 all the issues was the communication side. So
 13 we -- it's a very hopeful process going forward.
 14 KELSIE LOCKYER:
 15 Q. Thank you. Tara?
 16 TARA PETTI:
 17 A. Yeah. You know, Kenn described a lot of very
 18 good kind of solutions, you know, to issues that
 19 we observed and seen in files. But yeah. Like,
 20 you know, better communication, inclusion, and
 21 kind of, you know, relationship management beyond
 22 crisis management, you know.
 23 And we also heard, you know, that some of this
 24 disempowerment could have been also caused by

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1 just the nature of the way services were
 2 delivered in the community. So you had, like,
 3 situations where social workers worked in, like,
 4 two-week cycles. And there was also lots of
 5 turnover. And you know, at times, you know,
 6 there wasn't enough resources in the community.
 7 There was also, you know, breakdown in
 8 relationship, you know, during crisis
 9 interventions and crisis decisions that then
 10 didn't allow for any, you know, reconciliation,
 11 you know, while the child was in care. And I
 12 think those are our efforts, you know, that a
 13 system can look at and improve on.
 14 In my experience in Manitoba, you know, we did
 15 do a lot of work on, you know, not only what --
 16 you know, what we would call it working, you
 17 know, through difficult conversations, you know,
 18 having an understanding of when, you know, to
 19 have some type of a mediator, you know, involved
 20 or an interpreter. So things like that, I think,
 21 are, you know, steps that the system, you know,
 22 can take in providing some, you know, stability
 23 and effective communication and
 24 relationship-building in the community.

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1 KELSIE LOCKYER:
 2 Q. Thank you. Is there anything else either one of
 3 you would like to add regarding this issue before
 4 we move to the next one?
 5 KENN RICHARD:
 6 A. You know, they felt -- the families seemed to
 7 feel quite traumatized by not being seen as
 8 parents any longer. You know, that was a
 9 fundamental feeling that they had. And it was
 10 through this disempowerment process that created
 11 a lot of the conflict that you see in some of the
 12 files.
 13 KELSIE LOCKYER:
 14 Q. Thank you.
 15 TARA PETTI:
 16 A. Yeah.
 17 KENN RICHARD:
 18 A. That's it.
 19 KELSIE LOCKYER:
 20 Q. Thank you. Thank you very much. So the third
 21 issue -- or systemic issue that you both
 22 identified was the persistence of gasoline
 23 sniffing. So could you expand on that for us,
 24 please?

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1 KENN RICHARD:
 2 A. Every case had that as a complication. And let
 3 me be heavier than that. You know, it was when
 4 the gasoline sniffing became chronic - and for
 5 most of them, it did - that their spiral downhill
 6 was almost sealed.
 7 And when you look back at the experience of
 8 the Innu, gasoline sniffing's into its -- is it
 9 second generation? Third -- I don't know. I
 10 don't want to know. But I know that it is there,
 11 and it needs to be attended to.
 12 And I also understand that it's part of a
 13 broader set of issues, for sure. But in the case
 14 of these kids, it was highly precipitous with
 15 respect to their downward slide and their
 16 eventual suicide. So one boy had the gas bag at
 17 the base of the tree. So you can't ignore that.
 18 So I strongly feel that the bell should ring
 19 loudly again on gasoline sniffing. It seems
 20 like, while not normative, as stated in one of
 21 the reports we read, it's certainly persistent.
 22 And others have done some work on this, the
 23 Australian -- the Koori people there, you know.
 24 There's precedents elsewhere. So it's a job to

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1 do. That's for sure.
 2 KELSIE LOCKYER:
 3 Q. Thank you. Tara, do you have anything to add
 4 there?
 5 TARA PETTI:
 6 A. I think just the -- you know, the solvent abuse
 7 or gas sniffing was, you know, a crisis, you
 8 know, that the families experienced, you know,
 9 that would, you know, then elicit them to reach
 10 out for help. You know, they need -- it was a
 11 life-and-death situation. And it's very scary.
 12 And you know -- and it's loaded with, you
 13 know, everything we talked about already, you
 14 know, like -- kind of intergenerational impacts.
 15 And then the response of the system, you know,
 16 starts -- in every case, starts off as, you know,
 17 well, we will help, you know, through treatment.
 18 And so that -- you know, then it seemed to break
 19 down after that, you know, the treatment, the
 20 communication, the understanding of the family.
 21 And so that, you know, that was, you know --
 22 and to me, that is also just, you know, the
 23 extreme crisis and also the lack of resources,
 24 you know, for treating, you know, this type of an

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1 addiction that also has, you know, severe impacts
 2 to your physical and mental health that, you know
 3 -- that are long-term. And then -- so when there
 4 is even a stop, you know, to the use of solvents,
 5 there are still potentially long-term impacts to
 6 the mental and physical health of the person.
 7 KELSIE LOCKYER:
 8 Q. Thank you. Is there anything either of you would
 9 like to add about this issue before we move on to
 10 the next?
 11 TARA PETTI:
 12 A. I wanted to add that in speaking with some of our
 13 community advocates in -- during interviews, that
 14 there was a description of, you know, the issue
 15 in the community kind of that, you know, had an
 16 ebb and flow, you know. Sometimes it was high.
 17 Sometimes it was low. And it was kind of, you
 18 know, like -- the word's escaping me. But just,
 19 you know, a pattern that was, you know,
 20 decreasing as time went on.
 21 KENN RICHARD:
 22 A. I'm not -- let me just add to that a little bit.
 23 I'm not sure it's decreasing for this population
 24 of kids. It seems to be -- I don't know. This

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1 is where research might come in. Is it
 2 particularly the kids who have a downward spiral
 3 going with respect to their mental health, and
 4 then gasoline sniffing is part of that spiral, or
 5 does it precipitate that spiral, or how extensive
 6 it is with -- because there is a child population
 7 in these communities that is healthy. I think,
 8 you know. My frame of reference has been very
 9 narrow. But I think this is an area of inquiry.

10 KELSIE LOCKYER:

11 Q. Thank you. Thank you. Okay. Tara, did you have
 12 anything to add there?

13 TARA PETTI:

14 A. No.

15 KELSIE LOCKYER:

16 Q. Okay. Thank you. So the fourth systemic issue
 17 that you guys identified was service gaps and
 18 crisis-driven interventions. So could you expand
 19 on what is meant by that, please?

20 KENN RICHARD:

21 A. It's -- service gaps does a disfavoured to the
 22 reality. There were no services of any
 23 substantive nature. And you know, the
 24 expectations on services to any community is that

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1 there be some preventive services with respect to
 2 supports to families, daycares, nurseries, you
 3 know, those sort of broader ones, summer camps,
 4 recreational programs, you know.

5 So these are all what we would call
 6 prevention. Also, screening, screening for
 7 hearing, screening for eyesight, screening for
 8 autism, FASD, you know. That's also a part of
 9 the picture with respect to preventive services.

10 There's also, you would expect, to have some
 11 kind of tertiary programs, secondary prevention,
 12 they call it, where people are identified as
 13 having issues. But the intervention is early
 14 enough such that they get the help they need, so
 15 further services might not be required. It might
 16 be, for example, special assistance for a
 17 autistic child, even relief for parents who are
 18 overburdened by children with special needs or
 19 counselling with respect to marital problems or
 20 addiction issues.

21 These are all secondary prevention. It keeps
 22 the families together. And it's done selectively
 23 but without judgement. What I mean by that,
 24 without investigations on child protection or any

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1 of that.

2 And the final one is, of course, the
 3 interventions that were actually provided. And
 4 they were provided in a very minimal way, and
 5 that is basic child protection. The child
 6 protection in the community, Natuashish, was
 7 crisis-driven. It was being provided by
 8 overburdened social workers, who, according to
 9 one of the witnesses, didn't have a clue about
 10 what they were looking at. Well-intended, and we
 11 found no incidents where they did deliberately
 12 any harm.

13 But they were -- and they will be the first to
 14 admit it themselves, were overwhelmed by a very
 15 under-resourced system and by being -- and some
 16 of these folks, they seem to work 40-hour -- 50
 17 hours a week. Because they'd be not only doing
 18 their requirements under their job, but at night,
 19 they'd be chasing kids through the woods, trying
 20 to keep them from sniffing gasoline. So just
 21 imagine their life as the social workers. But
 22 that was the extent of the services, this crisis
 23 intervention.

24 Keeping kids safe. Because safety was a huge

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1 issue with some of these kids. They were at --
 2 they have -- suicide ideation is just part of it.
 3 The reckless life that happens. One of the kids
 4 kept coming home like he'd been swimming in the
 5 ocean. So -- and this is the middle of the
 6 night. So you know, this is the nature of social
 7 work there.

8 So there are basically no services at the
 9 prevention -- at the secondary level. And the
 10 services provided at the prevention level were
 11 just too little too late, done by exhausted
 12 social workers, who, I understood, flew in and
 13 flew out. I get that. But that just added to
 14 the burden. Because the continuity and the --
 15 building off each other's work was how they
 16 compromised. So the whole thing was kind of a
 17 mess, you know. Just -- let Tara elaborate in
 18 her own words.

19 TARA PETTI:

20 A. I don't have anything to add.

21 KELSIE LOCKYER:

22 Q. Thank you. So how would you -- once again,
 23 recognizing that the commissioners make the
 24 recommendations. How can we address this issue

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1 moving forward? And throughout your work, did
 2 you see any work being done within this area?
 3 KENN RICHARD:
 4 A. Tara?
 5 TARA PETTI:
 6 A. So in -- you know, in everything that Kenn
 7 described, as far as, like, services in --
 8 available in the community, so the development of
 9 services that are Innu-led, that come from the
 10 Innu Nation, and that are brought, you know, to a
 11 reality is, you know -- is something that will
 12 fill that, you know. We call it prevention. We
 13 call it, you know, treatment. But you know, what
 14 does that look like? And how is that -- you
 15 know, how is that described and then created, you
 16 know, by the Innu themselves?
 17 And we also observed, you know, that during
 18 this time, there were, you know, developments of,
 19 you know, different types of treatments,
 20 programs, and you know, different things that the
 21 Innu were doing that, you know, gave them a lot
 22 more that empowered them, you know, to have more
 23 activity and gathering, you know, on the land and
 24 opportunities for young youth, you know, to

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1 participate in, you know, walks with, you know --
 2 with Elders or with older people and learning how
 3 to -- you know, to go to the land.
 4 In every interview we had, you know, with
 5 family members, you know, that was where they saw
 6 solutions. That was where they saw healing. And
 7 that disruption of that, you know, has resulted
 8 in, you know, how they were living today. So
 9 moving back to that, you know, is -- that is
 10 supported, resourced, and structured in a way
 11 that elicits, you know, participation from
 12 everybody and knowledge and healing.
 13 Q. Thank you. Kenn, is there anything else you'd
 14 like to add on this one?
 15 KENN RICHARD:
 16 A. No, that's it. Thanks.
 17 Q. Thank you. So the next systemic issue, the fifth
 18 one that you guys identified, was an overreliance
 19 on out-of-province placements. Could you expand
 20 on what this issue referred to?
 21 KENN RICHARD:
 22 A. So Newfoundland, Labrador itself has limited,
 23 relative to the more developed or affluent
 24 provinces, resources (inaudible), but you have

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1 stuff. You do have stuff. You have -- on the
 2 island, Janeway and Hope Valley. And there's a
 3 couple others. They were not, really, actively
 4 engaged in any way.
 5 And when questions were asked about that,
 6 generally, a typical response was, well, they
 7 didn't have programs that suited Innu kids.
 8 Okay. Well, so that's fine. But I wouldn't ever
 9 leave it at that. I would say, well, wait a
 10 minute, aren't Innu kids part of Newfoundland,
 11 Labrador? And they deserve to have some kind
 12 of -- if they have divergent needs or you know,
 13 different approaches required, wouldn't --
 14 shouldn't that be accommodated? It didn't seem
 15 like the question went there.
 16 What people started doing, I think -- and it
 17 became easier to do it over time, was to quickly
 18 go to out-of-province placements. And I -- part
 19 of the motivation for that, I will say, is that
 20 the social workers really didn't get active in
 21 the file sometimes until all the issues were
 22 manifest, kids sniffing, kids in danger. So
 23 there was an urgency to create safety.
 24 And I remember one of our witnesses saying,

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1 you know, we sacrificed cultural safety for
 2 actual safety of the child. Because some of
 3 these kids were very close to self-harm or
 4 harming others. So yeah. There was -- from --
 5 we understand, also, kind of one relationship
 6 built on the next.
 7 So one of the out-of-province placements was
 8 BARTS. We asked BARTS, "How come you got so many
 9 Innu kids?" They said, "Well, we always had
 10 beds." You know, anybody who works in the
 11 children's mental health centre work knows that
 12 beds -- sometimes there's waiting lists that are
 13 months' long. So if they didn't have a bed,
 14 they'd create one. And that's one of the
 15 problems.
 16 But they were responsive. And they often said
 17 -- and this would be Quinte, this would be BARTS,
 18 this would be Ranch Ehrlo, is we can provide
 19 safety. Workers -- overwhelmed workers went,
 20 okay. Let's get that kid out of here. And let's
 21 get this kid far away so that this kid could be
 22 made safe. And you know, I can't criticize that
 23 as motivation -- as the wrong motivation,
 24 absolutely.

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1 But it became a script. And there was no
 2 place where I could see that the Newfoundland,
 3 Labrador itself was held to account by the Innu
 4 or anybody else, by their own social workers.
 5 The folks from Labrador may be petitioning over
 6 to the island saying, wait a second. We got Innu
 7 kids. We got needs, too. None of that seemed to
 8 be evident. And so yeah. And it became kind of
 9 a modus operandi that was undertaken without much
 10 critical commentary.

11 That's impression, as much as anything else.

12 Tara, please weigh in.

13 TARA PETTI:

14 A. Yeah. I -- you know, so I just would like to add
 15 and clarify that not all six cases had
 16 out-of-province placements that we understood.
 17 So there was one investigation that we did, where
 18 the child was in a group home setting but in
 19 Labrador. So I just wanted to clarify that.

20 But I do, you know, -- the, you know -- just
 21 kind of understanding, you know, the, you know --
 22 how the out-of-province placements were
 23 coordinated wasn't always clear and wasn't always
 24 consistent, you know, in each of the cases. The

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1 case management, the communication, who was
 2 responsible for communication was, you know --
 3 was not consistent throughout.

4 So in some cases, there was, like, a
 5 third-party kind of case manager that worked with
 6 out-of-province placement and then communicated
 7 with the CSSD or the Newfoundland government
 8 agencies. And then, in other cases, there may
 9 have been kind of an -- what we're familiar with,
 10 which is kind of an out-of-province protocol or
 11 agreement, where there is some courtesy services
 12 delivered by the jurisdictional agency.

13 So you know -- but despite that, the
 14 placements themselves, although, you know,
 15 offered, you know, in some cases, treatment, some
 16 sense of stability, what was missing was the, you
 17 know -- the Innu culture, the language, the
 18 connection with community. There was, you know,
 19 lots of loneliness on the kids' side. And then,
 20 on a family side, like a -- not a clear
 21 understanding of what was happening with their
 22 children in these placements.

23 So that often, you know, just created, you
 24 know, different issues, you know, to mental

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1 health, having, you know, behaviour management.
 2 And that were really just kind of in response to
 3 the displacement of these youth.

4 KELSIE LOCKYER:

5 Q. Thank you. Okay. Do either of you have anything
 6 you'd like to add regarding this systemic issue?

7 KENN RICHARD:

8 A. You know, out-of-province placements have been
 9 the go-to response for high-risk kids like this
 10 in every province everywhere. And the unfailing
 11 thing is - and I've been watching it for 30 years
 12 - it rarely has worked well. And it's been
 13 hugely costly. The per diems on these are
 14 enormous. And they get inflated as -- with need.
 15 And I just imagine all those resources invested
 16 in that -- reinvested back in Labrador. And you
 17 could have, you know -- use your imagination on
 18 that.

19 KELSIE LOCKYER:

20 Q. Tara, do you have anything you'd like to add?

21 TARA PETTI:

22 A. The only thing that I would -- wanted to add was,
 23 like, in my experience, like, working in
 24 Manitoba, like, out-of-province placements were

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1 very, very hard to achieve, you know. So you
 2 know -- and you know, in fact, you know, like,
 3 as, you know, working, you know, in kind of
 4 the -- at the agency level, you know, our
 5 understanding was they were not allowed. So, you
 6 know -- so it had to be, like, very extreme, you
 7 know, to facilitate an out-of-province placement.

8 And oftentimes, out-of-province placements
 9 were because there was family members that lived
 10 out of province, not because we were sending a
 11 child to an institution outside of the province
 12 that we lived in. So that was, you know, just
 13 really, I guess, surprising, you know, for me to
 14 see, you know, that as, you know, a solution.

15 However, when we looked into, you know, like
 16 as in the issues we talked about earlier, about,
 17 like, services and resources, and you know,
 18 treatment plans, options, those were also, you
 19 know, things that were, like, I guess, critically
 20 lacking in Newfoundland or in the process of
 21 being developed. So that's -- you know, that --
 22 that's all I would like to add.

23 KELSIE LOCKYER:

24 Q. Thank you very much.

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1 KELSIE LOCKYER:
 2 So we've been going for about an hour and a half
 3 now. So I'll just give us all a quick
 4 five-minute break.
 5
 6 (Video stops)
 7
 8 KELSIE LOCKYER:
 9 All right, everybody. So that concludes the
 10 first of the recordings. We'll take a 10-minute
 11 break now. So see everybody back here at 10:50
 12 Newfoundland time or thereabouts. Thank you very
 13 much.
 14 COMMISSIONER IGLOLIORTE:
 15 Perfect. Thank you.
 16
 17 (Off the Record)
 18
 19 KELSIE LOCKYER:
 20 All right. Welcome back, everybody. We will now
 21 proceed with the second part of Kenn Richard and
 22 Tara Petti's testimony. This next video is 55
 23 minutes long. After which time, we will
 24 determine whether or not we'll take our lunch

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1 break or just a short break and come back. So we
 2 will let you know. And please let us know if
 3 there's any difficulty hearing the video this
 4 time. Thank you.
 5
 6 (Video is played - Kenn Richard & Tara Petti)
 7
 8 KELSIE LOCKYER:
 9 Q. So when we left off, we had just finished off
 10 with your -- the fifth of the 12 systemic issues.
 11 So we'll now move to the sixth systemic issue,
 12 which was the lack of the relevance to and the
 13 inappropriateness of CSSD services to the needs
 14 of Innu families and children. So could you
 15 expand on what this was and why it was identified
 16 as a systemic issue?
 17 KENN RICHARD:
 18 A. You know, the primary service -- if you look at
 19 it graphically -- if you were to draw it out,
 20 would be child removal. So you tell me. I mean,
 21 I don't want to be glib here. But, you know,
 22 child removal was not the service that was
 23 required to meet the need.
 24 The need was, in all these cases, established

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1 very early on with children with mental health
 2 issues, with special needs. And there was no
 3 services for that. What was provided was
 4 strictly related to safety and related to getting
 5 the kid as far away from their home community as
 6 possible.
 7 So I'll let Tara expand further on that. But
 8 that's kind of a graphic, you know, reality that
 9 was faced. And it's -- just to add to that, it's
 10 no wonder that the Innu have the feelings for
 11 social work that they have, you know. And here's
 12 where I ask people to subjectively put themselves
 13 in the picture and think about their own
 14 childhood, for example. Because that is the
 15 greatest teaching that I can provide is that
 16 reflective moment.
 17 So Tara.
 18 TARA PETTI:
 19 A. Yeah. Thank you. I would just like to note
 20 that, you know, during the time frame, you know,
 21 that we were investigating legislation in
 22 Newfoundland was quite narrowly focused. Like,
 23 it wasn't -- it did change in 2019.
 24

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1 KENN RICHARD:
 2 A. Yeah.
 3 TARA PETTI:
 4 A. So I just want to note that. And it really
 5 served more as a, you know, protection monitoring
 6 type of system, where they only act when it's
 7 kind of a full-blown crisis. And so that's what
 8 we observed, you know, in our investigations and
 9 noting that, you know, there have been
 10 significant changes to the legislation in
 11 Newfoundland. And also with the addition of the
 12 federal legislation introduced around the same
 13 time.
 14 The -- you know, the system didn't recognize
 15 Innu culture as a strength. And it was looked at
 16 as kind of a liability and a deficit. And it was
 17 not a helpful system, you know, in that, you
 18 know -- from that lens. And you know, the Innu
 19 also experienced, you know, other types of
 20 separation, you know, separation from their land
 21 to you know -- into a, you know -- a community
 22 with boundaries and houses.
 23 Also, you know, the education, you know, also
 24 meant evacuation, you know, meant leaving the

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1 community. Which is, you know, similar to, you
 2 know, treatment in Canada, like, related to
 3 residential school, which is also, you know,
 4 separation.
 5 And you know, just overall in Canada, there
 6 are, you know, findings in relation to human
 7 rights complaints that, you know, historically
 8 across Canada, you know, child welfare has been
 9 openly discriminatory against Indigenous, First
 10 Nation children in terms of the function of it
 11 and the funding.
 12 KELSIE LOCKYER:
 13 Q. Thank you very much. Is there anything other you
 14 would like to add regarding this systemic issue?
 15 KENN RICHARD:
 16 A. Well, just what is appropriate? Well,
 17 community-based services that include, not just
 18 cultural sensitivity, but cultural-based
 19 services, which would include on-the-land
 20 services and however that's defined by each
 21 community as how it would go. But also, the
 22 assistance of early intervention, assessments of
 23 these kids prior to. Because they were, most of
 24 them, showing problems earlier in life.

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1 These are the kind of services that, you know,
 2 would have been helpful. And that harkens
 3 towards the future development of services that
 4 would be holistically based -- with prevention
 5 and early intervention being the core, as opposed
 6 to child removal, which was the norm.
 7 KELSIE LOCKYER:
 8 Q. Thank you. Okay. Tara, do you have anything
 9 further from what Kenn has said?
 10 TARA PETTI:
 11 A. No.
 12 KELSIE LOCKYER:
 13 Q. Thank you. Okay. So we'll move now to the
 14 seventh issue that you guys identified, which was
 15 mental health and clinical care deficiencies. So
 16 what does this issue refer to? And how was it
 17 identified as a systemic issue?
 18 KENN RICHARD:
 19 A. Tara, you want to take the first go?
 20 TARA PETTI:
 21 A. Sure. Yeah. I got lost in whose turn it was.
 22 But thanks.
 23 So mental health and clinical care
 24 deficiencies was identified as kind of an overall

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1 systemic issue for all of the investigations that
 2 we did. But, you know, looking at things such
 3 as, like, the assessment of mental health,
 4 diagnosis, and treatment, you know, where a lot
 5 of that happened externally, like, outside of the
 6 community. And then when there was a return to
 7 the community, there wasn't sufficient resources,
 8 you know, to support, you know, a clinical plan
 9 that would -- you know, that would ensure or help
 10 with stability and reintegration or back into the
 11 community.
 12 And when there was those kinds of plans in
 13 place, they were often made without the input of
 14 the family. So there was, you know -- the
 15 families were, you know, receiving children back
 16 from, you know, treatment or what they thought
 17 was treatment, with a plan and sometimes
 18 medication. And that they -- there was very
 19 limited capacity to follow and understanding and
 20 participation in the whole process.
 21 There is also, like, a huge language barrier.
 22 So even in assessments, there, you know -- that
 23 was, you know, something that, you know, you have
 24 a Western-based assessment and tools that are

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1 being administered to someone who, you know, is
 2 not supported in -- with interpretation or even
 3 with other family members, you know.
 4 For example, I have -- my own son has had, you
 5 know, a clinical mental health assessment. But
 6 it involved extensive involvement of our family
 7 and our experiences with him and you know, what
 8 his day-to-day life looked like so that a plan
 9 could be made around his mental health. So that,
 10 you know -- that kind of participation of the
 11 family was not evident.
 12 And you know, basically, kids were being sent
 13 home with -- sometimes with some type of a plan
 14 or a medication, as I mentioned, and not really
 15 any direction on how they're going to -- how this
 16 is going to be supported. And that often led to,
 17 you know, a lack of support and you know, just
 18 kind of what, you know, recidivism, you know,
 19 just back to the behaviours that they -- that
 20 were causing the issues for them to receive that
 21 type of treatment. And that treatment services,
 22 you know, which were often, you know, resulted in
 23 some type of removal, were not addressed until it
 24 came to that.

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1 There is also the medication, the
 2 administration and prescribe of medication.
 3 There is -- there wasn't, you know, a clear plan
 4 or even an understanding from the families, you
 5 know, why they were taking this medication.
 6 There was lots of barriers to the understanding
 7 and you know, the impacts that were observed by
 8 the families that they felt were, you know,
 9 caused by their child taking medication.
 10 So there was a lot of, you know, education and
 11 understanding, you know, that needed to come, you
 12 know, to balance, you know, both with the, you
 13 know -- the mental health clinical side and then
 14 the family's understanding and input, you know,
 15 into a treatment plan.
 16 And often, you know, mental health services
 17 were not adequately resourced in the community.
 18 And it was often the RCMP, you know, that were
 19 called to deal with the behaviours of children
 20 who were in extreme mental distress. And so what
 21 it led to was, you know, criminalizing illness
 22 and criminalizing mental health, instead of care.
 23 And then the transition, you know, to the
 24 children leaving care or aging out or having

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1 their return to their families was not supported.
 2 And you know, once they reach the age of 16, you
 3 know, if there was not a voluntary, you know,
 4 file opened, there was no care or transitioning
 5 after they turned 16.
 6 KELSIE LOCKYER:
 7 Q. Thank you. Kenn, do you have anything to add
 8 from what Tara said?
 9 KENN RICHARD:
 10 A. No, that was pretty thorough. But I will add
 11 that, you know, the word "treatment" is never
 12 really well-defined in most of the referrals, you
 13 know. And what the actual programs provided were
 14 not really well-defined either, you know.
 15 BARTS, for example, aside from providing
 16 structure, they had no consulting psychiatrist
 17 that -- they had -- they did have a psychological
 18 assessment on one of the kids. But just the
 19 whole illusion of treatment was really an
 20 illusion, particularly for BARTS, which was a
 21 major player.
 22 The Ranch and Quinte Children's Home were also
 23 players in the out-of-province treatment, as was
 24 Hope Valley and a couple of what are

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1 Indigenous-specific short-term placements for a
 2 couple of kids. None of them had a treatment
 3 program that seemed to resonate with the kids,
 4 notwithstanding that they were there for
 5 treatment and that the treatment was being
 6 provided at very healthy, per diem rates. It was
 7 mostly about control of behaviour. And yeah.
 8 And just further to that, that failed when the
 9 kid got back home. And that's where the RCMP
 10 came in. So it's there in other things that Tara
 11 referenced. And you don't really have a clinical
 12 program that is meeting any needs at all from our
 13 perspective. There were a couple of false
 14 starts, a couple of plans. But it was very
 15 primitive and mostly non-existent.
 16 KELSIE LOCKYER:
 17 Q. Thank you. Tara, is there anything that you'd
 18 like to add arising from what Kenn has just said?
 19 TARA PETTI:
 20 A. No.
 21 KELSIE LOCKYER:
 22 Q. Thank you. So we'll move now to the eighth issue
 23 that you both identified, which was governance,
 24 oversight, and accountability failures. So can

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1 you expand on that issue, please?
 2 KENN RICHARD:
 3 A. Well, this one, you know, we'd look for when
 4 we're looking at, you know, who's in charge. We
 5 look for a line that takes us from the child to
 6 somebody responsible with, you know, a fairly
 7 clear path. And within that path, you know,
 8 roles and responsibilities and accountability,
 9 you know.
 10 I'll just comment on one. Tara, you could
 11 pick up on the others, as you see them. But
 12 Tuskers Case Management was an odd -- something I
 13 had not participated in or seen before. And that
 14 is a private consulting company being engaged by
 15 the Province of Newfoundland to do the case
 16 management of their children in Ontario.
 17 Typically, that would not be what you do.
 18 What you do typically is you engage with a local
 19 Children's Aid Society, because that's the model
 20 in Ontario, to provide a courtesy social worker.
 21 And that courtesy social worker would be bound by
 22 standards and underscored by legislation, bound
 23 by standards with some kind of, you know,
 24 mechanism -- a reporting mechanism. That kind of

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1 didn't happen.

2 And I'm not suggesting that Tuskers didn't do
3 a job. Because in a lot of ways, they'll say
4 they did more than a courtesy social worker
5 would. But they were not -- didn't have the same
6 accountability to visit the child every 30 days,
7 for example, as in the case in Ontario. They --
8 because they were a third party. They could
9 establish their services any way they wanted.

10 And I'm not suggesting that they didn't do a
11 decent job. But they couldn't be held to account
12 the same way as a publicly funded authority would
13 have. And that can be alarming if she didn't do
14 a good job, for example. So that was one that
15 just stuck out.

16 We also -- and I'm going to -- yeah. Tara,
17 you can speak to the Labrador Group Home or any
18 of the others. But -- so that was a -- something
19 that was real.

20 But just further to that, the whole oversight
21 -- we don't want to repeat our data too much.
22 But it was overwhelmed at the line level back in
23 the community. And a lot of the communication --
24 and our -- we weren't looking always at the

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1 specific reports because we had the benefit of
2 people who were doing that kind of work.

3 But whenever I did look at specific reports,
4 they were pretty superficial and checkbox. You
5 know, it was hard to really evaluate whether good
6 work was done or not. It was perfunctory,
7 superficial. And so just the quality of the
8 reporting itself -- and we can get into that as a
9 communication breakdown, as well. But there's
10 those sort of observances.

11 But Tara, maybe you want to talk about
12 Labrador Group Home or anything else you want to
13 add to that.

14 TARA PETTI:

15 A. Yeah, sure. Thanks, Kenn.

16 As I mentioned, you know, in one of the cases
17 we looked at involved a placement in Labrador.
18 And so what we found in that, you know, that
19 there was -- not, you know -- not effective
20 oversight, you know, of, you know, things such as
21 clinical standards, you know. So this was
22 supposed to, you know -- to be a, you know, a
23 home with, you know -- with children who, you
24 know, couldn't be placed anywhere else.

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1 And you know, their clinical oversight, you
2 know, was, for a lack of a better word, lacking.
3 There wasn't any consistency. There wasn't --
4 there was an overreliance, you know, on who is
5 making the decision. Was it CSSD? Was it the
6 group home staff?

7 And you know, the group home itself was, you
8 know, going through kind of a years-long
9 transition, you know, from being correction, you
10 know -- monitored by the corrections system to
11 the child welfare system. The child welfare
12 system did, you know, make attempts, you know, to
13 demonstrate, you know, the deficiencies in the
14 home. And there were active investigations in
15 place when the incident happened in that home.

16 And you know, there was, you know, on the CSSD
17 side, you know, they had reports of, you know,
18 noncompliance that didn't seem to go anywhere.
19 And then, in -- on the group home side, you know,
20 it didn't really demonstrate, you know, how
21 effective the oversight and decisions made
22 outside of, you know, the executive director, you
23 know, so who reported to the board. So that, to
24 us, you know, was, you know, pretty, you know, an

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1 extreme, you know, example of, you know, the lack
2 of, you know, oversight internally, you know,
3 within the Province of Newfoundland when it came
4 to licensing and monitoring, you know, their own
5 facilities.

6 And that, you know -- so we called that, you
7 know -- like, it led to what we call the
8 regulatory drift, you know. So there was an
9 understanding that there was these regulations
10 there. There was an understanding that, you
11 know, they weren't being followed. And it just
12 kind of stayed that way.

13 And -- so that, you know, then, you know -- it
14 led to, you know, then these kinds of practices,
15 which were deficient and unsatisfactory to, you
16 know, caring for Innu or Indigenous or any child
17 in that home. That, you know -- that it was
18 normalized, you know. That was -- and to us,
19 that was, you know, something difficult, you
20 know, to navigate and to understand, you know.

21 And as we mentioned earlier in the process,
22 you know, a limitation to our investigation was,
23 you know, the ability to speak to all the people
24 we wanted to speak to in terms of witnesses. And

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1 in this case, you know, we didn't have an
2 opportunity to speak to anyone higher than, you
3 know, the CSSD kind of supervision level and the
4 executive director of that group home.

5 So we didn't have an understanding of, you
6 know, how were decisions made at that higher
7 governance level around funding, around over --
8 clinical oversight and licensing.

9 KELSIE LOCKYER:

10 Q. Thank you. Kenn, do you have anything to add?

11 Oh, you're muted there, Kenn.

12 KENN RICHARD:

13 A. The chihuahua again.

14 Just -- yeah, that the communication between
15 the players out-of-province were, you know, often
16 appropriate. But as I said, superficial. And
17 then it got to the CSSD offices. And depending
18 on the case and the nature of that relationship
19 with the client would depend very much on how
20 much that was actually conveyed. So we -- so
21 oversight and accountability -- one families
22 feels very strongly that, you know, they were
23 kept deliberately in the dark.

24 And the accountability in this also includes

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1 accountability to the family. So we don't just
2 apply what's in the law. But we apply what we
3 would expect to be reasonable. When somebody's
4 caring for your child is, you get full
5 disclosure. And that leads, I guess, into the
6 communication breakdown question, where I know
7 you're going to go. But I just wanted to kind of
8 tie the two together there. Because they are
9 part of the same breakdown.

10 KELSIE LOCKYER:

11 Q. Thank you very much. So that is actually an
12 excellent lead-in. So now, I'm going to ask you
13 to expand on the communication breakdowns.

14 KENN RICHARD:

15 A. Yeah.

16 KELSIE LOCKYER:

17 Q. Which is the ninth issue that you guys
18 identified.

19 KENN RICHARD:

20 A. Yeah. I'll just introduce. I'll let Tara take
21 this as well, you know. We see communication as
22 not just exchanging information, but also in the
23 context of fully understanding that communication
24 have a mutual agreement on what's communicated

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1 and that people feel, at the end of the day,
2 fully informed.

3 That was not evident, to a large extent, in
4 our conversations with the family. Some of them
5 were very strong on, although they signed
6 consents, although they had engagements, that
7 they didn't fully understand. Some of this
8 clearly would be language. But it's not just
9 language. It's how words are communicated, tone,
10 you know.

11 It's very much tied into the quality of the
12 relationship. So if the relationship's already
13 conflictual or difficult or whatever, which it
14 was. Because, again, the weight of the file, the
15 weight of the child and the child's distress, you
16 know, it created certain anxieties that also
17 acted as a negative filter, along with language
18 barriers and just how you communicate cross
19 culturally.

20 I didn't comment now on the written record so
21 much. But that's also part of communication.
22 And that also lacked depth and breadth in terms
23 of what was actually given to the families. And
24 in some cases, the families became, rightfully

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1 so, angry. Because critical incidents, for
2 example, one of the kids was running away, trying
3 to run to Toronto. He was running along the 401,
4 for God's sake, you know, with police sirens
5 behind him and everything. Family didn't know
6 about that. One boy in Saskatchewan, he spent
7 six weeks AWOL. The family heard about it later.

8 So it was just kind of -- I would say -- sorry
9 to use the N-word here, and the N-word here is
10 negligence on the part of the workers to convey.
11 But you know, again, I'm sympathetic to the
12 overwhelming nature of the role they had to
13 perform back at the shop. So let's leave it at
14 that.

15 Tara?

16 TARA PETTI:

17 A. Sure. Thank you. So that, you know -- I touched
18 on that before, you know, kind of the
19 communication failures, you know, were very
20 persistent, you know, throughout in what we
21 observed and what we heard, you know, during our
22 investigation and during our far (phonetic)
23 interviews, you know. And those breakdowns led
24 to, as my -- as Kenn mentioned, you know, a lot

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1 of distrust, anxiety, you know, even avoidance.
 2 There, you know --
 3 KENN RICHARD:
 4 A. Yeah.
 5 TARA PETTI:
 6 A. There was no trust, you know. And there was, you
 7 know, a fear of the families, you know, that the
 8 more they said, the more that they lost. And you
 9 know, so there was, you know -- and that, you
 10 know, that, you know, could then have been
 11 interpreted by the system as, you know, they are
 12 not communicating with us, or when they are
 13 communicating with us, it is hostile. It is, you
 14 know -- at times, you know, we heard families
 15 describing, you know, the police having to be
 16 involved whenever they met with CSSD.
 17 So that, you know, was, you know, a huge
 18 amount of tension and you know, erosion of any
 19 kind of relationship, you know, that would lead
 20 to, you know, working together, you know, in the
 21 interests of returning children or healing or
 22 making decisions around the -- where the -- what,
 23 you know -- these children's lives.
 24 In some instances, you know, there was, you

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1 know, even higher, you know -- higher-level,
 2 like, political involvement. And there wasn't
 3 really any -- it didn't appear to be any kind of
 4 special measures taken to, you know -- to work
 5 with and address, you know, the different
 6 dynamics, you know, when you have, you know,
 7 involvement, you know, with a family or a client
 8 who has, you know, a different -- a role or a
 9 different level -- a role in the community that
 10 may require more confidentiality or more, you
 11 know -- just more support, you know, in
 12 communicating and supporting a family.
 13 And yeah. It was the communication that, you
 14 know, also led to, you know, the disempowerment.
 15 And you know, families appearing to, you know,
 16 kind of give up, you know, or giving -- leaving
 17 the impression, you know, that they're, you
 18 know -- they're not engaged in, you know, their
 19 children while they're in care.
 20 KELSIE LOCKYER:
 21 Q. Thank you.
 22 TARA PETTI:
 23 A. And I hope I'm making that clear, you know, like,
 24 in terms of, you know, the communication was

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1 so -- the failures, you know, of communication
 2 were so damaging, you know, that it led to no
 3 communication. And that, you know, was, you
 4 know -- that created, you know, a environment of,
 5 you know, of distrust, of division. And you
 6 know, for families, like, just the complete loss
 7 of, you know, what -- they didn't see their child
 8 again until, you know -- in some cases, until
 9 they came back and they were discharged from
 10 care.
 11 And you know, they're -- and so that, you
 12 know -- that is, you know, all related to, you
 13 know, the breakdowns in communication, not to
 14 mention the language barrier and the -- even the
 15 ability or the availability of community members
 16 to help the social workers with -- address the
 17 language barrier or even potential, you know,
 18 placement opportunities in the community.
 19 KELSIE LOCKYER:
 20 Q. Thank you. Okay. Kenn, do you have anything -
 21 KENN RICHARD:
 22 A. No.
 23 Q. - to add there? No?
 24

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1 KENN RICHARD:
 2 A. No. No.
 3 KELSIE LOCKYER:
 4 Q. Thank you. Okay. So we'll move to the next
 5 issue, which is ten, reintegration, aging out,
 6 and -- excuse me. Reintegration, aging out, and
 7 aftercare failures.
 8 KENN RICHARD:
 9 A. So you know, -- hang on. Tara, why don't you
 10 take this while I -
 11 TARA PETTI:
 12 A. Yeah. Okay. That's fine.
 13 KENN RICHARD:
 14 A. - (inaudible) kill the dog.
 15 TARA PETTI:
 16 A. Okay. So we have touched on this in some of the
 17 other areas, too, in our response. But
 18 reintegration, aging out, and aftercare were also
 19 things that were, you know, consistently
 20 inadequate or nonexistent.
 21 When transition plans were developed, as I
 22 mentioned before, they weren't -- they were -- it
 23 was very difficult to follow up on them because
 24 of, you know, the availability of resources in

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1 the community.
 2 And then also, the way in which, you know, the
 3 experience of being in care differed, you know.
 4 Some families did have an understanding of where
 5 their child was and what was happening. Maybe
 6 they visited them. But when they came home, you
 7 know, managing, you know, the reintegration and
 8 you know, the different dynamics that were
 9 introduced to the -- reintroduced to the family
 10 when a child was returned home that had been away
 11 for a long time or been away for a time.
 12 And the expectation was that they would come
 13 home and be healed, you know. And they wouldn't
 14 participate in those behaviours that kind of led
 15 to the, you know -- the crisis that led to their
 16 removal.
 17 And I'm just looking at my notes here, sorry.
 18 KENN RICHARD:
 19 A. I can pick up then. So the, you know, aging out
 20 is a very arbitrary thing. It -- yes, it's in
 21 the legislation. But it's based on an assumption
 22 that all kids in the system, at 16 years of age,
 23 are no longer children or no longer needing the
 24 support of those who are entrusted with their

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1 care. So this is, you know, the -- kind of a
 2 duty to care principle, which we believe is
 3 compromised, generally, in child welfare when it
 4 comes down to aging out.
 5 Whoever heard of such a thing? When you're
 6 acting as a parent, your kids don't age out.
 7 They never cease, actually, to become children,
 8 not to be children. And that the legislation has
 9 never really recognized that is a big failure.
 10 Plus, there was no services. And some of
 11 these kids that we looked at really required --
 12 like, one particularly, would have required
 13 (inaudible) protection services, which weren't
 14 there. But they all continued to have extreme
 15 distress that was further exacerbated by all the
 16 issues related to coming home.
 17 They didn't come home in a planful way. You
 18 would hope that they would be a -- some kind of
 19 meeting between the stakeholders that are in the
 20 treatment centre. For example, the family and
 21 CSSD online or just bring them all together and
 22 say, this child is coming home. What are we
 23 going to do collectively to provide wraparound
 24 services so their reintegration is possible?

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1 This is dream stuff. None of this came to be.
 2 Most of the return homes were compromised.
 3 And they were already compromised going in, but
 4 further compromised by the child just wanting to
 5 get the hell out of the care scenario and didn't
 6 want any more social workers. And this was
 7 typical of all the kids.
 8 And there was nothing else for them. The
 9 community have not yet developed a sufficient
 10 clinical response to -- at the healing centre or
 11 anywhere else. So back to, I think, Tara's
 12 comments way back in this conversation, the RCMP
 13 ended up doing the case management.
 14 And that's too bad because this is a time when
 15 the tragedies unfolded primarily. So it's --
 16 yeah. Yeah. So aftercare failure writ large, I
 17 guess, we'd say with respect to that.
 18 KELSIE LOCKYER:
 19 Q. Thank you. Okay. Tara, do you have anything
 20 that you would like to add on that one?
 21 TARA PETTI:
 22 A. No.
 23 KELSIE LOCKYER:
 24 Q. Thank you. So we'll move now to the eleventh

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1 systemic issue, which you guys identified. Which
 2 was cultural disconnection and the absence of
 3 land-based healing.
 4 So would -- could you expand on what this
 5 issue refers to and how and why it was identified
 6 as a systemic issue?
 7 KENN RICHARD:
 8 A. Tara?
 9 TARA PETTI:
 10 A. Sure. Thank you. Well, the, you know -- the --
 11 kind of the whole essence and being of the Innu
 12 culture is their relationship with the land and
 13 with each other and through, you know -- through
 14 their language. And when a child came into care
 15 and you know, was subsequently removed, you know,
 16 from the community, all of that left, you know.
 17 So there's little opportunity for them to be
 18 in their, you know, homelands, to experience, you
 19 know, different milestones and life stages with
 20 their family, and to, you know, speak their
 21 language and to experience, you know, the love
 22 and connection that, you know -- that was, you
 23 know, evident in these families, despite, you
 24 know, some of the hardships and problems that

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1 they faced in their lives.
 2 So it was, you know, a huge systemic
 3 shortcoming to not be able to provide anything
 4 other than, you know, maybe a visit or a visit
 5 with the family or the ability to go home for a
 6 gathering and even to speak their language. You
 7 know, we heard stories of, you know, children
 8 phoning their families and not being able to
 9 speak Innu because the caregivers couldn't
 10 understand them. And they wanted to hear what
 11 they were saying.
 12 And we know now, you know, and we know so
 13 much. And there's so much evidence, you know,
 14 that there is, you know, a huge therapeutic value
 15 -- it's an identity shaper when you are exposed
 16 to your culture, have a relationship with the
 17 land and language, being involved with, you know,
 18 Elders and extended family in your community.
 19 And you know, that, you know, wasn't -- it was
 20 almost impossible to facilitate when, for
 21 example, a child was, you know, placed out of
 22 their community or out of the province. So you
 23 know, again, that was something that was
 24 changing, you know, in one of the files -- one of

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1 the later files, you know. There was, you know,
 2 an acknowledgment, you know, of, you know,
 3 development of a cultural connection plan.
 4 But we, you know -- acknowledgement,
 5 development, you know, we didn't see that in
 6 practice, not to say that it's not in practice
 7 now. And they're, you know, limited
 8 opportunities, you know, for -- and not
 9 consistent, you know, for the children who were
 10 out of province or out of community, the ability
 11 for them to return home, you know, for
 12 gatherings, you know. There are very specific
 13 times of the year where the Innu will gather,
 14 where they'll go hunting, where they'll go on the
 15 land. And that, you know, was absent.
 16 And it, you know -- and it really played a
 17 critical role in the lack of developing, you
 18 know, a stable identity, a sense of belonging,
 19 you know. We heard from families that when their
 20 children came back, you know, from being, you
 21 know, out of province or being in treatment, you
 22 know, there was often a loss of belonging, you
 23 know. They didn't feel accepted or that they fit
 24 in with the community anymore. So that, you

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1 know -- that was all very detrimental and
 2 relating -- related to, you know, the
 3 disconnection of culture and land-based living.
 4 KELSIE LOCKYER:
 5 Q. Thank you. Kenn, do you have anything to add
 6 there? Oh, you're muted. The dog, again.
 7 KENN RICHARD:
 8 A. I can't get rid of it. Now, I've lost my train
 9 of thought looking at this dog. No. No.
 10 Just the -- there's a profoundness to this,
 11 the identity of an -- at the age and stage these
 12 kids were at, identity was critical. Self-worth,
 13 self-esteem was all inextricably tied to feeling
 14 affirmed as a cultural being. So it was -- it
 15 wasn't just a casual thing, this cultural
 16 disconnection. It was kind of a trauma, as well.
 17 KELSIE LOCKYER:
 18 Q. Okay. Thank you. And so once again, recognizing
 19 that the Commissioners will make the final
 20 recommendations, how do you think that this could
 21 be addressed or -- moving forward?
 22 KENN RICHARD:
 23 A. Well, this is where the Innu will excel, you
 24 know, on culture-based services. They are the

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1 owners of those -- of that culture and will be
 2 able to, I think, with, you know -- with help.
 3 Because, again, I believe that people just can't
 4 exit the room. But I hope to see land-based
 5 programs.
 6 We had -- we were visiting Davis Inlet as part
 7 of our own orientation to this. And there was a
 8 group of kids -- Innu kids that arrived on a
 9 boat. And I forget what it was. It was an
 10 expedition. It's a program called the expedition
 11 program, I think. And these kids were just
 12 revelling in their cultural selves, you know.
 13 And I could see the therapeutic value right off.
 14 I had a chat with my bear guard, as we walked
 15 around a bit. And he was very clear on who he
 16 was and what his job was, his purpose was. So
 17 different from the experience of engaging those
 18 who had been engaged in child welfare. So that's
 19 all I wanted to add on that.
 20 And I'll take the next question, as well.
 21 KELSIE LOCKYER:
 22 Q. Thank you. Tara, do you have anything else you'd
 23 like to add there.
 24

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1 TARA PETTI:

2 A. Well, yeah. Just to add on to what Kenn said,
3 you know, the opportunities to maintain, revive,
4 you know, the connection to the land as a method
5 of healing and community development and family
6 preservation are definitely, you know, things
7 that need to be given priority. And there are,
8 you know -- we met -- and as, you know, Kenn
9 shared, you know, there are, you know, the
10 development of programs, you know.

11 The expedition that we -- where we interacted
12 with the youth involved in it was, you know,
13 from, you know, kind of like a -- more of a
14 science-based, you know -- like a marine
15 exploration, you know, of the land. And you
16 know, so the children -- the kids were, you know,
17 not only just experiencing living on the land,
18 but they were learning about, you know, how to,
19 you know, become -- to protect the environment
20 and you know, to look at environmental changes.

21 In the community themselves, you know, there
22 are very specific land-based gatherings that they
23 adhere to, you know. So having the opportunity
24 for everyone to be involved in those things.

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1 And then we spoke with, you know, women in the
2 community that would take the youth on walks, you
3 know. And by walks, I mean, like, these would be
4 for days, you know. And you know, even hearing
5 from one of the grandmothers, you know, saying,
6 you know, I didn't have a chance to teach my
7 granddaughter or grandchild, you know, these
8 things because they were gone from the community.

9 Those are so important, you know, the -- and
10 you know that really resonated with me. Because
11 in my own life, in my own generations, you know,
12 that was something that my great-grandmother said
13 about my mother, you know, who went to
14 residential school. She said, I didn't -- my,
15 you know -- my mother and her cousins and
16 siblings said they didn't -- they let their
17 grandmother down because they were taken away.
18 So I, you know -- I heard that, you know, when I
19 heard the grandmother say, you know, I didn't
20 have the chance to take my grandchildren, you
21 know, to the land to teach them the things they
22 need to know.

23 And so that, you know, is what -- going back,
24 you know, to that and having opportunities for

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1 the community to develop those ways and those
2 practices and to strengthen them is what would --
3 I would recommend.

4 KELSIE LOCKYER:

5 Q. Thank you very much. So we'll move now to the
6 final systemic issue that you both identified,
7 the twelfth one, which was fiscal and ethical
8 issues related to for-profit, out-of-province
9 placements for Innu youth.

10 So could you expand on what this issue refers
11 to and how and why it was identified as a
12 systemic issue?

13 Oh, Kenn, you're muted again.

14 KENN RICHARD:

15 A. Yeah. He's sleeping now, thankfully.
16 Chihuahuas.

17 So this one, I couldn't help it. I had to put
18 this in. Because when you look at the degree
19 to which tax -- let's, you know -- taxpayers'
20 dollars are going into failed programs. You got
21 to be -- you got to ring the bell. Somebody
22 should. I'm not talking so much about taxpayers'
23 dollars. But just where could this have been
24 better invested?

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1 We have done studies in Ontario on the
2 for-profit system. And that it is a system
3 that's in perpetual motion. It's motivated
4 primarily by profit. I think the report really
5 talks about, you know, the limitations to the
6 profit incentive in the caring of children, you
7 know. Profit sometimes would compromise care.
8 And that's been documented. So it's not just an
9 opinion. There are reports in Ontario. We had
10 Mark Kartush as one of the witnesses, who was one
11 of the principal authors of them.

12 So you see these -- and it -- this is near
13 where I live. So I'm well-aware of these
14 resources. The per diems are inflated. And they
15 get more expensive over time has been the general
16 experience. That, at one point -- and it would
17 not begin to cost Quinte Services. But if you
18 look at how many people were on the payroll here
19 with respect to serving one child and think about
20 that as a base budget for a community-based
21 service, you've got a good agency, a healthy
22 agency.

23 And it's well-documented that in child
24 welfare, over 50 percent of costs associated with

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1 child welfare -- typically, over 50 percent goes
 2 into residential care services. And 10 percent
 3 of that population absorbs most of that money.
 4 So it's time to rethink the fiscal side of things
 5 and see where investments are most appropriate.
 6 And that was outside of our scope. So we almost
 7 snuck that in.

8 But we also snuck something in. And that is,
 9 we have particular issue with the ethics of
 10 marketing children, the commodification of
 11 children, the -- BARTS is particularly difficult.
 12 Broken Arrow Residential Treatment Services, when
 13 you think about that program, the broken arrow is
 14 a metaphor that would be easily understood by
 15 Indigenous people as representing a place that
 16 will help you.

17 Broken Arrow treatment -- and the premise
 18 associated with that language is that there might
 19 be some cultural components to the program. None
 20 of this was the case. It was marketing. And we
 21 know that that particular organization was
 22 heavily into marketing to the north and to the
 23 east. And that Newfoundland, Labrador enriched
 24 their coffers tremendously.

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1 And at the end of the day, while, you know --
 2 the question is whether they were helpful or
 3 harmful, it doesn't almost matter. They sucked
 4 so much money and created very little worth for
 5 that money, that it has to be acknowledged. But
 6 also, the ethical side of marketing based on a
 7 false premise of cultural -- of having some kind
 8 of cultural connection really irked us, frankly,
 9 so it had to get in there. Notwithstanding, it
 10 kind of is -- kind of in the fuzzy area whether
 11 it was actually within the orders. But I'm glad
 12 to see it there.

13 Tara, I don't know if you want to add to that.

14 TARA PETTI:

15 A. Yeah. Thank you. And you know, that was --
 16 there was a lot of things, you know, that we felt
 17 we could have added as, you know, systemic
 18 issues. But they did fall outside the scope.
 19 This one kind of, you know, touched, you know,
 20 all of these.

21 And kind of the biggest, you know, message,
 22 you know, that I got from this was, you know,
 23 similar to, you know, my own practice and my own
 24 experience in child welfare, where the message

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1 was, you know, if we're spending all this money,
 2 you know, to, you know -- if the money flow to
 3 help this child only happens when we remove, then
 4 that is an issue, you know.

5 If we're spending, you know, millions and
 6 thousands of dollars, how can we reinvest that,
 7 you know, in the community? And as, you know --
 8 as Kenn mentioned, you know, that would, you
 9 know -- if we were to look at, you know, the cost
 10 of having these children in care and then the
 11 outcomes of the experience, what would it be to
 12 flip that and say, well, this, you know -- this
 13 was the funding and the expertise, you know, that
 14 the community had access to to develop, you know,
 15 resources in the community to either preserve
 16 families or to treat families or individuals.

17 So I know, again, that, you know, those things
 18 are changing as we speak. But you know, that we
 19 also, you know, pay attention to, you know, not
 20 repeating the same system, you know, that we're
 21 trying to transform.

22 KELSIE LOCKYER:

23 Q. Thank you very much. So would either of you like
 24 to add anything to any of the systemic issues

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1 that you guys have discussed thus far?

2 TARA PETTI:

3 A. Kenn?

4 KENN RICHARD:

5 A. Just a concluding statement, you know. The --
 6 what we saw was what has happened in other
 7 jurisdictions, you know. So Newfoundland,
 8 Labrador is probably no better, no worse in its
 9 path -- on its journey to getting at the right
 10 solutions to child and family wellbeing.

11 But it did remind me of some time ago. And
 12 maybe this has to do with coming into
 13 Confederation later in the day or you know,
 14 whatever. I don't pretend to know. But it felt
 15 like going back in time a little bit. But -- so
 16 what -- so that is not a putdown, so much as
 17 saying, well, you have an opportunity to actually
 18 learn from others who have made -- and I'm part
 19 of the world of making lots of mistakes. We've
 20 done some work, Tara and I, out west that, you
 21 know, might not have the results that we'd
 22 anticipated. So there's been a lot of action.

23 So I hope that the Inquiry, at the end of the
 24 day, will look at what's been happening out there

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1 and accelerate its own -- reference in its
2 documents what, you know -- what has already been
3 learned, not just from this investigation, but by
4 others in a final report. Because I know they
5 have other witnesses that are going to be
6 speaking to this stuff. So here's a chance to do
7 an accelerated catch-up. And I only wish I could
8 be part of it.

9 Anyway, so that's a concluding comment that I
10 would have on the report.

11 TARA PETTI:

12 A. Yeah.

13 KELSIE LOCKYER:

14 Q. Tara, would you like to offer any concluding
15 thoughts on the report?

16 TARA PETTI:

17 A. Yeah. I, you know -- I want to emphasize, you
18 know, that there, you know -- the -- what we are,
19 you know, delivering, you know, in terms of our
20 report, you know, is systemic, you know. It's
21 not, you know -- it, you know -- there were
22 harms, you know, experienced by Innu people and
23 their children. And it wasn't the result of, you
24 know, an isolated decision in each case, you

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1 know. These were, you know -- these -- or an
2 error, you know, or some individual, you know,
3 purposely conducting something that was not, you
4 know -- that would harm this child.

5 They, you know -- it was, you know, decisions.
6 It was decision paths. It was options, you know,
7 that were already entrenched. And not serving
8 Innu people. And they were rooted, you know, in,
9 you know, the legacy and the history, you know,
10 of the Innu people and the development of the
11 Province of Newfoundland.

12 So the, you know -- it was, you know,
13 prevention, with, you know -- is, you know, the
14 term, you know, that is going, you know -- and
15 transformation or you know, sovereignty through
16 nation-based legislation under federal policy,
17 you know, is, you know, the movement, you know,
18 in that direction now.

19 And like, as Kenn mentioned, you know, we
20 worked in systems, you know, that have gone
21 through different kinds of, you know, phases and
22 attempts, you know, to either dismantle, to
23 devolve or to, you know, provide more culturally
24 appropriate, which is another term, you know,

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1 services.

2 And so you know, looking at, you know, you --
3 we believe, you know, that this requires, you
4 know, a lot of structural reform with
5 intervention grounded, you know, in, you know,
6 the way of life of the Innu people that they know
7 and that they can easily -- and my, you know --
8 I, you know -- as Kenn mentioned, you know, the
9 Confederation of Newfoundland, you know, is a lot
10 more recent, you know, than -- and I, you know --
11 the Innu people are still very connected, you
12 know, to their language, their culture, and their
13 land.

14 And it's just moving back to, you know,
15 reclaiming -- revitalizing, you know, those
16 practices and those way of life that's supported,
17 you know, by all of these systems. And so that
18 these systems can also learn from that and
19 respect, you know, the way of life that will, you
20 know -- that will preserve, you know, this nation
21 and their survival, you know, in a way that they
22 see fit.

23 KELSIE LOCKYER:

24 Q. Thank you. Thank you very much. Okay. So we'll

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1 move now from your overall general report to the
2 death investigations. So I won't have as many
3 specific questions regarding the death
4 investigations, as we have -- you know, we have
5 your reports. And then we benefited from your
6 participations in the individual hearings. So
7 the Commissioners have heard from you regarding
8 that so far.

9 So I only have a couple of questions. And
10 then, of course, family counsel who are on the
11 call also have the opportunity afterwards to ask
12 any further questions that they might wish.

13

(Video ends)

15

16 KELSIE LOCKYER:

17 All right. Hello again, everybody. So that'll
18 conclude the second portion of the videos. If
19 you've noticed that we cut it off there before
20 the end, that's just because it goes into some
21 back and forth between counsel on scheduling.
22 That was not relevant for the record.

23 So at this time now, it is ten to 12:00
24 Newfoundland time. We will break until 1 p.m.

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1 Newfoundland time. So this will be our lunch
 2 break. When we resume at 1 p.m., we will go back
 3 to the recordings of Kenn Richard and Tara Petti,
 4 before moving on to the recording of former Judge
 5 Bill English. So this is the clue that will be
 6 -- we'll be back at 1 p.m. Thank you all for
 7 your attention this morning.
 8 COMMISSIONER IGLOLIORTE:
 9 Thank you.
 10 COMMISSIONER DEVINE:
 11 Thank you.
 12 COMMISSIONER QUPEE:
 13 Thank you.
 14
 15 (Lunch Break)
 16
 17 KELSIE LOCKYER:
 18 Welcome back, everybody. I hope you enjoyed your
 19 lunch break. Now that we've resumed from our
 20 lunch break, we will resume with Kenn and Tara's
 21 pre-recorded testimony.
 22 This will be the third portion. And it is
 23 about -- or it's an hour and 51 minutes long. So
 24 we'll go through this portion. And then we'll

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1 take another short break before we watch the
 2 final portion of Kenn and Tara's testimony, which
 3 is approximately a half an hour long. And then,
 4 after that, we will have another short break
 5 before moving into the testimony of Bill English.
 6 So we'll now resume with the third video.
 7
 8 (Video is played - Kenn Richard & Tara Petti)
 9
 10 KELSIE LOCKYER:
 11 I'll just give them a couple more minutes to
 12 rejoin.
 13 TARA PETTI:
 14 I'm here, Kelsie.
 15 KELSIE LOCKYER:
 16 Hello. Hello. Okay. All right. Thank you,
 17 everybody. Welcome back from the break. As I
 18 said just before we went to break, I only have a
 19 couple further questions for Kenn and Tara before
 20 I pass it over for cross-examination.
 21 We will first go to Kathleen, then to the
 22 Province, and then to Judith Rae with the Innu
 23 Nation. And then if there's anybody else who has
 24 questions arising and we have time, we can go

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1 there.
 2 Please remember that when you're asking your
 3 questions on cross, that the testimony the
 4 witnesses are providing today must relate to
 5 their work under the scope of the Inquiry. We
 6 can't ask the investigators to speak on matters
 7 outside of their scope or matters that do not
 8 relate to the Inquiry.
 9 Further, in fairness to the witnesses, please
 10 recall the limitations they spoke of earlier,
 11 such as documents and witness availability when
 12 you are asking those questions.
 13 So I'll just ask my last couple. And they are
 14 about the death investigations.
 15 BY KELSIE LOCKYER:
 16 Q. So as I said, we've heard quite extensively from
 17 you guys. And we've been very grateful to have
 18 that, the death investigations. But aside from
 19 the issues that I already discussed and the
 20 examples provided, is there anything from any of
 21 the death investigations you would like to
 22 highlight or discuss further in relation to the
 23 systemic issues?
 24

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1 KENN RICHARD:
 2 A. I don't have anything further.
 3 TARA PETTI:
 4 A. No. I don't have anything further.
 5 KELSIE LOCKYER:
 6 Q. Thank you. And the reports on the death
 7 investigations that you submitted, those were
 8 submitted prior to the hearings which occurred
 9 for them.
 10 Did anything arise at those hearings that
 11 you'd like to add within that report?
 12 TARA PETTI:
 13 A. I don't have anything to add that was discussed
 14 during the hearings that was not in the report,
 15 if that's how I understand the question. Yeah.
 16 KENN RICHARD:
 17 A. Yeah. No. And I saw the hearings, actually, as
 18 affirming the quality of the reports. Because
 19 they were compatible. The content of the
 20 go-arounds and the report itself had a certain
 21 seamlessness that I appreciated. So nothing to
 22 add.
 23 KELSIE LOCKYER:
 24 Q. Excellent. Thank you.

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1 KELSIE LOCKYER:
2 And I thought I had one final question. But
3 actually, it was one that has been submitted by
4 Kathleen. So I'll now conclude my questions for
5 you. And I will pass it over to Kathleen to
6 bring her questions on behalf of the family she
7 was representing. And yeah. I will hand it over
8 there now.

10 MR. KENNETH D. RICHARD & MS. TARA PETTI,
11 CROSS-EXAMINED BY MS. KATHLEEN HEALEY

12 Q. Hello. Thank you. Nice to see you again, Kenn
13 and Tara. My question is about cultural
14 disconnection. And perhaps the answer to my
15 question may have been implicit in much of our
16 discussion. But I just wanted to make it a bit
17 more explicit.

18 So as you know, my client is James Poker, the
19 -- or sorry, Thomas Poker, the father of James
20 Poker. And James was 10 years old when he went
21 into care and aged out at the age of 16. And in
22 your report, you talked about how, during his
23 time in care, James lost critical connections
24 with Innu culture and traditions, which would

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1 have included his connection to the land and
2 learning how to live on, be on the land, to
3 navigate and survive.

4 When he returned to Natuashish, there was no
5 transition plan to reintegrate him into Innu
6 culture and community life. But James's father
7 has spoken about a family camping trip, which
8 occurred shortly after James's return to the
9 community. And he said it was quite clear -- he
10 observed that James was very uncomfortable in the
11 community. And that James made comments about
12 how he didn't know anything.

13 Tara mentioned multi-day walks. And this is
14 -- it kind of leads into this, as well. We don't
15 know exactly why James left the community on the
16 day of his death. But one theory is that he
17 planned to walk to Hopedale, which would be an
18 overnight walk.

19 James's knowledge of and experience of
20 nutshimit and the country, as we just observed,
21 was negligible. And James's death was
22 accidental. He became lost and died of
23 hypothermia on the Labrador Sea.

24 So in this respect, would James's loss of Innu

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1 knowledge and culture be a contributing factor to
2 his death?

3 TARA PETTI:

4 A. I can start with my response, if that's all right
5 with everybody. I would -- if you're asking it
6 as a question or if you're wanting me to agree to
7 a statement, I would agree that the loss of, you
8 know, the connection to culture, the land, the
9 land-based living, you know, was definitely a
10 marked loss in his life. And it was something
11 that he yearned for.

12 And I also agree that when he came back and
13 you know, rejoined that type of lifestyle, that
14 there was, you know, a noticeable disconnect, you
15 know, with, you know -- that was observed by his
16 father and then likely experienced by James
17 himself.

18 And this was, you know -- the way that it was,
19 I guess, described to us in the interviews was,
20 you know, that, you know, they -- he came back
21 and you know, didn't fit in. Wasn't, you know,
22 fully accepted by peers, you know, that were, you
23 know, left, you know, six years prior, so --
24 right? And that there wasn't, you know, even, I

Page 116

1 guess, like a stable place for him to stay when
2 he came back to the community. So that's what
3 I'll say for now.

4 KENN RICHARD:

5 A. So I'll say, you know, he was a -- didn't have
6 the opportunity to know the nuances of his life
7 on the land. And it may well be -- and this is
8 speculative. And the question is speculative, of
9 course. He may well have not have known the
10 risks he was taking because of that. He had no
11 experience with, you know -- with learning about
12 his environment.

13 So in that way, I could see a connection
14 between his death on the ice. He just -- yeah.
15 He was a bit alienated from that environment.
16 And that makes that environment very dangerous
17 for him.

18 KATHLEEN HEALEY:

19 Q. Thank you. And that's kind of what I was getting
20 at, you know. We have talked about -- and your
21 reports have talked about the healing, the
22 disconnection, and the emotional distress that
23 the loss of culture caused for him.

24 But -- and I realize it is speculative. But

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1 it was intended -- and James wanted to return to
2 a community where he would be in very close
3 proximity to an environment that he had very
4 little knowledge of. And I think it kind of fits
5 in with the lack of foresight that when a -- when
6 someone is being returned to that community
7 without any preparation at all.

8 And just wondering, does that fit in with your
9 own observations with the transition planning --
10 the poor transition planning and consideration of
11 what the young person's life was going to be like
12 when they returned to the community?

13 TARA PETTI:

14 A. Yeah. I believe that that was very well, like, a
15 contributing factor, as I emphasized earlier.
16 And I just wanted to kind of bring note, you
17 know, like, this wasn't something that was
18 anticipated at the time, you know, by -- even by,
19 you know, the professionals or the social workers
20 in place, you know. They, you know -- they
21 didn't think that, you know, the return of him to
22 his community would result in kind of further
23 isolation or alienation or loneliness, you know.
24 That was probably not, you know, what anyone

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1 anticipated.
2 You know, you would -- you would -- I would,
3 you know -- and I'm, you know -- I would believe
4 that someone returning to their community would
5 have, you know, a reunion and a reconnection.
6 And not that, you know -- that is their belief.
7 And that when they actually did return to the
8 community, the adjustment, you know, and the --
9 you know, is, you know, related to the time that
10 was lost. And that was very difficult to
11 overcome.

12 KATHLEEN HEALEY:

13 Q. Okay. Thank you. I have nothing further.

14 KELSIE LOCKYER:

15 Thank you. We will now move to the provincial
16 governments to ask their questions. So Cathy or
17 Phil, will both of you be asking or just one of
18 you?

19 CATHERINE BOYDE:

20 No. I'll be asking the questions for the
21 provincial government, Kelsie.

22 KELSIE LOCKYER:

23 All right. Excellent. Thank you.
24

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1 CATHERINE BOYDE:

2 Just let me grab my piece of paper.

3 KELSIE LOCKYER:

4 Okay. You can proceed whenever you're ready.

5 CATHERINE BOYDE:

6 Absolutely. And just to say upfront, my
7 questions aren't really directed at either Kenn
8 or Tara specifically. So whichever one of them
9 wants to jump in or if both of them want to,
10 that's certainly fine.
11

12 MR. KENNETH D. RICHARD & MS. TARA PETTI,
13 CROSS-EXAMINED BY MS. CATHERINE BOYDE

14 Q. So I'm going to try to ask them, more or less, in
15 the order that the topics appear in the final
16 report. And my first question is on the issue of
17 gas sniffing, which I think might have been topic
18 four.

19 And you identified the gas-sniffing crisis as
20 a major factor, I think, it's fair to say, in
21 most, if not all, of the death investigations.
22 And your report also highlights the failures of
23 -- or the failures of sending children out of
24 province for various reasons.

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1 And I just wonder, are you able to give your,
2 I guess, views? How would you envision some sort
3 of sustained addictions treatment happening in
4 community?

5 You know, obviously, Natuashish, in
6 particular, but both communities are small
7 communities, relatively isolated communities.
8 Again, especially within Natuashish. Do you guys
9 have any particular ideas on how that could look?

10 KENN RICHARD:

11 A. Let me just, you know -- this is not the only
12 community that has addiction issues. So what has
13 worked in other areas is, you know, good
14 old-fashioned youth work, on-the-line
15 relationship-building, youth-to-youth
16 development, whether it be through sports, which,
17 you know, it can be, you know. Hockey and
18 baseball are both alive and well. And I don't
19 want to be one of those that have a simple -- a
20 simplistic saying playing hockey is going to
21 change it.

22 But it's part of building in quality of life
23 in the life of those young people. Giving them
24 also opportunities to excel however they want to

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1 excel, whether it be staying at home on the land
2 or becoming a lawyer in Halifax. It's going to
3 be entirely up to them. But just having a -- an
4 environment that supports that.

5 But particularly these cases, these kids that
6 were the subject of our Inquiry. The -- they all
7 had particular needs. Some would say special
8 needs. And we know that children with special
9 needs that are unmet, service-wise, and allowed
10 to fester and develop, become worse over time. I
11 call it spiralling, just to give you a visual on
12 it. But they all kind of spiralled.

13 And at the conclusion of the spiral, I
14 believe, for all of them, I -- there was gas
15 sniffing. Some were terribly addicted. And it
16 would be an everyday, all-day event. Others only
17 when they were in distress. But it was a -- just
18 a common experience.

19 And so it says -- it's not just -- hockey's
20 not going to help them. Well, it might. But
21 what's really going to help them is an intensive
22 clinical program that's offered on -- in the
23 communities that would include Indigenous ways,
24 but also the best of what the West has to offer

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1 with respect to medication management or you
2 know, therapies that would be applied specific to
3 the individual child's needs, some kind of
4 clinic, you know.

5 What I just -- in terms of a whimsical moment,
6 and I'll conclude here, I thought, why can't
7 Ranch Ehrlo, which is a pretty good treatment
8 centre, be in the community in some collaborative
9 way to handle those special needs kids? And you
10 know, about 10 percent of the kids are going to
11 need those kind of supports. And I'm speculating
12 on that number. But that's been my experience.

13 So gasoline sniffing have to be woven into, in
14 terms of, you know, the curative end of it, into,
15 you know, multi-phasal, multi-modal system of
16 service development, everything from primary,
17 secondary, to other interventions. Yeah.

18 That's -- I'll stop there. That's quite
19 enough, I think.

20 TARA PETTI:

21 A. Yeah. I would echo what Kenn is saying. But
22 also just kind of a focus on, you know, community
23 collaborative and collective efforts to, you
24 know, educate, provide, you know, like, you know,

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1 just a -- almost like a community knowledge base,
2 you know, of the risks and the impacts. But in a
3 way that does not, you know -- in a way that, you
4 know -- that normalizes well-being and prevention
5 of that.

6 KENN RICHARD:

7 A. Yeah.

8 TARA PETTI:

9 A. So a lot of community healing and efforts, you
10 know, that focus on that that is community-led.
11 And you know, just that, all of the helping
12 services that are available in the community, you
13 know, wrap around this issue and work together to
14 provide, you know, a solid educational base and
15 options and activities. I totally agree with,
16 you know, options and activities for youth. But
17 also just, you know, a strong identity, you know.

18 In different stages of life, there are
19 different roles and responsibilities in a family.
20 And you know, the focus and celebration, you
21 know, of those types of, you know, passage of --
22 rites of passage and life stage movements,
23 whether it's from, you know, a child to
24 adolescent, from adolescent to adult to

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1 parenthood, you know, being an aunt or uncle, you
2 know. All of those different things, you know,
3 have significant value and meaning and a role in
4 the community.

5 KENN RICHARD:

6 A. So for my conclusion on this, you know, there
7 are -- it has to be built into a broader
8 developmental process, service development,
9 community development. And I think the community
10 might try to rejuvenate as much, you know -- and
11 this is the part of divesting yourself of the
12 colonial yoke, you know, is develop this --
13 truly, this -- it takes a community to raise a
14 child. Further, they're intact in so many ways.
15 And they're going to need to have a collective
16 effort on this. And that's a challenge, but it's
17 certainly positive.

18 But I just wanted to say, a part of me also
19 wants to just be really practical and say, well,
20 how many gas pumps are there in Natuashish, you
21 know? How -- you know, what about -- there has
22 been, for example, in isolated communities in
23 Australia, a control over the gas and using a gas
24 that has non-toxic properties. Like, that's

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1 happened.

2 And it's been relatively successful in some

3 areas that I -- so I think there needs to be a

4 bit of research about, you know -- when I say

5 multi-modal, it's not just about community

6 development. It's also making access to

7 gasoline -- and I know, people will say, well, if

8 it's not gasoline, it's going to be something

9 else. But in a closed system like in Natuashish,

10 not so much in Sheshatshiu, but in Natuashish, I

11 think they can do -- they can do stuff that

12 others can't.

13 CATHERINE BOYDE:

14 Q. That kind of -- I think you've sort of answered

15 one of my other questions. But I'm going to jump

16 ahead of it and ask that in case you have

17 anything else to add. And one of the questions

18 was about, I guess, the importance of land-based

19 healing, you know.

20 You've talked about, I think, in a couple of

21 your individual reports and touched on it in your

22 -- I'll say, your writ large report, the -- I

23 guess, the failings of over-relying on Western

24 medicine versus the Innu outlook, which we know

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1 is very different, and we certainly learned is

2 very different. Which would put more value, I

3 think, on more land-based, Elder-led programming,

4 perhaps. Versus, you know -- you've also

5 highlighted the importance of these children

6 getting appropriate psychiatric care and

7 appropriate medication, which is more of a

8 Western-based philosophy.

9 And I guess, you know, how do you -- how would

10 you suggest -- or what are your ideas for

11 balancing those two competing viewpoints?

12 KENN RICHARD:

13 A. I don't think they have to compete. I think

14 they're quite compatible. What's required is

15 relationships. Well, what's required is some

16 kind of reconciliation process that will conclude

17 with a new set of relations that will allow true

18 collaboration and communication and service

19 development, you know.

20 The West has a lot to teach. And certainly,

21 the Innu have a lot to teach. And what can

22 happen as a result of that mutuality is golden

23 and is actually -- that's where rests the

24 solutions that we're all striving to achieve.

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1 So that's why I sort of react sometimes when

2 people say, "Oh, we're going to leave the Innu to

3 do their own thing." Well, yes, indeed. Leave

4 the Innu to do their own thing. But offer your

5 hand. Because it's a mess you're giving them.

6 So in simple terms, I see this as helping

7 clean up and move forward in, you know -- in a

8 very actionable way.

9 TARA PETTI:

10 A. I don't have anything to add to that, Catherine.

11 Thank you.

12 CATHERINE BOYDE:

13 Q. Just to go back, I guess, a little bit. Another

14 couple things -- I'm realizing a lot of my

15 questions have to do with how do we balance very

16 different issues that come up, you know.

17 Your report speaks to the importance of Innu

18 families feeling empowered and being a part of

19 the decision-making process, you know, being

20 included in clinical decision-making, things like

21 that.

22 And I guess, how do we balance that in

23 situations where a family may come to CSSD or

24 SSWB, or whatever acronym in the future, and say,

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1 "I want my child to be taken to Ranch Ehrlo? I

2 want my child to be brought out of the

3 communities." Are there any guidelines or

4 suggestions for that sort of situation?

5 KENN RICHARD:

6 A. Well, first thing, you know, if a parent has

7 given up, their -- intervention's required. And

8 maybe that would be their -- because they're

9 overwhelmed, their request.

10 But a skilled practitioner with available

11 resources with a relationship with the family can

12 say, "Okay, I get that. Let's sit down and see

13 if this is necessary. Let's have a -- good

14 communication, good assessments, good" -- you

15 know. Get it going with respect to what's the

16 best possible plan.

17 If the relationship is broken down, such that

18 there is risk and you know, in one of the cases,

19 you know, the kid was going to burn down the

20 house, and you know, it's some serious stuff. So

21 we can't -- that can't be ignored. Common sense

22 has to prevail. And what I mean by that is,

23 let's make sure nobody dies. Let's make sure

24 nobody gets hurt. The do-no-harm tenant there is

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1 writ large on this.

2 But usually, when parents are at that point,

3 they don't really want to have their kids

4 removed. But they see that as the only option.

5 Because, quite rightly, that has been the only

6 option. So I'm -- again, I'm a bit whimsical on

7 that.

8 Tara, do you want to...

9 TARA PETTI:

10 A. Yeah. Like, what we saw, you know, is a pattern

11 of when, you know -- when the gas, you know --

12 gas sniffing or the behaviours, you know, and the

13 unsafe conditions that children were in because

14 of the, you know -- the persistence of the issue

15 around gas sniffing. The first resort, you know,

16 was removal, you know, evacuating them on an

17 emergent basis to a resource, often out of

18 province.

19 And you know -- and when we look at the files

20 prior to that, you know -- prior to this, you

21 know, intervention, you know, there is limited

22 information around, you know, what kind of, you

23 know -- what kind of services did they receive

24 prior to this? How did it get to that, you know?

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1 And so the, you know -- a parent to come

2 forward to say, "You know, I need help. I can't

3 do this, you know." That should be -- that

4 shouldn't be their first kind of entry into a

5 service industry of helping, you know. So

6 transforming, you know, that, where that would be

7 a last-resort option. And you know, here are

8 the, you know -- the things in place, you know,

9 whether they're, you know, family-based or

10 community-led, that are strengths that we will

11 grow and build on.

12 And you know, that is, I guess, you know, how

13 something that is going to take a long -- a lot

14 of time, you know, to undo, you know. These

15 issues didn't happen overnight. And they were

16 not a result of, you know, their own decisions

17 and their own choices.

18 CATHERINE BOYDE:

19 Q. I have a question about -- I think this was

20 actually topic four on the service gaps. And

21 you've highlighted it. And it's come up a number

22 of time in the circles, that the families have

23 concerns because their social worker is on this

24 fly-in/fly-out rotational schedule, you know.

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1 I think it's probably fairly non-controversial

2 to say that a lot of people, not just child

3 protection, have difficulty staffing remote

4 northern communities. And I am assuming that's

5 across the board in Canada.

6 And this might be something you answer based

7 on your own experiences in other jurisdictions.

8 But like, what suggestions -- or how would you

9 see, ideally, this looking, like, in a community

10 like Natuashish?

11 Sheshatshiu is a bit different. It -- where

12 it is so close to Goose Bay. I don't think it's

13 quite the same issues with retaining staff. But

14 certainly for Natuashish, like, what would

15 your -- I guess, the -- what would you see

16 working as some sort of alternate model?

17 KENN RICHARD:

18 A. Well, what will work is the aspirations of the

19 Innu in terms of Innu-led services that would be

20 provided by community members to other community

21 members. And that's the aspiration.

22 Short-term, first of all, acknowledging that

23 that fly-in/fly-out is not working. And that it

24 might work if it were to be, perhaps, amended in

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1 certain ways. And that would be in partnership

2 with Innu staff that would remain on site. And

3 the fly-in worker, fly-out worker would be less

4 important, except for exercising sort of the

5 legislative responsibilities or their role in

6 child protection. But the actual work being

7 done, it has to be done locally.

8 And there's, you know -- that -- I don't know

9 enough about what, you know, the strengths and

10 weaknesses of the community is right now with

11 respect to providing that. I know that they got

12 a lot on their plate. But -- so -- but right

13 now, that will never work. And we heard that in

14 a few other circles. And it's still happening,

15 the fly-in and fly-out, you know. And that

16 they're just waiting for change.

17 So it would be great if the Province could see

18 itself -- or the feds, in part of the development

19 of the Innu program and under C-92 would start

20 flowing some resources so that local folks can be

21 trained to assist the CSSD, you know, in terms of

22 home visiting and you know, just making the

23 all-important relationship aspect of child

24 protection. That's what is required.

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1 So it can be part of the development process,
 2 in my view. And it would be if I was writing up,
 3 you know, a development plan.
 4 CATHERINE BOYDE:
 5 Q. Thanks.
 6 TARA PETTI:
 7 A. Yeah. I would echo what Kenn said. And I would
 8 also just say, like, in a fly-in and fly-out
 9 model, you know, that there are many models like
 10 that, not only in child welfare, but like, in,
 11 you know, justice and health, you know, in remote
 12 communities that, you know, may or may not work
 13 well.
 14 I think a very important thing to have when
 15 there is a model like that is the handover of
 16 effective communication, you know, and
 17 understanding what the case, you know -- the
 18 cases are -- where they're at and what is, you
 19 know -- what is going on with each of the cases
 20 in the community. There should be common
 21 knowledge between the workers that are rotating
 22 and a common system of communication that, you
 23 know -- that would allow that information to be
 24 available to a covering worker.

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1 Q. Let me see. On the topic of -- I think, topic
 2 seven, the mental health and clinical care, I
 3 think, you know -- and you've drawn attention to
 4 the issue of children not being, I guess,
 5 properly assessed for various mental health
 6 issues or these issues not rising to the surface.
 7 I guess, the position or the statement I would
 8 make is that we expect social workers to be
 9 competent and experts in dealing with protection
 10 and risk assessment, things like that.
 11 There -- they wouldn't necessarily be expected
 12 to act -- to be experts in mental health. And
 13 that these services should really be provided or
 14 available to children without them needing to be
 15 in the care. And I think you both agree with
 16 that. But is that the case? You would agree
 17 with that?
 18 TARA PETTI:
 19 A. Yes.
 20 KENN RICHARD:
 21 A. Social workers need to know when to call in the
 22 professionals. What I -- the mental health, the
 23 psychiatrist, the psychologist. That's their
 24 job. It's not to actually provide those

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1 services.
 2 Case management is really what their job is
 3 when they're not trying to manage the crisis of
 4 the behaviour that that crisis ensues. So if you
 5 step back to the job, it should -- it's like
 6 bringing the necessary resources together for --
 7 particularly child-based on their specific
 8 issues. And that would include, as I said,
 9 mental health supports. Both an assessment phase
 10 should be early on and treatments phase, as the
 11 problems become more manifest.
 12 TARA PETTI:
 13 A. Yeah.
 14 KENN RICHARD:
 15 A. It's kind of what social workers are trained to
 16 do. Sorry. Yeah. Go ahead.
 17 TARA PETTI:
 18 A. Yeah. Oh, and we also emphasize, you know, the
 19 need for, you know, kind of trauma-informed
 20 approaches, you know, to care, to case
 21 management, responding to mental health, and
 22 clinical decisions.
 23 And I just wanted to highlight that, you know,
 24 oftentimes, when there is a language barrier --

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1 so when you're going a Western-based assessment
 2 on a child who doesn't speak the language and is
 3 not, you know, comparable to, I guess, you know,
 4 the evidence base that the assessment is based
 5 on, you know. So they're -- you know, you're
 6 measuring -- using measurement tools that were
 7 not developed with the Innu people or First
 8 Nation people. And then if there's a language
 9 barrier, you know, often they'll, you know -- the
 10 diagnosis can be misinterpreted or misrepresented
 11 because of those issues in play.
 12 But then on the same -- on the other hand,
 13 they could also be accurate, you know, based on
 14 the severity of the condition, the cognitive
 15 level, you know. So it is a real fine balance.
 16 But there needs to be, you know, that recognition
 17 of the impact of, you know, the -- of the
 18 traumatic experiences, historically and in the
 19 generation or in the life of the person and
 20 people being looked at or needing services.
 21 CATHERINE BOYDE:
 22 Q. So just to sort of -- I think what you're saying
 23 is the things like intergenerational trauma can
 24 impact the accuracy of these tests and these

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1 models that are used. And a language barrier
 2 will also exacerbate those difficulties?
 3 TARA PETTI:
 4 A. Yes. Language and culture.
 5 CATHERINE BOYDE:
 6 Q. Yeah.
 7 TARA PETTI:
 8 A. Yeah. You know, so if you're, like, in, you
 9 know, the City of, you know, Toronto and you're
 10 having a, you know -- a clinician, you know, from
 11 a different province and a different whole, you
 12 know - providing an assessment, you know, there
 13 needs to be great care and you know,
 14 understanding, you know, the impact of trauma and
 15 the understanding of language barriers and things
 16 like that.
 17 KENN RICHARD:
 18 A. I -- you know, it's important for the Inquiry to
 19 just appreciate the subjective experience of
 20 these kids who were placed in -- and a lot of
 21 them went to southern Ontario. They went to --
 22 anybody familiar with Belleville, Kingston, that
 23 area up in, you know -- up to Highway 7 there?
 24 This is United Empire Loyalists, you know.

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1 And they're -- I have a cabin there. And you
 2 know, so no disparage comment about those folks.
 3 They are what they are. They have their own
 4 unique culture. They're certainly, you know, a
 5 part of the Canadian mosaic and all that stuff.
 6 Completely foreign land for these kids, you
 7 know. I can't imagine how -- it's like you being
 8 -- us being dropped, you know, in Afghanistan or
 9 you know, some other culture that is so vastly
 10 different from us. Like, it wasn't just
 11 language. It was, like, how to behave, all those
 12 things that we take for granted as socialized
 13 folks from particular context, these kids had to
 14 struggle with.
 15 And not only did they have to struggle with
 16 it, they had to cope with their distress at the
 17 same time that they brought with them. Their
 18 cognitive issues, their trauma, their emerging --
 19 and all of them had emerging psychotic
 20 conditions. Not all of them, but most of them.
 21 Just -- it's unbelievable, you know, to see
 22 how they managed to do as well as they actually
 23 did, notwithstanding their tragic ends. They
 24 were strangers on a strange land. And they were

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1 vulnerable at the same time. And it's just -- it
 2 was just pretty sad to watch.
 3 CATHERINE BOYDE:
 4 Q. And this sort of, I think, flows into that. And
 5 you spoke about this in your -- when you spoke
 6 earlier today. So I may be retreading the same
 7 ground. But if -- I don't know if you have
 8 anything else to add about the issue of using
 9 organizations like Tuskars.
 10 Because I think, you know, you say in your
 11 report -- and I think it's clear that your
 12 preference would be to use the CAS. Because
 13 they're held to certain professional standards
 14 that an organization like Tuskars would be.
 15 But also, at the same time, you know, you said
 16 at one point -- and this might have been in one
 17 of the children's reports. That they probably
 18 provided more -- I think the term is "culturally
 19 sensitive" -
 20 KENN RICHARD:
 21 A. Yeah. Yeah.
 22 CATHERINE BOYDE:
 23 Q. - than CAS would have. So like, how do you kind
 24 of, I guess, square the circle?

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1 KENN RICHARD:
 2 A. Well, what Shelley Oakman, the practitioner
 3 associated with Tuskars, took it upon herself,
 4 for example, to go to Newfoundland, to go to
 5 Labrador and become familiar and to have -- to
 6 make outreach calls and such. So how she
 7 personally -- even though her system was not
 8 accountable, I'll give her some credit. She felt
 9 some level of accountability and did try to
 10 engage the family.
 11 So you know, it's a person acting in a
 12 particular context that wasn't really supportive
 13 of her acting. But because of her sense of
 14 purpose, and I support this, she saw differently.
 15 But she didn't have to. She could have just been
 16 a purchase service with no accountability for --
 17 under the legislation and the standards and the,
 18 you know -- the guidelines associated with
 19 monitoring a kid that's in care, you know.
 20 But when you look at what's required under
 21 legislation, it's -- I don't want to say
 22 laughable. But it's highly concerning. And you
 23 know, for kids in care, their social worker, for
 24 example, sometimes doesn't have to visit for

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1 90 -- within 90-day periods. I mean, how do you
2 have a relationship with a child when you see
3 them every three months?

4 So you know, the system is, you know -- our
5 orders were specific. Our reports are associated
6 with that. But if you want to talk about child
7 welfare in general, that -- those conditions
8 still exist everywhere.

9 And one of the things the Indigenous sector is
10 doing is saying, that's ridiculous. We want to
11 see our kids a lot more than that. And we want
12 the money to be able to do that. And of course,
13 you know, that's where you get into another area
14 of problems, as you probably know. Well,
15 certainly, the Innu Nation knows.

16 So yeah. I'm taking the opportunity for a
17 soapbox here. I apologize.

18 TARA PETTI:

19 A. Yeah. I would just add that the use of kind of a
20 third-party, I guess, coordinator of, you know,
21 the placement of these children does need to
22 still be monitored, supervised, you know, by the
23 mandating or jurisdictional body, you know. So
24 their -- and so that's one.

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1 And then the other one is -- the other point I
2 wanted to make was that, you know, despite the
3 efforts, you know, of the third party or Tuskers
4 or Shelley or you know, the, you know -- and the
5 practices that she -- they implemented, you know,
6 in their services, there was still a huge
7 disconnect in how that was shared, you know. You
8 know, so there were monthly reports provided to
9 the case manager that may be documented
10 incidents, you know.

11 it wasn't always known that these things were
12 shared with the family. Or if they were just
13 passed to the family, how, you know -- how were
14 they then processed and read and understood by
15 the family? So those are, you know -- that's
16 just what I'll add to Kenn's comments.

17 CATHERINE BOYDE:

18 Q. The issue, you know -- there's been a lot --
19 perhaps one of the most overarching themes, you
20 just touched on it, is the communication. And I
21 mean, you've both worked as social workers. And
22 I'm sure you recognize communications can be
23 difficult, especially when there's these cultural
24 differences, but perhaps, in any situation where

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1 a child is in care.

2 Are there any specific recommendations you
3 would make for improving communications, I guess,
4 other than a general do it more? And maybe
5 that's one of your recommendations, which is --
6 I'm sure it is. But is there anything more
7 specific or more, I guess, culturally attuned you
8 would suggest?

9 KENN RICHARD:

10 A. Tara, do you want to do...

11 TARA PETTI:

12 A. Well, I guess, you know -- well, the youths have,
13 you know -- so having, like, a community
14 liaison -- and I know we kind of touched on this.
15 Like, Kenn touched on this, like, around having,
16 you know, people, you know, who work in
17 collaboration or with the provincial agency that
18 have, you know, knowledge or who are Innu, you
19 know, would be kind of like a starting point.

20 And I'm kind of just looking back in, you
21 know -- in my own practice, you know. Like, I
22 was a First Nation social worker, but I worked
23 for my community in the provincial system. So
24 you know, that is -- that was -- that's my

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1 experience, you know. So to, you know -- to
2 transfer that to, you know, not necessarily
3 seeing that, you know, in the community of
4 Natuashish, that, you know, the use of, you know
5 -- and some of the workers that we spoke to also
6 had, you know -- there were some community
7 contacts, you know, that they relied on you to
8 provide resources to them, such as knowledge of
9 the community, knowledge of the language, you
10 know. It didn't seem like that was formalized in
11 any way.

12 Whereas, you know, even in, you know, systems,
13 you know -- in the system that I was familiar
14 with, there was, even prior to, you know, our
15 provincial devolution, you know, there was the
16 use of what we would call, like, childcare
17 committees, you know. Where there was, you know,
18 people in the community that did meet with the
19 provincial agency to talk about, you know,
20 placements or family connections or language, you
21 know. So that kind of thing, you know, I -- we
22 saw it kind of informally. But not anything
23 formal as an expectation of the, you know -- the
24 mandating agency or the provincial bodies.

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1 KENN RICHARD:
 2 A. We used to have something called case aides. And
 3 you know, while I don't promote that as a
 4 long-term solution, in the interim, as the Innu
 5 developed, yeah, hiring local people to go to
 6 that office with the social workers and be the
 7 continuity and the cultural guide and the
 8 icebreaker and all those things that are required
 9 to get that kind of relationship that you want.
 10 Because, you know, they can be a bridge, right?
 11 A good -- a really good bridge in the short-term.
 12 So I think things can be done today or
 13 relatively quickly to tend to that and to
 14 mitigate the issues that prevent relationship by
 15 hiring the Innu to hold, you know, some authority
 16 in terms of engagement so that they can make that
 17 relationship happen.
 18 Now, that's even hard in and of itself,
 19 getting case aides. Let's be frank. Child
 20 welfare is not anything that is easily done. And
 21 we know that when you're immersed in a child
 22 welfare scenario that is highly conflictual, and
 23 it's your family membership, and your, you know
 24 -- your community that you're dealing with, how

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1 difficult that can be. So this is not for the
 2 faint-hearted.
 3 But it starts with, you know, the dialogue.
 4 And a great dialogue that we -- and I want to
 5 have this opportunity to say this, you know.
 6 These talking circles that we've all experienced
 7 throughout the past little while would be a great
 8 place to go to say, how do we get things better
 9 in this community in terms of accelerating the
 10 development process for their services
 11 sovereignty that is emerging under C-92? But
 12 also, just today, providing better work. Because
 13 it can be done.
 14 CATHERINE BOYDE:
 15 Q. Yeah. Just to kind of follow up on that
 16 question, I mean, recent amendments or changes to
 17 the legislation that requires serving notice on
 18 Indigenous representatives, which often leads to
 19 Indigenous representatives being involved more
 20 closely in the files and attending court.
 21 Do you view that as being part, perhaps, of
 22 the solution in a -- for a question like this?
 23 KENN RICHARD:
 24 A. Sure. But by the time you get to court, things

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1 are already broken down, you know, a lot of the
 2 time. So I say build this in earlier into the
 3 process and that. You're talking about band
 4 representation and you know, as we know it, you
 5 know, out west, anyway, an important piece of the
 6 service continuum, yes. But it doesn't fulfill
 7 all the needs -- service needs going, you know,
 8 at any point in time.
 9 Tara? I don't know if I'm clear.
 10 TARA PETTI:
 11 A. Yeah. Yeah. I'm -- I don't have much more to
 12 add, but -- other than that, I believe that, you
 13 know, the work of the -- we didn't -- it wasn't
 14 within our scope or anything to look at, you
 15 know, the work of -- or the development of
 16 services, you know, to date. But I believe that
 17 there is -- on a good -- they're -- the Innu
 18 Nation is on a path. And the path is supported,
 19 you know, by federal legislation and funding and
 20 you know. That there is, like, a lot of growth
 21 in that area. Yeah. That's all I can add.
 22 CATHERINE BOYDE:
 23 Q. And the only other question I have is, I guess,
 24 on the topic of aging out and aftercare, which

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1 was, certainly, again, a theme in several of the
 2 children, you know. And I guess the question is
 3 whether they age out under the legislation when
 4 they're 16 or 18 or older, you know. At a
 5 certain point, CSSD or SSWB loses the mandate to
 6 be involved. And oftentimes, there's situations
 7 where the families, for various reasons, don't
 8 want anything else to do with child protection or
 9 CSSD.
 10 KENN RICHARD:
 11 A. Sure.
 12 CATHERINE BOYDE:
 13 Q. And I'm not saying that's not understandable. I
 14 guess, what, you know -- what can be done there
 15 to kind of try to bridge that service gap when a
 16 child is no longer young enough that they can be,
 17 I guess -- I don't want to say forced. But when
 18 CSSD can be involved and when they lose that
 19 mandate?
 20 KENN RICHARD:
 21 A. You know, anybody who has raised kids or raising
 22 kids, you know, 16 is -- they're babies. So we
 23 all know that. You don't need a education to
 24 know that. And how it got to be that that was

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1 a -- this aging out business was part of our duty
 2 to care, you know, it just -- the whole thing has
 3 been wrong. And it's being corrected,
 4 thankfully.

5 And I'm pretty sure, as the Innu draw up their
 6 law, that it's not going to be some kind of
 7 arbitrary statement with respect to somebody's a
 8 child at 15 and an adult at 16.

9 So that being said, you know, what was
 10 interesting in this scenario was there's a big
 11 gap, you know. Even a kid -- and one of the kids
 12 could use -- could have used adult protective
 13 services, they didn't exist until he was 18. So
 14 there was two-year gap in terms of anybody being
 15 responsible for the good and welfare of this
 16 child.

17 So yeah. It's -- the aftercare scenario is
 18 being cleaned up in other jurisdictions based on
 19 reality and based on, you know, a full
 20 appreciation that if the State's going to take
 21 and remove a child, the State has an obligation
 22 to raise that child up in a good way. And it
 23 doesn't mean kicking them out at 16.

24 Anyway, yeah. Tara.

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1 TARA PETTI:

2 A. Yeah. Like, I know that there, you know -- in
 3 today's practice and opportunities, I know there
 4 are definitely action taken around aging out,
 5 preparing people who have, you know, been in care
 6 for a long time to live beyond care on their own.

7 But you know, from , I guess, you know -- from
 8 a -- practice standpoint, you know, there, you
 9 know -- that also -- the, you know -- the
 10 reintegration and the aging out, you know, often
 11 involved, you know, trying to look for a family.
 12 If, you know -- and this is just in general
 13 practice. And reconnecting, you know, the child
 14 with a family after, you know, not having a
 15 connection. So those are, you know, things that,
 16 you know -- that have been, you know, tried and
 17 you know, starting earlier, you know. Starting,
 18 you know, some type of an -- reintegration plan
 19 earlier and not, you know, just before the child
 20 ages out.

21 And then keeping the connection, you know.
 22 Keeping connection with family and someone who,
 23 you know, will be part of their life after they
 24 age out of care. So these are all things that,

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1 you know, prior to, you know, the -- there's, you
 2 know, federal support. And there's also more
 3 recognition of aging out and supporting them for
 4 years afterwards now.

5 Q. Thank you very much. I don't have any further
 6 questions. And I will -- guess I will turn it
 7 over to the next questioner. Thanks very much,
 8 guys.

9 KELSIE LOCKYER:

10 All right. So I believe next would be the Innu
 11 Nation to bring their question in. And I know,
 12 Judith, you mentioned that you expect to be about
 13 45 minutes to an hour. So just before I allow
 14 you to start, I'll just ask if there's anybody
 15 who has any quick questions who would like to
 16 bring one? Okay.

17 WILLIAM HISCOCK:

18 I mean, I have a quick question. But I'm quite
 19 happy to wait until after Innu Nation has gone
 20 and go in the regular order.

21 KELSIE LOCKYER:

22 Okay. Excellent. We'll, we'll go to Judith
 23 first. And you can proceed with your questioning
 24 whenever you're ready, Judith.

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1 JUDITH RAE:

2 Okay. Thanks very much. I'll do my best. I'm
 3 hopeful we can get through it. I think a lot of
 4 the questions I had have been covered, but
 5 sometimes, only in part or in different ways. So
 6 I'll just -- I'll have to just go through and
 7 collect my thoughts as we go to try to be
 8 efficient.

9

10 MR. KENNETH D. RICHARD AND MS. TARA PETTI,
CROSS-EXAMINED BY MS. JUDITH RAE

11

12 Q. So just to introduce myself -- and actually, I'm
 13 meeting Ms. Petti for the first time. It's great
 14 to meet you.

15 TARA PETTI:

16 A. Nice to meet you.

17 JUDITH RAE:

18 Q. My name is Judith Rae. Yeah. I'm at a firm
 19 called OKT, where I am now with my colleague
 20 Ashley Ash, who was at the circle last week. And
 21 we provide legal representation to the Innu
 22 Representative Organizations in the Inquiry,
 23 which is Innu Nation, as well as the two First
 24 Nations, Sheshatshiu Innu First Nation and

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1 Mushuau Innu First Nation. And we also represent
2 the Innu Round Table Secretariat. So we
3 represent them all jointly.

4 Just want to say thanks very much for your
5 report and all the evidence you've given today.

6 My questions -- like a lot of the other
7 questions today, I'm going to focus in on
8 potential recommendations that flow from what you
9 found in looking at these -- at the lives and
10 deaths of these six Innu young people.

11 I'm not going to follow the exact order in the
12 report page by page, so it may feel like I'm
13 jumping around. But I'll try to follow an order
14 that I think will help us be efficient overall.

15 But I will start with the first theme, the
16 colonial legacy of intergenerational trauma. So
17 we've talked a bit about that theme today. And
18 you did talk a bit about recommendations that
19 flow from that.

20 And, Mr. Richard, you talked about, you know,
21 learning and reflecting, you know. That it's
22 about a process of learning and reflecting, if I
23 have that right.

24 And I just wanted to ask a little bit more

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1 about who -- you know, who needs to learn and
2 reflect? And how can that be done? I mean, you
3 gave the example of this Inquiry being one
4 example. But what could be some other examples
5 of that that you might recommend? Oh, you're on
6 mute?

7 KENN RICHARD:

8 A. The dog.

9 Most systems that are engaged in Innu life
10 that come from the settler need work. We were --
11 we had occasion -- we met with the Labrador
12 Correctional Centre, for example. They're only
13 beginning to appreciate, and I, you know --
14 we're, you know -- we spoke to some very caring
15 individuals there. But they're only themselves
16 getting to the point where they're able to
17 critically assess how they've been helpful or not
18 helpful in relation to correction services with
19 respect to the incarcerated. And there is lots
20 of Innu incarcerated, as you well know. So it's
21 a big deal.

22 We have managed to create, though, a process
23 of moving forward, you know. And I operate on a
24 kind of, you know -- relationships need to be

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1 created. Visions needs to be, you know,
2 reflected on. But at the end of the day, there's
3 some action required to realize what you want to
4 do, back to the vision. So that's sort of what
5 we call movement.

6 That has been now charted in terms of how one
7 does that. And how one does that is under the,
8 you know -- the broad banner of reconciliation.
9 And this Inquiry, just to place it in my
10 understanding of reconciliation, is a part of
11 that truth-telling process. And I think we'll
12 have achieved that.

13 But what is further required is taking that
14 truth. And the Commissioners' report will do
15 this, I hope, acknowledge what went on. And in
16 that acknowledgement, undertake some kind of
17 effort to address that and take ownership and
18 accountability.

19 But the other two components of this
20 reconciliation process -- and this comes from my
21 work at First Nations Caring Society and how
22 we've done it in child welfare generally, is the
23 restoration process. Where you don't necessarily
24 walk out of the room, like everybody wants to do,

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1 I know. And let me be somewhat humorous but sad
2 at the same time. Who wants this file? Well,
3 nobody, you know. Which government? You know,
4 they -- it's about who, you know -- we know all
5 the machinations associated with who wants to
6 take authority.

7 But everybody's been involved. So getting all
8 folks at the table to talk about the restorative
9 process. And it's not devolution. It's
10 restoration. And that's where child welfare
11 needs to go.

12 And at the end of it all is a new relationship
13 between -- and I hate the word "settler," but I
14 can't find a better one, and the Innu. So that,
15 at the end of the day, with the child at the
16 centre of the fire -- and let me -- can I do my
17 poem? It's just brief.

18 The poem is this: The child is sacred. The
19 child is at the centre of the fire. The family
20 keeps the fire. And the fire is on the land.

21 So if we follow that tenet that the -- and
22 move in that direction, that's, to me,
23 reconciliation in child welfare.

24 So I'm not even sure what your question was,

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1 Judith. But that's my answer.
 2 JUDITH RAE:
 3 Q. Thank you.
 4 TARA PETTI:
 5 A. Yeah. I would just add -- and well, first of
 6 all, agree with Kenn. And I do really like his
 7 poem. It's very succinct and you know -- but you
 8 know, the education, you know, of the history and
 9 the colonial history, you know, is mirative in
 10 the province.
 11 I don't, you know -- in my experience and in
 12 my exposure, you know, to the Newfoundland
 13 culture, you know, there is a lack, you know, of,
 14 you know, knowledge of, you know, the Indigenous
 15 history, the Nations, you know, that encompass
 16 that, you know. But -- and I think that there is
 17 some approaches and steps, you know, to reconcile
 18 that now.
 19 But generally, you know -- and this is
 20 systemic, you know, in -- there isn't knowledge,
 21 you know. So how do we inform, you know, the
 22 justice system, the health system, the child
 23 welfare system, you know, in a good -- in a way
 24 that, you know, helps them understand that -- not

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1 only the history, the system's part in it.
 2 And you know -- and how, you know -- how it,
 3 you know, laid, you know -- laid out for both
 4 sides, you know, the advantages and
 5 disadvantages, privilege and you know, things
 6 like that. That's all very important. And you
 7 know, how is that being, you know, implemented
 8 across, you know, the province?
 9 And then, you know, the healing of that, you
 10 know. The -- we, you know -- we talk to -- we
 11 talk about, you know, communication between the
 12 system and the families, you know, as being a
 13 gap. But also, you know, the families, you know,
 14 and their own journey of healing and their own,
 15 you know -- their own impacts, you know, from the
 16 colonial legacy that existed, you know, in their
 17 ability into, you know, have a family, to live,
 18 you know, and to be a parent and to, you know --
 19 to work or to live on the land, you know. Those
 20 are all things that, you know, need some elements
 21 of reconciliation.
 22 And you know, just, you know, reconciliation,
 23 you know, involves personal healing, you know.
 24 And that is -- and understanding, you know. And

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1 that needs to be felt across. It's not just the
 2 First Nations people, you know, that need to
 3 heal.
 4 And under, you know -- but there's also, you
 5 know, non-Indigenous people and settlers and new,
 6 you know -- newcomers even, you know. That what
 7 do they know about, you know, the First Nations
 8 culture or the Innu history in Newfoundland? So
 9 those are all, you know, again, you know,
 10 efforts, you know.
 11 They're well-documented. There's lots of, you
 12 know, recommendations out there that, you know --
 13 TRC, the MMIWG Inquiry, you know. And even, you
 14 know, some of the inquiries and research and you
 15 know, documents that have been done in
 16 Newfoundland.
 17 JUDITH RAE:
 18 Q. Thank you. Okay. I'm going to move now to the
 19 topic of what isn't yet -- or that you thought
 20 that isn't but could be or should be available in
 21 Labrador before the, you know -- before a care
 22 placement arises or the need for that care
 23 placement arises. So in today's evidence, you've
 24 talked -- I think you've hit most of the notes I

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1 was going to ask you about.
 2 So I'll just mention some of the things that I
 3 heard come up today. Early screening for
 4 developmental learning, cognitive or psychiatric
 5 issues, follow-up and professional help with
 6 those issues if someone is screened in. Taking
 7 into account an Innu traditional approach, as
 8 well as the kind of best of the West approach
 9 that you mentioned. Collaborating with other
 10 service providers, like schools and you know,
 11 others, you know. Youth mental health,
 12 addictions treatment, counselling programs for
 13 those with more advanced needs that provide
 14 ongoing support, you know, on a -- Kenn, as you
 15 said, a clinic or you know, kind of access is
 16 there.
 17 You also mentioned positive programming for
 18 children and youth, like after-school or summer
 19 camps and you know, mentoring kind of, you know
 20 -- as you said, that kind of like, old-school
 21 youth work. And support for parents. And you
 22 mentioned land-based, of course, and culture.
 23 That really did cover my list. And I think
 24 everything came up.

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1 Is there anything else that you might want to
2 mention about, you know, from your experience and
3 from what you, you know -- both from your
4 experience and from what you saw in the cases,
5 that you would want to see available in Labrador
6 to prevent cases like these from playing out the
7 way they did?

8 KENN RICHARD:

9 A. The only thing I want to add to that extensive
10 list is the need -- and this is actually my
11 training is for community development to be
12 undertaken, such that we strengthen the -- what's
13 already there. And what's already there is a
14 strong sense that everybody is responsible for
15 everybody else's kids. That it's a collective
16 process.

17 That is lost in many communities. And it's --
18 probably has been significantly diminished
19 because of the realities of colonization for the
20 Innu. But re-establishing the ethic of community
21 responsibility to everybody else's kids,
22 including your, you know -- not just your own,
23 goes a long way. In terms of, for example, like
24 gas sniffing. You see, you know, this child

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1 sniffing, and you go, "Well, I'm going talk to
2 their parents, you know." That kind of simple
3 stuff that we, I think, in other generations,
4 took for granted but have been lost, you know.

5 And so the revitalization of a community
6 acting as community. And I know they do it.
7 Because I've been to the gathering, you know.
8 I've been to places where it's very evident that
9 they see themselves as a collective. So to build
10 that in with good community development into
11 engagement on the issues confronting youth is
12 probably what is also missing, in addition to all
13 that list of services that you just put forward.

14 TARA PETTI:

15 A. Yeah. And the other thing that I would have to
16 add is, you know, I talk a lot about, you know, the
17 educating mainstream people about, you know, the
18 history and the impacts. But in this scenario,
19 in this question, you know, I also believe that
20 there needs to be, you know, a knowledge, you
21 know, with the Innu people and you know, of what
22 are, you know -- what mainstream services are
23 there? And how can they benefit, you know?
24 Because sometimes you need them, you know.

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1 Like, people need to go to the hospital to get
2 services, you know. Maybe there might be, you
3 know, very specific mental health needs, you
4 know, that can be serviced, you know, by a mental
5 health system.

6 And in fact, you know, in one of our families,
7 you know, there was, you know, evidence of that,
8 you know. There was, you know, someone whose
9 adult child, you know, was, you know, in a --
10 kind of an institutionalized setting. And they
11 worked with, you know -- with the mental health
12 system.

13 So there was knowledge. There is services
14 that, you know, people are -- and they have an
15 understanding of why these services are needed,
16 you know. But is that the first response? Is
17 that the first service that's needed, you know?
18 That's -- it's that shift, you know. And
19 knowing, you know, when those services are
20 essential or needed and when community, you know,
21 revitalization and support is, you know, more the
22 emphasis.

23 JUDITH RAE

24 Q. Thank you. I'm just looking, for a minute, at my

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1 notes to see what I need to cover from this next
2 part. Hold on a second.

3 Okay. So I'll move now to talking about the
4 child and family services system, including child
5 protection services, but not only. And I'll just
6 note that, you know, Innu Prevention Services
7 does exist now. It's growing. But it only came
8 into existence towards the end of the time period
9 that you were looking at in your investigation.

10 You did give a lot of examples earlier about,
11 you know, what, you know, prevention can look
12 like, you know, early prevention, you know,
13 secondary prevention, tertiary -- you know, you
14 gave some of these examples. So I'm not going to
15 -- I don't think we need to talk more about that.

16 But -- well, maybe I'll just ask. If there's
17 anything else you wanted to add about -- you did
18 speak about those before. But if there's
19 anything you wanted to add about services, you
20 know -- there's so much that was missing, of
21 course, before, which we've touched on. But if
22 there's anything that you wanted to add about
23 where you would want to see prevention services
24 grow or expand into in particular, I'll just

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1 offer that up.
 2 KENN RICHARD:
 3 A. I just always want to reinforce that sometimes we
 4 get almost intoxicated by the -- and I'm talking
 5 about the Indigenous sector, by the notions that
 6 once we control it, it'll all be good. Well,
 7 there's still going to be kids that are going to
 8 be in extreme distress. And the kids we looked
 9 at had -- they were moving into full-blown
 10 psychosis. And a couple of them were already
 11 there. And you know, hockey, in my earlier
 12 comments, is not going to -- they're not going to
 13 play hockey.
 14 So never lose sight of the special needs kids.
 15 Because they're -- they can be easily forgotten.
 16 And those are the ones that are sniffing gas and
 17 expressing suicide ideation. And just -- and
 18 accept that 1 out of 10 of kids are going to be
 19 special needs. And they need to be planned for.
 20 And that's where collaboration with, well, the
 21 best of the West and -- including medication,
 22 possibly, you know.
 23 It was badly handled in these reviews. But
 24 there's been tremendous advances in medication

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1 that, you know, will prevent kids from being in
 2 the kind of distress these kids were in. But we
 3 got a long way to go to that one because of
 4 what's already built into -- in terms of
 5 misunderstanding and lack of trust on medication.
 6 But, well, that stuff's going to need to be
 7 worked on. And yeah.
 8 And there's also, by the way, other kinds of
 9 medication. And there's on-the-land stuff, too.
 10 So yeah. I don't know where I'm going now, so
 11 I'll say, Tara.
 12 TARA PETTI:
 13 A. Yeah. The only thing that I can add to that is,
 14 you know, also, you know, an understanding of the
 15 impacts, you know, of, you know -- of the
 16 history, you know, and the treatment of systems
 17 towards Innu people. And like Kenn said, you
 18 know, then when we are now in a position to say,
 19 you know, the Innu people -- the Innu Nation will
 20 manage their own, there needs to be recognition,
 21 you know, that there has been harm. And
 22 everyone's been impacted by it.
 23 And you know, that they, you know -- that even
 24 in the development of systems, you know, in the

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1 development or the, you know, transformation, you
 2 know, there also -- it needs to go hand-in-hand
 3 with, you know, individual and nation-based, you
 4 know, healing and connection and restoring those
 5 -- the trust in each other and family, you know
 6 -- families and opportunities, you know.
 7 We're still dealing with, you know, poverty,
 8 housing, you know, basic needs. And then we're
 9 saying, you know, now you can take over your
 10 child welfare system, you know. So really doing
 11 things in an incremental way, you know, that does
 12 already kind of overload or cause, you know,
 13 additional stress to an already stressful
 14 situations.
 15 JUDITH RAE:
 16 Q. Yeah. Thanks for that advice. That's helpful.
 17 And you did already touch, you know -- moving
 18 into kind of CSSD, you talked about, you know,
 19 the structural instability they face. That's in
 20 your report, you know. There's staffing
 21 shortages, turnover, and the issues with their
 22 rotational workforce model.
 23 Catherine had asked you about recommendations
 24 related to that earlier. And you did talk about,

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1 you know, building Innu staff over the long term,
 2 you know. Thinking about how you can use more
 3 Innu staff in the picture over the short term.
 4 Just wanted to ask you if there's anything else
 5 around that or any best practices that you've
 6 seen, you know, as has come up.
 7 I mean, you know, turnover and staffing are
 8 big issues in the child welfare sector, all over.
 9 But I'm sure there are -- that said, it's not
 10 without people having given it attention, too.
 11 Right? So I'm wondering if there are any, you
 12 know, stories you can share or practices you can
 13 share that have been useful.
 14 KENN RICHARD:
 15 A. I don't know of a lot of successes, actually, on
 16 this. It's a problem that is national, north,
 17 south, east, west, particularly when you talk
 18 about servicing. I mean, those of us who have
 19 spent time in the community know it's not easy,
 20 you know. You're a stranger there, for sure.
 21 There's no accommodation. The foods (phonetic),
 22 you know, it's ridiculously expensive, out of
 23 control. And it's not your world. And you're
 24 choking on dust half the time.

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1 You know, it's -- the secret is to move
 2 forward on that development of Innu-provided
 3 care. How to get -- it takes a certain kind of
 4 social worker to be able to -- we met a couple in
 5 our travels. To be able to go there and like
 6 being there, notwithstanding all the issues. And
 7 that's where you need to go.

8 And I don't want to be stupid and say, "Well,
 9 if you paid them more, they'd come." But you
 10 know, if you did, they would, you know. It's,
 11 you know -- it's -- they're not very well
 12 supported when they're there. They're living in
 13 a trailer. They're -- there's no place to do
 14 counselling. There's, you know -- it's -- their
 15 lives in a goldfish bowl, as well. So it's just
 16 -- there's so many things mitigating that.

17 So that's where, you know, you get -- you do
 18 your own consultation, the Innu Nation, maybe on
 19 something like that, how to retain what's wrong
 20 and how to correct it.

21 TARA PETTI:
 22 A. So in my experience and work experience, I have,
 23 you know, worked as a First Nations social worker
 24 in a First Nations agency, which was also the

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1 community where I'm from, you know. So like, to
 2 me, like, there, you know -- that, you know,
 3 was -- I don't know, like, a best practice in
 4 terms of, you know, being under, you know --
 5 working in the system. But we couldn't, you
 6 know -- we couldn't change the system.

7 But what I can recall, you know, during the
 8 time, you know, like, there were opportunities,
 9 you know, for our -- in the Manitoba system, you
 10 know. There were opportunities for First Nation,
 11 Metis, Indigenous social workers, you know, to
 12 get an education while still being in the
 13 community or still being in practice. There
 14 were, you know -- there were opportunities, you
 15 know, whether it was through a certificate
 16 program that was recognized, you know, then at
 17 the university level or from a university
 18 program.

19 I'm not saying that they were all functional
 20 and well done. But you know -- but there were
 21 opportunities there. And there was movement, you
 22 know, in the -- kind of in the institutions --
 23 the education institutions to, you know -- to
 24 start, you know, doing -- delivering their

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1 programming differently.

2 And I see that kind of spreading, you know,
 3 more west, you know. You see a lot of that in
 4 Saskatchewan and Alberta, you know, where there
 5 is more, you know -- in the education of social
 6 workers, you know. That there's more cultural
 7 involvement and participation of Elders and you
 8 know, things like that.

9 So that, you know, to me was, you know, a very
 10 strengthening experience as a Indigenous social
 11 worker in kind of a mainstream system. So
 12 looking at, you know, how do we educate, you
 13 know, our own people to work in our own system.
 14 And then, you know, in -- and you know,
 15 including, you know, very definite, you know,
 16 practices of, you know, self-reflection, healing,
 17 you know, wrapping around, you know, when you get
 18 a difficult situation, how do we debrief, you
 19 know? Things like that, you know, are, you know
 20 -- there's lots more that, you know, I'm just
 21 thinking, you know, just in my experience.

22 But you know, with the opportunities, you
 23 know, because of the Human Rights Tribunal -- the
 24 National Human Rights Tribunal and the, you

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1 know -- the things that are, you know, coming out
 2 of that. There is a huge amount of, like,
 3 evidence and best practices and you know, things
 4 that people, you know -- we can take some time
 5 to, you know, digest and explore and use.

6 So I believe that the, you know, today, the
 7 First Nations, including Innu Nations, are, you
 8 know -- have shared, you know, their, you know --
 9 their experiences. There's literature. There is
 10 advocacy. And just grow along with it.

11 JUDITH RAE:
 12 Q. Thank you. In your report, you talked about the
 13 kind of narrow orientation of the child
 14 protection system being kind of narrowly focused,
 15 you know, reactive to full-blown problems. And
 16 forensic, you know, focused on kind of
 17 investigating problems. As well as that, you
 18 know, child -- at least in the time you were
 19 looking at it, child removal, too often, was the
 20 first option.

21 Can you describe to us -- I mean, it may seem
 22 obvious in describing that. But in some ways
 23 it's not. And if you could describe to us a bit
 24 more directly what should this look like

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1 differently?

2 KENN RICHARD:

3 A. Yeah. Well, it has to be a system that is

4 differently conceived from the outset. And what

5 I mean by that is, for example, you can build a

6 Children's Aid Society or a child protection

7 agency that has services that would enhance the

8 protection function, which is what people often

9 try to do, or you can build a holistic agency

10 focused on child and family wellbeing that has,

11 as part of its services, child protection. And

12 that looks quite different. Because it's not led

13 by the forensic model.

14 It's led by another model. And that is the

15 child and family wellbeing model. Which looks

16 more at strengths and how to work with the

17 strengths of the given family. And you know,

18 that's rarely something that's attended to in a

19 child welfare investigation.

20 Child welfare investigations from the forensic

21 perspective involves going in and confirming that

22 the complaint is valid. Because it's often

23 complaint-driven, or you know, it's often at the

24 end of people's rope. So it's a different kind

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1 of narrative.

2 So to get -- to divorce yourself from that

3 mindset, never losing track -- and I always have

4 to say this. Because some people say, oh, well,

5 you're minimizing the need for child protection.

6 My experience, which is extensive, most kids are

7 not in jeopardy in their homes -- immediate

8 jeopardy, where they need to be removed. That

9 happens, and I've done that.

10 But mostly, what we're dealing with is folks

11 who were distressed, overwhelmed. They're, yes,

12 neglecting their kids from the perspective of

13 legislation. But at the same time, they're

14 nurturing them in different ways.

15 I haven't met any kids that want to be taken

16 into care. Very few, except for the odd teenager

17 that, you know, is in conflict with their

18 parents. And those of us who have raised kids

19 know that, you know, sometimes they don't want to

20 be here. But I've not met too many kids at all

21 that ever -- even in the most difficult scenario,

22 that have actually wanted to be removed.

23 So that's your first indicator that we need a

24 new model. So that model should shift away to

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1 one that is inclusive, holistic, culturally

2 based, accountable, and appropriately resourced.

3 The forensic model hasn't worked. It needs to be

4 jettisoned as quickly as we possibly can, without

5 jeopardizing safety. And that's always a

6 challenge in certain situations.

7 TARA PETTI:

8 A. Well, you know, Kenn and I talked about this

9 several times over the course of our

10 investigations, is how do you manage, you know,

11 the balance between child protection and kind of

12 family preservation and the growth of, you know,

13 more, you know, healthy family systems while

14 being, you know, those kinds of areas? Because

15 there's always going to be a need for child

16 protection. In any system, there's going to be a

17 scenario where there could -- there can -- where

18 a child needs protection.

19 And then how do you kind of recover from that,

20 you know, from that initial response? Which, you

21 know, might be, you know, a removal. Then how do

22 you build, you know, back, you know, the, you

23 know -- the trauma of the removal and the

24 preservation of the family and the healing of the

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1 family? So that they can, you know, reconnect.

2 Because they will, you know, eventually.

3 And so it, you know -- it is, you know, an

4 area that is very difficult, you know, to

5 navigate. And I believe it is very, you know,

6 community-specific. And we do need to hear from

7 the community on, you know, what does it mean to

8 protect children?

9 You know, I can look back into, you know, some

10 of my very early, earlier practice, you know, on

11 reserve. And you know, we would, you know --

12 sometimes, you know, we know if they -- we knew

13 that there was, you know, like, say, something

14 happening in a home, like a party or something.

15 And you know, Grandma could, you know, take care

16 of the child until the parents, you know, are --

17 were ready to take the children back. We would

18 facilitate those arrangements, you know, for a

19 weekend or you know, things and help, you know,

20 Grandma with the babysitting. And there was kind

21 of an understanding.

22 But you know, that was something that wasn't

23 allowed. So you know -- and you know, we need

24 to, you know, be able to look at, you know,

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1 the -- kind of those kind of natural systems.
 2 You know, we're not dealing with, you know, some
 3 of the substances and things that, you know --
 4 that -- the issues that are -- exist today.

5 But you know -- but really looking at, you
 6 know -- at things differently. But
 7 acknowledging, you know, that there is a need to
 8 protect children in situations. And then kind
 9 of -- again, like, how do we recover from that
 10 and move forward, you know, in the interests
 11 of -- and well-being of the children in the
 12 family and the community.

13 KENN RICHARD:

14 A. So I -- up until -- you know, when I was the
 15 director there at Native Child, would often get
 16 problems brought to my desk. For example, to
 17 make it real tangible. This is real. A young
 18 boy at his grandmother's, sleeping on the couch,
 19 with a grandmother who -- and her past history
 20 was questionable. When she was younger, she was
 21 addicted and had the -- all the problems. So she
 22 had her own file, you know.

23 And my worker is saying, well, you know, the
 24 rules say, well, because Grandma's had this

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1 history, that she's not an appropriate caregiver.
 2 She wouldn't get a licence. And the boy's
 3 sleeping on a couch. And we know that the
 4 standards are meeting -- are not being met,
 5 sleeping on a couch. The standards require so
 6 many things, including window size and your own
 7 bed and all that.

8 So the plan was to move -- let's call him
 9 John, Johnny, to -- from his grandmother's place
 10 in the east of Toronto to Oshawa, to a properly
 11 licenced home with his own room and everything.
 12 And that was what the system wanted us to do --
 13 was compelling us to do with respect to
 14 standards. And what do you think we did? He
 15 stayed with Granny. But we were breaking the
 16 rules in doing that.

17 And that's the dilemma faced on a daily basis
 18 with this existing model, is it prevents,
 19 actually, the kind of culture-based approach to
 20 child welfare that everybody aspires to.

21 TARA PETTI:

22 A. Yeah. And that was evident in our
 23 investigations, you know, where, you know,
 24 parents spoke of, you know, recommending family

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1 members, you know, to care for their children.
 2 And it's very natural, you know. There's a
 3 very -- there's still a very collective
 4 responsibility of children. And that was evident
 5 in our, you know -- but there was also issues,
 6 you know. Family had -- families had issues, you
 7 know, with alcoholism and you know, different,
 8 you know, things from having experienced lots of
 9 trauma.

10 But -- so back to, you know -- so when the
 11 parents would recommend, oh, my sister or my
 12 cousin or you know. And they wouldn't pass the
 13 checks, you know, of CSSD, you know, the
 14 background checks or the, you know, whatever, you
 15 know. So they were disqualified.

16 But were they really, you know? And you know,
 17 what is the limbs on that? And how can you
 18 support, you know, an overcrowded home, you know,
 19 or you know, people new in the, you know --
 20 people new in their recovery, you know and taking
 21 on, you know, the care of their family members
 22 and things like that?

23 So it goes beyond, you know -- we can't have
 24 the expectation that, you know, everyone is going

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1 to be, you know, perfectly able and capable, you
 2 know. We have to support these family
 3 placements, as well, you know, financially and
 4 also, you know, in, you know -- I don't want to
 5 say therapeutic. But in a way that, you know,
 6 still, you know, helps them succeed as caregivers
 7 and the value that they can bring to keeping
 8 their family members.

9 KENN RICHARD:

10 A. But to conclude, you know, sometimes you actually
 11 have to go against the standards to actually
 12 remain true to the Indigenous approach. All
 13 that -- so there's a lot on these workers -- to
 14 Indigenous workers, for sure, you know. And that
 15 has to be built into this developmental process
 16 that I'm talking about.

17 JUDITH RAE:

18 Q. And what I hear when you say, sometimes you, you
 19 know, have to break the standards is,
 20 essentially, if I might paraphrase, like,
 21 sometimes you need the flexibility to override
 22 the standards when it's in the best interest of a
 23 child.
 24

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1 KENN RICHARD:
 2 A. Of course.
 3 JUDITH RAE:
 4 Q. Like, to focus on the true best interest versus
 5 the standard.
 6 KENN RICHARD:
 7 A. Exactly. Because best interest is the overriding
 8 principle. And if the standard doesn't support
 9 best -- I'm just repeating what you just said.
 10 But yeah. Yeah. I hundred percent agree with
 11 you.
 12 JUDITH RAE:
 13 Q. Okay. I'm going to move on to a topic -- the
 14 topic of disempowerment, related specifically to
 15 youth. And I mean, you've given some examples,
 16 you know -- I'll try not to repeat them all.
 17 Right? But just, you know -- just to remind
 18 ourselves what we're talking about.
 19 But you know, youth who were, you know, not --
 20 things were not really explained to them. They
 21 weren't consulted. They weren't engaged. And
 22 their, you know -- their input was often not
 23 obtained, let alone their consent. Sometimes
 24 they didn't know where they were going. They

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1 weren't treated as active participants in their
 2 own care.
 3 And again, I'd like you to paint the picture
 4 for me of what that should look like differently
 5 with the youth, the children. And some are older
 6 children. Right? With older children or youth.
 7 And we can be flexible here about what that
 8 means.
 9 KENN RICHARD:
 10 A. Sure. Sure.
 11 JUDITH RAE:
 12 Q. But if you can paint that picture for us a bit.
 13 KENN RICHARD:
 14 A. I mean, when you're talking, I'm flashing on a
 15 particular kid that, you know, not only was he
 16 disempowered, he was misled. And I think it was
 17 to get him on the plane. Said if you go to this
 18 place, you'll be there for 30 days. And then
 19 we'll come back. Well, that was a
 20 misrepresentation altogether and a ethical breach
 21 there. Although our job wasn't to flag those,
 22 per se, the same way.
 23 So from that, it's a long way from
 24 establishing a relationship with a boy -- in this

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1 case, it was a boy, such that he was party to his
 2 own proceedings, his own service delivery. And
 3 that's the challenge.
 4 None of these -- well, I don't want to say
 5 none of them. I'm not saying they all had bad
 6 relationships. I, in truth, have to go on what
 7 I've been told that some of these relationships
 8 were actually pretty good.
 9 But it's very clear that the boys were not --
 10 and the one girl were not sufficiently versed in
 11 what system they were engaged with so that they
 12 understood -- had baseline understanding. They
 13 were primarily reacting in survival mode, in
 14 hypervigilance. They were distressed. They had
 15 onset mental health distress writ large. There
 16 was, like, you know, early-onset schizophrenia,
 17 you know.
 18 How -- it was a real challenge for them to
 19 understand what was going on and a challenge on
 20 the part of the social worker to convey it.
 21 Social workers, they were run ragged. Didn't
 22 have a lot of time with the kids. Were doing
 23 this stuff 90 percent of the time on the bloody
 24 phone, you know. It seems impossible, and it

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1 was.
 2 So systemically, the kids were disempowered.
 3 There was rarely when the social worker was
 4 deliberately, except for what I've just flagged
 5 in my evidence anyway, where they were just
 6 deliberately disempowered. But the system worked
 7 such that it was one of the products of the
 8 engagement process.
 9 I don't know. I don't know if I've been
 10 clear. Tara, maybe you can be clearer than that.
 11 JUDITH RAE:
 12 Q. Oh, you're on mute, Tara.
 13 TARA PETTI:
 14 A. You know, the -- sorry. Now, my dog is bugging
 15 me.
 16 And the disempowerment of youth was directly
 17 related to the disempowerment of their family,
 18 you know. So I, you know -- the, you know -- and
 19 that, you know, had to do with, you know, a
 20 family, you know, kind of giving up their power,
 21 you know, in terms of -- like, in a lot of the
 22 situations that we looked at, the families came
 23 to the agency because they just didn't know what
 24 else to do, you know.

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1 And then -- and it was that action, you know,
2 that then gave, you know -- gave them the
3 impression that they've lost, you know, all, you
4 know -- they've lost their child. And they don't
5 have a say anymore, you know. So how was, you
6 know -- so if you -- and then -- so when we look
7 at communication that they might have had with
8 their children, you know, there was
9 disempowerment there. They were monitored. It
10 was a certain time. There, you know -- they
11 couldn't speak Innu.

12 And if the, you know -- if there was
13 complaints, you know, if the child said, "Oh, you
14 know, this is happening to me." You know -- in
15 one situation, like, you know, "My foster parent
16 makes me put their socks on for them, you know."
17 And how -- what was the, you know -- what was the
18 recourse of that? How could that be, you know --
19 it -- there, you know -- there wasn't anything
20 that the parents felt that they could do to
21 change that for their child, or if they did, it
22 wasn't addressed. And they didn't know if it was
23 addressed, you know.

24 So those are, you know -- those are all kind

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1 of related to the themes of, you know,
2 communication, you know, maybe staff turnover,
3 you know, different levels of, you know, where
4 the family was at, you know, in terms of, you
5 know, their healing, you know, their, you know,
6 working within, you know, any issues they may
7 have had, you know.

8 And you know -- and then even just the feeling
9 of, you know, not being able to care for their
10 child. Like, we talked about one -- we talked to
11 one parent who said, "You know, in the end, I
12 just, you know -- I just gave up, you know.
13 Because everything that the workers gave me made
14 me feel like a bad parent. And that I couldn't
15 look after my own child, you know."

16 In another -- another parent said, "You know,
17 I needed to heal in the way that -- and the only
18 way I could do that was just to leave and go and
19 build a tent in the bush and heal myself." You
20 know. So the, you know -- there isn't often
21 grace given for that. And then there isn't --
22 the system doesn't forgive, you know.

23 A parent could be told -- healed and sober and
24 you know, able to look after other children. But

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1 they still won't get those other children back
2 that they lost when they were in the, you know --
3 in the depth of their, you know -- their trauma
4 and you know, the relief that they were trying to
5 achieve, you know, with, you know, the behaviours
6 of addiction.

7 JUDITH RAE:

8 Q. Thank you. I'm just looking through my notes
9 just to -- give me a second. Just to make -- I
10 don't want to repeat things that you've covered.

11 In terms of the reliance on out-of-province
12 placements, you know, which you've noted has
13 occurred in, you know, five out of the six cases.
14 You talked about that, you know, a prolonged
15 separation cause significant cultural harm, as
16 well as emotional trauma. And you talked about,
17 you know, there's harm in that. Right? There's
18 harm in using a placement that is away like
19 that.

20 And I have a couple of questions related to
21 this. But one is, how can the system kind of
22 better account for this in decision-making, in
23 thinking about different options? I mean, the
24 system, I presume, is looking at options that,

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1 you know -- that are available. And as you said
2 -- as Kenn said earlier, you know, they made beds
3 available. But how can these risks be better
4 taken into account?

5 TARA PETTI:

6 A. I think this looks -- this speaks to, you know,
7 voluntary versus involuntary, you know, types of
8 placements, you know, based on the safety of the
9 children. And the, you know -- the -- I guess,
10 the capacity, you know, for the system, you know,
11 to address, you know, situations where it may
12 have to be involuntary, especially for youth, you
13 know. Like -- and that would be kind of, like,
14 the, you know -- the crux of, you know, like, a
15 really -- inability, you know, to control, you
16 know, behaviours, you know, such as the gas
17 sniffing and you know, things like that. Coupled
18 with, you know, potential, you know, mental
19 health, you know -- the impacts that it's causing
20 on their mental health, you know. The behaviours
21 are, you know, to escape pain. Right? And if
22 they can't describe their pain, how can they
23 heal?

24 And so you know -- so what we saw was, you

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1 know, bringing a child into care then made, you
 2 know, the -- you know, made the system to be able
 3 to make decisions that were involuntary. And
 4 there were not really many resources in the
 5 province, you know, to facilitate that, whether
 6 if it's temporary or long-term, you know, crisis
 7 management.

8 So that, you know -- that was, you know --
 9 that, you know, was -- for one thing, it's
 10 difficult to manage that as a system, you know,
 11 in -- you know, do we have crisis stabilization
 12 units? Do we have, you know, kind of, you know,
 13 in-the-moment, you know, care or counselling or
 14 therapeutic resources?

15 And then, you know, in -- what we saw there
 16 wasn't much options, you know. If there -- if
 17 people -- if youth wanted treatment or the
 18 families came because of treatment of an
 19 addiction to solvents or alcohol or marijuana or
 20 whatever, that all of those things were
 21 voluntary, you know. So you could, you know -- a
 22 social worker could, you know -- or someone from
 23 the Healing Centre, you know, like an NADAP
 24 worker could facilitate, you know, a treatment

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1 centre. But if the youth said, "No, I don't want
 2 to be here anymore," then they got sent home, you
 3 know. And that was, you know -- that is
 4 something that, you know, is difficult to manage
 5 and to navigate.

6 KENN RICHARD:

7 A. Yeah. So I'm going to be frank here, you know.
 8 There was some resources that were -- there was
 9 the Healing Centre. There was the Charles J.
 10 Andrew, as well, in Goose Bay. They were
 11 immediate, that sort of had some responsibility
 12 to these cases. But they were not able to --
 13 they were at different stages of their own
 14 development.

15 The Healing Lodge had an ex-cop, as far as I
 16 know, with no clinical work experience. We met
 17 him. Nice fellow. But you know, he would not be
 18 sufficiently trained to even case manage the
 19 mental health components of a kid who was in
 20 early-onset schizophrenia, which a couple of
 21 these kids were.

22 Charles J. Andrew, it seems their mandate was
 23 shifting. People didn't seem to have considered
 24 them very often as party to work with these kids.

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1 You also had, on the island, the Janeway. You
 2 had Hope Valley. You had a third one that I
 3 can't recall.

4 None of them did any Innu work, really. The
 5 Innu were foreigners to them. They didn't have a
 6 program. In fact, one of the sibs visited her
 7 brother at Hope Valley and said it felt like a
 8 jail to her. So you know, the Newfoundland
 9 system just was a fail from the -- without even
 10 many attempts to actually utilize it, which is
 11 kind of sad.

12 Because those organizations had a
 13 responsibility to serve all Newfoundland,
 14 Labradorians. And they didn't. The Innu were
 15 forgotten. They weren't in the picture. They
 16 weren't in the consideration, seemingly.

17 So I know that's changed. But at that time,
 18 that was the case. So the only options were
 19 out-of-province, you know. And I understand
 20 that. And they had also the beds. No waiting
 21 list. No everything. These kids were
 22 precipitous in terms of their own
 23 self-destruction.

24 I would have probably made the same decisions,

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1 notwithstanding that I would understand exactly
 2 what I was doing. I was protecting the child at
 3 the cost of cultural safety, as one of the social
 4 workers put it. And yeah.

5 TARA PETTI:

6 A. And then having to bring them into care, you
 7 know, to --

8 KENN RICHARD:

9 A. Yeah. Well, sometimes -- yeah. Bringing them
 10 into care to do that.

11 And they didn't use NADAP. Well, there was a
 12 couple of efforts. One of the kids went to
 13 Thunder Bay. Another kid went somewhere in
 14 Ontario to programs I'm not that familiar with.
 15 But none of them -- none of them worked,
 16 particularly out of the out-of-province, where
 17 they ended up. Was easy to criticize, but let's
 18 also reflect on Newfoundland's failure, with all
 19 due respect, to mandate their own children's
 20 mental health services to get literate in terms
 21 of service to Innu people.

22 JUDITH RAE:

23 Q. Okay. Thank you.

24 I'm going to move into the topic -- so we're

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1 -- in terms of when Innu children are in a
2 placement, and this could be in or out of
3 province. But you've talked today and in the
4 report about how, you know, these were youth who
5 needed therapeutic services. And while some of
6 the placements promoted themselves as providing
7 treatment, generally, they didn't really.

8 And I wanted to ask about, you know, how can
9 that be better avoided in the future? For
10 example, you know, what kinds of questions should
11 a child protection service provider be asking
12 about therapy or treatment? And you know, what
13 other kinds of accountability could assist with
14 this?

15 KENN RICHARD:

16 A. So the treatment centres in Ontario told us that
17 they were -- BARTS, for example, rested their
18 treatment program on the fact that they had a
19 consulting psychologist that they utilized. And
20 that they, on the cultural side of things -- so
21 for the mental health, on the cultural side of
22 things, had a relationship with an Elder. So you
23 know, entirely superficial, that relationship
24 with an Elder. When it comes to an Innu kid, a

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1 relationship with an Elder from Anishinaabekwe.
2 And you know, that's all good for the
3 Anishinaabe. But you know, not so good for an
4 Innu boy or girl.

5 So the, you know -- just the question I would
6 be asking is, tell me more about what you have to
7 offer. What is your understanding of the context
8 of this child that we're referring? And if you
9 don't know, we'll help you.

10 I would be asking them to be explicit about
11 their service model. And what I mean by that is,
12 give me the values. Give me the knowledge base
13 that you have with respect to that. Like, who is
14 trained? Who is not? Give me your best
15 practices in -- as they reflect the needs of
16 Indigenous youth.

17 So those questions will give you kind of a
18 good picture. But specific to, you know, any one
19 of these kids, they would be particular questions
20 associated with this child with respect to their
21 needs.

22 You know, the girl was very different from --
23 her needs, from a couple of the boys. One of the
24 boys was clearly developmentally handicapped

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1 and/or cognitively delayed or whatever the
2 language is these days. And so he was placed in
3 a place that didn't really acknowledge that. So
4 I would really get general questions around their
5 understanding and capacity to serve Indigenous
6 people, per se, and specific questions associated
7 with the needs of that child.

8 And that is quite different from what
9 happened. Which what happened was they phoned.
10 You got a bed? We got a kid that is suicidally
11 ideating -- is that a word? And let's get him on
12 the plane as quickly as possible before we have
13 another death in the community, you know. That's
14 more or less the referral process without that
15 many questions.

16 TARA PETTI:

17 A. Can you just kind of rephrase the question? I
18 just got...

19 JUDITH RAE:

20 Q. No problem. I was just asking how -- I was
21 noting that you had observed that a number of the
22 placements purported to offer treatment but did
23 not really. And I was asking, if you have any
24 recommendations about how that type of situation

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1 can be avoided in the future in terms of, as you
2 put it -- as Kenn put it, a referral process,
3 thinking about that or other lines of
4 accountability. Whatever recommendations come to
5 your mind around that.

6 TARA PETTI:

7 A. Yeah. I, you know -- the treatment resources --
8 the out-of-province treatment resources that we
9 were -- we got to know, so like, Quinte, BARTS,
10 and Ranch Ehrlo, you know, they did have a --
11 like, a clinical model of treatment, you know,
12 that they operated their organization around.

13 And particularly, Ranch Ehrlo, you know, they
14 -- they're situated in Saskatchewan. And they
15 have made, like, great efforts, you know, to
16 incorporate, you know, the more cultural exposure
17 and involvement, you know, with their staff. But
18 also with those accessing the treatment resources
19 there.

20 And it's kind of like a blend of resources.
21 It's not just Jordan House, and it's not, you
22 know -- they have different -- and they also
23 served different age groups, even adults. So you
24 know, that -- and that's very evident, you know,

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1 in their models and you know, their annual
 2 reports and their program development. So that,
 3 you know -- that -- but it's, you know -- it's,
 4 you know, so anyone, you know, referring a child
 5 there, you know, would need to know that, you
 6 know.
 7 And you would also need to know you're sending
 8 this child to Saskatchewan. They're not going to
 9 get exposure to language. They're not going to
 10 get Innu culture or food or you know -- or the
 11 land experience, you know. So that needed to be
 12 very carefully paid attention to, I guess, you
 13 know, in the case management or case planning
 14 process, which, you know, again, was, you know,
 15 very fragmented.
 16 So you know -- so that, you know -- that is
 17 the -- and then there isn't in, you know --
 18 locally, really, anything, you know. We, you
 19 know -- we have the kind of -- the development of
 20 the Sheshatshiu Group Home, you know. There is
 21 different things happening. But it wasn't
 22 happening at a pace that, you know, met the needs
 23 of the crisis we've had experienced.
 24 And I often thought of, you know, like, in our

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1 practice -- in my practice, that we had access,
 2 even though it wasn't First Nations-led or
 3 delivered. We did have access to crisis
 4 stabilization units, mobile, you know -- mobile
 5 crisis support. And it was, you know -- and even
 6 placements, you know, that were temporary, you
 7 know, just for a number of days just so we can
 8 get, you know, the crisis, you know -- the person
 9 stabilized in a, you know -- in a state of mental
 10 health where they can cooperate or make a
 11 decision or you know -
 12 KENN RICHARD:
 13 A. Yeah. But --
 14 TARA PETTI:
 15 A. - come to, you know -- so -- and those things,
 16 you know, we didn't see, you know, in our
 17 investigation. So you know, developing that, so.
 18 KENN RICHARD:
 19 A. Notwithstanding their articulation of service
 20 models, it was mostly behavioural management that
 21 was at play, you know. And a naive belief that
 22 structure and containment and rewards and
 23 punishments were the right way. And that's, you
 24 know, behavioural therapy. I understand that.

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1 And that could be (inaudible) to be treatment.
 2 But it did not accommodate within that service
 3 system a lot of what these kids were bringing.
 4 Not just their Innu culture, but their mental
 5 state, which was not really about behavioural
 6 management, although that was required. It was
 7 about a lot more in-depth psychiatric, you know,
 8 Western -- best-of-the-West stuff, in addition to
 9 authentic, which they didn't have, including
 10 Ranch Ehrlo.
 11 I don't want to brag too much about them.
 12 Because they're focused on their local community.
 13 And that's great. Because the Dakota, the Cree,
 14 the Saulteaux, you know, they're all around
 15 there. And they need to be acknowledged. But
 16 the Innu kids were kind of an afterthought.
 17 So I would ask those hard questions, you know.
 18 Yeah. But they weren't. As I said, it was a
 19 panic response. It was crisis-driven. Good
 20 social work, best practices that we're talking
 21 about right now were not really possible, given
 22 the extent of the need and the emergence of, you
 23 know, case critical in terms of potential death,
 24 you know.

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1 Fear ruled. When fear rules the social work
 2 process, you make expedient decisions, which, at
 3 the end of the day, you might regret. But at
 4 least the kids didn't die then. Unfortunately,
 5 they died later.
 6
 7 (Video Ends)
 8
 9 KELSIE LOCKYER:
 10 All right, everybody. That would conclude the
 11 third portion of Kenn and Tara's testimony.
 12 We'll take a quick five-minute break here now.
 13 And we'll come back at 3 p.m. Newfoundland time,
 14 where we will watch the final 29 minutes of Kenn
 15 and Tara's testimony. Thank you.
 16 COMMISSIONER IGLOLIORTE:
 17 Thank you.
 18
 19 (Off the Record)
 20
 21 KELSIE LOCKYER:
 22 Welcome back, everybody. Now that we've returned
 23 from our little health break, we will continue
 24 with the final portion of Kenn and Tara's

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1 testimony. This portion will be approximately 29
 2 minutes. After which time, the commissioners, if
 3 they have questions for Kenn and Tara, will put
 4 their questions to them.
 5 Thank you. So we'll go ahead with the video
 6 now.
 7
 8 (Video is played - Kenneth Richard & Tara Petti)
 9
 10 KELSIE LOCKYER:
 11 Will, were you able to get your meeting pushed?
 12 WILLIAM HISCOCK:
 13 Yeah. I'm good.
 14 KELSIE LOCKYER:
 15 Okay. All right.
 16 WILLIAM HISCOCK:
 17 I'm also out of breath because I've been running
 18 for the last five minutes. But yeah. No, we're
 19 good.
 20 KELSIE LOCKYER:
 21 Okay. So we'll resume with Judith. And then
 22 once she concludes, we'll go to you for your
 23 questions.
 24

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1 WILLIAM HISCOCK:
 2 Thank you.
 3 KELSIE LOCKYER:
 4 Thank you.
 5 JUDITH RAE:
 6 Okay. Sounds good. I won't be too much longer.
 7 BY JUDITH RAE:
 8 Q. I want to talk about the Labrador Group Home. So
 9 at the top of page 11, you mention a group home.
 10 In the report, it doesn't identify the group home
 11 that, you know, in your findings, had a lack of
 12 clinical -- sorry, a lack of oversight of
 13 clinical standards, issues with safety, and with
 14 compliance.
 15 I just wanted to confirm, just for the record,
 16 that this was not -- when -- it's not the Innu --
 17 one of the Innu group homes. There's now two
 18 Innu group homes running. This was a different
 19 group home in Labrador?
 20 TARA PETTI:
 21 A. That -- it was the Labrador Group Home. Like,
 22 that's what it was called.
 23 TARA PETTI:
 24 Q. That's what it was called, which is not an

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1 Innu-run group home.
 2 TARA PETTI:
 3 A. No. No. It was a group home that was managed by
 4 the provincial government. As I mentioned, it
 5 was also in transition, you know. So it had been
 6 a resource under the corrections system or the
 7 justice system that then transferred to the child
 8 welfare system. So they were -- so the operation
 9 during the time of our investigation was still in
 10 that transition.
 11 JUDITH RAE:
 12 Q. Okay. Thanks. And so my more substantive
 13 question about it, you know, because your
 14 findings about it are troubling, is that not only
 15 was there noncompliance, you know, a lot of
 16 issues there. Not meeting standards, lack of
 17 planning, lack of training, and so on. But that
 18 the noncompliance persisted without enforcement.
 19 And I wanted to ask, you know, what do you
 20 think can be done about that? Or I guess, to
 21 start off with, why do you think the Province
 22 didn't enforce its rules with this group home?
 23 And I guess, moving beyond that, my, you know --
 24 the question is, what do you think can be done to

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1 create more accountability in a situation like
 2 that going forward?
 3 TARA PETTI:
 4 A. Well, the -- I guess, the licensing and oversight
 5 of a group home, you know, is a responsibility of
 6 the mandating body or the province, you know.
 7 Because it generally involves some type of, like,
 8 a core funding, you know. So it's as opposed to,
 9 like, a specialized group home or a specialized
 10 foster home, where it's kind of still per diem
 11 based.
 12 So this is per diem based, but there's also
 13 some type of a grant or some type of a core
 14 funding that, you know, keeps -- that stabilizes
 15 the, you know -- the activities of the
 16 organization. And so with that funding comes,
 17 you know, an agreement, you know -- service
 18 agreement. These are the services that you'll
 19 provide. And here's the rules you will follow.
 20 So we, you know -- we -- what we understood as
 21 investigators is that was transitioning, you
 22 know. So there was different rules in the
 23 corrections system. And there was a, you know --
 24 there was kind of an agreement on the interim

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1 until they could become fully licensed.
 2 And then during that agreement time, there was
 3 CSSD officials, you know, who then were
 4 responsible for monitoring the home, like, in
 5 terms of, you know, they had a checklist, you
 6 know. And then there was also other
 7 investigations in the home that were ongoing or
 8 at least one significant investigation about an
 9 incident.

10 And so in our review, you know, our question
 11 also was, well, how come -- like, who monitored
 12 the monitoring, you know? Like -- and when, you
 13 know -- and in any recommendations, you know,
 14 too, you know, were kind of answered with lack of
 15 resources on the group home side. And you need
 16 to, you know, negotiate with the government,
 17 like, you know, an understanding of resources
 18 needed.

19 So it just seemed like this, you know,
 20 iterative cycle that just did not resolve itself,
 21 you know, despite, you know, a major incident in
 22 the home even prior to, you know, the child
 23 taking his life in the home. And then
 24 afterwards, you know, the, I guess, you know --

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1 the cleanup of the home, for lack of a better
 2 word, you know. And then, understanding now, you
 3 know, what is the -- you know, what is the
 4 conditions of the home? Is it -- you know. And
 5 what I understand now is that there is some type
 6 of a clinical resource that is available to them
 7 to provide kind of a clinical guidance of the
 8 home.

9 But that wasn't in existence before. And you
 10 know, there -- and you know, it just kind of
 11 seemed to be a toss-up between the child welfare
 12 system and then the behaviour of the group home.
 13 And there didn't seem to be anything above that,
 14 you know, in the governance of, you know, these
 15 systems, you know. Where it's a board of
 16 directors or you know, at more of a deputy
 17 minister or the assistant deputy minister or
 18 director level to, you know, provide any, you
 19 know, any type of, you know -- this is what you
 20 need to do, you know, compliance-related.

21 And so it just kind of languished, you know.
 22 And it just developed into, you know, what we
 23 called regulation -- regulatory drift, you know,
 24 where there wasn't really any adherence to

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1 things. But there was knowledge that there was
 2 lack of adherence to the, you know -- whether
 3 it's the service agreement or the legislation
 4 governing child welfare or the, you know -- the
 5 board, you know, vision, mission, goal, you know.
 6 Like, those are all things where we didn't -- we
 7 couldn't see above who we spoke to. And having,
 8 you know, a little bit more, I guess, breadth in,
 9 you know, speaking to, you know, higher levels
 10 wasn't an opportunity that we had.

11 JUDITH RAE:

12 Q. Oh, you're on mute, Kenn. But it looks
 13 important.

14 KENN RICHARD:

15 A. I'm going to be a little more emphatic than that,
 16 you know. They were -- notwithstanding they were
 17 in transition, that's polite. They were a Level
 18 4 home. And as being a Level 4 home, they had
 19 responsibilities to be compliant to the standards
 20 associated with that.

21 And CSSD fulfilled their obligation in terms
 22 of evaluating that. And it was a monthly
 23 check-in with respect to standards. And there
 24 was a consistent noncompliance, as Tara

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1 mentioned.

2 CSD seemed to tolerate that noncompliance.
 3 And as far as we can see, there was no urgency
 4 that was spelled at the Labrador Group Home to
 5 comply. That mostly, in the conversation, they
 6 talked about, well, we didn't have the funds to
 7 do this and that.

8 We never spoke to the bosses, the cheque
 9 signers for the Labrador Group Home, who were
 10 responsible for that transition. We had one
 11 meeting with CSSD, where they couldn't explain
 12 why they didn't order something to happen, given
 13 the noncompliance and the risk associated with
 14 that. And this case -- this particular one was
 15 made even more alarming that we didn't have an
 16 opportunity to really even talk to the folks who
 17 were in charge.

18 And the forks -- folks that were in charge
 19 were a three-person board made up of the good
 20 citizens of Goose Bay. And somehow, nobody could
 21 reach them. So it was a bit of a distressing
 22 element to the investigation process. So I just
 23 want to be frank about that.

24 It -- this child that died in that facility --

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1 the child who lived in that facility was -- had
2 -- he was predicting his death. And they didn't
3 know what to do with it. Because they didn't
4 have sufficient resources or expertise to manage
5 a kid in that kind of distress. And it actually
6 happened.

7 And we heard, actually, in our investigations,
8 that the situation hadn't changed much, which
9 caused, in the middle of a circle, the CSD to go
10 over and check it out and come back to the circle
11 and reassure the circle - Will, you were there -
12 that things were okay. But you know, it's a
13 pretty alarming scenario, that one.

14 And it raises so many other questions that
15 we'll leave to the Inquiry. Because it's out of
16 our scope, I guess.

17 JUDITH RAE:

18 Q. Okay. Okay. The last topic I'll ask about is
19 the topic of reintegration, aging out, aftercare.
20 It's a huge topic. But you have talked about it
21 earlier today. And I just want to focus in. I
22 mean, you've been very clear about what wasn't
23 there for these youth, which, pretty much,
24 nothing was there for them in terms of this.

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1 But I want to just talk differently about what
2 should be there or what should have been there,
3 what could be there. So I mean, I'll just put --
4 maybe just to help move us along in terms of
5 time, I'll just put suggestions or examples
6 forward. And I'd like to get your take on them.

7 You mentioned earlier a transition plan, you
8 know, starting early in those discussions,
9 involving the family. You mentioned the need for
10 someone to be responsible as a first step. There
11 needs to be a kind of lead agency or responsible
12 person, which there wasn't necessarily -- a
13 mandate, you know, as it came up in a question, I
14 guess, as well.

15 And then in terms of kind of the substance of
16 it, you know, that hasn't really come up today a
17 little bit. But it's mentioned a little bit in
18 your report in terms of what wasn't there.
19 Supports like housing, if needed, you know,
20 potentially life skills, work with the family. I
21 believe it came up in one of the circles that,
22 you know -- that could potentially involve
23 circles with the youth and their family or other
24 relationships -- other people they are in

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1 relationship with.
2 Yeah. Go ahead. So I'm just listing some
3 examples of here. I'll just mention a couple
4 more, you know. Things like income, basic needs,
5 education support, transition to employment,
6 guidance, mentoring, case management, and of
7 course, things like therapy, counselling, mental
8 health, access to treatment.

9 Do you agree with that list? Do you have
10 others that you might want to suggest?

11 KENN RICHARD:

12 A. I agree with that list.

13 TARA PETTI:

14 A. I agree with the list. And I could suggest
15 quickly that, you know, there are now -- like, in
16 child welfare agencies, there's kind of dedicated
17 units, you know, to transitioning out of care.
18 And they're separate, you know, from, you know,
19 the prevention and protection and you know, other
20 areas of the -- of our departments within an
21 agency.

22 Not, you know, a model of, you know, what does
23 aging -- what does turning into an adult mean,
24 you know, in -- when you're in care or when

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1 you're receiving supports. And that maybe, you
2 know, is available to everybody. Not just, you
3 know, more -- being warranted by being in care.
4 But that that is, you know, community-driven
5 preparation to, you know, entering into this life
6 stage.

7 JUDITH RAE:

8 Q. Oh, you're on mute. The old mute.

9 KENN RICHARD:

10 A. Here I am. My belief is that every child has
11 their own time when they age out. Some kids have
12 to be cared for consistently for well beyond the
13 typical expiration date of their time in care. I
14 see this as a moral obligation of the State -- in
15 this case, the Province, to treat them -- their
16 role as similar to caring for their own children
17 personally, you know.

18 I guess some people kick their kids out. I
19 got a 34-year-old living upstairs here that I'd
20 like to kick out on occasion. But you know, it's
21 like that. It's -- if you say I'm taking you out
22 of your home, you have a moral obligation in my
23 -- notwithstanding whatever else is said, to do
24 better and to be the best parent possible. And

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1 the system, generally, Newfoundland included, has
2 not seen that moral obligation quite the same
3 way.

4 JUDITH RAE:

5 Q. Okay. And just one last question for me is just
6 the other -- do you have -- do you have any other
7 recommendations in particular, you know, that
8 haven't been touched on yet?

9 KENN RICHARD:

10 A. It's a long game. It has to be understood that
11 there's not a magic bullet. And what -- I don't
12 know if this is a recommendation or more so a
13 reflection, you know. We've seen a lot of
14 stumbling around now. The lawyers are writing
15 the law. The communities are coalescing around
16 the law and everything. And they're starting to
17 see certain realities.

18 Tara and I worked with a community in the west
19 there that, you know, had it all. But what they
20 didn't have was they were ill-prepared to deal
21 with the reality of some of the difficult cases
22 that would come before them. And so to be able
23 to go slowly, appreciate that it's a
24 developmental process, not a get the law, get

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1 the, you know -- the funding, and it's all good.
2 It's a painstaking process of development, trial
3 and error.

4 And that the child is always at the centre of
5 it. And that's sometimes hard to reconcile with
6 other competing realities with First Nations.
7 But when it comes to child welfare, that's all
8 it, you know -- if there's one -- if there's not
9 one person or one agency that understands that,
10 then kids are not safe.

11 So yeah. Long game. Collaborative.
12 Appreciating what each brings to the table.
13 Because the West brings stuff to the table. The
14 Innu bring their own stuff to the table. Within
15 that is a third developmental process that is
16 fuelled by that knowledge base they both bring.
17 And yeah.

18 The problem is, though, it's constrained by --
19 there's still so much trauma. We found that in
20 our circles, you know. People still have
21 feelings. And why shouldn't they? So we need
22 that reconciliation piece to it, as well. So
23 that's my comment on that.
24

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1 TARA PETTI:

2 A. Yeah. I mean, I could, you know, spend a lot
3 more time reflecting on all of these reports and
4 discovering, you know, different recommendations
5 that could be made. But you know, we were very
6 aware, you know, that that wasn't our role. So
7 we tried to, you know, deliver our findings in a
8 way that would lead to kind of, you know, the
9 reflection of recommendations.

10 But I do agree with Kenn that, you know, this
11 isn't a short-term thing, you know. When you
12 think of the opportunities for Nations right now
13 to develop capacity and stuff, it's very
14 time-limited and funding-restricted. And I think
15 that is going to be a pattern, you know, that
16 will, you know, manifest over the years. Because
17 it always is, you know, in terms of how do we
18 fund this system?

19 And then you're going to have -- there's many
20 different new systems that are emerging that are
21 very, you know, individually, you know, funded,
22 you know, for lack of a better word. But how is
23 that going to look long-term? So looking at it,
24 you know, in the long run, as Nation, you know --

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1 Nation-building and (inaudible)-led and then
2 supported, you know, by -- through the, you know,
3 rights and obligations of, you know, the
4 different, you know -- the different rights and
5 obligations that First Nations have, you know,
6 with -- in their relationship with Canada and
7 with -- and you know, with the rights that they
8 -- what they have and what has been withheld, you
9 know, for many generations.

10 So we can't just box it up and say, "Here's
11 how much it's going to cost." And then five
12 years later, say, "No, it's going to be less
13 now." But you know, to really have that, you
14 know -- that long-term, outcome-focused
15 well-being support.

16 JUDITH RAE:

17 Thank you, both. That's it for me.

18 KELSIE LOCKYER:

19 Thank you. We'll go now to Will.

20 WILLIAM HISCOCK:

21 Thank you. Good to see you, Kara -- or sorry,
22 Tara and Kenn. Kara, there you go. Maybe that's
23 your joint name.
24

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1 KELSIE LOCKYER:
 2 I've been doing that, too, Will.
 3 WILLIAM HISCOCK:
 4 My wife's name is Jane, so we get Jill and Wayne
 5 occasionally. I guess you guys got the same
 6 thing going.
 7
 8 MR. KENNETH D. RICHARD & MS. TARA PETTI,
 9 CROSS-EXAMINED BY MR. WILLIAM HISCOCK
 10 Q. So just wanted to ask first, I guess, whether
 11 these hearings were happening as circles or as
 12 formal investigative hearings had any impact on
 13 the way that you presented your reports or
 14 whether that was a consideration that went into
 15 the type of report that you were preparing or
 16 not?
 17 TARA PETTI:
 18 A. Do you want me to start, Kenn? I will.
 19 KENN RICHARD:
 20 A. I didn't -- no. I just wanted to say I didn't
 21 give that a thought, truly. So Tara might have.
 22 I prepared the report that I thought reflected
 23 what we were told and tossed that into the
 24 machine. The machine digested it, and here we

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1 are.
 2 TARA PETTI:
 3 A. Well, I -- and I looked at the report as, you
 4 know, an opportunity to, you know, do something
 5 differently, you know. And that is really look
 6 at the systemic issues, you know.
 7 I've dealt with lots of reports either, you
 8 know, that I've been part of or that I've had to
 9 respond to, where it was very, you know -- the
 10 system issues were, I guess, not reflected on, in
 11 a way. And it was really just looking at the
 12 individual actions, lack of compliance, you know,
 13 and things like that.
 14 And then, you know, as opposed to, you know,
 15 being part of a formal hearing or a circle, you
 16 know, the circle was, you know, something that
 17 was, you know, very different. And I think it,
 18 you know, put everyone in a state of
 19 vulnerability, you know, sitting in that circle
 20 and listening and then having to speak to it.
 21 So I think -- but we didn't know that going
 22 in. But we didn't know what it was going to look
 23 like. And you know, we -- and you know, there
 24 had to be some formal components to it, you know,

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1 so that it's still part of the judicial record
 2 and you know, part of the Inquiry process.
 3 So -- and I believe that, you know, the
 4 Inquiry team and all involved, you know,
 5 navigated that very carefully and respectfully.
 6 And that is, you know, something, you know, to
 7 really learn from and grow from, not only in
 8 Newfoundland, but you know, in other
 9 jurisdictions, as well.
 10 KENN RICHARD:
 11 A. And truly, you know, you guys have done something
 12 that is a leapfrog ahead of much of the other
 13 developmental processes. And yeah. I want to
 14 congratulate -- well, I will do that more with
 15 others. But with -- you know, it was really
 16 something for us to experience, as well.
 17 So we wrote what we understood to be the truth
 18 of what we were required under the orders. And
 19 that it transpired to be a reconciliation
 20 process, the way it seems to have done -- and I
 21 know it's not a hundred percent there. But you
 22 know, that's -- you got something to say to the
 23 rest of Canada in terms of, you know, moving
 24 forward on this very difficult long game of child

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1 welfare transformation.
 2 WILLIAM HISCOCK:
 3 Q. Thank you, Kenn and Tara.
 4 So, you know, I know that there were certain
 5 stipulations in order to allow these Healing
 6 Circles to be the open experience and a sharing
 7 experience, the honest experience they were. One
 8 of those was that, you know, we wouldn't go and
 9 take people's statements from the Healing Circle,
 10 as we would testimony in a formal hearing.
 11 KENN RICHARD:
 12 A. Yeah. That's right.
 13 WILLIAM HISCOCK:
 14 Q. Was there anything that came -- did you feel, in
 15 any way, constrained by that, or was that fine by
 16 you in terms of -- was there anything came out of
 17 the hearings that you felt -- and I know you said
 18 earlier that the hearing's very much solidified
 19 the view that you had got -- had kind of going
 20 into after doing the reports when you were going
 21 into the hearings.
 22 Did -- was there anything you felt that you
 23 would have wished had -- that you could quote or
 24 that was important from those hearings in that

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1 way, or did you feel that was an okay kind of
 2 balancing?
 3 KENN RICHARD:
 4 A. Tara?
 5 TARA PETTI:
 6 A. You know, Will, like, you know -- the hearings
 7 themselves, you know, were very powerful when
 8 they were done this way, you know. So there was
 9 part of me that reflected, you know, on, you
 10 know, how, you know -- how can the power of this
 11 hearing, you know, be documented, you know, in a
 12 way that helps, you know, other processes or that
 13 can be modelled? And you know, there was also
 14 the balance of, you know, kind of a ceremonial
 15 type of circle and then the kind that we were,
 16 you know, introducing and implementing.
 17 The other thing that I noticed was, you know,
 18 we didn't, you know -- as investigators, like, we
 19 didn't always have, like, a lot of time, you
 20 know, to, you know, develop a really good
 21 relationship with the families and here. So we
 22 also heard things in the hearings that we didn't
 23 hear during our investigation process, you know.
 24 In terms of, like, you know, people's, you know,

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1 experiences or how they felt or how they viewed,
 2 you know, the circumstances.
 3 And you know, so that was, you know, also
 4 something, you know, that was, you know, for me,
 5 nice to hear. Because, you know, we didn't
 6 always have the opportunity to get there, you
 7 know, with the time that we had with the
 8 families.
 9 And then, particularly, you know, with the
 10 hearing about the Labrador Group Home, you know.
 11 That was one was so -- it was so, you know --
 12 like, the family itself, you know. This was a
 13 generational thing for them, you know. The, you
 14 know -- because the father, you know, had also
 15 been in that group home. And then having his own
 16 children in the group home was, like, extremely
 17 triggering for him. And you know, like, I
 18 don't, you know -- that was, you know -- how do
 19 we address that, you know, in recommendations,
 20 in, you know -- when the family just adamantly
 21 said we do not want that, you know, group home to
 22 be open anymore.
 23 And then, so you, like, you know -- in
 24 situations where I have been where there has

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1 been, like, a really collective, you know,
 2 belief, you know, about something, then someone
 3 in authority would make a statement. Like, so,
 4 for example, like, you know, a Chief and Council
 5 would say, "We are not going to use this resource
 6 anymore," you know, until, you know -- or you
 7 know, something that made a statement. And so I
 8 was just wondering, like, what kind of statement
 9 is going to be made about the Labrador Group Home
 10 and the, you know -- what we know now?
 11 So that's -- I think those, you know, off the
 12 top, you know -- from my experience, those are
 13 the things that I reflected on.
 14 KENN RICHARD:
 15 A. Yeah. To be honest --
 16 WILLIAM HISCOCK:
 17 Q. Oh. Sorry, I didn't mean to jump in.
 18 KENN RICHARD:
 19 A. I'll give my response. Mine's a little shorter.
 20 So it affirmed -- the circles affirmed the
 21 integrity of the reports. And to me, that was a
 22 great relief. So yeah. That's my brief
 23 response, but it's significant.
 24 While there was new information, nothing said,

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1 "Oh, we should have included that in the report."
 2 So I'm very happy that that transpired the way it
 3 did.
 4 WILLIAM HISCOCK:
 5 Q. Yeah. And I think, further to that, I mean, I'm
 6 willing to relay it back to the Labrador Group
 7 Home. And just for all counsel. I'm not going
 8 to name any individuals. But I do want to refer
 9 to the fact that, you know, there was a number of
 10 social workers, who, I think, for the first time,
 11 we realized, had raised concerns about the
 12 Labrador Group Home during that hearing.
 13 And I -- it was -- there was information come
 14 out about the concerns, not just being from the
 15 clients, but also from some of the social
 16 workers, that was more clearly presented, I
 17 guess, maybe at the hearing than it had been
 18 before. And like, the confirmation that they
 19 share the concerns around bullying, for example.
 20 That was not something that I can recollect
 21 having seen previously.
 22 So I'm just wondering, when it comes to some
 23 of those kind of -- those aspects of the kind of
 24 testimony within the hearing that backs up what

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1 you were saying, is there any way that we -- that
 2 you -- I guess, is there any way that we could
 3 incorporate, or do we not need to incorporate
 4 anything further about that into the report? Do
 5 you feel that the original perspective on that is
 6 sufficient there? I'm not disagreeing if you
 7 think it is, but.

8 KENN RICHARD:
 9 A. Tara, you (inaudible) on that.

10 TARA PETTI:
 11 A. Yeah. Yeah. I don't think, as a result of the
 12 circle hearings, that we would have changed our
 13 reports. There was -- there's lots of things to
 14 emphasize. And I think they were, you know,
 15 dealt with or emphasized or spoken about in each,
 16 either the individual or the -- kind of the
 17 global report. Yeah. I think that's all I can
 18 add to that.

19 WILLIAM HISCOCK:
 20 I think the other questions I had have been
 21 canvassed well enough by other counsel. And
 22 given the hour, I think I'm going to leave it at
 23 that. So I appreciate both of you. And I
 24 appreciate your reports, your time with the

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1 clients that I had dealings with, that you had
 2 dealings with. I just want to say that I think
 3 both of you made a real connection with them.
 4 You were a point of trust and contact throughout
 5 that.

6 And so I know you were there as an -- as
 7 independent investigators. And that was never --
 8 they never felt like you were taking sides, per
 9 se. But I think that they did really have a lot
 10 of faith that you brought a lot of concern and a
 11 depth of concern and compassion for them and
 12 their families through the process. So I just
 13 want to say thank you. Because that was a
 14 challenging bit of work you guys had to do. And
 15 I thought it was handled very well. So just my
 16 final comment.

17 KENN RICHARD:
 18 Thank you, Will.

19 TARA PETTI:
 20 Thank you, Will. It was very good working with
 21 you, as well, and all of the, you know -- the
 22 Inquiry staff and the lawyers and the family
 23 representatives.
 24

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1 (Video ends)
 2

3 KELSIE LOCKYER:
 4 So that will conclude the pre-recorded portion of
 5 Kenn and Tara's testimony. I believe I've been
 6 given indications from the Commissioners that
 7 they don't have any questions for them. But I
 8 will open it up now in case any of you have any
 9 questions or remarks for Kenn and Tara.

10 COMMISSIONER IGLOLIORTE:
 11 Thank you.
 12 Nastash, would you like to start?

13 COMMISSIONER QUPEE:
 14 I would just like to say thank you, Kenn and
 15 Tara, for the -- all the work that you both did.
 16 And there's certainly a lot of information --
 17 also a lot of information to work with, so I just
 18 want to say thank you. Tshinashkumitin.

19 COMMISSIONER IGLOLIORTE:
 20 Michael?

21 COMMISSIONER DEVINE:
 22 Okay. Just to also (inaudible) my thanks to Kenn
 23 and Tara for their good work. I think, given
 24 that -- I think I speak for all the Commissioners

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1 that we've read your individual reports each.
 2 We've also been attending the hearings, of
 3 course, presided at them. And as well as the
 4 final report, having read that before and now.
 5 We don't have any questions. But just again to
 6 say thank you for all your good work.

7 COMMISSIONER IGLOLIORTE:
 8 Yeah. And from me, as well. Thank you very
 9 much. We've worked quite often now with Tara and
 10 Kenn, both in the hearings and then in separate
 11 meetings. So no questions from the Commissioners
 12 does not mean disinterest. It means that we have
 13 great trust in the work you've done. And we can
 14 work on our recommendations based on your
 15 comments, as well as the cross-examination.
 16 Thank you.

17 KELSIE LOCKYER:
 18 Thank you very much, Commissioners. So this will
 19 now conclude Kenn and Tara's testimony, as we've
 20 now concluded their questioning. Thank you very
 21 much to Kenn and Tara for all your work getting
 22 to this point and for being here today. So you
 23 guys are free now. You can watch the rest of
 24 this if you would like, or you can, you know,

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1 take leave whenever you prefer.
 2 We will take a quick five-minute break here
 3 now. So just around 3:42 or so, come back. We
 4 will then resume with Bill English's testimony
 5 and watching his first portion. That will be an
 6 hour and 44 minutes. So it will take us past our
 7 5 p.m. time for today. I will say, from counsel
 8 on the call, most of you will already have seen
 9 that. But we're trying to keep within our
 10 three-day schedule. So it will require just
 11 going over a little bit.

12 With that, we'll break for five minutes and
 13 see you guys back here soon.

14
 15 (Off the Record)

16
 17 KELSIE LOCKYER:

18 All right. Welcome back, everybody. As I've
 19 said before, we've now concluded Kenn and Tara's
 20 testimony. So next on the schedule we'll be
 21 getting into the cross-examination and testimony
 22 of retired Judge Bill English and his research
 23 that he had to offer the Commission.

24 So that video will be an hour and 44 minutes.

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1 We'll play all the way through. After which, we
 2 will conclude for the day. So we'll go ahead
 3 with that now. Thank you.

4
 5 (Video is played - William English)

6
 7 MICHAEL COLLINS:

8 The time is 9:40 a.m. on Newfoundland time. And
 9 we're here on Zoom for the pre-recorded testimony
 10 of Judge Bill English.

11
 12 MR. WILLIAM ENGLISH, AFFIRMED,
 13 EXAMINED BY MR. MICHAEL COLLINS

14 Q. Thank you. Would you like to introduce yourself
 15 before we begin your presentation?

16 WILLIAM ENGLISH:

17 A. Yes, I will. In my report, I did include a bio.
 18 So I won't repeat all that by any means. But
 19 first of all, I want to say it's -- I'm very
 20 grateful to be here. And I want to thank
 21 everybody who's come this morning to take part.
 22 It's -- it has been a great honour to be involved
 23 in this process. And it continues to be.

24 My name is Bill English. Most recently, I'm a

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1 retired lawyer. Prior to that, I was a retired
 2 judge. And prior to that, I was a retired
 3 lawyer. So I've had a few incarnations. And a
 4 lot of it has involved work in Labrador.

5 And that goes back for me to 1977, when I was
 6 working with the Newfoundland and Labrador Legal
 7 Aid Commission. And it brought me to Labrador,
 8 primarily because there were no Legal Aid lawyers
 9 and maybe only one or two private lawyers in all
 10 of Labrador at that time. There were, of course,
 11 private lawyers who travelled there regularly.

12 So there was no access to legal
 13 representation. There were courts. And those
 14 courts were operating throughout Labrador, as
 15 much as possible. So my experience goes back to
 16 what I would call the pure circuit days when the
 17 judge would be split half and half, really,
 18 between circuits and otherwise.

19 And the experience continued then through the
 20 '70s and '80s, both in family law and criminal
 21 law. And then after a period out of the
 22 province, I continued again from the mid-'90s
 23 until 2000, when I was appointed to the Goose Bay
 24 Court. I think my bio says that I lived in Goose

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1 Bay in 2014. That's a classic typo. It's from
 2 2000 until 2014.

3 And of course, that's the job. As a
 4 provincial court judge, you have to be a resident
 5 within 77 kilometres of where you sit. Which is
 6 ironic, because much of the time, I was sitting
 7 well beyond 77 kilometres. But that's another --
 8 that's the nature of circuit.

9 So my involvement with child protection goes
 10 back to the very first time I was admitted as a
 11 lawyer in 1976. And in 1976, as you probably
 12 know, largely, the same system was in place for
 13 child protection. The laws have changed, of
 14 course, and many things have been amended.

15 But the nature of the proceeding -- a civil
 16 proceeding, where someone is representing, in
 17 effect, the government. And someone, hopefully,
 18 is representing a family. And social workers are
 19 very much involved with the family. That dynamic
 20 has not changed. A lot of things around it have.
 21 And I guess that's what we're talking about here,
 22 is what has changed, what could change, and
 23 perhaps, if we're able to say should, what should
 24 change. And that's really where my report comes

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1 from.

2 So my interest in this has been very

3 longstanding. And I can honestly say that when I

4 was a judge in Labrador -- and it didn't matter

5 where I was, whether it was in a coastal

6 community, an Innu community, or a Inuit

7 community, the cases that most bothered me and

8 took my time and attention were the child

9 protection cases. Although they were, by far,

10 the minority, even in those days. But they could

11 not -- they could not fail to take your interest.

12 And I will say - and this will surprise the

13 lawyers who have dealt with this - there was

14 tremendous overlap between the criminal work, in

15 many cases, and the child protection work for all

16 kinds of reasons that are -- you all know about.

17 So often, you would see people in the same -- in

18 two different contexts at the same circuit, maybe

19 with different lawyers or the same lawyer and

20 trying to deal with their personal matter and

21 their family matter at the same time.

22 So it goes really deep. I feel very strongly

23 about the need to do this right. And that's

24 where I started from.

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1 Now, with that preamble, when I introduced

2 this report, I wanted to sort of take a

3 10,000-foot view. And so I talked a little bit

4 about -- and I won't belabour it for the lawyers

5 or non-lawyers in the crowd. I won't belabour

6 it. But you know, the pure legal perspective is

7 the one I described.

8 It's classically not an adversarial

9 proceeding. But there are competing interests.

10 The common interest is the welfare of the child.

11 And that undercuts everything. And our court --

12 courts of appeal, Supreme Court of Canada have

13 said that over and over again about child

14 protection. It always comes down to the best

15 interests of the child.

16 And I referred -- in my report to the recent

17 case of L.B., which everybody knows about. But

18 the interesting thing there is that, even though

19 the court had strong comments about procedural

20 aspects and delay and so on, in the final

21 analysis, they decided that, as they had to based

22 on the statutory criteria, what was best for the

23 child involved. So that's where I come from. So

24 the legal perspective is pretty clear and hasn't

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1 changed a great deal over the years, really.

2 There is an overlay to that. Which I've

3 touched on in my report. And there are two

4 overlays. The more important one is the Charter

5 of Rights and Freedoms. And that now is more

6 than a glass on all of this. And I've kept it in

7 mind when I've been thinking about procedural

8 matters and representation matters and even

9 services, which are not strictly legal. The

10 Charter of Rights is available to ensure basic

11 fairness for everybody. And primarily, that's

12 the parents and the children.

13 But there's also -- and I didn't stress this

14 in my report. But thinking about it, there's

15 also the fairness to the community. Because the

16 community has an interest in child protection

17 cases that often is not directly expressed to any

18 court. The lawyers can't often speak for the

19 community, although they know the community, and

20 they may even come from the community.

21 But there's a community interest in the larger

22 sense of the removal of children. The

23 interference with families in the community has

24 to be very carefully handled for fear of denting

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1 the confidence and the belief that the community

2 has in itself and in the justice system. And so

3 that's the background I approach it for.

4 So there's a legal perspective, yes, case by

5 case. But there's a broader perspective. And

6 that's what the Inquiry is -- really, what the

7 Inquiry is all about is, in some ways, exploring

8 aspects of promoting the overall interest of the

9 community, as well as the parties involved.

10 I also talked about the element of trauma.

11 Now, again, I won't have to explain this to

12 anybody who's dealt with these cases. There are

13 layers and layers and layers. And the Inquiry

14 has heard, in so many different ways, about the

15 element of trauma. It's intergenerational. It's

16 longstanding. It's ongoing.

17 And so dealing with that, coping with that --

18 if you have a legal system that addresses the

19 interests of children and families, then you have

20 to never lose sight of the involvement of trauma.

21 You still have to do that job, and you still have

22 to promote the interest of children -- the best

23 interests of everybody affected by this.

24 And I don't even rule out lawyers and judges.

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1 Everybody who's involved in this on a day-to-day
2 basis can -- will be aware and can be affected,
3 positively, negatively, and all kinds of other
4 ways, by the reiterations of trauma that are
5 evident when you hear about how people are
6 living, how they've lived, what's worked for
7 them, what hasn't worked for them.
8 So I referred to some of the more basic
9 sources on that. And one of them deals with the
10 question that we have conflicts about trauma.
11 And I did get a question on that. What do I mean
12 by conflicts? Well, what I mean by that is,
13 within our society, and sometimes even within the
14 communities, there's a lot of conflict or
15 disagreement about how to approach the element of
16 trauma, particularly in these cases.
17 In our society, we often, unfortunately,
18 default to a blame system, which helps nobody, a
19 punitive system, which helps nobody. But somehow
20 or other, we have to come to some kind of
21 consensus about how to deal with these.
22 And then the second element of conflict is,
23 particularly, where the trauma brings out
24 behavioural aspects, like addiction and violence

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1 and other types of potentially harmful
2 behaviours. There's a lot of conflict in our
3 society of what to do about that.
4 I remember, I referred in the report to an
5 experiment in 2008 -- well, a consideration,
6 really, something called the Innu Healing Path
7 Court. And I was there when that happened. I
8 wasn't directly involved. But we were aware of
9 it. And it was an effort, particularly in the
10 criminal law context, to have a different
11 approach to how you deal with cases involving
12 violence that were believed to have a
13 trauma-based causation, or certainly, it was a
14 major element.
15 And without getting into all of the details,
16 there was a great conflict in many of the
17 communities, and in society, in general, in
18 Labrador, about how to do that. But should you
19 take an off-ramp from the criminal law system,
20 all those kinds of issues. Or should you simply
21 deal with a punitive system and preventative
22 system, which, in large part, is the system that
23 we have?
24 So there -- it's not all clear-cut. We know

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1 there's trauma. And we know it's great. We know
2 it exists in the communities, including in the
3 Innu communities. And yet, we don't always agree
4 on what approach to take. So I wanted to
5 recognize that factor. Because, you know, what
6 options are available to courts, to judges, to
7 lawyers, will depend on what society in large
8 part will accept.
9 So that -- those were the sort of 10,000-foot
10 views. And then I delved down into the question
11 of the participants. And I won't go through that
12 in great detail. You know what they are.
13 I'll start where the work starts in -- for
14 this presentation. And that's, really, in the
15 community with the social workers. And I -- by
16 that, I mean both the preventive social workers
17 and the social workers who end up dealing with
18 the matter when it goes to court. I realize that
19 they may be separate groups. But they all have
20 the same mandate. They all abide by the same
21 legislation. The interest -- best interests of
22 children, reunification of the family, where
23 possible, all of those principles operate
24 throughout all of these proceedings up to the

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1 point, I suppose, where a decision is made by
2 some judge, which might determine the direction
3 for the children.
4 So I start with the social workers because,
5 although they're not legal professionals, they --
6 many of them have training in the background of
7 laws, particularly of child protection. And
8 those with experience - and there's some
9 extremely experienced people in the Innu
10 communities and throughout Labrador - they all
11 know that the work they do every day, which is
12 largely work of prevention, to some extent, it
13 may cross over to enforcement -- I -- what I
14 loosely call enforcement. That is trying to set
15 standards, trying to guide people by those
16 standards, and then trying to help them to
17 achieve those standards. That's the work that
18 goes on every day. And without that work,
19 nothing the rest of us do would matter.
20 So having the right people in the right
21 places, enough of them, and being mindful -- as
22 they say, at the transit station, mindful of the
23 gaps. There are gaps. There -- I don't care
24 what system you create, there are gaps. And

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1 being mindful of those and trying to fill them.
 2 Lawyers and judges can't do much at the end of
 3 the process. Because all the social work has
 4 largely been done. My experience is that once a
 5 matter gets into court, you can nibble at the
 6 edges, but you don't make -- unfortunately, it's
 7 very difficult to make great progress in -- as a
 8 social worker, particularly if you're in the
 9 context of a court proceeding.
 10 So I start with the social workers. I move
 11 then to the lawyers. And they're lawyers
 12 involved in these proceedings early. Now, one of
 13 the comments I did get back from the report --
 14 about the report was, what about the question of
 15 lawyers being involved before there's a
 16 proceeding? And there's absolutely no reason why
 17 our current system or a new system, if somebody
 18 needs legal advice, could not be involved at an
 19 earlier stage.
 20 My -- again, my own experience, I worked with
 21 Legal Aid for a total of 10 years over 3 decades.
 22 My experience is that people often come to talk
 23 to you, knowing that something's going to happen
 24 regarding their family. And they ask for advice.

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1 And Legal Aid has a duty counsel system, which
 2 operates from -- usually from their office. But
 3 it could be some other way. And that duty
 4 counsel system advises people every single day,
 5 long before a proceeding has been involved.
 6 However, the problem is, in Labrador -- and
 7 I'm thinking particularly here of Natuashish and
 8 the Innu communities, because of the remoteness,
 9 there aren't any lawyers who live there,
 10 generally. If it is, it's an accident. It's not
 11 part of the system.
 12 And so trying to access advice -- forget
 13 representation, just advice as -- in a position
 14 of a parent, as you're going into litigation.
 15 You're trying to avoid litigation, perhaps.
 16 You're trying to negotiate and follow through on
 17 things that you're required to do through this
 18 child protection process. That, to me, might be
 19 a gap that we have to be concerned about.
 20 Because the -- Legal Aid - and I know this
 21 only too well - often proceeds only on the
 22 application process. And although, you know, the
 23 current system does represent parents early on at
 24 the presentation hearing stage without a

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1 completed application. Nevertheless, at an early
 2 stage after that, parents have to follow through
 3 in the application. And yet, they may still be
 4 negotiating.
 5 They still may -- for instance, trying to have
 6 access to their children. Trying to have some
 7 involvement with them in some level, or having
 8 extended family, grandparents, who are extremely
 9 important. I don't have to tell anybody how
 10 important grandparents are in an Innu community,
 11 more so than any other community I've ever dealt
 12 with. And that, you know -- getting access for
 13 grandparents to children is wonderful -- can be
 14 wonderful, benefit children, and sometimes, to
 15 the parents for all kinds of reasons because of
 16 family interaction and support that they get.
 17 So it is important that the lawyers be present
 18 at all stages where legal advice is required.
 19 The duty counsel system should address this by --
 20 here's my concern. And I get more later to some
 21 of the recommendations. But my concern is that,
 22 in Sheshatshiu, that might be possible because
 23 people can make their way to the Legal Aid office
 24 in Goose Bay, or they may be in -- for some other

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1 reason, in town. And they can arrange an
 2 appointment, get some advice from duty counsel,
 3 talk about what their concerns are, and maybe
 4 make some progress.
 5 But that's extremely difficult in Natuashish.
 6 It can take place by phone or video. People can
 7 make an appointment and do it that way. I know
 8 they can. But I'm concerned that it's not
 9 happening.
 10 Presence in the communities -- and I cannot
 11 say this strongly enough. This -- not just the
 12 circuit presence but presence in the communities.
 13 If you're a lawyer dealing with a child
 14 protection matter, it cannot be overemphasized.
 15 Judge John Joy and I, who worked side by side
 16 for eight years in Labrador, we tried to follow
 17 that principle as best we could. And I think the
 18 lawyers did, too. It's just that, facilitating
 19 that, making that happen, whether it happens via
 20 technology or whether it happens in person, is
 21 always a struggle.
 22 And -- but yet, it needs to happen. Because
 23 if you don't have some kind of presence
 24 face-to-face with the people you're representing,

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1 as a lawyer, then a lot is lost. And I'm not
 2 faulting anybody. I did that work myself, going
 3 up and down that coast. I flew into Goose Bay
 4 and sat around like lawyers have for a full week
 5 trying to do a circuit but never getting past
 6 Goose Bay for all kinds of reasons that had
 7 nothing to do with the lawyers or the courts. I
 8 mean, these things do happen. So it's not easy.
 9 But making yourself available -- I assume
 10 everybody knows what they're doing. Everybody's
 11 got the experience and the training. And if not,
 12 they get it soon after they start. But being
 13 accessible, being available is essential. And of
 14 course, there are practical issues with that,
 15 which I'll talk about later.

16 The judges -- well, there's not a whole lot
 17 can be said about the judges. There are three of
 18 them in Labrador in the Provincial Court. And
 19 the Provincial Court has control over the cases,
 20 as much as possible. I mean, they have --
 21 they -- it's on their docket. And the Provincial
 22 Court does travel, when they can, to the
 23 communities.

24 The problem is they can't. And this problem

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1 has gotten worse. I had 10 beautiful years of
 2 travelling from Happy Valley-Goose Bay to
 3 Sheshatshiu for all kinds of court, including
 4 child protection matters. And the Innu Nation
 5 and the Band Council and all the officials bent
 6 over backwards to make me and others feel
 7 welcome.

8 They gave us -- I was given an office by the
 9 Chief. Lawyers were given meeting space. We
 10 were given the council chambers to hold court.
 11 So there have been efforts made to accommodate
 12 the court.

13 But for reasons that were way out of my pay
 14 grade, that stopped in 2010. And so even
 15 Sheshatshiu, the easy circuit, we used to call
 16 it, no longer is served in person by the
 17 Provincial Court, neither for criminal nor family
 18 matters.

19 And to me, that was always very regrettable.
 20 And I can't say I didn't say that to people.
 21 Because I did, from, you know -- within the
 22 limits that you can, report up the line kind of
 23 thing and try to bring about a change. But that
 24 didn't happen.

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1 Now, interestingly, throughout all those
 2 years, we did travel to Natuashish on a regular
 3 circuit. Weather and other things got in the
 4 way. But I understand now that it's extremely
 5 difficult for the Court to do that in person.
 6 And I won't go into the reasons. Because I can't
 7 say -- I can't speak for the court.

8 But I do know from the people I've talked to
 9 that having the Court be present in Natuashish
 10 for child protection matters, it's just not
 11 happening recently. And there had been periods
 12 in the past when it hasn't happened. And it's my
 13 personal opinion that if you're going to try to
 14 do the job as judge or lawyer, you have to be
 15 there on some regular, predictable schedule.

16 So these are not procedural issues. These are
 17 not nitty-gritty. These are 6,000-foot issues.
 18 If you don't go, you can't do.

19 As I used to say to the lawyers -- I'm sure
 20 they were sick of hearing it. You know, they
 21 would come up, and they'd have to come to
 22 St. John's to wherever we were on circuit,
 23 particularly Natuashish, prior to that, Davis
 24 Inlet. There wasn't always, you know, easy

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1 accommodations. There's lots of problems.

2 And I would say to the lawyers 99 percent of
 3 your job is showing up. A hundred percent of my
 4 job is showing up. But 99 percent of theirs was.
 5 And that is no less true now than it was in 1977.

6 So I think I need to make that point strongly.
 7 Because, for the sake of the communities, having
 8 a court that is willing and able, on a regular
 9 basis, to come to the communities is a great sign
 10 of respect and diligence and concern. And I
 11 can't put it any other way. I only speak for
 12 myself on this. But the truth is, it permeates
 13 my report, the respect for the communities. And
 14 I think we have to find some way to make that
 15 happen.

16 Now, we're using technology, and I'll talk
 17 about that later. We are using technology. And
 18 the Court's doing what it can do under current
 19 limitations. But I just think that those
 20 limitations somehow need to be figured out.
 21 They not really -- they're not really working.

22 So the judges are quite willing to do their
 23 work. Their work is very defined. It's
 24 difficult in some ways. But the standards are

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1 clear. So we don't need to talk too much about
2 that.
3 I did talk a little about how the court
4 hearings work. And that brings me into a few
5 other issues. There are problems with the
6 hearings. In my time, the problems were greater
7 or more widespread than they are now, in the
8 sense that it was difficult sometimes getting
9 legal representation for hearings.
10 I think, to a large extent, the current
11 arrangements with Legal Aid seems to address that
12 in many, many ways. Representation at an early
13 stage, certainly for a presentation hearing, is
14 there. Disclosure, that really feeds into those
15 hearings, is now more easily available than it
16 was during my time. Which, you know, I left
17 there in 2014, so that's a number of years ago.
18 And -- however, you still have fundamental
19 issues. And it's more important with the Innu
20 that those issues be addressed with Innu parents
21 and representatives and witnesses, for that
22 matter. One of those is -- I'll deal now with
23 the in-person hearing. I'm assuming that, as
24 many as possible, hearings are done in person or

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1 when they are.
2 The question of representation, generally,
3 succeeds. However, I expressed a concern in my
4 report. I will just reiterate it here. That I'm
5 worried about the people who might fall through
6 the cracks.
7 Remembering that we're dealing with a
8 traumatized population in large part, a
9 population that -- of parents who are young,
10 inexperienced. Their education may be at a basic
11 level. They may have finished high school. They
12 may not have finished high school, depending on
13 their situation.
14 Their grasp of the English language is as a
15 second language and not at a high level. Because
16 you get through the high level, generally,
17 through education or experience. And these are
18 young people. They may not have either, young
19 parents, in particular. These are the ones we're
20 dealing with in these matters.
21 So I have a great concern. Because when that
22 person comes to court, if they have a lawyer,
23 then they are probably being well-served. The
24 lawyer needs to find time to talk to them to

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1 prepare. That can be extremely difficult. I did
2 that as a lawyer. I flew from St. John's to
3 Goose Bay to represent parents from Sheshatshiu
4 on child protection matters.
5 And the problem is, when do you talk to them?
6 We did not have technology in those days. So
7 that's -- that was a limitation. But you have to
8 be able to sit down after you've done your own
9 prep and talk. And sometimes it comes down to
10 actually getting people in contact with one
11 another. I -- that is still a physical barrier
12 to preparation for representation and court
13 hearings.
14 And so lawyers can review the disclosure in
15 their own time, in their own offices, of course.
16 And they can send, you know, by e-mail or other
17 means. Or through the Innu court worker, they
18 can send questions to the parties if they want to
19 follow up on things or try to explore options.
20 But to do it in person or face-to-face, still,
21 I suspect, is a great challenge. I -- that was
22 said to me, and I don't doubt it because it was
23 always a challenge. And if you're not prepared
24 for a hearing, then the hearings are much more

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1 difficult for everybody.
2 So that's the first thing. I'm talking about
3 the lawyers. But I'm also talking about the
4 parents. Because, often, I sat there as a judge,
5 as I did as a lawyer. And you're looking at the
6 parents. You want to see that they're following
7 the proceeding, that they kind of understand
8 where it's going. Maybe they understand the
9 questions and the answers, but they at least
10 understand what topic we're talking about and so
11 on.
12 And I often looked down from the bench, and I
13 really, you know -- I had my doubts. And it
14 wasn't the lawyer's fault. I just thought that
15 the communication that was going on in the
16 courtroom, even in person, was often difficult.
17 And it was difficult for the lawyers to check in
18 with their clients then because, of course, the
19 proceeding's going on.
20 So I think, where you have in our Innu
21 communities, a young, relatively uneducated,
22 relatively unsophisticated person operating in a
23 second language, there will always be challenges.
24 And of course, I hadn't talked directly about

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1 interpretation. But interpretation is one of
2 them or the lack thereof, whatever the situation
3 may be.
4 Trying to get qualified, competent
5 interpreters -- and I won't go through everything
6 I said in the report. I mean, I went back
7 through some of the old history, some of the new
8 history. And I have gone through this in the
9 Innu communities as a lawyer and the Inuit
10 communities and also as a judge. I'd seen it
11 over the last 40 years, you know, the challenges
12 that exist within the communities and in general.
13 There are interpreters. There are good
14 interpreters. And when they -- when they're
15 available and when they are able to stick with
16 the case, that is, you know, go from start to
17 finish or at least whatever they can, then the
18 court is well-served, and the parents, the
19 parties to a child protection matter well-served.
20 But you had to remember that, if you were an
21 interpreter -- and I have had this said to me by
22 interpreters over the years, you know, this is
23 the most difficult kind of case for an Innu
24 person, an Innu interpreter to deal with. I have

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1 watched them. And they have come to me in
2 between court sessions and said, "This is really
3 hard." And it is hard.
4 And often, there's just one interpreter.
5 There's no one to relieve them. They don't get
6 to go outside the courtroom, you know. As you
7 probably know, I referred to a couple of cases,
8 the Sidhu case and a few others from Ontario.
9 Where they talk about the standard for
10 interpretation, where you have at least two
11 interpreters. And they trade off on a half-hour
12 or hour basis, whatever it is that you can
13 accommodate. Nothing happens in Ottawa in
14 parliament - and I have friends who do that work,
15 as interpreters - without that standard being
16 adhered to.
17 Now, we may not reach that standard. But the
18 -- if you can put yourself in the position of an
19 Innu interpreter from the same community as the
20 parents involved and knowing all the people
21 involved, having to sit through one, two, three
22 days of interpretation, then you have a pretty
23 good idea of the challenges. And that's before
24 you get into the content of the evidence.

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1 I mean, I think it's demanding. They need to
2 be prepared. They need to be trained. And they
3 need to be suitably rewarded. They are paid, of
4 course. And you know -- and the good
5 interpreters are brave. That's all I can say.
6 They're extremely brave.
7 And I listened to a few of them who were
8 involved in some of the training back in 2007,
9 when there was a real intense effort. And some
10 of those people are still doing interpretation.
11 Some of those -- Supreme Court and Provincial
12 Court, high-level matters and ordinary matters.
13 And they, you know -- they're to be commended for
14 what they do. But there aren't enough of them.
15 There isn't enough training.
16 So how does the hearings work? They work
17 according to the quality of the resources. And
18 that's all I can say.
19 I mean, not much has changed about the judges,
20 in the sense that, you know, the judge is
21 listening and trying to do as best he can. But
22 with the lawyers and with the parties and with
23 the witnesses, there are real challenges, real
24 challenges. So that's sort of, again, the higher

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1 view.
2 Now, my mandate, I've set out -- I was asked
3 to consider the two sections of the Inquiry's
4 mandate, one on legal representation, and the
5 other one, a sort of broader issue on access to
6 justice, the question of delay, and related
7 issues. I've touched on these in some -- to some
8 extent.
9 But I'll talk about the representation part.
10 I use the expression "ready, willing, and able"
11 for representation. And I went -- broke that
12 down a little bit. Because I was really trying
13 to, in my own mind, step back from my own
14 experience and just, you know -- if you were
15 going to design a system, what would you have?
16 If you're going to have lawyers, they have to
17 be ready to deal with a case. They had to be
18 willing to come to Labrador and to the
19 communities and to deal with the people. That's
20 very important. And of course, they have to be
21 able in a sense that they know enough about the
22 case, the law, the community.
23 Most of them will know about the case and the
24 law because that's what lawyers do. They're very

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1 good at these things, getting up and ready. But
 2 knowing the community is essential.
 3 And you know, I always felt sorry for the
 4 lawyers who flew up to Natuashish from St. John's
 5 who had never been there before and were expected
 6 to deal with 50, 60 -- on the criminal side, 50,
 7 60 people and maybe 7 or 8 on the child
 8 protection side. I felt sorry for them because,
 9 although they were curious and diligent, it was a
 10 struggle to know the community and what was
 11 available there. So these are the things that
 12 had to be kept in mind.
 13 Throughout my entire report, I've been
 14 assuming that, at some point, through the kind of
 15 coordination agreement that the federal law
 16 allows, and then structures that are put in place
 17 through the Innu communities and through the Innu
 18 Nation, negotiated-basis, I guess, that the Innu
 19 would be taking over, in large part, the child
 20 protection system. When that happens, hard to
 21 know.
 22 But I -- to me, that's the future. I always
 23 thought it was the future. I often said it was
 24 the future. And now, I'm convinced it is the

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1 future.
 2 But when you're looking at the question of
 3 representation, you need qualified people if
 4 you're going to function in a court setting. And
 5 those people have to be selected on that ready,
 6 willing, and able basis. That's the point I
 7 wanted to make there.
 8 The quality of the legal representation, a lot
 9 of that has to do with the timing in this. As I
 10 said earlier, you have to know your client and
 11 know your client's community if you're
 12 representing parents. The social workers who are
 13 dealing with the children and the parents also
 14 have to know the community.
 15 Now, I have to say, that seems to have
 16 considerably improved. There've been lots of
 17 developments, partly through IRTS involvement and
 18 the coordination that goes on now between the
 19 social service providers working for government
 20 and the IRTS people in the communities.
 21 There's -- that coordination has solved a world
 22 of issues and probably will solve more once it's
 23 further developed and further resourced.
 24 But we didn't have any of that in earlier

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1 days. And it really showed. So we need to
 2 escalate that. And lawyers need to have the
 3 relevant people involved on speed dial. They
 4 need to know who to talk to, who to ask questions
 5 to, and when. So the timeliness can be an issue.
 6 The effectiveness, I talked about that, you know.
 7 Just being the lawyer on the case, of course,
 8 that's the start of it. But it's a burdensome
 9 process. I mean, the -- there's tons of
 10 disclosure to be reviewed. It's often -- can be
 11 redacted. If it's not redacted, it can still be
 12 difficult to follow. A large part of that is
 13 notes that are made by social service providers
 14 over the years, sometimes other types of
 15 information. I mean, it's a lot of work, you
 16 know. It's not an easy job.
 17 So those are the -- those are the key elements
 18 of legal representation. I think Legal Aid's
 19 doing a pretty good job. They've got dedicated
 20 people who've been there a long time who know the
 21 communities.
 22 And -- but you know, it's inevitable. At some
 23 point in time, those people will probably pass on
 24 to other duties. And it'll be essential to have

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1 people following behind them who have the same
 2 depth of knowledge or at least have the means of
 3 getting that knowledge.
 4 What people don't often realize is that,
 5 although we have two Innu communities, primarily
 6 in Labrador -- and of course, there's a large
 7 Innu presence in St. John's. But I'm just
 8 dealing with the Labrador residents. They are
 9 quite different.
 10 I mean, there are important differences in
 11 those communities, aside from the fact of one
 12 being close to larger communities and one being
 13 remote. The way that they've evolved, the
 14 services they have available in the community,
 15 the access to transportation, to professionals.
 16 And I'm thinking -- when I talk about
 17 professionals, of course, I mean legal
 18 professionals.
 19 But you know -- and I haven't really stressed
 20 this. But an awful lot of what we're dealing
 21 with is health. The social determinants of
 22 health are alive and well.
 23 I referred in my report to the wonderful
 24 report that was done on the Inuit communities in

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1 2019, *A Long Wait for Change*, by the child
 2 advocate -- Child and Youth Advocate at the time.
 3 That's an amazing report. And I was just
 4 browsing through that yesterday, bringing myself
 5 up to speed.
 6 And for instance, they have a section - I'm
 7 looking at 16 and 17 of their report - where they
 8 talk about the socioeconomic context of their
 9 communities. They're talking about the Innu
 10 communities. And they go through the percentage
 11 who live in crowded homes, the percentage who are
 12 food insecure, the percentage of growth in the
 13 communities, the median income being quite low.
 14 All of these things -- I'm sure the Inquiry
 15 has gone through its own parameters and work and
 16 is well informed on these things. But all of
 17 these things, although I haven't stressed them,
 18 they are -- they all come down, ultimately, to
 19 physical and mental health conditions. And
 20 having access to appropriate physical and mental
 21 health, when you're dealing with either parents
 22 or children, is crucial.
 23 So the situation in Natuashish, where they
 24 have a clinic and they have good professionals in

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1 the clinic, cannot be compared to the situation
 2 in Sheshatshiu, where they have a hospital that's
 3 approximately a half hour or 40 minutes away. So
 4 all of these things make for differences,
 5 differences in services, differences in options.
 6 I'll give you an example. I had -- when I was
 7 a lawyer dealing with some of these cases, I had
 8 a number of clients who obviously had severe
 9 addiction issues. They admitted it. They were
 10 on lists.
 11 They -- the ones that were in Sheshatshiu
 12 could drive to a counsellor to get an assessment
 13 done. And they often did. And I encouraged them
 14 to. And the social workers encouraged them to.
 15 However, if they were in Old Davis Inlet or in
 16 Natuashish, to get the kind of assessment they
 17 needed or to get the kind of treatment they
 18 needed, forget medication, that was very
 19 difficult. They had to get on a plane, sometimes
 20 go to St. John's.
 21 So the point I'm making is that the solutions
 22 to many of the family problems and personal
 23 problems are not all in the hands of the legal
 24 system, of course. They're in the hands of the

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1 health system. So an integrated approach is
 2 essential.
 3 And as a lawyer, you have to know the
 4 parameters. As a judge, you have to have some
 5 idea of the parameters available to the people
 6 involved. So when you're trying to make progress
 7 in legal representation, this is the information
 8 that you need at your fingertips.
 9 You can't solve all of the problems. But you
 10 can direct people to the solutions that are
 11 available. And you can, perhaps, support them --
 12 I wouldn't say lobbying. But you can support
 13 them in trying to get that.
 14 For instance, a letter from the lawyers,
 15 without going into detail, with the client's
 16 consent, sent to the appropriate person, saying
 17 this is urgent for this child protection case
 18 that this thing be done, whatever this thing is.
 19 It could be an assessment. It could be a
 20 conversation. That can be a tremendous help.
 21 So having enough knowledge to know that. Of
 22 course, there are resident lawyers in Goose Bay.
 23 And there's a resident child and family office.
 24 And they do have that knowledge. And this is

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1 partly why that system works as well as it does.
 2 I'll just turn to the access to justice piece.
 3 I won't deal with it at great limit. I dealt
 4 with the time limit situation. The timelines
 5 that are set out in the Act.
 6 And I guess you can sum up what I said
 7 succinctly, that they don't much help advance the
 8 case. But they're not the reasons for the delay
 9 of the case. So in a sense, they're kind of
 10 neutral to how effectively and efficiently child
 11 protection cases move ahead.
 12 The L.B. case said it all. The L.B. case
 13 involved an Indigenous person, who, you know, had
 14 issues, obviously. And children had been
 15 removed. And it took 16 months from the time of
 16 the removal for the hearing to take place. The
 17 Court of Appeal made its comments about that and
 18 expressed its concern about it. And I totally
 19 understand it.
 20 But you know, one of the circumstances that I
 21 pointed out, I think, perhaps in a footnote in my
 22 report, is that the person who brought that case
 23 to the Court of Appeal was not represented at the
 24 Court of Appeal. I don't know why. I can't

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1 comment on that. I just don't know.
 2 But a very important issue was advanced before
 3 the Court of Appeal, related, you know, to the
 4 children and the merits of the case. But also to
 5 the question of the delay and what contributed to
 6 it, so that the Court had a thorough
 7 understanding of it. But that person was
 8 unrepresented.

9 So it just goes to show that, although
 10 everybody's trying to be helpful here, there are
 11 gaps. There are gaps, both at the trial level
 12 and at the appeal level. And you know, we're
 13 better serving the children of the communities if
 14 we recognize those gaps as existing.

15 But I didn't -- I thought that the timeline --
 16 the time limits were not realistic. I'm not the
 17 first person to say that. It's been said by
 18 many. They -- the Court has some discretion on
 19 it. And judges frequently exercise that
 20 discretion.

21 One of the big factors with the timelines, of
 22 course, is often the need for treatment of some
 23 of the parties involved. It could be one of the
 24 children. But that's not usually the case. It's

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1 usually one of the parents.
 2 And if you think that you have two parents,
 3 and one may have some issue that needs to be
 4 addressed -- some serious issue, the other one
 5 not -- may not have that issue. So it's the
 6 lowest common denominator in terms of time limit.
 7 Because the one that is slowest to deal with the
 8 issues that will allow them to even go through a
 9 hearing, to participate in a hearing, to be able
 10 to speak at a hearing, for instance, pay
 11 attention, that person will slow down the other
 12 person who doesn't have that issue. And this
 13 is -- the lawyers who were involved with that
 14 know this is a common refrain.

15 And it's not just in Labrador, believe me. I
 16 had occasion, before I finished up as a judge, to
 17 sit in -- outside St. John's in other smaller
 18 communities, sometimes for up to six weeks at a
 19 time. And I can assure you, the exact same
 20 issues prevail. It's just that, in small
 21 communities, those issues have outsized
 22 consequences.

23 And that's the thing I think that -- people
 24 ask me a lot because of my presence in Labrador,

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1 why is the situation in Labrador the way it is?
 2 And they're talking about the Indigenous
 3 communities, particularly on the coast. And I
 4 said, "The exact same problems exist in those
 5 communities as exist in our communities, just
 6 that two factors. The incidence is higher per
 7 capita, and the remoteness and lack of services
 8 means it's hard to deal with."

9 And I try to explain that over and over again
 10 to people who do ask me that question. The
 11 lawyers know this. And judges know. And
 12 everybody knows it. But you cannot lose track of
 13 the outsized effect, particularly in the Innu
 14 communities, of some of the social problems that
 15 exist anywhere, perhaps in a lower percentage of
 16 incidents, than in communities that are affected
 17 by intergenerational trauma, poverty,
 18 deprivation, and through a certain extent,
 19 isolation.

20 So anyway, that's the -- that was the timeline
 21 issue. I know this is being reviewed -- I gather
 22 it is being reviewed by the Province at the
 23 present time in accordance with the five-year
 24 review of child protection legislation. And I'm

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1 sure there are discussions going on with -- I
 2 hope there are discussions going on between the
 3 community. Certainly, the communities need to be
 4 consulted on this.

5 This all ties, to some extent, with the issue
 6 I talked about earlier about circuits. Because
 7 you think about it, if you're not able to get to
 8 a community for a period of 6 months or 12
 9 months, then any delay that you have for other
 10 reasons gets exacerbated. And I'm -- I fear that
 11 that could happen or is happening.

12 The -- I won't talk any more about the L.B.
 13 case, except to say that it didn't depend on the
 14 Charter. As I said, the Charter is an overview.
 15 The Court did not base its comments on the
 16 Charter. It based its comments on fairness,
 17 fairness issues, and fairness to everybody
 18 involved.

19 But of course, the Charter, if it had been
 20 properly argued -- there were no -- there was no
 21 counsel there for the person that could have
 22 argued. But if it had been properly argued,
 23 maybe the Charter would have, as it happened in
 24 other Supreme Court of Canada cases and the

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1 leading case in New Brunswick, the Charter could
 2 have been applied.
 3 And the lesson of that is that whatever system
 4 is devised here, you know, to deal with these
 5 cases, whatever system, the Charter will always
 6 be a blanket over it. And I'm -- what I mean by
 7 that is that you have to keep Charter principles
 8 in mind, both when designing and implementing and
 9 operating any system in child protection.
 10 Because one of the basic necessities of life,
 11 in discussion that I referenced, is interaction
 12 with your own family, access to your own family.
 13 And so there will never be a time under the
 14 Charter, as we know it, when child protection
 15 will not, you know, have to comply with Charter
 16 -- or at least be held accountable to Charter
 17 standards. So that's something that, again, the
 18 lawyers know. But in the designing and the
 19 operation of the system, this is important.
 20 There will always be a system. This system --
 21 who designs the system is really what we're
 22 talking about. And who has input into it and who
 23 operates it. But there will always be some kind
 24 of a system, a set of procedures. And if you --

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1 if that system doesn't work well, then you're
 2 dealing with young children here, sometimes
 3 newborns.
 4 I mean, I didn't belabour this in my report.
 5 But the truth is the saddest cases and the most
 6 impactful cases are the newborns. And we saw --
 7 thank God, I don't think there are nearly as many
 8 now as it used to be.
 9 But I can tell you, I saw them weekly. I saw
 10 apprehensions at birth -- right after birth,
 11 weekly. And it was very, very hard for
 12 everybody. Least of all for me.
 13 I mean -- but you know, those things come
 14 before a judge. And a judge has to authorize the
 15 apprehension. And that's still the case. And
 16 you just know that that has ramifications in the
 17 community, not just for the parents. There are
 18 at least two family groups that are involved in
 19 every one of those situations; maybe more.
 20 So you know, you have to have a system that is
 21 fair and doesn't invite or tolerate or, as the
 22 Court of Appeal uses the word "complacent" --
 23 complacency about delay. That's really what
 24 we're talking about.

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1 Now, I won't go into, individually, my
 2 recommendations. I referenced in my report --
 3 because there may be some questions about them.
 4 And perhaps that's the best way to address those.
 5 I had talked about, in the *Long Wait for Change*,
 6 the one recommendation that was made in the
 7 context of the Inuit communities. And that was
 8 recommendation 31. And I talked about this at
 9 pages 1 and 2 of my report.
 10 And I just want to -- it's brief. So I'll
 11 just read it. The recommendation there was that
 12 "the Department of Justice and Public Safety
 13 engaged justice system service providers to
 14 explore ways to improve access and timeliness of
 15 advice, services, and decisions for family law
 16 matters in Labrador and ensure appropriate
 17 supports to implement the plan. This is
 18 particularly urgent where communities are served
 19 by certain courts." That's the end of that
 20 quote.
 21 And that really, in a nutshell, sums up my
 22 recommendations, too, although I broke it down
 23 differently. And I tried to address them in a
 24 little more detail.

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1 But the circuit court situation is key to
 2 this. And delivering justice in the communities
 3 to the maximum extent possible, especially in the
 4 Innu communities, is absolutely key. Now, that's
 5 my personal feeling based on my experience and
 6 what I've looked at.
 7 There may be people in the communities, you
 8 know, who have other opinions. Maybe it's very
 9 difficult for the community to have the court
 10 coming and dealing with child protection matters
 11 there.
 12 You know, I understand there are different
 13 sensitivities. But from the point of view of the
 14 functioning of a justice system and the ability
 15 to give parties access to the decision-maker and
 16 the decision-maker access to the parties and
 17 counsel, being in the communities is essential.
 18 And I -- if there's no other message that I
 19 get across, you know, is that we have to find a
 20 way to be respectful to these communities by
 21 showing up. And I think that that has been
 22 eroded more than I would like to see it or more
 23 than I think is in the interests of justice. And
 24 I don't think that's the fault of any of the

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1 participants at all, any of the parties we've
 2 talked about, service providers, lawyers, judges,
 3 social workers, et cetera, or parents. They
 4 don't control that.

5 It's -- I'm sure that the Inquiry has other
 6 ways to find out or has already found out from
 7 the community what the feelings of the individual
 8 communities are. But I -- my own personal
 9 feeling is that if you don't go there, then you
 10 really won't understand the communities. So
 11 that's my fundamental message.

12 I talked a little bit about -- and I've only
 13 got a few more minutes here now. And then I'll
 14 pass over to questions. The interpretation
 15 services. I've argued in my recommendations,
 16 recommendation number 3, that there needs to be a
 17 professionalization of interpretation services
 18 for Innu communities. And I would say the same
 19 thing in Inuit.

20 However -- and I -- again, I speak from long
 21 experience here in those communities. The need
 22 for interpretation in the Inuit communities is
 23 considerably less, much less, dramatically less
 24 than it is in the Innu communities. And that is

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1 a hand of applause for the Innu communities for
 2 preserving, to the -- to a remarkable extent,
 3 their language, the use of their language, the
 4 introduction to their language.

5 Yes, children speak English a lot. Young
 6 people speak English a lot. But they all
 7 understand Innu-aimun to one extent or another.
 8 And that is their language of origin. That's
 9 their baby language. That's their grandparents'
 10 language. That's the language of feeling, the
 11 language of self-expression. And that makes the
 12 question of interpretation for Innu communities
 13 dramatically more important. And that's, again,
 14 my own personal opinion.

15 But more importantly, it's -- the
 16 professionalization is another sign of respect.
 17 Any effort to professionalize interpretation is
 18 another sign of respect for the communities.

19 And I -- when I was in Labrador in September -
 20 I don't know if you recall - there was a trial
 21 going on in the Supreme Court involving an Innu
 22 person at that time. And of course, it wasn't of
 23 direct interest to me. But I did go, and I sat
 24 in on part of that during that week.

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1 And I went there, really, because I was
 2 curious about the interpretation situation. This
 3 is a Supreme Court, very important trial, you
 4 know, significant charges. And the thing that
 5 struck me is that, first of all, one of the same
 6 people who was doing interpretation years and
 7 years ago was still doing interpretation, which
 8 was gratifying. This was an experienced person.

9 But secondly, that person was not present.
 10 They were not in the courtroom. They were
 11 present remotely. And their voice was being
 12 broadcast through a -- an improvised speaker
 13 system within the courtroom. Now, I have a
 14 feeling it took a lot of work to even get that to
 15 happen. So I commend everybody for making it
 16 happen.

17 But it struck me, it struck me that even at
 18 the highest level of criminal charge in the most
 19 serious court, you know, with highly qualified
 20 people all around, top-down, and lawyers, that
 21 this was the best that could be done. And
 22 frankly, I would want to do better than that.
 23 That's the way I would put it.

24 Professionalization means not just the

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1 training of interpreters and the provision of
 2 interpreters, but it also means having the
 3 facilities and the in-person availability of
 4 interpreters. This is going to take an effort.

5 This doesn't happen by accident.

6 There were the efforts made in 2007. And any
 7 of you who know about that know it was a real
 8 earnest effort to train both Inuit and Innu
 9 interpreters. And it continued over -- really,
 10 over about a year, year and a half. And some
 11 resources were made available.

12 I was involved in a bit of that training. I
 13 can tell you that the interpreters who took part
 14 were extremely dedicated. They had to be away
 15 from their families for weeks at a time,
 16 especially those from Natuashish. And they did.
 17 And they came. And they showed up, and they did
 18 the work. So it can be done.

19 But if we don't do it, then I worry about how
 20 the courts are going to fulfill their mandate,
 21 particularly in child protection matters.

22 Because I said, if you're going to choose a case
 23 that's very difficult, it's the child protection
 24 cases. These are the -- these are the most

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1 challenging for interpreters.
 2 And we really don't do anything to prepare
 3 those interpreters for the emotional load, the
 4 interpersonal aspect of it. How to deal with the
 5 relatives of the parties involved when they go
 6 back to the community. You know, all those
 7 things that can happen to complicate their life.
 8 We don't prepare them for it.
 9 So it's no surprise to me that it may be
 10 difficult to get people to volunteer or you
 11 know -- or get paid. But they're not getting
 12 paid a fortune. In effect, they're all
 13 volunteers. Nobody's on salary. They show up if
 14 -- or they don't show up. And I -- it's not
 15 surprising that that's a difficult enterprise.
 16 So I think, for the Innu communities,
 17 interpretation for hearings is crucial.
 18 My recommendation number 5 -- I've talked
 19 about social workers probably enough. I know
 20 that there's some travelling social workers that
 21 go to Innu communities, particularly Natuashish.
 22 And I had occasion to meet some of those people.
 23 They're wonderful. They're serious. Like, they
 24 are serious. They're well-trained. There's a

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1 thousand things.
 2 But the nature of their role is that they're
 3 itinerant. They're rotational. And I worry
 4 again about the gaps, minding the gaps.
 5 So one of the concerns is that what happens
 6 when the, you know -- the responsible social
 7 worker is not present or available because
 8 they're doing something else. Because, you know,
 9 they have another -- they have another life. And
 10 what happens for decisions that have to be made
 11 in their absence? I suspect that the burden
 12 falls on someone else, who, perhaps, doesn't feel
 13 prepared to do it.
 14 So the rotational social workers -- most of
 15 the time that I was in Labrador, we did not have
 16 that. We had social workers that were there, or
 17 if they did rotate in, they rotated in from
 18 nearby. And you know, they were familiar with
 19 the community, and they were generally available.
 20 I think it's become more difficult to recruit
 21 full-time resident people. Obviously, it has.
 22 And it may require some kind of a premium of
 23 benefits or payments for those people. But to
 24 me, that, yes, give them leave time, give them

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1 breaks from their onerous responsibilities. But
 2 resident social workers are very important.
 3 My recommendation 5 is the parents must be
 4 fully seen and heard during court appearances.
 5 That is one of my main concerns. So I did
 6 experience the transition to videoconferencing
 7 and phone appearances. That all occurred in the
 8 2000s, of course.
 9 And more and more turned out to be phone for
 10 all kinds of reasons. And the reasons are,
 11 really, that a lot of the communities don't have
 12 good cell phone or any cell phone connection.
 13 Everybody relies on Wi-Fi with their phone or
 14 with their other device. And of course, not
 15 everybody has a device, and not everybody has a
 16 phone.
 17 And if you're trying to do it over -- a
 18 telephone appearance over a landline, especially
 19 from somebody's home, I consider it -- the lowest
 20 common denominator, it's undignified. They can't
 21 really pay attention. They've got things going
 22 on around them, behind them. They've got family
 23 responsibilities. There's family noise. There
 24 has to be. It's a home.

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1 And unfortunately, this is how a lot of the
 2 appearances are taking place. And I, you know --
 3 it's out of the judge's control at the present
 4 time. But I have recommended what I call hearing
 5 spaces in the communities.
 6 There -- so there are only two communities.
 7 And there need to be adequate, safe, high and
 8 dry, as we used to say in Labrador, you know.
 9 Where are we sitting? We're sitting somewhere
 10 high and dry.
 11 And that was always good news. Because it
 12 wasn't always the case. You know, sometimes,
 13 you'd go in, there'd be a leak in the middle of
 14 the floor. And you -- court would end because
 15 you, you know -- you couldn't sit under a leak.
 16 But high and dry is important. But safety and
 17 adequate technology and so on.
 18 Now, this -- I recommended a pilot project in
 19 -- particularly in Sheshatshiu. Because I think
 20 it could be easily arranged in Sheshatshiu. It
 21 could easily -- be easily installed in
 22 Sheshatshiu. I know that IRTS is looking at
 23 spaces or considering a future with dedicated
 24 spaces for their own purposes that are, you know,

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1 a little more adequate than what they have at the
2 present time. And I think that that would be
3 coordinating with whatever effort they're making
4 would be the way to address that.

5 Parents need a place where they can go, sit
6 down in a room, and without any struggle, be
7 heard. And ideally, with a video setup that's
8 properly -- with a good signal or a landline
9 signal or fibre signal, whatever is possible --
10 the best that's possible. Be able to see the
11 judge, see the lawyers, hear what's said. And if
12 interpretation is being used, be able to hear
13 that, as well.

14 I mean, that's basic. The whole -- courts are
15 places to be heard. And if you're dealing with a
16 court process and you can't be heard, then it's
17 not a court. It's a court trying to be a court.
18 But it's really not.

19 And again, I don't fault anybody. Because I
20 think these things have evolved without a
21 thorough thought process. It just happened.
22 Things happened and so on. But I think that
23 is -- that is, to my mind, the easiest
24 improvement that we can make.

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1 So if we're going to use technology, which
2 right now, is being used, let's make it work.
3 For instance, I know that the court in Wabush and
4 Judge Trahey, who I had several meetings with and
5 who I know very well, is trying to cover
6 Sheshatshiu matters and Goose Bay matters of this
7 kind from a distance. It saves everybody time.

8 It saves everybody trouble. I'm not talking
9 about trials. I'm talking about all the mini
10 appearances that go on. And they're trying to do
11 it through phone, mostly, but also through video.

12 Well, that needs to be easier. That needs to
13 work. And I have sat on the bench and tried to
14 have a person who is, say, in Sheshatshiu on a
15 phone, a landline, take part and be heard. And I
16 can assure you, sometimes it works. But just as
17 often, it doesn't.

18 So this is essential. We're going to be using
19 technology. A lot of the lawyers who participate
20 are in St. John's, they don't necessarily have to
21 travel or need to travel for every court
22 appearance. We got to make this thing work.
23 They need to be present. But their clients need
24 to hear them. And I -- my own experience is that

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1 that's much more difficult than it should be.

2 And I -- the other thing I would say is that
3 the parents who live in Sheshatshiu, for
4 instance, should not have to leave Sheshatshiu
5 for a five-minute, ten-minute appearance. This
6 is a terrible responsibility. They often have
7 other children. If they don't have other
8 children, they have a job. If they don't have a
9 job, they're often taking care of parents or
10 grandparents.

11 To take them for a full day, as a considerable
12 expense, to Happy Valley-Goose Bay for what
13 amounts to a five or ten-minute hearing, there's
14 no need. The only reason that happens is there
15 is no other way to do it.

16 And again, this is respect for the community.
17 I really think it comes down to saying their time
18 is valuable, just like our time is valuable.
19 Let's make this work. Let's have them be heard.
20 So I have dealt with that in detail. And I think
21 a pilot project is probably the way to go about
22 it.

23 The last thing I'll talk about is dispute
24 resolution methods. One of my other hobbies, I

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1 guess, at the present time, is I'm a member of a
2 group that's trying to -- a non-profit group
3 that's trying to promote mediation, a voluntary
4 process, in family law matters, generally, in the
5 province. So we've been at this for a few years.

6 So I'm kind of plugged in to where that is at
7 the moment. And of course, the act does have
8 these provisions that are there. I'm not sure
9 they're being used much.

10 I'm thinking of case conferences. They are
11 being used. I know they're being used. But how
12 much they're being used -- and then judicial case
13 conferences. I think those are not being used at
14 all in the provincial court. The judges are
15 busy. Perhaps they're not being asked for. And
16 judges don't want to impose work on lawyers and
17 parties, you know, if it -- they're not being
18 asked to.

19 But I really think that a judicial case
20 conference for those cases that are, what I would
21 call sticky. What I mean by that is that
22 everybody's done their best, lawyers on both
23 sides, judges, and the parties. And they have
24 not been able to come to an agreeable solution.

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1 Not every case could be agreed on. Some cases
2 just require a hearing. But the ones that are
3 amenable to that, the presence of a judge at a
4 judicial case conference can make a tremendous
5 difference.

6 I've been doing this work since the '80s.
7 Even when I was in California, I went through
8 judicial mediation processes over and over again.
9 And I can tell you, the presence of a judge who
10 can make recommendations, but won't be hearing
11 your case if it goes to court, is very effective
12 in having people rethink their positions, perhaps
13 look at the facts a bit differently, think of
14 solutions, and so on.

15 So I think there needs to be a greater effort
16 by all involved to use these mediation services.
17 And I'll tell you why. It's not that the hearing
18 wouldn't go ahead. They're difficult, as we
19 said. They will be challenging. They're always
20 challenging, the interpretation, the whole thing.

21 But the damage that gets done when you sit in
22 a courtroom, as a parent, and you have to hear,
23 unfortunately, a litany of two or three years of
24 all of your mistakes, all of your misjudgments

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1 and so on -- I mean, I sat there, and I watched
2 these parents go through it because I had a
3 better view than the lawyers. They were busy. I
4 was there watching the parents. And I can tell
5 you, they get smaller every day. It's
6 diminishing.

7 I'm not saying it doesn't have to happen that
8 sometimes these things are gone through. But
9 that aspect of child protection hearings does
10 nobody any good. And if it doesn't need to
11 happen, one way to get to the solution is through
12 a voluntary process -- again, everybody has to be
13 willing. A voluntary process. And one that
14 involves a judge will be adequate.

15 And I suggest that, for instance, with these
16 hearing spaces that we're talking about, that a
17 judge from outside Labrador, if your local judges
18 were busy and travelling and whatnot, a judge
19 from outside Labrador and the Provincial Court is
20 just as competent, particularly if it's a judge
21 who's had some experience in Labrador. Just as
22 able to help out there. And you know, with the
23 cooperation of the Provincial Court and the
24 agreement. A judge is a judge is a judge is a

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1 saying that goes around among courts. And that
2 would be one way of dealing with it.

3 It would also get you an earlier judicial case
4 conference. Because not all provincial courts
5 are as busy as others. And so sometimes judges
6 there are available and willing to help. So I
7 think that that recommendation is one of the
8 underused solutions here for the sticky cases.

9 I'm not saying there will be 10 of these a
10 year. There might be four or five. I -- that's
11 my thought on it. But if that ends up settling
12 one or two -- resolving it in a way that people
13 are happy with, then that's a good thing.

14 The other option is private mediation. We do
15 have some fully qualified family mediators in
16 this province. I know of three that are
17 practicing mediation regularly. And if you
18 didn't want to do the mediation involving a judge
19 or a case conference involving a judge, private
20 mediation is also available for those cases.

21 And at least one of the people I -- well, two
22 of them, actually. Two of the people I know of
23 have experience with Labrador, have worked in
24 Labrador, travelled in Labrador, have clients in

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1 Labrador. So they have a degree of local
2 knowledge, which would be very helpful.

3 So that's an option that isn't often explored.
4 Can't be ordered by the court. It has to be,
5 perhaps, suggested by counsel, discussed between
6 counsel, discussed with clients, and then
7 arranged.

8 But it can be done remotely. It can be done
9 online. An awful lot of mediation now in this
10 province is being done online. So I just -- it's
11 just a reminder to not forget those.

12 Now, the last point I'll make is that I did
13 include in my report some statistics. It's in
14 the footnotes, particularly footnote 31 in my
15 report. And there's a little table there.
16 Because, in my mind, I wanted to have some idea
17 of how many cases are we dealing with? Because
18 I've been out of there for a number of years.
19 And of course, things change. And they have
20 changed. And there've been much progress made.

21 And so I included the most recent table I had,
22 which indicated that there are a 120 Innu
23 children in care -- children or youth in care.
24 And that was from March of last year. And that

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1 was produced by the government.

2 Now, I realize that the Inquiry may have done
3 all kinds of other work. And other people have
4 been doing work on numbers and so on. And
5 numbers historically and the trends. I can't
6 comment on that because I haven't done that work.

7 But 120 children is still a lot. If you think
8 about it in terms of apprehensions or removals,
9 some of those -- some of those in-cares are
10 voluntary. That there's consents by the parents.
11 But some of them are in care. And that's 10 a
12 month, if you were to break it down on that
13 basis.

14 And from the small communities that we're
15 talking about, of course, the impact of that is
16 colossal. Because, again, there are two family
17 groups for every one of those children. And
18 those family groups are all interconnected within
19 themselves and within the community.

20 I mean, I was always very aware of that, how
21 the interconnections in the Innu communities,
22 even more intense than in the Inuit or settler
23 communities. It's so intense. And it's so
24 close. That when you remove a child or when a

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1 child is taken out of the home, it implicates all
2 these families.

3 So just -- I wanted to make that point because
4 those numbers have gone down. And all signs are
5 that they will go down. But even if they go down
6 to, say, 80, two-thirds of that number, that's
7 still a large number of children. So we're
8 dealing here with an impactful number of families
9 and children in two small communities. And
10 that -- those children are the future generations
11 of workers, teachers, potentially social workers,
12 all that kind of thing.

13 The last -- very last point I'll make is that
14 the -- I'm very optimistic, despite all of these.
15 These are little -- these are comments. But I'm
16 very optimistic about the future of child
17 protection in Labrador. One of the things that
18 makes me incredibly optimistic, and I hope is
19 still a fact, is that there's a training program
20 going on right now for social workers that I
21 described in the report and in the footnotes and
22 notes.

23 That training program of Innu young people or
24 young men and women, to become social workers is

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1 an indication of responsibility being taken in
2 the community for the future of child protection.
3 And that wasn't even hinted at in my time there,
4 even the most recent years.

5 The fact that there -- a professional program
6 of that kind can be created, maintained,
7 encouraged, and recruited for is one of the --
8 they're the daffodils in the spring, if you get
9 my point. They're the sign that good things are
10 about to happen, and that the resources in the
11 community are being put -- and other public
12 resources, governmental resources, too, are being
13 put to a good use.

14 So that's the note I wanted to end on. And I
15 have a few other comments I might get to make as
16 you go along. But I'll stop there now.

17 MICHAEL COLLINS:

18 Q. Thank you very much for that.

19 WILLIAM ENGLISH:

20 A. Great.

21 MICHAEL COLLINS:

22 Q. I have, I think, only two follow-up questions
23 from that. The first is about timelines. And
24 one of the difficult things about timelines is

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1 it's easy to put -- it's easy to say things need
2 to happen by this time. But it's harder to say
3 what should happen if it doesn't.

4 If you have a case where there's a child and
5 there's a legitimate concern of some sort that
6 the child may be in need of protection, and the
7 timelines are missed for systemic reasons or
8 ultimately, due to the fault of the State, what
9 is an appropriate response?

10 WILLIAM ENGLISH:

11 A. Yeah. That's a difficult one. And so the
12 analogy, which we see every day now throughout
13 Canada, is in the criminal context. And I
14 describe that in my report. I won't belabour it.
15 Obviously, the responses can be quite drastic.

16 In the child protection case, I think some of
17 the pressure is off now because of other things
18 that have happened. For instance, the fact that
19 the children are, to the extent possible, being
20 placed in Innu communities or with kinship homes,
21 while the matter proceeds, that, to me, changes a
22 lot.

23 Because my concern, when I was on the bench,
24 and to a certain extent -- but it was more of a

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1 concern when I was on the bench was I saw
2 children go far, far away in homes that were so
3 different, they might as well have been on
4 another planet. Because we got information about
5 the homes, you know. And they were good homes.
6 Don't get me wrong.

7 But they were so different. They did nothing
8 for the child on a cultural basis. They -- if
9 anything, they caused loss. So as long as that
10 was happening, those time that we pushed as much
11 as we could push, as judges, you know, for those
12 timelines to be honoured.

13 But if you have a placement of a child in the
14 interim in a fully culturally appropriate home,
15 as close to the parents as possible, with the
16 possibility of family -- the parents and extended
17 family being able to have contact and a child of
18 school-age being able to continue in school,
19 that's one situation. But the situation where
20 the child is fully removed from family and
21 culture and the clock is ticking, I think that's
22 quite different.

23 So in other words, context matters. Now --
24 right now, a judge doesn't have a whole lot of

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1 alternative. A judge could force a hearing. I
2 think a judge could say, okay, we've got -- you
3 know, the timeline's coming up. And we really
4 have to have the hearing.

5 In the L.B. case, obviously, that's what
6 happened. Because there was 14 months that had
7 lapsed. And by all criteria, that was well past
8 the timeline. Some judge must have said, let's
9 have this hearing. And they had the hearing.
10 And it went ahead. And a decision was made.

11 But right now, judges don't have a discretion
12 to -- they don't have a statutory discretion,
13 especially Provincial Court judges. I referred
14 in my report to the parens patriae jurisdiction
15 that operates in Supreme Courts.

16 So for instance, you had a child protection
17 case in St. John's in the Supreme Court Family
18 Division, those judges have the parens patriae
19 jurisdiction, which means that they can make the
20 appropriate order that they feel is necessary in
21 the best interest of the child. And they don't
22 need statutory authority. They would be careful
23 about their authority. But they don't need
24 statutory authority to make that order.

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1 In the Supreme Court, Child Division or Family
2 Division, in a similar case, a judge could say,
3 look, I'm exercising my parens patriae
4 jurisdiction here to order this child placed back
5 with the parents, or one of the parents or
6 whatever, while this matter is ongoing. Because
7 this has now exceeded the time limit. And I
8 think it's -- given the nature of the placement
9 or other factors the judge would consider.

10 In other words, they have the power. But in
11 Provincial Court, there is no such power. And
12 because the act is a code, then I think it'd be
13 very difficult for a Provincial Court judge to
14 find a remedy, even in the most demanding case.
15 So I think that's a very real problem.

16 But if you were going to construct an act that
17 gave them that authority, then the judge would
18 have to consider the current situation of the
19 child, whether it was culturally and familially
20 appropriate. And it -- that would be, to my
21 mind, the overriding factor.

22 If delays and delay and delay, for some
23 reason, is going on and the placement of the
24 child seems to be inappropriate or inoffensive

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1 for that length of time -- offensive for that
2 length of time, then I think a judge should be
3 given authority to make an order while the matter
4 goes to its completion.

5 I don't think the judge should be able to
6 dismiss the matter. I wouldn't want to see that
7 authority. For instance, that -- in the criminal
8 cases, that authority is there now.

9 But in the family cases, the problem is that
10 it's -- without a full hearing, you know, you
11 know a lot as a judge and as counsel. But you
12 don't always know what you need to know. And
13 so -- but I would like to see the authority to
14 change the placement of the child in the best
15 interests of the child. And cultural factors
16 should play a large part in that.

17 I don't know if that fully answers your
18 question. But it is -- that's a very important
19 question. Because we used to run up -- in
20 effect, be thinking about that, you know. And I
21 probably offended more than a few people in the
22 courtroom many times, when at the outset of an
23 appearance -- and not just a hearing, but an
24 appearance in child protection matters after, you

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1 know, everybody introduced themselves and so on,
 2 I would ask somebody -- usually counsel.
 3 Unfortunately, for counsel, which is usually
 4 them. I would ask, where is the child? Where
 5 are the children?

6 And sometimes the lawyers knew right off. And
 7 other times, they had to ask the social worker,
 8 you know or the parents. And believe it or not,
 9 there were many times the parents did not know
 10 either. And this was months into the process.

11 And the reason I asked is because I didn't know.

12 And it always made a difference. If they were
 13 a thousand kilometres away in St. John's or some
 14 other place, no contact with family, no visits,
 15 no prospect of them, my alarm bells went off on
 16 the time question. Right away, I realized that
 17 that child, especially a five-, six-, seven-,
 18 eight-year-old child or even a teenager, there is
 19 wear and tear on that child, which is directly
 20 related to the effects of the delay.

21 So knowing where the child is was always a
 22 prime consideration. And all of these measures
 23 have been taken now to have the child close to
 24 family. To me, healthiest thing, absolute

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1 healthiest thing.

2 I've often wondered why we couldn't solve that
 3 many years ago, you know, when we were sending
 4 children far away from Labrador. There -- I
 5 could go into that, but I won't go into it.

6 There are many reasons why institutional
 7 answers to that have not been considered or have
 8 been ruled out. And I know more about that than
 9 I should know. And I've referenced some of the
 10 reports that have dealt with that. I know a lot
 11 of the people involved and the children involved
 12 and the parents involved and all that kind of
 13 thing from many years ago.

14 But so they're institutional -- they're
 15 problems with institutional answers. And
 16 individual homes, and maybe a group home
 17 arrangement were thought to be a more humane
 18 answer to delay or interim care. But to me, the
 19 solution is being in the community, however you
 20 arrange it. If you're close to family and
 21 community and your siblings and your peers and
 22 your school and your childcare arrangements, then
 23 a lot of good things are happening for the
 24 children involved.

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1 MICHAEL COLLINS:

2 Q. So does something stand out, that one might think
 3 that goes to mitigating the harm of missing the
 4 timeline?

5 WILLIAM ENGLISH:

6 A. Right.

7 MICHAEL COLLINS:

8 Q. But for our parents who finds themselves -- they
 9 are told, if you want to hear a prompt hearing,
 10 it has to be short, or if you want to -- a
 11 hearing within the timeline, we can't guarantee
 12 you have a lawyer.

13 WILLIAM ENGLISH:

14 A. Right.

15 MICHAEL COLLINS:

16 Q. Or there won't be an interpreter.

17 WILLIAM ENGLISH:

18 A. Right.

19 MICHAEL COLLINS:

20 Q. They find themselves -- they may find themselves
 21 in that kind of -- if that kind of case arises,
 22 you have a choice between the statutory -- your
 23 statutory timeline -- your statutory rights and
 24 the fair trial you were hoping for.

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1 And I will go back to the question one more
 2 time just to see because --

3 WILLIAM ENGLISH:

4 A. Yeah.

5 MICHAEL COLLINS:

6 Q. Can you envision any sort of remedy, anything
 7 that could be done for parents who find
 8 themselves potentially in that situation?

9 WILLIAM ENGLISH:

10 A. Oh, yes. I mentioned in the report, one of them
 11 is that, you know, the matter could be -- you
 12 give the court a power to dismiss. Because, you
 13 see, it can be dismissed without prejudice, which
 14 has happened sometimes. In the United States,
 15 you know, there are lots of things that are
 16 dismissed without prejudice. And that means,
 17 they could resurface, if necessary, or if
 18 somebody with authority thought that it was
 19 necessary at a later date.

20 So if you had a dismissal without prejudice
 21 power, then that effectively would mean that the
 22 children are returned to -- either to the parents
 23 or to some suitable caregiver. And if there's a
 24 thought that it is still necessary for the

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1 protection of children to refile, to recommence,
 2 then it can be. That way, the parents are out
 3 from under the immediate burden of the delay.
 4 But it doesn't mean that the children won't be
 5 protected. Obviously, child protection operates
 6 at all times. And regardless of whether there's
 7 a proceeding going on or not, there are social
 8 workers who can intervene and a proceeding can be
 9 pursued.

10 So a without prejudice dismissal, I think,
 11 would avoid the harm of sort of letting go of the
 12 family totally or letting go of the
 13 responsibility -- I mean, the legal
 14 responsibility is there. But I could see the
 15 judge in appropriate cases being asked to do
 16 that. And perhaps being convinced that that is
 17 in the best interest -- because if you think
 18 about it, the judge is still required to make the
 19 order that's in the best interests of the child.
 20 And if the delay is operating against the parents
 21 and the children or both or one of those, then
 22 that order is in the best interests of the child.

23 You know, the same criteria has to be applied.
 24 Judge has to feel that you want to treat the

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1 parents fairly. This is where the Charter comes
 2 in, by the way. And you know, because the
 3 Charter is that overlay of fairness. And it will
 4 always be a basis for asking a judge to intervene
 5 and make an order, even if the statute appears to
 6 limit the power to do so. So you know, that's
 7 why I said, any system you devise, you'll have
 8 that blanket of the Charter and the fairness
 9 requirement there.

10 And that -- I think that, you know -- that's
 11 still a possibility, theoretically, and so on
 12 under the current system. If counsel wanted to
 13 argue that the Charter now says that excessive
 14 delay - and this would -- could have been argued
 15 in the L.B. case, but of course, wasn't - that
 16 that in itself now requires a different order in
 17 the best interests of the children to -- and to
 18 enforce the rights of the parents. Because
 19 they're not always at odds.

20 I mean, you know, the -- over time, as a
 21 proceeding commences, the interests of the
 22 parents and the interests of children can
 23 converge, particularly if the parents address
 24 some of their personal issues and you know -- and

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1 circumstances, which will help the children. So
 2 you can -- if you have 10 months between the
 3 commencement of a proceeding and the time the
 4 judge is asked to make the order, the situation
 5 can be quite different. It can be worse. It
 6 could be better. But it can be quite different.

7 So I just think that power -- the power to
 8 dismiss without prejudice to a further future
 9 proceeding.

10 MICHAEL COLLINS:

11 Q. I'll turn -- turning to my other area. You spoke
 12 about the role that the courts play and the
 13 practical issues around getting access to judges
 14 in the community. You also spoke, certainly --
 15 especially in your report about the importance of
 16 allowing Innu to decide whether to play a
 17 significant role in designing the system going
 18 forward.

19 Could you envision the future where the Innu
 20 people set up their own institutions without --
 21 not using provincial court judges to adjudicate
 22 these issues?

23 WILLIAM ENGLISH:

24 A. Absolutely. Absolutely. See, as long as the

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1 legal scheme and you know, under the current
 2 federal legislation, if there is a coordination
 3 agreement that establishes that scheme, and
 4 everybody consents, and it's properly supported,
 5 and so on. As long as the system that's set up
 6 gives clear authority to whoever must make
 7 decisions and has the elements of fairness I was
 8 talking about, so it complies with the Charter, I
 9 don't think the Provincial Court -- the
 10 Provincial Court's only required now -- or the
 11 Supreme Court in other parts of the province.
 12 It's only required now because the act requires
 13 it.

14 You could have, for instance, I -- and this
 15 may not be totally of comparison. But I'd
 16 compare it to the workers' compensation system.
 17 You know, you may have a totally good claim under
 18 workers' compensation. You don't have to go to
 19 court. In fact, you're forbidden to go to court
 20 unless there's some, you know, review -- judicial
 21 review thing. As a workers' comp claimant, you
 22 deal with the board, which is authorized to make
 23 decisions. They had to proceed on fairness basis
 24 and all that kind of thing.

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1 I don't see any reason why it has to be
 2 Provincial Court. And I could see a lot of
 3 advantages to it not. I can tell you -- and
 4 again, the lawyers in the crowd know this better
 5 than I do. The burden of the criminal work in
 6 Labrador for the Provincial Court is every
 7 minute, every day, really, seven days a week.
 8 The lawyers are working on the weekends. The
 9 judges are working on the weekends. People are
 10 working at night. They're travelling on the
 11 weekends. They're away from home. They get
 12 stuck here and there. I mean, just trying to
 13 deal with an enormous -- unfortunately enormous
 14 criminal caseload.
 15 If you got out from under that and you had an
 16 appropriate person, properly trained -- you know,
 17 because they have to have some legal training.
 18 So how -- who that is and how it's established,
 19 that's a different issue. But as long as there
 20 is someone who were properly vetted. I would
 21 suggest there be more than one, for sure.
 22 Because you will have conflicts because of the
 23 familial connections and the community
 24 connections.

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1 But if you had that, then you would escape the
 2 burden of all the other work that the Provincial
 3 Court does. And that has been -- and now,
 4 particularly, because -- as I discussed in my
 5 report, because of the Jordan line of cases and
 6 so on the pressure on the Provincial Court with
 7 criminal matters and the Supreme Court, is
 8 awesome. I mean, that is -- that's a pressure
 9 you get reminded of every single day when you sit
 10 in the Provincial Court.
 11 So it's unfortunate that parents and children
 12 get caught up in the demands of that system.
 13 Because that system will always -- in the public
 14 eye, the criminal system will always draw more
 15 attention than the family court system. And I
 16 discuss the fact that, you know, family court
 17 hearings are closed.
 18 I've always had mixed feelings about that, by
 19 the way. In England, they're not closed. And --
 20 however, there's a restriction on identifying
 21 parties in any way. And I read regular reports
 22 from the family courts in *The Guardian* and other
 23 newspapers, where very good reporters go, and
 24 they report the circumstances and the limitations

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1 so that the public knows what goes on, why people
 2 are in the predicament they're in, and what keeps
 3 them from getting out of it, and how it affects
 4 children.
 5 in our system, anyway, we've opted to have a
 6 closed system. And that's fine, you know. I
 7 think it doesn't hurt by that. I wish the public
 8 knew more about it. But that's just my personal
 9 feeling.
 10 So yeah. I think I can certainly see an Innu
 11 -- any Indigenous group setting up a system. I
 12 suggested, for instance, the involvement of
 13 Elders. I mean, I see tremendous strength in
 14 that, of having Elders involved as advisors, much
 15 as has happened in the criminal context, with a
 16 person who's qualified as a hearing officer or a
 17 decision-maker or adjudicator, whatever you want
 18 to call them. Yeah.
 19 I think that is the ultimate evolution of an
 20 Indigenous system is to have them -- have the
 21 Indigenous people take responsibility. It's a
 22 heavy responsibility. Don't get me wrong. I --
 23 whoever takes on that job is going to have a
 24 heavy job to do. But it's probably one of the

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1 most important jobs in the community.
 2 MICHAEL COLLINS:
 3 Q. Thank you. Before we -- I turn things over to
 4 the other parties, you mentioned you might have
 5 other remarks. Is there anything else --
 6 WILLIAM ENGLISH:
 7 A. Well, I was -- yeah. Just very briefly, I -- one
 8 of them wanted to make -- it's a general
 9 statement. But I've hinted at it. Circuit
 10 courts are fragile. Local involvement of
 11 decision-makers are -- is fragile. It can
 12 disappear overnight for fiscal reasons, for
 13 neutral reasons, like weather, accommodation, all
 14 those kinds of things.
 15 And I don't think we realized until recent
 16 years how fragile it is. Technology has saved us
 17 from the full realization of that. Because we
 18 have ways of attempting to keep in touch and
 19 communicate. But whether you go with a totally
 20 different system or a variation of the system we
 21 have, presence and hearings and involvement in
 22 the local communities, that principle, I think,
 23 should -- any system should establish that
 24 principle, unless everybody agrees otherwise.

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1 I mean, if everybody agrees that a Natuashish
2 matter will be heard in Sheshatshiu or vice versa
3 because, you know, it's convenient or it's
4 reasonable or there's other things going on there
5 that make it reasonable, that's one thing. But I
6 don't think it should ever be imposed on an
7 Indigenous person to leave their community solely
8 to have a hearing that they've been required to
9 attend. I really -- I always felt bad about it.

10 And I'll tell you one very quick story. One
11 of the very first cases I had in 1977, criminal
12 case, in Happy Valley-Goose Bay, was a very
13 serious criminal charge involving a person -- a
14 female from Sheshatshiu. Very, very serious
15 charges. And so I flew up. And I had met with
16 my client on the phone. Because that's how --
17 the only way I could do it.

18 And of course, 1977, the road in the spring
19 was impassable. It was a sea of mud. And so
20 when we got there, my client was not there.

21 Talk about access to justice. The judge who
22 was there, who's now retired, he arranged for a
23 helicopter to fly to Sheshatshiu from Goose Bay.
24 And I assisted on being on that helicopter. And

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1 I did.

2 And we landed in the community of Sheshatshiu
3 in a helicopter. It must have frightened
4 everybody to death. And we took my client back
5 for her hearing, which went down for several
6 days. Had to arrange accommodations, the whole
7 thing.

8 I mean, how basic is it that, you know, you
9 get to court, you know or your hearing is where
10 you are if you can't go? It turned out that that
11 lady was about eight and a half months pregnant.
12 And that's the reason why she couldn't come over
13 the terrible road. And so you know, through
14 technology, helicopters, we made it possible.

15 But that was a lesson to me, of all the
16 challenges that exist in Labrador. So I think
17 having hearings in the local community,
18 particularly if they're involving local people, I
19 mean, either as adjudicators or as social workers
20 or as parties, that's the solution to all of that
21 deprivation and really, discrimination. I see it
22 as discrimination if we don't fully address that.
23 So that was the other point I wanted to make.
24

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1 MICHAEL COLLINS:

2 Thank you very much.

3

4 (Video ends)

5

6 KELSIE LOCKYER:

7 So that will conclude today's session of the
8 hearings. We will resume tomorrow at 9 a.m. to
9 proceed with the rest of the prior Judge
10 English's testimony before we get into the
11 presentations by Dr. Fallon and Dr. Black. Thank
12 you, everybody, for your attention today. And
13 see you tomorrow at 9:30 -- or 9 a.m. Thanks.

14

15 (Day 1 of Formal Hearings conclude.)

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C E R T I F I C A T E

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I, Beverly Guest, of Elite Transcription, of
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