

LA COMMISSION D'ENQUÊTE
SUR LES RELATIONS
ENTRE LES AUTOCHTONES
ET CERTAINS SERVICES PUBLICS

SOUS LA PRÉSIDENCE DE
L'HONORABLE JACQUES VIENS,
COMMISSAIRE

AUDIENCE TENUE AU
PALAIS DES CONGRÈS
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POUR LA COMMISSION :

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Me MAXIME LAGANIÈRE pour
Directeur des poursuites criminelles
et pénales

Me MARIE-PAULE BOUCHER
Procureure générale du Québec

Me DENISE ROBILLARD
Procureure générale du Québec

Me JEAN-NICOLAS LOISELLE pour
Service de police de la Ville de
Montréal

INTERVENANTS :

Me JEAN-FRANÇOIS ARTEAU pour
Régie nationale de la santé et des
services sociaux du Nunavik

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OUVERTURE DE LA SÉANCE

2 **LA GREFFIÈRE:**

3 La Commission d'enquête sur les relations entre les
4 Autochtones et certains services publics au Québec,
5 présidée par l'honorable Jacques Viens, est
6 maintenant ouverte.

7 **L'HONORABLE JUGE JACQUES VIENS (LE COMMISSAIRE):**

8 Alors, bonjour. Bienvenue en cette troisième
9 journée de nos audiences à Montréal. Je suis aussi
10 la bienvenue aux gens qui nous écoutent sur le site
11 internet. Évidemment, nos audiences sont diffusées
12 et on peut les retrouver sur le site de la
13 Commission@cerp.gouv.qc.ca. On peut aussi aller
14 consulter les audiences qui ont commencé depuis le
15 cinq (5) juin. On peut aller réécouter tous les
16 témoignages. Pour ceux que ça intéresse, il y a des
17 choses intéressantes. Alors, je vais d'abord
18 demander aux procureurs de s'identifier pour les
19 fins de l'enregistrement. Nos audiences sont
20 enregistrées, sont ensuite transcrites. Alors, pour
21 les gens qui font la transcription, c'est important
22 qu'ils sachent qui sont les procureurs.

23 **M^e PAUL CRÉPEAU,**

24 **PROCUREUR POUR LA COMMISSION:**

25 Bon matin Monsieur le Commission, Paul Crépeau pour

1 la Commission.

2 **LE COMMISSAIRE :**

3 Bienvenue Me Crépeau.

4 **M^e JEAN-FRANÇOIS ARTEAU,**

5 **PROCUREUR RÉGIE RÉGIONALE DE LA SANTÉ**

6 **ET DES SERVICES SOCIAUX DU NUNAVIK :**

7 Bon matin, Monsieur le Commissaire, Jean-François
8 Arteau pour la Régie régionale de la santé et des
9 services sociaux du Nunavik.

10 **LE COMMISSAIRE :**

11 Bienvenue Me Arteau.

12 **M^e JEAN-FRANÇOIS ARTEAU,**

13 Merci.

14 **M^e DENISE ROBILLARD,**

15 **POUR LA PROCUREURE GÉNÉRALE DU QUÉBEC :**

16 Bonjour, Denise Robillard pour la Procureure
17 générale du Québec.

18 **LE COMMISSAIRE :**

19 Bienvenue Me Robillard.

20 **M^e MARIE-PAULE BOUCHER,**

21 **POUR LE PROCUREUR GÉNÉRAL DU QUÉBEC :**

22 Bonjour, Me Marie-Paule Boucher pour le Procureur
23 général du Québec.

24 **LE COMMISSAIRE :**

25 Bienvenue Me Boucher.

1 **M^e MAXIME LAGANIÈRE,**

2 **POUR LE DIRECTEUR DES POURSUITES CRIMINELLES ET PÉNALES:**

3 Bonjour, Maxime Laganière pour le Directeur des
4 poursuites criminelles et pénales.

5 **LE COMMISSAIRE:**

6 Bienvenue Me Laganière.

7 **M^e JEAN-NICOLAS LOISELLE,**

8 **POUR LE SERVICE DE POLICE DE LA VILLE DE MONTRÉAL:**

9 Bonjour et bonne St-Valentin à tous, Jean-Nicolas
10 Loisellement du Service de police de la Ville de
11 Montréal.

12 **LE COMMISSAIRE:**

13 Bonne St-Valentin à tous aussi. Bienvenue
14 Me Loisellement. Alors, maintenant Me Crépeau,
15 pourriez-vous nous donner une idée du programme de
16 la journée?

17 **M^e PAUL CRÉPEAU,**

18 Je vais vous donner une idée du programme de
19 l'avant-midi que j'ai préparé. Ma collègue
20 Me Marie-Andrée Denis-Boileau prendra la relève cet
21 après-midi. Malheureusement, je ne connais pas les
22 noms de ses témoins. Ce matin nous avons un panel
23 de quatre personnes qui vont se présenter dans les
24 prochaines minutes où on va discuter beaucoup de
25 l'organisation du réseau ici à Montréal et les

1 relations qui existent entre le réseau et le Service
2 de police de ville de Montréal, le SPVM qui a mené
3 entre autres à l'entente, une grande entente qui a
4 été signée en deux mille quinze (2015). Alors, tous
5 ces sujets-là vont être abordés. Je vous rappelle
6 que certains sujets et là, je le dis en français,
7 tout à l'heure les interrogatoires seront en
8 anglais. A little bit later on, we'll pass to
9 English before ask you to testify. Alors les...
10 certains sujets sont gardés en réserve pour être
11 abordés par certains de ces panelistes-là la semaine
12 prochaine qu'ils vont revenir pour traiter de
13 certains sujets plus particuliers. Alors, ils
14 reviennent mercredi prochain. Alors, je pense que
15 nous pouvons commencer ce matin.

16 **LE COMMISSAIRE :**

17 Alors, je vais demander à Madame la Greffière
18 d'assermenter les témoins.

19

20

21

22

23

24

25

1 Allison Reid
2 Assermentée
3 -----
4 Nakuset
5 Assermentée
6 -----
7 Vicky Boldo
8 Assermentée
9 -----
10 Rachel Deutsch
11 Assermentée
12 -----

13 **LE COMMISSAIRE :**

14 So, welcome to you. I will let Me Crépeau proceed
15 with your testimony. I'm happy to receive you today
16 here at the hearing of the Commission. Your
17 testimony will be important for us. We have to
18 listen to what's happening, to be able to understand
19 what's going on and try to improve the relation
20 between indigenous and people services in Québec.
21 Me Crépeau?

22 **M^e PAUL CRÉPEAU :**

23 Good morning. I will ask you first, maybe to
24 present yourself and all the organization that you
25 represent here today and later on, you will be able
26

1 to explain your part of, each of you, what you did
2 and what your organization did in relation to this,
3 to your testimony.

4 **RACHEL DEUTSCH:**

5 So, my name is Rachel Deutsch, my background is in
6 social work and myself I'm non-indigenous and today
7 I'll be speaking about my experience while working
8 at the Native Women's Shelter as the addictions
9 worker and also with the Cabot Square Project with
10 Montreal Urban Aboriginal Community Strategy
11 Network.

12 **PERSONNE NON-IDENTIFIÉE:**

13 (Inuit).

14 **VICKY BOLDO:**

15 My name is Vicky Boldo, I am currently the co-chair
16 of the Montreal Urban Aboriginal Community Strategy
17 Network. I'm also on the Board for the First
18 People's Justice Centre, the Native Women's Shelter
19 and I also am one of the directors for the National
20 Indigenous Survivors of Child Welfare. And today I
21 will be speaking also to, I was one of the team
22 members in the trainings that were done with the
23 SPVM.

24 **NAKUSET:**

25 My name is Nakuset. I'm originally from Lac

1 L'Orange in Saskatchewan. I'm the Executive
2 Director of the Native Women's Shelter. I've been
3 working at the shelter since nineteen ninety-nine
4 (1999). I've been involved with the Montreal Urban
5 Aboriginal Community Strategy. I was the original
6 Chair in two thousand and eight (2008) until last
7 year. I signed the agreement with the SPVM. So
8 I'll be talking about, you are going to hear a lot
9 from me today.

10 **ALLISON REID:**

11 Hello, my name is Allison Reid. I work for the
12 Montreal Urban Aboriginal Community Strategy
13 Network. I'll be speaking in context of my role as
14 a Cabot Square Coordinator from twenty-thirteen
15 (2013) to twenty-fifteen (2015) and then as the
16 Network Coordinator, from sixteen ('16) to present.

17 **LE COMMISSAIRE:**

18 Welcome to you. Thank you for having accepted our
19 invitation for this hearing.

20 **M^e PAUL CRÉPEAU:**

21 I know that you've prepared your presentation
22 together. So I'll let you go on with your, with the
23 presentation that you have prepared and I believe
24 the first thing that we'll be speaking about is the
25 Network, Le Réseau in Montreal. So, who will be

1 taking lead? Okay.

2 **NAKUSET:**

3 So as Executive Director of the Native Women's
4 Shelter, I noticed that there was an enormous amount
5 of gaps in services in Montreal for indigenous
6 people. And I was able to send my staff out to have
7 them go to all different organizations and sort of
8 survey who is doing what in order to help indigenous
9 people in the city. People were really wanting to
10 be part of the solution and in November two thousand
11 eight (2008), I was able to bring the community both
12 indigenous and non-indigenous together for a
13 meeting. Prior to this meeting, I had been
14 approached by the City of Montreal and someone from
15 the Secrétaire des affaires autochtones that also
16 wanted to be part of this meeting which I allowed.
17 And then they brought in people from the federal
18 (inaudible), that no longer exists, it's a branch of
19 Indian Affairs and Indigenous Affairs, whatever they
20 call themselves now. So we had all these different
21 levels of government that came into this meeting and
22 from there, we created the Network. And now I'm
23 going to let Allison talk a little bit about the
24 Network as she is the coordinator.

25 **ALLISON REID:**

1 So, the Network as Nakuset just spoke to the
2 creation of the Network. So this was... the Network
3 was created in two thousand and eight (2008), so the
4 Network is now ten years old. It started with a
5 couple of people around the table and it quickly
6 snowballed to include many levels of government,
7 many organizations and many community members.

8 **M^e PAUL CRÉPEAU:**

9 Miss Reid, if you could speak a little bit slower so
10 that the translator can get everything.

11 **ALLISON REID:**

12 Of course.

13 **M^e PAUL CRÉPEAU:**

14 Thank you very much.

15 **ALLISON REID:**

16 So, it snowballed from bringing together many levels
17 of government including the Government of Canada,
18 the Government of Québec, the City of Montreal,
19 A.N.F.Q.L., Assemblée des premières nations du
20 Québec et du Labrador and Makivik, as well as
21 community organizations, indigenous organizations,
22 as well as non-indigenous, who served the indigenous
23 community in Montreal, as well as community members,
24 indigenous people who live in the greater Montreal
25 and volunteers. So, the idea was to support the

1 (inaudible) system, that's working towards improving
2 the quality of life of the Urban Aboriginal
3 Community in Montreal. And the Network, the
4 structure looks as follows: we have a steering
5 committee made up of one member of each level of
6 government.

7 **M^e PAUL CRÉPEAU:**

8 Okay, thank you. Please...

9 **ALLISON REID:**

10 Canada.

11 **M^e PAUL CRÉPEAU:**

12 Okay.

13 **ALLISON REID:**

14 Québec, Montreal, Assemblée des premières nations du
15 Québec, Makivik and one level representative from
16 each Working Committee which I will explain in a
17 moment. And the steering committee of eleven people
18 have been guiding the Network for the past ten
19 years. Our Working Committee structure addresses
20 spheres of intervention, specifically in education
21 employability, health, social services which include
22 justice, homelessness and circle of care, which is
23 children and care, as well as art and culture,
24 communication and youth.

25 All these Working Committees set a number of

1 different members including the Service de Police de
2 la Ville de Montréal, which is present in our
3 homelessness committee, as well as different
4 boroughs of the City of Montreal, la Ville-Centre,
5 different levels of government and the indigenous
6 organizations in Montreal, non-indigenous
7 organizations, volunteers, community members.

8 The Network is nine hundred (900) members
9 strong. It is non-incorporated, it is an initiative
10 that is as strong as a human bond. For ten years,
11 it has snowballed into creating a nine hundred (900)
12 member system that is committed to working together
13 to improve the quality of life of the aboriginal
14 community.

15 We do that through these Working Committees and
16 through seasonal gatherings to bring everyone
17 together to share information and work on priorities
18 and our mandate is as follows.

19 We share information, we transfer knowledge
20 from the indigenous people in needs to those who are
21 providing services and making decisions about
22 services. We identify priorities, we develop joint
23 projects that address gaps and duplications in
24 services. So fosters collaboration between
25 different stakeholders and we focus on creating and

1 strengthening working relationships among partners.
2 And that's one of the things that we'll be
3 discussing in detail today, is the link between
4 indigenous community and the Service de police de la
5 Ville de Montréal.

6 **NAKUSET:**

7 Alright, what else?

8 **M^e PAUL CRÉPEAU:**

9 So... and the Network has been in existence for the
10 last ten years and it's still works. In French, we
11 would say, *une organisation chapeau*.

12 **ALLISON REID:**

13 C'est un réseau.

14 **M^e PAUL CRÉPEAU:**

15 Un réseau.

16 **ALLISON REID:**

17 We call it a Network.

18 **M^e PAUL CRÉPEAU:**

19 Okay.

20 **ALLISON REID:**

21 We don't represent our members, we gather our
22 members.

23 **M^e PAUL CRÉPEAU:**

24 Okay.

25 **ALLISON REID:**

1 And we attempt to give voice to the indigenous
2 community and bridge that with decision makers so
3 that there is communication, collaboration and
4 dialogue. If I can give you an example of the types
5 of things that come out of the Network, which we
6 will describe in more details next week when we have
7 *un témoignage* next Wednesday, the twenty-first (21st)
8 about the Network's specifically.

9 **M^e PAUL CRÉPEAU:**

10 Okay.

11 **ALLISON REID:**

12 We will discuss more in detail about the Network as
13 a recommendation, as a solution and other challenges
14 related to health and social service. But today, we
15 will talk about the relationship with police and
16 specifically, about the Cabot Square Project, which
17 stands from the Justice Committee of the Network.

18 **M^e PAUL CRÉPEAU:**

19 Okay.

20 **ALLISON REID:**

21 The Network has also created the First People
22 Justice Centre of Montreal and destinations.

23 **NAKUSET:**

24 Ishquay.

25 **ALLISON REID:**

1 And the Ishquay Project, which Jessica will discuss
2 next week. It is the Missing and Murdered
3 Indigenous Women Protocol that was developed in the
4 context of the SPVM and Network Agreement.

5 **M^e PAUL CRÉPEAU:**

6 Okay, thank you.

7 **NAKUSET:**

8 So, I'm going to talk a little bit about the Cabot,
9 do you have a question?

10 **M^e PAUL CRÉPEAU:**

11 Oh no, (inaudible).

12 **NAKUSET:**

13 Okay. I'm going to talk a little bit about the
14 Cabot Square Project. So, I was invited to a
15 meeting, no, two babies ago, to... which is like six
16 years ago, to talk about the issues facing the Cabot
17 Square Area as they were going to be revitalizing
18 the area and they felt that the users of the park
19 were deterrents.

20 And throughout this meeting they had some
21 strategies which were just completely inappropriate
22 and in order to counteract their ideas, I went to
23 the Justice Committee and I spoke with Vivian Carley
24 who, at the time, was working for ICPC, the
25 International Centre for the Prevention of Crime and

1 a couple of other members and we developed a
2 strategy on how to help the people of Cabot Square.
3 Because the original committee wanted, and I'm not
4 referring to the Network, the committee that was
5 revitalizing didn't want the indigenous people in
6 the park, they wanted to move them some place out of
7 sight. And this is kind of like what they did to
8 indigenous people from reservations, they wanted us
9 out of sight. But there is no urban, I guess
10 reservation in the city. So if I want to go and see
11 somebody indigenous, I know if I go to Cabot Square,
12 I can find someone. So it's really a place where we
13 can come together and talk and meet someone or ask
14 questions or looking for relatives or whatever it
15 may be. But what they wanted to do is just move us
16 out. And they... sorry.

17 **M^e PAUL CRÉPEAU:**

18 Maybe, if you could explain a little bit what is
19 Cabot Square, where is it and what's the importance
20 of Cabot Square for the indigenous people in
21 Montreal? Is there a historical importance or is it
22 just a place of meeting?

23 **NAKUSET:**

24 She's going to do it.

25 **ALLISON REID:**

1 So, for more than twenty years, probably a lot
2 longer than that, but at least for the last twenty
3 years, the Cabot Square has been a gathering space
4 for the indigenous community due to a number of
5 reasons, including the fact that there are many
6 resources around Cabot Square.

7 Open Door exists, which is a day centre that
8 allows individuals under the influence of alcohol to
9 enter. There is Chez Doris, there was Matsusina,
10 until they moved away.

11 The children's hospital, the YMCA wasn't so
12 far, the Native Women's Shelter is within proximity
13 and a lot of Outreach Workers work in this park.
14 And I'll describe that in detail about those actors
15 later. But... and it's on the corner of Atwater and
16 Ste-Catherine, right at Atwater Metro and it's a
17 park. It's a park, called "Cabot Square" that was
18 scheduled for revitalization, reconstruction and the
19 support staff that was supporting this community and
20 the organization that was supporting this committee
21 were worried that there would be a forced
22 displacement during the closing of Cabot Square
23 during its construction.

24 And so the Network created a project called the
25 "Cabot Square" in order to create a strategy that

1 would coordinate all of the resources and survey and
2 work with the community as well as any other
3 stakeholders to develop a strategy to ensure the
4 safety and well-being of this community before,
5 during and after the closing of Cabot Square.

6 **ME PAUL CRÉPEAU:**

7 Thank you.

8 **ALLISON REID:**

9 So, for a little bit more detail, what we presented
10 to the city as a counteract, counter - what do you
11 call it... thank you - counter proposal was to hire
12 Outreach Workers. So keep the people in the park
13 and have services at the park. Because if people
14 are going to be there, then perhaps they need to
15 know where they can go if they have to go to the
16 hospital or if they, you know, need housing or if
17 they're looking for a job or if they're looking for
18 support or if they're looking for whatever it is.

19 And how it works is that we put something super
20 tight together presented it, but apparently it was
21 too ambitious, and they didn't really like our
22 proposal. Our proposal was quite large, we wanted
23 five positions, we wanted two Inuit Outreach Workers
24 and two First Nations Outreach Workers working eight
25 (8;00) to four (4:00) and then, four to midnight

1 (12:00), so double shifts and then have a mediator.

2 So, someone who is not a police officer, but
3 someone who had training in security that would be
4 there in case there was a violence or somebody who
5 is completely under the influence and needed that
6 type of intervention, and the Outreach Workers can
7 strengthen the community.

8 So, we presented that and there were like, no.
9 So it was put aside. And when the condo started to
10 come up and nothing was changing in the park, they
11 revisited. So they looked at the proposal again and
12 they questioned whether this would work. And I knew
13 it was going to work, but they didn't know it was
14 going to work. So then they said why don't you do a
15 research Allison?

16 So, I started on January twenty-thirteen (2013)
17 to coordinate the Cabot Square Project. And this is
18 when we, our goal was to create a strategy with all
19 of the stakeholders that would be, that would go on
20 to be implemented collectively and Rachel took on
21 this project two years later.

22 So, I'll talk about the first two phases of the
23 Cabot Square Project and then, Rachel will talk
24 about the next one.

25 We began this project, we had about six months.

1 We had a very limited budget and had about six
2 months to gather, to create a strategy. And we did
3 so by first surveying four different groups of
4 stakeholders. First, the indigenous community that
5 was visiting the park, which is around thirty to
6 four(sic) regulars who visit evenings, weekends,
7 summertime. There's more people in the summer and a
8 few less...

9 **M^e PAUL CRÉPEAU:**

10 How many did you say?

11 **ALLISON REID:**

12 Thirty (30) to forty (40) regulars. At that time,
13 it was what the research was demonstrating and they
14 came from Inuit, First Nations, Canadians,
15 Caribbeans and South Americans, kind of a mix of
16 individuals in addition to the indigenous community.
17 Some were born in Montreal, where others were born
18 in other communities around Québec and Canada.

19 And many people have been gathering in Cabot
20 Square of that group, many have been gathering for
21 more than six years, but some have been visiting
22 Cabot Square for a shorter period of time. Not all
23 the regulars who visit Cabot Square were homeless.
24 Some just simply enjoyed the outdoors and getting to
25 spend time with their friends and being able to find

1 community members. But it was a type of "chez nous"
2 which is what the community described it as, and you
3 would be sure to find a friend, a family member, an
4 indigenous person in the space.

5 So, when we surveyed this group around their
6 sense of safety and well-being as well as solutions
7 orientated to ensuring the, improving the safety and
8 well-being of this community enjoying Cabot Square.
9 We also surveyed nineteen (19) of the service-
10 offering organizations, which include Cactus, CLSC
11 Métro, l'Anonyme, Exico, Médecins du Monde, Dialogue
12 YMCA, the Native Friendship Centre of Montreal, the
13 Native Women's Shelter of Montreal, Groupe
14 Communautaire, l'Itinéraire, l'équipe Émery, Chez
15 Doris, Stella, Nazareth House, Open Door, People's
16 Potato, St-James Day Centre, Makuvik, Groupe
17 Harmonie, Salvation Army, (inaudible) Centre. So,
18 these were all the service providing organizations
19 that we surveyed.

20 When we asked them what difficulties they
21 encountered and limited. And so I'm going to, right
22 now, pulls, I'm sorry, pull the results that are
23 pertinent to the *témoignage* today. There was a lot
24 more that was researched, but one of the things that
25 we asked them about were difficulties and

1 limitations that were being encountered in their
2 work, in their advocacy for the community members
3 that were living close to the street and in and
4 around Cabot Square.

5 And these included inappropriate intervention-
6 style conducted by the police and solutions that
7 they proposed in the survey include improving the
8 police services and increasing training, etc. for
9 police officers.

10 We'd also surveyed eighteen (18) organizations
11 that worked in the neighbourhood. So they didn't
12 necessarily work with this community, but they might
13 have hosted events in Cabot Square or maybe they
14 conducted research on this target population or they
15 had strategies of safety and well-being that would
16 be connected to this group. And we asked them for
17 their solutions orientated to improving the safety
18 and well-being in the Cabot Square.

19 And there is work to offer training to
20 organizations and groups that do interventions in
21 the park and develop a concrete communications plan
22 to improve dialogue between all stakeholders,
23 including police officers, frontline workers and
24 residents of formal housing around the area.

25 We also, as I mentioned, surveyed community

1 members and when I say "community members" I mean
2 the indigenous community visiting the square. And
3 so, we had surveyed thirty-five (35) participants,
4 twenty-nine (29) of which were aboriginal, of which,
5 eighteen (18) were men and seventeen (17) were women
6 and of which, twenty-six (26) were not born in
7 Montreal. And we asked them about their feelings of
8 safety and well-being and there were varying
9 results. And we asked them about their experience
10 in terms of either being victims of violence or of a
11 crime in Cabot Square or whether they have ever been
12 confronted by the police.

13 So, eighteen (18) of the thirty-five (35)
14 participants declared that they had been victims of
15 violence or of a crime and twenty-two (22) of the
16 thirty-five (35) participants had either been
17 arrested in Cabot Square or confronted by the
18 police.

19 The... we also asked about the redevelopment of
20 the square. This was before the closing of the
21 square and we asked about their solutions orientated
22 to making this a safe space for everyone. And
23 theirs were not dissimilar to the other groups,
24 whether they were the residents of the formal
25 housing, the organizations, both groups and it was

1 around having more activities, programming, having,
2 making a welcoming space. So they talked about
3 benches and playgrounds and lighting and traditional
4 festivals and pow wows and to have Inuit and First
5 Nation cultural activities that they would
6 participate in and they also expressed talent that
7 they had in participating. Rachel and Nakuset will
8 speak more about that phase, which was implemented
9 afterwards.

10 After we surveyed everyone, and we also did
11 research into all the policies and action plans that
12 exist in the context of this group, so we looked at
13 federal, municipal, provincial and organizational
14 action plans and strategies. We looked at what
15 everyone was doing to support this group.

16 We also gathered, we created a summary of the
17 research that was done around this group as well,
18 and we presented that research, that summary as well
19 as case studies from across Canada of best practices
20 or group practices to learn from.

21 So, the results from that as well as the
22 research were represented to all of the members and
23 we gathered about forty-five (45) organizations,
24 governmental and non-governmental, to three
25 consultative meetings. And in these meetings, we

1 gathered Native Women's Shelter of Montreal, the
2 Native French Centre, Cactus, CLSC Métro,
3 (inaudible) de La Montagne, Groupe Harmonie, Groupe
4 L'Itinéraire, Aide Communautaire l'Itinéraire,
5 Salvation Army, Chez Doris, (inaudible) House,
6 Amery, Execo, CSLC Faubourg et Jeanne-Mance,
7 Makivik, Borough Ville-Marie, City of Montreal,
8 other members from the Network, Poste de quartier de
9 service de police de ville de Montréal, Poste de
10 quartier 12, Projet Autochtone du Québec, Face à
11 Face, Agence de la santé, Médecins du monde, Stella,
12 Open Door, YMCA, Peter McGill Community Council,
13 YWCA, Tandem(?) Ville-Marie, Société de
14 développement social de Ville-Marie, Québec Native
15 Women, Secrétariat aux affaires autochtones, Health
16 Canada, I can go on, a very large list. And we
17 developed, we identified solutions aimed at
18 improving, that would go on to draft the Cabot
19 Square strategy.

20 One of the comments that were made during these
21 meetings by an agent from Poste de quartier 12 was
22 that he believed that a strategy would be to tag the
23 indigenous living in Cabot Square, in and around
24 Cabot Square with numbers so that they can identify
25 them, because, their names were not important to

1 him. This was the person that the Poste de quartier
2 12 sent to a community meeting with the indigenous
3 person to create solutions to support this
4 community. It was around tagging them with numbers.

5 When we talked about crime levels in and around
6 Cabot Square, we talked about the research that we
7 did. We also pulled, we asked the police group to
8 pull the statistics for any two-month period that
9 would like to provide based on the crime rates in
10 and around Cabot Square. And they provided us *un*
11 *bilan*, a summary, *un bilan* for this period between
12 September seventeen (17) and November fourteen (14),
13 two thousand and twelve (2012). And they stated
14 three hundred and twelve (312) acts of verbal
15 warnings, twenty-two (22) communications with
16 organizations, thirty-two (32) interventions with
17 those that were conducting research, fifty-nine (59)
18 arrests under the *Criminal Code*, which includes
19 breach of probation, breach of conditions, assault,
20 simple possessions, arrest warrants, uttering
21 threats, breaking or entering, as well as seventy-
22 one (71) violations of municipal regulations and
23 forty-four (44) reports noted on individual cases
24 and involving groups.

25 So there was, according to the police, crime

1 levels that couldn't be neglected in or around Cabot
2 Square, which is why they were important partners in
3 the development of the Cabot Square strategy.

4 **M^e PAUL CRÉPEAU:**

5 Excuse me, these, all these events that occurred a
6 two-month period, I believe?

7 **ALLISON REID:**

8 Yes.

9 **M^e PAUL CRÉPEAU:**

10 Were they always related to indigenous people or we
11 don't have that split down. We don't know if they
12 are all related to the indigenous?

13 **ALLISON REID:**

14 They told us that they don't take that type of
15 statistics, so all they could do was provide the
16 number of crime rates, the statistics on crime rates
17 in that two-month period in Cabot Square.

18 **M^e PAUL CRÉPEAU:**

19 Okay, thank you. Sorry.

20 **ALLISON REID:**

21 It's okay. So we developed a strategy. The
22 strategy looked at improving health services,
23 housing services, frontline services, day centres
24 and one of the more important, as other things, and
25 the most important one was cohabitation.

1 Another important information to know in that
2 first phase when we were developing the strategy is
3 that it was that notice was given to us from the
4 previous fall. So on September seventeen (17) of
5 twenty-twelve (2012), a press release was issued by
6 the police in 12 entitled "Operation Square". The
7 press release aimed to inform the public of an
8 increase in police presence and interventions in the
9 area as a means of reducing crime rates and
10 instabilities and also assist in referring people in
11 needs towards community based and medical services.

12 It was noted that this school of initiative was
13 to respond to complaints from citizens and business
14 owners in the square. This was called "Operation
15 Square".

16 The second phase of the project, we started
17 implementing the Cabot Square strategy. And this is
18 when we started to begin the dialogue around
19 developing an agreement between the police, SPVM and
20 the Network. It was obvious that there were
21 conflicts and that there were security and crime
22 rates and they were an important player. A lot of
23 the solutions that came out of this strategy were
24 around training, *sensibilisation*, awareness
25 building, sharing of information and the need to

1 create a strengthened relationship between the
2 indigenous community and the police.

3 And we met for the following year, about a core
4 team of different members from the homelessness
5 community of the Network and namely, it was myself,
6 representing the Network on the Cabot Square Project
7 as well as Execo, Native Women's Shelter, P.A.Q.,
8 Projet autochtones du Québec and the Station 12 of
9 the SPVM as well as the Station 38 from the SPVM.

10 And we worked on what it looked like in that
11 time, we were developing three different needs that
12 were identified by the community and by the SPVM.
13 And we talked about three different stems to an
14 agreement that would eventually turn into the one
15 that was signed.

16 The first one was around having training for
17 police, which is around, which was around providing,
18 discussing rights and awareness, cultural realities,
19 cultural appropriate services to let them know what
20 was offered as well as inter-generational trauma and
21 the history of the Yiddish(??) community and why
22 they are in Montreal.

23 The second section of what we thought needed to
24 be important in the Collaboration Agreement was that
25 there would be a direct communication between the

1 procedures of the SPVM and the organizations that
2 are working on the frontline and so that there could
3 be an exchange there.

4 And the third aspect of what we wanted to
5 include in the agreement was the creation of an
6 Advisory Committee made up of the indigenous
7 community that would act as the consultative body to
8 provide advice to the SPVM on any specific or
9 recurring problematics that are seen by the
10 indigenous community, that they needed to provide
11 advice to the police force.

12 And with that, I will let... Nakuset has
13 something to add about the first two phases. Rachel
14 will now speak about the next phase of the Cabot
15 Square Project.

16 **RACHEL DEUTSCH:**

17 Alright, so I came in two thousand fifteen (2015),
18 January, to work on the third phase.

19 So, the third phase was implementation, scaling
20 up and knowledge collection and sharing. And so, in
21 January two thousand fifteen (2015), the McConnell
22 Foundation became the funder of the broader strategy
23 through the Network.

24 And the project's scope also broadened to scale
25 to Montreal and to address aboriginal homelessness

1 more broadly while drawing from the original
2 strategy, like the knowledge that was created.
3 During this time, the park reopened and the city of
4 Montreal and the borough of Ville-Marie continued to
5 fund different aspects of the initiatives happening
6 in the park. And we also, during this phase, we did
7 an evaluation as well.

8 So, just to mention a few of the projects we
9 worked on that were part of the strategy, we did
10 cultural events in the park for three years, three
11 summers two thousand fifteen (2015), sixteen ('16)
12 and seventeen (2017) and hopefully do it again this
13 summer. And this was a partnership funded through
14 the borough of Ville-Marie.

15 We also continued to work and to support two
16 full-time Outreach Workers in Cabot Square. One is
17 funded through the YMCA and the other through Native
18 Women's Shelter.

19 We also worked on a restorative practices
20 project with the focus on safety and belonging in
21 the park. We were also involved in the creation of
22 the actual Collaboration Agreement with the SPVM
23 that we'll talk in more detail about after.

24 And there is also an Advisory Committee of
25 indigenous people in homelessness to help advise

1 every aspect, including on the agreement with the
2 police. So they gave their input into what they
3 wanted to be seen.

4 We also helped in the development of the First
5 People Justice Centre of Montreal. And also
6 participated in the reflection with a goal of
7 developing some kind of a Wet-Shelter to manage
8 alcohol program.

9 And other smaller projects, like for example,
10 assisting in the creation of an Inuit language radio
11 program. So as I mentioned, so the Cabot Square
12 Project at this time was a systemic approach to
13 homelessness by using Cabot Square Park as kind of
14 the...

15 **M^e PAUL CRÉPEAU:**

16 The focal point.

17 **RACHEL DEUTSCH:**

18 The focal point, perfect, yes. And our focus was on
19 cohabitation, safety, belonging and well-being. And
20 because, oh... one of our major focuses was on, you
21 know, safety, belonging and cohabitation. We did
22 work a lot with police and we focused a lot of our
23 work on police.

24 I also just wanted to give into a little bit
25 more of the background that in Montreal, indigenous

1 people are far over-represented in the homeless
2 population, so they're sixteen times more likely to
3 live in homeless than the average Montrealer.

4 **M^e PAUL CRÉPEAU:**

5 Did you say sixteen times?

6 **RACHEL DEUTSCH:**

7 Yeah.

8 **M^e PAUL CRÉPEAU:**

9 That's (inaudible).

10 **RACHEL DEUTSCH:**

11 So, they represent approximately zero point six
12 percent (0.6%) of the population, but ten percent
13 (10%) of the homeless population. So, also Inuit
14 represent about half of that, homeless indigenous
15 people. And in Montreal like in the rest of Canada,
16 indigenous poverty is rooted in multi-generational
17 effects of residential schools and socio-economic
18 marginalization connected to colonization and the
19 Cabot Square Project took that into account in
20 looking how to approach the issue of homelessness.

21 I wanted to mention the evaluation that we did,
22 because we do touch on the issue of safety and
23 policing. So we carried out an evaluation that was
24 focused mainly on looking at the events in the park,
25 because we couldn't evaluate every project. It was

1 too large and many of the projects hadn't been
2 completed yet.

3 So, the evaluation was to end in two thousand
4 sixteen (2016). And so it looked at the issue of
5 safety and we defined safety in the project as...
6 what we were working on was to collaborate with the
7 City of Montreal and the SPVM to make the park a
8 safer place for both indigenous and non-indigenous
9 people and to collaborate with police units around
10 Cabot Square to reduce the visibility and over-
11 representation of police officers during our
12 cultural events.

13 And to also inform residents and business
14 owners and other organizations about the services
15 provided in the park.

16 So, what we found in that evaluation... so in
17 general, in the evaluation, we saw that indigenous
18 people in the park did not feel comfortable with
19 police officers in the park. We have a quote from
20 someone said in the evaluation. so this is a quote
21 from, they said: there are different types of
22 police, some are aggressive, some are regular
23 people, normal people, someone to accuse you of
24 something, intimidating. But there are also really
25 good police officers as well.

1 I'm working from two pages here. So in the
2 evaluations we surveyed, you know, park users,
3 business owners, residents and indigenous people who
4 attended the park for events. And also indigenous
5 people who used the park more regularly.

6 And overall we found that safety in itself from
7 a variety of perspective could only occur if all
8 people who use the park had a sense of belonging.
9 So you couldn't have safety, a true sense of safety
10 without a sense of belonging. I think this is
11 important to the work we did, also to the approach
12 we took with police, which was really to focus on
13 this.

14 I wanted to talk also about my experience in
15 this park between two thousand fifteen (2015) and
16 the end of two thousand sixteen (2016), so over a
17 two-year period, in terms of my work as a
18 coordinator of the Cabot Squire Project.

19 So, we had a lot of meetings with the police
20 and a lot of interaction with different levels. And
21 before the agreement was signed, which we'll get
22 into next, we were told, I was repeatedly told that
23 it wouldn't ever pass and this was an impossible
24 thing to happen.

25 One reason that I was told that this would be

1 impossible was that all marginalized communities
2 would now want a similar agreement and this type of
3 argument to me was pitting marginalized communities
4 against each other.

5 We were also told that there wasn't a systemic
6 issue, that it was a problem that a few bad apples
7 within the police, and that quote was told to me
8 many times over the past few years.

9 I've been also told that the issue of racism
10 was a problem south of the border, in the U.S. and
11 it didn't happen here. I was told that there is no
12 issue of social or racial profiling within the
13 Montreal police services. I was told this by police
14 officers.

15 During one meeting I attended, a Commander of a
16 unit laughed about the idea of profiling and said
17 there is no officers hiding before trees and
18 watching people. And to me, this did show a lack of
19 understanding about what actual, social and racial
20 profiling was. And also a lack of seriousness by a
21 commander towards this issue.

22 I was also, because of my role, people
23 contacted me when there were issues, so I didn't
24 always observe issues first hand. But people would
25 send me emails or call me. So such a case happened

1 on February twenty-sixth (26th) two thousand sixteen
2 (2016), I received an email from a community worker
3 at an organization and what he observed was two
4 Inuit women out where the Metro and one of them was,
5 she was sick and it was quite visible because she
6 had, she was visibly sick, she had a coloscopy, I
7 think.

8 **NAKUSET:**

9 Coloscopy bag.

10 **M^e PAUL CRÉPEAU:**

11 Okay.

12 **RACHEL DEUTSCH:**

13 And in the email, he described how she was pulled
14 by, she was approached by two police officers,
15 pulled by her hood and fell on the ground on her
16 back.

17 And that when he approached the situation, the
18 two officers were standing over her and yelling at
19 her in French and this woman did not understand
20 French. She also had some mental health concerns
21 and began to express suicide ideology, suicidal
22 ideology.

23 And so the intervention ended with her getting
24 sent to the hospital because, she needed to be, but
25 also she got a ticket. They sent her to the

1 hospital with a ticket. He ends his email saying,
2 and I quote the email: "...this was completely
3 avoidable".

4 If the officers knew she had a physical injury
5 there is no excuse for the violent way they took her
6 to the ground. No excuse for yelling at her and
7 antagonizing her. No excuse for putting a citizen
8 like myself in harms way to protect them from being
9 hit because of their childish behaviour. No excuse
10 for refusing to speak to me in English. No excuse
11 for trying to intimate me. No excuse for refusing
12 to give me their badge numbers. No excuse for the
13 lack of respect. So these were the kind of issues
14 that I saw.

15 I wanted to bring up one more example. Yes,
16 did you want to bring something?

17 **NAKUSET:**

18 So after this happened Rachel got the email, I got a
19 phone call about it and the person who had written
20 the email said that they were going to file a
21 complaint against the officers.

22 So when the complaint was filed I was called
23 in, you came, Vicky was with me and we had seen
24 Dew(?), right it was Commander Dew(?), he was the
25 one who was... we brought our complaint to. And he

1 told us that internally, they looked at this case
2 and they felt they were saving this woman's life.
3 So it was no longer an issue.

4 And as much as we all protested that this was
5 not the case, it was sort of closed, at this point.
6 And they said, the only other option now was to go
7 the *Upthomology(?)*, is that what's it called?

8 **M^e PAUL CRÉPEAU:**

9 Commissaire à la déontologie.

10 **NAKUSET:**

11 Onto...sorry, ontology... Sorry. That was the next
12 step and that takes a really long time. Like, we
13 haven't heard anything from them and it that was
14 filed.

15 I remember speaking to the woman and letting
16 her know that we were going to be pushing this case
17 to make sure that it was addressed. And I remember,
18 she looked at me, she goes: you would do that for
19 me? Because the people that are being victimized
20 are used to it and they don't think anyone cares,
21 they don't think anyone's going to fight for them.

22 So, it would be great if we could hear back
23 from that department so that we can hold people
24 accountable for that kind of behaviour and also give
25 hope to the community that, you know, when these

1 things happened, that there are consequences, just
2 like they treat us. They expect to, you know, give
3 us consequences with tickets, with whatever else
4 they give us.

5 So, I think that meeting was really
6 disheartening. When we went to go to speak to
7 Commander Dew(?) about it and I can tell that he was
8 really also trouble that his hands were tied. That
9 was just my feeling. He didn't say it so much, but,
10 you know, that was my feeling.

11 **M^e PAUL CRÉPEAU:**

12 Do you know if, as a matter of fact, was there a
13 complaint to the Commissaire à la déontologie? I
14 don't have the, in English?

15 **NAKUSET:**

16 Yeah.

17 **M^e PAUL CRÉPEAU:**

18 There was a complaint?

19 **NAKUSET:**

20 Yeah, yeah. Well, that's what we had to do.

21 **M^e PAUL CRÉPEAU:**

22 It's okay.

23 **NAKUSET:**

24 Yeah.

25 **M^e PAUL CRÉPEAU:**

1 Thank you.

2 **RACHEL DEUTSCH:**

3 So, there's more about what I've observed during
4 this third phase of the Cabot Square Project. In
5 the park itself, it seemed that the... a certain
6 unit of the SPVM was the most problematic and this
7 was Brigade d'espaces publics, called the B.E.P.
8 And they were identified by people who used the park
9 and also by Outreach Workers in the park. But they
10 were the ones often most visible and in some cases,
11 oppressive.

12 So, their mandate was to respond to
13 reprehensible behaviour and the six main behaviours
14 included: urination, *flâner* or iddeling,
15 *consommation de boissons alcoolisées*.

16 **M^e PAUL CRÉPEAU:**

17 Drinking.

18 **RACHEL DEUTSCH:**

19 Drinking, *se bagarrer*, like, fighting and blocking
20 cars circulation.

21 Throughout the third phase, we had many
22 meetings with the Commander of the B.E.P. and
23 actually, there have been several Commanders because
24 there was a high turnover. And to express our
25 concern and to bring forward the concerns of

1 Outreach Workers as well. To this day, I don't
2 believe that there has been a significant change in
3 behaviour and I think this is because of the actual
4 mandate as problematic.

5 So, at the beginning, there were also countless
6 cases of emptying beer bottles and although that, I
7 think it has slowed down.

8 During the summer of two thousand fifteen
9 (2015), our first summer, we had events, there were
10 several officers came into our events and it was an
11 indigenous event where a lot of Inuit people and
12 other people were present. And they approached one
13 woman who was drinking and I approached just to
14 observe and to introduce myself, that I was the
15 organizer and I wanted to see what was going on.

16 The officer became very angry at me and took
17 down my name and later I was called in for an actual
18 meeting with their Commander to tell me that I could
19 not interfere during, when they were in the park,
20 when they were doing an intervention. So I wasn't
21 allowed to do that. I wanted to give an example of
22 one of our exchanges, so I sent an email on July
23 fourteen (14) two thousand fifteen (2015) to the
24 commander at the time of the B.E.P. and so, I had
25 two concerns in the email.

1 The first was, I wrote:

2 "The brigade is in the park consistently,
3 all day. We have also observed up to six
4 cadets or officers from the Brigade to
5 stand with their bikes within thirty feet
6 (30') of the Outreach Workers office where
7 our clients come for counselling and help.
8 We would prefer if they parked in another
9 part of the park, so that our clients feel
10 more comfortable approaching for help. We
11 can then provide preventative support to
12 our client."

13 In the same email, I said:

14 "...we have seen between four (4) and six
15 (6) officers approaching one single person
16 to tell them to empty a bottle for
17 example. Would it be possible to have a
18 maximum of two approaching a homeless
19 individual for a small infraction?"

20 So at the time we were very... trying to be
21 collaborative, so instead of six can we negotiate to
22 two? I wanted...

23 **M^e PAUL CRÉPEAU:**

24 Did you get an answer to your email?

25 **RACHEL DEUTSCH:**

1 We then had meetings and yeah, so we continued to
2 discuss it.

3 I wanted to give an example of an email that
4 was sent by a community member who has given me
5 permission to use his name. His name is Stéphane
6 Pouskas. He's an Inuk community member.

7 And the email was sent, I'm missing the date...
8 oh, it's... I'm missing the date, so I'll have to
9 get that to you after. I think it was in the summer
10 of two thousand sixteen (2016). He wrote to people
11 within the SPVM and cc'd a few people in the
12 community, such as myself.

13 And he wrote:

14 "I'm currently at a friend's place in St-
15 Henri just off Atwater and they had a
16 police officer come to the door handing
17 out this flyer, asking if we had seen any
18 homeless people.

19 He tried saying "*itinérants*" but he said
20 "*autochtones*" instead. He gave my friend
21 this flyer. My friend is an Inuk as well,
22 telling residents to look out for
23 "*autochtones*" sounds like promoting racial
24 profiling in the neighbourhood."

25 And the letter that he attached was a flyer

1 that was being delivered throughout the
2 neighbourhood telling, encouraging residents to dial
3 9-1-1, if they observed any of those six behaviours,
4 such as, drinking or *flâner*.

5 They were actually to call 9-1-1. So this was
6 concerning to us to encourage this kind of profiling
7 both racial and social profiling. I just had a few
8 from this section, I had a few, from
9 recommendations.

10 So, coming from the Cabot Square Project I
11 think there should be a really different approach to
12 policing. They need to build relationships with
13 indigenous people and particularly indigenous women
14 who are the most at risk in terms of safety issues,
15 rather than focusing on ticketing or adversarial
16 relationships. To focus on partnership and actual
17 positive relationship and the ticketing in Cabot
18 Square, it needs to stop.

19 And so, that indigenous people in that area
20 actually can approach police when they do need help.
21 And I'm done with that section.

22 **NAKUSET:**

23 And something that we have noticed at Cabot Square
24 for years, prior to the park being revitalized was
25 that they would put a cop car in the middle of the

1 park. They would drive into the park and just sit
2 there. And that is a deterrent for anyone
3 indigenous to go into the park, because they don't
4 want to get a ticket.

5 So, we would keep talking to the City. Please
6 have them stop doing that, that's scary, that's
7 intimidation. And then they said they would. When
8 they revitalized the park, it was no longer
9 accessible for them to drive.

10 Just recently, they redid the area for the
11 metro level into Cabot Square, because it was closed
12 down for a good couple of months, almost a year.

13 Anyway, so I, when it was reopened, I walked
14 through the metro and as I am coming up the
15 escalator, I'm like, oh, it's interesting, I don't
16 see any indigenous people.

17 As soon as I stepped out, there was a police
18 car on the sidewalk. I took a picture of it. I'm
19 not sure why they need to park on the sidewalk, but
20 that the exact same thing. They're not in the park
21 and that's why there's no indigenous people there.

22 Now, the Cabot Square Project I run now in
23 terms of I have an Outreach Worker at the vespasian
24 and he can't do his job helping people if they are
25 being intimidated by the police of not even coming

1 near.

2 So, I just wanted to said that and I need to
3 take a break.

4 **M^e PAUL CRÉPEAU:**

5 Okay.

6 **LE COMMISSAIRE:**

7 A few minutes. Would it be okay with fifteen (15)
8 minutes?

9 **NAKUSET:**

10 I just need to go to the bathroom.

11 **LE COMMISSAIRE:**

12 Yes, okay.

13 **LA GREFFIÈRE:**

14 Fifteen minutes break.

15 SUSPENSION

16 -----

17 REPRISE

18 **LA GREFFIÈRE-AUDIENCIÈRE:**

19 La Commission reprend ses audiences.

20 **LE COMMISSAIRE:**

21 So, welcome back. And Me Crépeau, you may continue
22 with your witnesses.

23 **Me PAUL CRÉPEAU:**

24 Thank you. So, Nakuset?

25 **NAKUSET:**

1 I just wanted to sort of clarify what Rachel was
2 saying in terms of that incident. She had said
3 that the woman was Inuit. She was actually Cree.
4 It's just that the guy who had written the e-mail
5 had identified her as Inuit.

6 **Me PAUL CRÉPEAU:**

7 It was...

8 **NAKUSET:**

9 I know who she is and she's clearly Cree.

10 **Me PAUL CRÉPEAU:**

11 Okay.

12 **NAKUSET:**

13 Just to (inaudible).

14 **Me PAUL CRÉPEAU:**

15 Thank you.

16 **NAKUSET:**

17 There's another thing that is happening a lot that
18 we see in the Cabot Square area, it's that our
19 people are getting overticketed. So, in December,
20 around Christmastime, there was a real, like, a
21 deep freeze in Montreal, and the Gazette had put
22 out an article saying that the homeless population
23 is welcome to go into the metro if they're cold.
24 So, I remember seeing that in going to visit my
25 Outreach Worker for Cabot Square, David Crane, and

1 saying keep an eye on this, let us know what
2 happens. And what he told me is that as soon as
3 the homeless population, the Indigenous homeless
4 population to into the metro, they get ticketed.

5 **Me PAUL CRÉPEAU:**

6 That December of last month...

7 **NAKUSET:**

8 Just recently, just a couple of months ago. S,
9 now, when he tries to advise the homeless
10 population that: hey, you can be warm... they think
11 he's joking. They're like - are you trying to set
12 us up? Because when we go into the metro, we get
13 ticketed.

14 So, what we ended up doing was myself, David
15 Crane, and a couple of workers from the YMCA, they
16 are a part of the Cabot Square Project, met with
17 Patrick Pelletier, who is the Commander of the BEP,
18 the Brigade Espaces Publics, to discuss this issue
19 with him. And he said that we give tickets to
20 people when they're in the metro, they're sitting
21 down. And I think that as a homeless person, if
22 you're in the metro trying to stay warm, and you're
23 there for maybe twelve (12) hours, because you
24 know, it's cold, it's not cold for five minutes,
25 it's cold for, you know, a long period of time.

1 That it's reasonable that they would sit down in
2 the metro, but they get ticketed for it.

3 So, we try to do speak to him about what can
4 we tell our clientele in order to keep them safe.
5 And they said: well, tell them to stand, and tell
6 them that they shouldn't be in a group larger than
7 three. And he said something that was so
8 interesting, and something to the effect that,
9 well, you know, you're not coming out of the
10 forest. It was... I'm not sure what that means,
11 but anyways, this is what we reiterated with him:
12 so, if they're in a group of less than three, and
13 they're standing, they won't get a ticket? And he
14 said yes. So we returned to work and let everyone
15 know this is the rule now, so should you be cold
16 and want to go into the metro, as long as you
17 follow this, you should be safe.

18 We also talked to him about sensitivity
19 training on Indigenous issues, and on homeless
20 issues, because the Bike Brigade is very visible
21 around the Cabot Square area, and we thought that
22 if they had a better understanding of homeless
23 situations and Indigenous people, that this would
24 be helpful. And he said okay, well we'll talk
25 about it.

1 So apparently, he's saying in April, he will
2 allow the YMCA to do a half-hour training on
3 homelessness, and then, you know, a half-hour
4 training on Indigenous issues, which we will figure
5 out who will be the appropriate person. I mean,
6 there's a list of appropriate people to do this
7 kind of training, but we're not quite there yet,
8 but I think this is the kind of things that we have
9 to do continually to address the discrimination
10 that our people face. We have to keep fighting for
11 them.

12 **RACHEL DEUTSCH:**

13 Can we move on to the next subject? Okay.

14 **Me PAUL CRÉPEAU:**

15 Which is the...

16 **RACHEL DEUTSCH:**

17 The...

18 **Me PAUL CRÉPEAU:**

19 Agreement signed, yeah.

20 **RACHEL DEUTSCH:**

21 Fine, yes. I want to talk the disposition, this
22 part of our testimony. In particular as also a
23 reaction to the testimonies that we've heard in
24 November two thousand seventeen (2017) from two
25 agents of... an agent and a commander of the SPVM.

1 They gave their testimony to the Commission in
2 November. And to give our... a kind of a different
3 perspective on some of that history.

4 So, in general, I just want to say a reaction
5 to that was that I was surprised that only certain
6 organizations were mentioned in terms of
7 collaborating in the work with the SPVM, and in
8 fact, the main partners were not mentioned to have
9 been very active in the creation of the agreement,
10 and also, in the subsequent implementation of
11 trainings in different aspects. Okay. I'll be
12 back.

13 **Me PAUL CRÉPEAU:**

14 Thank you. Don't... Like that.

15 **RACHEL DEUTSCH:**

16 Another issue that was not brought up was also in
17 terms of the development of different aspects of
18 the agreement. It was also paid for by the Cabot
19 Square Project, by... through the McConnell
20 Foundation, the McConnell Foundation through the
21 Cabot Square Project, and the SPVM also did not put
22 forward event finances towards doing preliminary
23 training for creating (inaudible) agreement.

24 So, the history of the agreement, I'll just
25 give a bit of background on maybe not, so you can

1 introduce different aspects of it. So the signing
2 of the agreement has come out of a two-year
3 development process that began even in the earlier
4 stage of the Cabot Square Project only... when the
5 community identified a need for it. And it came
6 particularly through the network, and the
7 homelessness subcommittee, and the Cabot Square
8 Project.

9 So, during the last couple of months, when it
10 was really moving ahead, before the agreement was
11 signed in June two thousand and fifteen (2015), it
12 was a small group of people working on it, and that
13 group represented... it was a small group,
14 actually, of women who were from committee
15 organizations such as Quebec Native Women, the
16 Network and Makivik. Not in that small working
17 group, but yes, project, that was involved
18 previously.

19 And so in that last couple of months, we were
20 able to gain access to negotiations at a higher
21 level within the SPVM, though we hadn't been able
22 to before. So, that's partly why they did begin to
23 move quite quickly. This was when the Chief... the
24 SPVM Chief was Marc Parent, and so the agreement
25 was signed actually just before he left his... he

1 resigned, he left his post. It was signed with the
2 help of key players in the SPVM who held high
3 positions. And in my opinion, they had a social
4 justice approach. The interactions we were having
5 with them was completely different than previous
6 interactions I had in my work. They understood the
7 issue of, like racism. They... and
8 marginalization, they understood the colonization.
9 In my opinion, it's because of their personal
10 experiences, both as people of color, but because
11 of their community work. Since then, we'll talk
12 about... no, none of them still work with us,
13 except... well, the Aboriginal liaison officer.
14 What part of that that signed, and he still is in
15 his role.

16 So, in general I think the event, the signing
17 was a positive event, and it was really... it was
18 exciting for I think a lot of us who had done it.
19 There were challenging aspects, like we weren't
20 allowed to use the word "colonization" in our
21 preamble. And in this agreement, we weren't even
22 allowed to mention history. These were seen as
23 possibly too controversial to mention history, for
24 example. However, I believe that the overall
25 signed agreement, it was a positive outcome.

1 **NAKUSET:**

2 To what? To the agreement? Like, a different
3 (inaudible). Right, so, through the Network, it
4 was the homelessness committee that had really
5 gotten together and had set an iron out
6 disagreement. And of course, with Rachel and the
7 different partners that she had mentioned, who had
8 been speaking to the police.

9 And I was actually surprised that the police
10 signed it so quickly, because I remember she came
11 to see me, telling me that you're going to have a
12 collaboration even with the police, and I said
13 yes... that will take years. And then it only took
14 about six (6) months, eh?

15 **RACHEL DEUTSCH:**

16 Yeah.

17 **NAKUSET:**

18 So, the first goal was to normalize meaningful
19 partnerships. So,

20 "To develop formalized relationships
21 between willing Aboriginal committee
22 organizations and the SPVM to implement
23 an Aboriginal community advisory
24 committee."

25 So, this would be representing the diversity of the

1 community. They called it the "Comité de Viger".

2 **Me PAUL CRÉPEAU:**

3 "Comité de Vigie", oui.

4 **NAKUSET:**

5 "De Vigie".

6 **Me PAUL CRÉPEAU:**

7 Yes, okay, thank you.

8 **NAKUSET:**

9 Sorry for my French, but now, they call it
10 something else. They gave it a new name. They...
11 to create an Aboriginal liaison officer position
12 with strong ties to the community, appointed in
13 consultation with the Aboriginal Community
14 Advisory.

15 So, they appointed Carlo De Angelis and I
16 just, as a personal comment, as an Indigenous
17 person, whenever you put an Aboriginal title in
18 front of a position, they should be Aboriginal,
19 because otherwise, it's misleading. My kids go to
20 school and they have an Aboriginal tutor, and when
21 I found out, I was excited, I'm like what Nation is
22 she? - oh, she's not Native. - well then, why does
23 she have a title called "Aboriginal"?

24 This did not happen with any other
25 population, but for some reason, it seems to be

1 okay with Indigenous people that you give... it's
2 like you don't think Aboriginal people are
3 qualified enough, so some non-Aboriginal person is
4 going to help you in your work. And I think it
5 needs to change.

6 So, I hope if this report does anything, we
7 can at least, because there are qualified people
8 out there, and I think that, you know, if the
9 police want to hire someone Aboriginal, there's a
10 lot of Aboriginal police officers. There's
11 Peacekeepers in Kahnawake. They might want to, you
12 know, try to recruit someone from out there. I
13 think there's a lot of work that they can do if
14 they want to, but... sorry, I will continue with
15 the Agreement.

16 "Goal number 2. Increase education and
17 cultural awareness. Ensure on-going and
18 regular information sessions about
19 Aboriginal realities developed by the
20 Network with special input from Makivik
21 Corporation and other key organizations
22 to the SPVM personnel.
23 Collaborate with relevant community
24 organizations and resources to create and
25 provide new and updated education

1 material for officers and/or community
2 members such as an Aboriginal resource
3 guide, a welcome guide in Inuktitut.
4 Information on sex trafficking, etc.
5 Provide the Aboriginal community with
6 specific information sessions and about
7 the role of police and the SPVM.”

8 The third goal:

9 “Develop and implement prevention
10 programs for Aboriginal people. Develop
11 and implement prevention programs about,
12 around themes that arise out of meetings
13 from the Aboriginal advisory
14 committee...”

15 Which is the Comité de vigie autochtone.

16 “Provide information about culturally
17 appropriate services such as Quebec...
18 Native parajudicial services.”

19 And the fourth:

20 “Improve prevention and response as
21 regarding missing Aboriginal women.
22 Develop and implement a protocol and
23 procedure when an Aboriginal woman is
24 reported missing. This protocol
25 developed relevant community

1 organizations and members should include
2 guidelines ensuring good relationships
3 with families.”

4 So, this is what I signed on June twenty-fifth
5 (25th), twenty fifteen (2015). And a thing is that
6 I was honoured to sign it. I think in theory, it's
7 a good practice to try to have a better working
8 relationship with the police, and if I'm going to
9 sign something, then I'm going to follow through on
10 it, because I'm not just signing it to sign it. I
11 want to make sure that all these points are being
12 followed, and that we're achieving what we set out,
13 which is why I've been so involved with working on
14 every single point.

15 I'm going to let you take it from there,
16 Rachel.

17 **Me PAUL CRÉPEAU:**

18 I'll just take a second. And it was signed by Mr.
19 Parent as the...

20 **NAKUSET:**

21 Yes.

22 **Me PAUL CRÉPEAU:**

23 Director at that time?

24 **NAKUSET:**

25 Yes. You don't have a copy?

1 **Me PAUL CRÉPEAU:**

2 This piece of evidence is already... has been
3 already put up...

4 **NAKUSET:**

5 Oh.

6 **Me PAUL CRÉPEAU:**

7 ... in the evidence by Mr.... Mrs Boucher and
8 monsieur De Angelis in November. And I don't have
9 the number of the pièce, but I remember it's in
10 evidence. So, I'll... a little bit later on I'll
11 give you the number, Mr. President, so that you can
12 follow up a little bit with the...

13 **LE COMMISSAIRE:**

14 I'm certainly sure the... clerk will find it...

15 **Me PAUL CRÉPEAU:**

16 Sure.

17 **LE COMMISSAIRE:**

18 ... once she'll have... we'll let her some time to
19 do it.

20 **Me PAUL CRÉPEAU:**

21 Okay.

22 **LE COMMISSAIRE:**

23 Uh-hum.

24 **LA GREFFIÈRE-AUDIENCIÈRE:**

25 Mais la (inaudible), on l'a produit.

1 **Me PAUL CRÉPEAU:**

2 Okay, thank you.

3 **LE COMMISSAIRE:**

4 November.

5 **Me PAUL CRÉPEAU:**

6 In November with... Mr. De Angelis was there.

7 **LE COMMISSAIRE:**

8 Yes, I...

9 **Me PAUL CRÉPEAU:**

10 Thank you. You can go on with...

11 **NAKUSET:**

12 Rachel?

13 **RACHEL DEUTSCH:**

14 Yes.

15 **Me PAUL CRÉPEAU:**

16 Rachel?

17 **RACHEL DEUTSCH:**

18 So, along with the partners I had... I referred to,
19 we also developed the agreement with help from
20 Carlo De Angelis, and he was... during that time,
21 he was named "Aboriginal liaison officer". And
22 also, SPVM personnel named Michael Arruda(?). He
23 was also very helpful.

24 Right after the training was signed, we went
25 down physically, we... oh sorry, went to the

1 cafeteria within the Headquarters, and Michael told
2 us that he was no longer working on the file. So,
3 this is the same day. We were disheartened to hear
4 that our very first partner would be transferred,
5 but we were still happy to start work, and we
6 started working with Sylvia De Souza, and she had a
7 background in gender violence and sociology. And
8 we felt reassured from her and from her knowledge
9 that she had some understanding of the issues
10 facing the community.

11 I wanted to get now into one aspect of the
12 agreement, which is the trainings.

13 **LE COMMISSAIRE:**

14 Uh-hum.

15 **RACHEL DEUTSCH:**

16 Did anyone else have anything just for the
17 agreement? Or I'll go into training?

18 **Me PAUL CRÉPEAU:**

19 Okay.

20 **RACHEL DEUTSCH:**

21 So, between June two thousand fifteen (2015), when
22 it was signed, until February two thousand
23 seventeen (2017), a working group met regularly, so
24 at least once a month, to work towards creating
25 these trainings. The working group consisted of

1 different community partners, and we had different
2 people at different times, but it did include the
3 Native Women's Shelter of Montreal, Makivik and
4 Centre des Femmes de Montréal. And there were
5 several Indigenous people who were working at...
6 either unaffiliated with organizations or working
7 independently, who also were part of it, as well as
8 the Network. From the SPVM side, we always had two
9 people at the meetings, even though there was a
10 high turnover.

11 While we prepared, the goal was to prepare a
12 long training. So a comprehensive training,
13 although we did... we were told at different times
14 that the name would change to sensibilization
15 sessions or awareness that... we couldn't use the
16 word "training" because of the Union issues. The
17 idea was that we... it would be around three point
18 five (3.5) or four hours (4 h).

19 And...

20 **VOIX FÉMININE NON IDENTIFIÉE:**

21 We wanted seven (7) (inaudible).

22 **Me PAUL CRÉPEAU:**

23 Okay. Thank you.

24 **RACHEL DEUTSCH:**

25 Originally, they were only going to give us one

1 hour. And I said really, that's it, just an hour?
2 Because if you go to Edmonton or, you know,
3 somewhere out West and they ...all the social
4 workers and all the police officers get four or
5 five days of training, and you're only going to
6 give us an hour? So they bumped us up to three
7 point five (3.5) although we'd like...uh?

8 **VOIX FÉMININE NON IDENTIFIÉE:**

9 We wanted (inaudible).

10 **RACHEL DEUTSCH:**

11 He wants... well, more than that, but...

12 **NAKUSET:**

13 Here it goes.

14 **RACHEL DEUTSCH (or: ALLISON REID):**

15 In the meantime, while we were waiting for that to
16 be done, well, we had a lot of work to do. Vicky
17 Boldo gave many, many trainings to different PDQs,
18 which I'll talk about after our experience. So,
19 we... during this time, we created a proposal for
20 the training, a training manual. And the proposal
21 was completed in February two thousand sixteen
22 (2016). And even... and this proposal had come
23 even before, like, we've been working on it for a
24 quite a while, even previously in the Cabot Square
25 Project, a group had been working towards an

1 outline.

2 So, we worked with a psychologist, an
3 Indigenous psychologist, Annick Sioui, to create a
4 proposal for the... an actual outline for the
5 training manual and she... yes. So, we consulted
6 with her to do that. She created an overview and
7 looked at trainings from across the country, like
8 Vancouver, Edmonton, Winnipeg, to look at what they
9 were doing and to adapt it for Montreal.

10 So, in May two thousand sixteen (2016), we
11 hired Doctor Elizabeth Fast, who is a Metis
12 scholar, who worked at McGill at the time and later
13 transferred to Concordia. She created the original
14 training manual. Later, several other co-authors
15 helped, including myself, to create... to fill in
16 different aspects of the manual, and it included
17 historical aspects, information directly on
18 Montreal, which had not existed, and obviously the
19 guide in other cities. And I also included
20 activities, interactive activities for participants
21 and reflection pieces. We have submitted that
22 guide to the Commission. If...

23 **Me PAUL CRÉPEAU:**

24 Yes so it is...

25 **RACHEL DEUTSCH:**

1 So you have... okay.

2 **Me PAUL CRÉPEAU:**

3 And...

4 **RACHEL DEUTSCH:**

5 I won't go...

6 **Me PAUL CRÉPEAU:**

7 I will put it up in evidence right now. I have a
8 paper called "(inaudible)". I'll produce it for
9 the time being, and I'll change it a little bit
10 later on since....

11 **LE COMMISSAIRE:**

12 Uh-hum.

13 **Me PAUL CRÉPEAU:**

14 P-353.

15 - PIÈCE P-353 -

16 **RACHEL DEUTSCH:**

17 So, just to clarify also that we paid the co-
18 authors through the Cabot Square Project...

19 **Me PAUL CRÉPEAU:**

20 Uh-hum.

21 **RACHEL DEUTSCH:**

22 ... funds, and the SPVM stated that they did not
23 have funds for this. Funds that later translated
24 the guide into French also came from outside
25 sources that we searched, that we seeked out.

1 So, the guide, as it was developed, it
2 included many, many rounds of revisions. The SPVM
3 partners continued to give us... also into what
4 they wanted into the training. At one point, they
5 told us they wanted to be experiential, because
6 police could not just sit and listen, they needed
7 to be on their feet and to be active. They wanted
8 to be very practical to Montreal and to their
9 context. And for this reason, the guide was
10 revised to include many activities and also this
11 was part of the decision that the group made to...
12 when we did do the actual training, to use the
13 blanket exercise...

14 **LE COMMISSAIRE:**

15 Uh-hum.

16 **RACHEL DEUTSCH:**

17 That was originally developed by (inaudible) Canada
18 and it was again adapted, we adapted also to
19 Montreal context. So, it was heavily modified,
20 particularly by Vicky Boldo. And it was modified
21 to include Montreal specific information and
22 pertain to police.

23 So, in May two thousand sixteen (2016), we
24 were informed that the Commander in charge of the
25 file had left the SPVM, the person we had been

1 working with. And this person had been a great
2 supporter of the agreement, and I believe he had
3 taken to heart the issues of, like systemic racism,
4 and we were sad to see him go.

5 We also learned that another of our partners
6 in the SPVM had transferred to another police force
7 in Longueuil, and he was no longer at the SPVM, and
8 this is someone who also pushed for the agreement,
9 and we thought, like, he really understood the
10 issues.

11 In September two thousand sixteen (2016), we
12 were told that Michael Arruda was back on the file.
13 I promptly e-mailed him a copy of the guide, but we
14 never saw him at a meeting and it was...

15 (inaudible)...

16 **NAKUSET:**

17 We went to our meetings, so.

18 **RACHEL DEUTSCH:**

19 So, (inaudible). And but then, we came clear that
20 he was now again off the file.

21 That same month, a new Commander joined the
22 file. At that time, it was a bit of a difficult
23 time, because we learned also of the dissolution of
24 all the other "Comités de Vigie" in Montreal,
25 including, like, the Black community. And the only

1 remaining *Comité* would be the Indigenous one, and
2 it was renamed the "Comité autochtone".

3 So, to this day, the same Commander is in
4 charge of the Indigenous file at the SPVM, and this
5 includes the trainings.

6 So, working with this person and this new
7 team, we... it was often frustrating, because there
8 was little understanding of Indigenous issues, and
9 there was a blaming of the past SPVM personnel
10 that... for the... not moving faster. So we were
11 told the previous people did not do their work
12 properly.

13 During these meetings, there's also, on
14 the part of the SPVM, a confusion about the role
15 of, for example an Elder, and also colonization.
16 At one point, we had to... I had been to... visit
17 the Vancouver Police Department the previous year
18 and I had them write a letter to the SPVM, to us,
19 stating the role of an Elder, because they
20 didn't... it wasn't sufficient our explanation of
21 what an Elder was.

22 **VOIX MASCULINE NON IDENTIFIÉE:**

23 (Inaudible).

24 **RACHEL DEUTSCH:**

25 So, we had to get another police department from

1 Vancouver to explain that an Elder is in fact
2 important, and the role of an Elder for the
3 training.

4 We also were told that in the francophone
5 world, there was not many problems, like, in terms
6 of... like racism, and colonization, because in the
7 French language media, there wasn't as much
8 coverage. So, this is evidence that there wasn't
9 many issues rather than an issue just the coverage.

10 I would also note that we did notice in
11 general in the French language media, sometimes the
12 agreement was talked about as the SPVM, like,
13 lending a hand to the Indigenous community in
14 different aspects of our work, and this was not the
15 case, it was either a collaboration or often, it
16 came from the Indigenous community. So... and for
17 someone who worked with us directly, it was hard to
18 hear that reflected to us about what the reality of
19 the work. So often from that partner working
20 with... and during meetings, there was often a very
21 dispensive nature, it was sometimes, it was this...
22 the partners became... were very anxious and angry
23 during meetings, there wasn't as... it wasn't as
24 productive as before.

25 So we were also told that Sylvia De Souza, who

1 we worked with, would no longer be working with us,
2 even on the Missing and Murdered Indigenous Women
3 Project that was kind of her specialty.

4 So we had, as we continued to develop the
5 trainings, it became clear that there was a lot of
6 contention around the use of the blanket exercise,
7 and even going that deep into history would be seen
8 as a waste of time and irrelevant. We were told
9 that the SPVM officers would only laugh at having
10 to do an experiential exercise or having to learn
11 that information. But if you remember, we were
12 previously told they couldn't sit and listen, so
13 when we had developed experiential, now we were
14 told they wouldn't be able to do it without
15 laughing. Or... (inaudible).

16 They actually said: what if the police
17 officers put the blankets on their heads? And I
18 was like... well then, I guess you hold them
19 accountable to their behaviour if they do such a
20 thing.

21 **NAKUSET: (or: ASSILON REID)**

22 We did two trial trainings, one on April twelve
23 (12), two thousand sixteen (2016), and one on
24 November fifteen (15), two thousand sixteen (2016).
25 And we did the fine... and finally, in February two

1 thousand seventeen (2017), we did the first large
2 training, and it was for Station 50, and there were
3 about... there was supposed to be a hundred and
4 twenty (120) agents present. I'm not sure how many
5 actually were there in the end. We brought... yes.

6 So, prior to actually doing the training for a
7 hundred and twenty (120) police officers, we had to
8 do two, like, rehearsal runs with all the group.
9 Yes, trial.

10 **VOIX FÉMININE NON IDENTIFIÉE:**

11 Pilots.

12 **NAKUSET (or : ALLISON REID):**

13 Pilots. Pilots. And in the first pilot, one of
14 the police officers said, because, you know, Vicky
15 was there, and she had sort of share, you know,
16 their ideas of what this training could entail and
17 just kind of get a little bit of feedback from
18 them. And one of the police officers said:
19 well, I don't really want to know about your
20 history. I just want to know what do I do when I
21 see a drunk Indian?

22 And it was interesting, because as soon as
23 they voiced that opinion, it seemed like the rest
24 also said the same thing... Yeah, that's what we
25 want to know, we want concrete tools. What do we

1 do when we see somebody who is drunk? They don't
2 want to know about our history.

3 But after Vicky finished her blanket
4 exercise, we found that a lot of the officers were
5 really... some of them were like: oh my God, this
6 happened to your people? That the government did
7 this to you? - Like, they were really shocked and
8 empathetic. And we got feedback from that group
9 that their interactions with the Indigenous
10 population was better, because they had a better
11 understanding when they were talking to the
12 Indigenous population.

13 Then, we had another rehearsal that was done
14 at one of the police stations. We had a larger
15 group... we even had a RCMP officer, Philip...
16 Forrester - was he there... from the RCMP as well,
17 with his mother. And he's Indigenous, I'm sorry.
18 He... we did the training again. We had more
19 people to help out in the training, which was nice.
20 We had some volunteers that came, because it is
21 quite... the blanket exercise is quite detailed. I
22 can't really explain it right now, but it's another
23 story and Vicky will probably do a better job than
24 me.

25 But at the end of the training, the Commander

1 said something to the effect: okay, well, let's ask
2 all the police officers whether or not we should
3 have this training for the police, because if they
4 don't want it, they don't have to have it. And I
5 was shocked that it was so an option, because I run
6 an organization, if I say all my staff need to
7 have, you know, you know... like CPR. If my staff
8 need a CPR training, it's not an option. You work
9 for me. So, for her to say: well, if you guys
10 don't want to do it, you don't have to do it... I
11 thought was really...

12 So I remember, after she said that, I had to
13 kind of step up and try to sell the exercise,
14 saying: hey, you know, if you guys choose to have
15 this training, you'll get to walk around the room,
16 and it will be interactive, and you'll learn
17 something... so I felt like, you know, I needed to
18 counteract her comment because it was important,
19 and we know that it would make change, and that was
20 the whole point. So, that was the second rehearsal
21 until we come to the actual hundred and twenty
22 (120) police officers. And now, Rachel, take it
23 away.

24 **RACHEL DEUTSCH:**

25 So, for this training, we brought in a Mohawk Elder

1 to open the space. He was also paid through our
2 own funds, because as I said, the... until, even
3 until then, the SPVM did not understand or
4 acknowledge the role of the Elder.

5 **VOIX FÉMININE NON IDENTIFIÉE:**

6 And approve it.

7 **RACHEL DEUTSCH:**

8 And approve it, and (inaudible) Indigenous
9 spirituality, and land acknowledgment with
10 religion. They were told it was... they don't do
11 organized religion, and we were told the SPVM is
12 secular. However, they did invite their own
13 personal... they did invite, have a guest to the
14 training. They said we need to leave room for
15 their own guest. This person was Indigenous, and
16 he testified about how the police has saved him
17 from himself and that he owed his life to police.
18 And at the end of his testimony, he said a
19 Christian prayer, and mentioned "Jesus-Christ" and
20 "Amen". This was a guest brought in by the SPVM.
21 So, this also really surprised us that this was an
22 actual Christian prayer.

23 It was also a very self-congratulatory moment
24 for the police. They brought someone who had just
25 a pure positive experience.

1 So, during the training, there are many
2 officers laughing and not listening. And
3 they're... they were not pulled aside by their
4 superiors, there was no consequence for them.
5 There were also evaluators in the room that we were
6 not told, we were not aware of. And I won't go
7 into evaluation, because Vicky will talk about it,
8 but we were told that... when we saw the
9 evaluation, we realized it was based on the
10 satisfactions, not on lessons learned or anything
11 else, it was only on...

12 **Me PAUL CRÉPEAU:**

13 We...liked it or not...

14 **RACHEL DEUTSCH:**

15 Yes. Whether they are satisfied. I won't go
16 that... into that right now. Yeah.

17 **ALLISON REID:**

18 Rachel just spoke to the fact that there were many
19 officers laughing during this training session, and
20 that there was no control from the SPVM that to
21 mediate that. It was in fact our job, the staff,
22 and the volunteers that we had to come in, who were
23 walking around, asking people to... politely to
24 Shhh..., and it was the relation, it was our
25 responsibility to ask them to try and listen, and

1 there was not act on behalf of the staff of the
2 SPVM to have their employees to listen to the
3 training. And there was a lot of laughing, and a
4 lot of talking, and there were many who were not
5 listening.

6 **Me PAUL CRÉPEAU:**

7 Do you know if there were any officers or just
8 agent? To your knowledge, do you know if there
9 were people in charge of the police officer?

10 **RACHEL DEUTSCH:**

11 I think it was a different level. Yes, there was
12 different levels of...

13 **VOIX FÉMININE NON IDENTIFIÉE:**

14 Yes. Sorry.

15 **RACHEL DEUTSCH:**

16 Maybe the... I believe, yes, maybe we... you could
17 clarify with the SPVM?

18 **Me PAUL CRÉPEAU:**

19 Okay.

20 **RACHEL DEUTSCH:**

21 Yes.

22 **LE COMMISSAIRE:**

23 How many people were there?

24 **RACHEL DEUTSCH:**

25 We were told there are a hundred and twenty (120).

1 **LE COMMISSAIRE:**

2 A hundred (100)?

3 **RACHEL DEUTSCH:**

4 I'm not sure if you... how many that told count
5 after, but when we went into the training, we were
6 told a hundred and twenty (120). We have about
7 fifteen (15) people on our side, the volunteers and
8 people to help organize the training, yes.

9 **Me PAUL CRÉPEAU:**

10 Okay.

11 **RACHEL DEUTSCH:**

12 So, within two weeks, I'm giving the training, we
13 were called in to have... we had a meeting with the
14 Commander and the Aboriginal Liaison Officer.
15 During this meeting, I believe that also my
16 colleagues will talk about it as well from their
17 perspective. It was an upsetting meeting. During
18 this meeting, we were told that the Indigenous
19 pedagogy that we used and information, was not
20 expert enough, and was not relevant for the police.

21 We were told that the training did not fit
22 their needs, and we were told that the experts we
23 worked with were not experts enough or were not...
24 and were not professional enough, even though, as I
25 mention, we... the training was built by, you know,

1 people who taught at universities, had degrees,
2 were recognized by the community, and had a lot of
3 cultural knowledge. And also, it's important to
4 note that they were chosen by the community as...
5 and that's an important protocol. When you do a
6 teaching, the person should be recognized and
7 chosen by the community.

8 There was also a lot of hostility towards the
9 blanket exercise in particular, and anything
10 historical. And we were told that all their work
11 and the training that was developed would be
12 cancelled.

13 This was... and previously, the plan was to
14 have eleven (11) large four (4)... three point
15 five-hour (3.5 h) session in the next year. So all
16 of them would be cancelled. They wouldn't be
17 modified, they would just be cancelled.

18 After that, the SPVM went back to forty-five
19 (45) minutes sensitization sessions, and during
20 maybe lunch hour or previous to shift starting with
21 different units, and they brought in people from
22 organizations who had... who weren't aware of the
23 history of the trainings, and they didn't have,
24 like, sometimes they didn't information. One
25 person they brought in was White and had no

1 knowledge of the trainings, and no material to draw
2 from, when we had created the material and had also
3 always suggested it be taught by Indigenous people.
4 And the SPVM no longer worked with this community,
5 this group. And the people who had actually
6 developed the agreement, and had developed the
7 project, and also who provided the most
8 accountability, because we knew the history of the
9 work. So, we were basically cut out.

10 So to me, this is a way of erasing the
11 knowledge and the history of the work with the
12 community, and it's creating net bad partnerships
13 with the Indigenous community.

14 **ALLISON REID:**

15 Yes.

16 **RACHEL DEUTSCH:**

17 Yes, go ahead.

18 **ALLISON REID:**

19 So, I'm going to... I would like to add to Rachel's
20 account on being on March thirteenth (13th), which
21 was a meeting that followed the cancellation of the
22 training, and it was... those two were intendants
23 where Vicky had set Rachel, Doctor Elizabeth Fast
24 from the University of Concordia, myself and... I
25 can say it? Okay. Nina from the Centre des Femmes

1 de Montreal, agent de liaison autochtone du SPVM, a
2 Commander relation avec la communauté, another
3 agent de liaison relation avec la communauté from
4 the SPVM.

5 I took detailed notes of this meeting.

6 (Inaudible).

7 **Me PAUL CRÉPEAU:**

8 Uh-hum.

9 **ALLISON REID:**

10 I took detailed notes from this meeting and I want
11 to highlight a few things that were mentioned, and
12 some of those are quotes. One of the things that
13 the Commander mentioned, and I quote:

14 "What the police want is important here,
15 they are the customer. The training was
16 done by people with no experience giving
17 training. Usually it is given by people
18 with training experience. We will go
19 with the City of Montreal and they will
20 have an *Appel d'offres*, and you can apply
21 there."

22 The same Commander mentioned at one point...
23 there was a lot of confusing information provided
24 in that meeting with a detail... notes, it's still
25 not obvious to us what the message was supposed to

1 be in that meeting. One of the contradictions that
2 was mentioned, that I would like to highlight as an
3 example, is that this Commander mentioned that it
4 was not her decision and that she was not happy
5 with the decision, and she would have been much
6 happier to continue with this team, but
7 unfortunately that was the way that they will work.

8 At the second part in the meeting, she
9 mentioned that it was her decision not to continue
10 with the sessions, and to cancel it. Just to give
11 you an example of the contradictions that were
12 provided to this group in that meeting.

13 **Me PAUL CRÉPEAU:**

14 So, does this cover the training part? Or
15 Mrs. Boldo, do you still have something to tell?
16 Okay.

17 **VICKY BOLDO:**

18 Well, I think as the key trainer, I should probably
19 contribute something.

20 **VOIX FÉMININE NON IDENTIFIÉE:**

21 Uh-hum.

22 **Me PAUL CRÉPEAU:**

23 Ah, ah, thank you.

24 **VICKY BOLDO:**

25 And maybe I will just give a bit of background of

1 how I became involved with this team, which it's an
2 honour to be sitting here with these women. I work
3 with people who talked the talk and walked the
4 walk, people of integrity that's been an important
5 thing for me to learn through a lot of hard kicks
6 and knocks in life. And I had already been
7 involved with the Native Women's Shelter, and when
8 I heard about the Cabot Square Project, I was so
9 excited, and shortly after, we had had the big
10 celebration for the opening of the Cabot Square,
11 which incidentally, I should say, I am... I'm Cree-
12 Metis, an adoptee from the sixties (60s), and I
13 grew up in British Columbia in the "couch?" and
14 made my way out here, running from a hard life out
15 there, and when I got here in Montreal, it was in
16 nineteen eighty-six (1986), and Cabot Square, at
17 that time, was a gathering place of First Nations
18 Inuit and Metis.

19 So, what had really caught my attention
20 through the Cabot Square Project was that my
21 daughter at the time was in High School, and she
22 had been at the McDonald's, just in Plaza Alexis
23 Nihon, and she witnessed something that really
24 disturbed her. She came home and was quite upset
25 that there had been a client in... somebody who was

1 vulnerable and had come in to the... into the
2 McDonald's, and this young... this other client,
3 this young woman took offense to something, and
4 turned around, and threw her whole big soda drink
5 in this Inuk person's face, and...

6 So, my daughter told something to the staff
7 members about, you know, are you going to deal with
8 this? So, the fact that she had come home and was
9 disturbed, and I am sharing this, because these are
10 realities in the urban center here in Montreal for
11 our people, so...

12 I... the next day, reached out to Nakuset
13 right away and mentioned that I thought maybe one
14 of the solutions, because I was already doing
15 sensitivity training around the city in the various
16 School Boards on the island, and off island also.
17 I had suggested that maybe we approach as well the
18 local businesses to start educating them as well.
19 And I wasn't quite aware of all yet that was going
20 on with the whole Cabot Square Project, but became
21 very passionate about making change, and I was
22 really excited to see what this team was doing.

23 And so they did approach me and asked if I
24 would be interested in... to start coming to these
25 meetings, which I think was in two thousand fifteen

1 (2015). So, we worked for about fifteen (15)
2 months as Rachel mentioned earlier with lots of
3 meetings between ourselves and the SPVM, in
4 anticipation of these trainings, and there were...
5 these were all done under the... what feels a bit
6 like the guise of pilot projects. They were pilot
7 projects and we were working on collaborating
8 together, working on something together, and
9 working... and a pilot project for me meant that we
10 were going to work together on working the Courts
11 out, and making it into something that would be
12 really effective and relevant.

13 And as the teams started decomposing, these
14 initial people that we had with us who were such
15 team players, as they were being removed, it
16 became... there was more and more resistance.

17 I have to say that even... for me to come
18 here, Commissioner, for me to come here has been...
19 I've had to question myself the past couple of
20 weeks of... where this anxiety is coming from? And
21 I think some of it that has been maybe from my
22 personal past experiences, growing up as a young
23 Indigenous woman in British Columbia, but that was
24 also part where... partly where my passion was
25 coming from of wanting to be a part of this team,

1 and I think even with... I have to say that, you
2 know, Carlo and I did some really good work
3 together. I was at... I think I was at over sixty
4 (60) different sessions, the many sessions that
5 were in the police stations, and that was an
6 interesting process.

7 Especially once we saw the change from... even
8 with the... what the ladies have mentioned earlier
9 about the Comité de Vigie, that became le Comité
10 Autochtone, which... and in some ways, began
11 shifting and making us a bit more... it felt like
12 we became a bit more of a target, because we
13 were... everything else had been cancelled and now,
14 we had... so, why should these Autochtones, why
15 should they be... why should they have something
16 special when the other committees had been
17 dismantled?

18 And I often, often was questioned on... within
19 these many sessions, of why we should be doing this
20 work specifically for "des Autochtones", because
21 police officers are... work for the good of
22 everybody, right?... For all civilians, and so...
23 But we had... it was all very confusing and
24 contradicting in the messaging that we were getting
25 in working with these individuals, because it was

1 collaboration, that's where we were coming from,
2 and it was also in the spirit of reconciliation
3 through the process as well.

4 The City of Montreal, I mean, our past mayor
5 had made the statement that we were a city of
6 reconciliation, and so there's a bit of
7 stubbornness in me for the fact that we did keep
8 pushing for... we said we wanted to use Indigenous
9 pedagogy, and we kept pushing forward with that.
10 And after we had done that large... the large
11 blanket exercise... well, it wasn't, there were
12 four components to that training, but after we had
13 done that four-hour training and the retaliation,
14 it felt like retaliation, I have to say, but the
15 Commander had had to (?) the lead that day, which I
16 understand that it was also just following the
17 events of the shootings in Quebec City, and at the
18 mosque and things.

19 So, there were reasons why she couldn't be
20 there, but I was really taken aback at the... later
21 in the evening when I was quite anxious to get in
22 touch with her, feeling like we had really done
23 some good work that day, and I got yelled at on the
24 phone, and felt much like a child being scolded or
25 a student being scolded, that... *c'était un échec.*

1 day, if I would have known that we had... after I
2 had pulled together a very dynamic team of fifteen
3 plus (15+) individuals, some of them being
4 intervention workers who were out working on the
5 street, all of us... I was really taken... really,
6 it was such a big slap in the face to be deceived
7 in a way, that's what it felt like, was that we've
8 been deceived.

9 And I'm telling it this way, because I'm not a
10 politician, I'm speaking from the heart, because
11 this work that I do is my passion. So, we didn't
12 know that these individuals in the room actually
13 taking notes and documenting things. Not that it
14 would have... I don't know if it would have changed
15 anything, but it's not...

16 **VOIX FÉMININE NON IDENTIFIÉE:**

17 It's not transparent.

18 **VICKY BOLDO:**

19 It's not transparent, yes. Ah-ah. And that it was
20 based on the police officers' satisfaction. It
21 wasn't... they weren't basing it on what had
22 actually been learned, and even the fact that
23 this... Sometimes, we were told that it was
24 information sessions, and sometimes, it was
25 training, and all the way through this whole

1 process, each time I would come out of a meeting,
2 I'd have to debrief with the ladies to say - it's
3 not clear for me. And we always had to kind of
4 regroup.

5 So... yeah, go ahead.

6 **ALLISON REID:**

7 I just want to ask Vicky a question to help her
8 maybe describe, I mean, that's really key here.
9 There was an accusation after the meeting... after
10 the training was cancelled that those were giving
11 the training were not experts or qualified to
12 provide the training. Did... can you describe your
13 experience specifically, giving training and
14 sensitive, awareness workshops to the police
15 already prior to this event? And can you also
16 speak to the qualifications of Doctor Elizabeth
17 Fast?

18 **VICKY BOLDO:**

19 Yes. I think by then, I must have been in at least
20 forty (40) different sessions, going into the
21 police stations with... accompanying Carlo, and
22 even in those sessions, Carlo and I worked out a
23 system together, but I also had to... this was a
24 new domain for me, going into... right into the
25 police station, so I also had to learn each time

1 how to conduct myself or how to better the
2 relationship, how to be heard, how to be respected.
3 But they didn't... I wasn't being hired as some
4 expert who was already... that was never discussed,
5 it was that they... you know, I was approached, and
6 that I was capable.

7 And so in those sessions, one of the things I
8 learned was that it was better if I stayed standing
9 rather than sitting.

10 In general, I could go on with a list of
11 things, but I... I've done trainings across the
12 city and as I said, off island and on island. I
13 worked closely with Health Canada, and Veterans
14 Canada. At upper administrative levels with
15 different organizations, and institutions, and...

16 Something that I was told was that what I was
17 doing or what we were trying to do might work in
18 institutions, but... or universities, but that it
19 wouldn't work with police officers. And we weren't
20 told that in the beginning. It was really being
21 done all in the spirit of collaboration that we
22 were able, it was a learning experience together.

23 And so, all of these misconceptions and
24 misleading and everything, was really
25 disheartening, because as I said, in that

1 particular meeting after... in March, I think one
2 of the strongest comments I made was that the SPVM
3 was collaborating with people of integrity and it
4 was a real shame to see this get broken, because
5 that's what happened that day when we were trying
6 to sort our ways through these deceptions, and
7 mistruths.

8 Elizabeth and I, Doctor Fast, worked quite
9 closely together and have just recently, we're
10 actually part of the Christmas, we were invited to
11 go as far as India to give trainings and where we
12 there too also used the blanket exercise. I sent
13 e-mails on different occasions to the Commander and
14 to Carlo and to others in the SPVM to reassure them
15 that we were doing a good thing, that the RCMP were
16 using these tools to educate, to sensitize their
17 officers in training, but also those that were
18 already in service.

19 One of the other positive things, while I was
20 travelling last spring, I also went to visit with
21 the Winnipeg Police Board, their Aboriginal
22 Council, Aboriginal Board. And so, that was one of
23 the things that's interesting as we look across
24 Canada, which may be... needs to be looked at here
25 in the province, that in the other metropolises,

1 there's another layer in between the city and the
2 police, and that's to have the Police Board where
3 they act. And in Winnipeg, it's quite effective,
4 because they actually have their Native
5 representatives on that Board.

6 **VOIX FÉMININE NON IDENTIFIÉE:**

7 Go ahead. Do you have any more trainings?

8 **VICKY BOLDO:**

9 I'm finished training.

10 **VOIX FÉMININE NON IDENTIFIÉE:**

11 Well, unless you want to keep going?

12 **Me PAUL CRÉPEAU:**

13 I'll just take this moment while you are discussing
14 to present in evidence the « Session de
15 sensibilisation sur les communautés Autochtones
16 auprès des policiers, la section du métro ». Maybe
17 Mrs. Deutsch(?), maybe this is the document you
18 were talking about? The evaluation made by the
19 SPVM?

20 **VICKY BOLDO:**

21 Yes. I'm looking. I'd like to put a positive also
22 of what I saw within... in the police stations,
23 which is something that really... we're not talking
24 about the individuals, where often I'm referring to
25 the system itself that needs the change, and that's

1 what it was about of in sensitizing the officers.

2 And so, it's a... It was interesting to see
3 some of the police officers as Nakuset mentioned,
4 but after these sessions, how their attitudes
5 changed when they did understand, when they had a
6 bit more of a historical understanding of the
7 historical... colonization. We weren't allowed to
8 use that word.

9 And so much so that I met some officers who...
10 they reassured me that they don't ticket their
11 individuals, they go into McDonald's and Tim
12 Hortons and other places and they collect gift
13 cards, and that's their way of ticketing the people
14 who are vulnerable and out on the street.

15 I'd like to... I think it'd be fair if we
16 could also sometimes get some of the good news
17 stories that the officers are doing out in the
18 media, as opposed to only catching the negative,
19 because that too gives a balance and helps to
20 create change.

21 **Me PAUL CRÉPEAU:**

22 Okay, je vais profiter aussi du... une courte
23 discussion pour présenter l'entente.

24 Je vous ai indiquée tout à l'heure, Monsieur
25 le Commissaire, qui avait été déposée, j'ai fait

1 erreur. Alors, c'est « L'accord de collaboration
2 entre le SPVM et le Réseau pour la Stratégie » du
3 vingt-cinq (25) juin deux mille quinze (2015) dont
4 nous avons parlé, P-...?

5 **LA GREFFIÈRE-AUDIENCIÈRE :**

6 355. 355.

7 - PIÈCE COTÉE P-355 -

8 **Me PAUL CRÉPEAU :**

9 355. Do we have anything else to add on the
10 training part of your presentation?

11 **NAKUSET :**

12 I think that's pretty much it, but we just wanted
13 to actually acknowledge that we work with some good
14 police officers, and Sylvia De Souza, who was
15 fabulous. She was incredibly helpful and we would
16 love for her to work with us some more. With...
17 Fatty... I don't know what is...?

18 **VOIX FÉMININE NON IDENTIFIÉE :**

19 Uh?

20 **RACHEL DEUTSCH :**

21 (Inaudible) at the beginning. I'm so excited
22 (inaudible). And Suzie Paquette from Station 38.

23 **Me PAUL CRÉPEAU :**

24 Okay, so, do... we change subject. Now, going to
25 the MMAY?

1 **RACHEL DEUTSCH:**
2 It will be the (inaudible).
3 **Me PAUL CRÉPEAU:**
4 Okay. Ah, okay. Maybe if we could take five
5 minutes? Five minutes, just...
6 **LE COMMISSAIRE:**
7 Would you like to have a few minutes? Yes?
8 **RACHEL DEUTSCH:**
9 Just five.
10 **LE COMMISSAIRE:**
11 Okay. Five minutes?
12 **Me PAUL CRÉPEAU:**
13 Okay.
14 **LE COMMISSAIRE:**
15 Okay. So, we'll take a break.
16 **LA GREFFIÈRE-AUDIENCIÈRE:**
17 Break for five minutes.
18 SUSPENSION
19 -----
20 REPRISE
21 **LA GREFFIÈRE:**
22 Reprise de l'audience.
23 **LE COMMISSAIRE:**
24 So, welcome back. We're listening to you.
25 **Me PAUL CRÉPEAU:**

1 Mrs. Baldo, you will be talking about.

2 **NAKUSET:**

3 I'll just finish up.

4 **M^e PAUL CRÉPEAU:**

5 Okay.

6 **NAKUSET:**

7 With a little, because, I was such a key component
8 to the Collaboration Agreement that had such a
9 lengthy history in doing the, I guess, the many
10 information sessions.

11 And I wasn't the only one doing that. I'd like
12 to specify as well that there were other
13 facilitators, I guess, that had accompanied Carlo.
14 So, from P.A.Q., Projet Autochtone du Québec and
15 now, I believe, that it has gone on to be also with
16 Native Montreal and others that I think were noted
17 also when Carlo spoke in December to the Commission.

18 So, that has been noted. Just from my personal
19 perspective, one of the things that was really
20 striking on the day that we did the hundred and
21 twenty (120) officers. And those were, to answer
22 your question earlier, there were police officers,
23 agents, inspectors.

24 **M^e PAUL CRÉPEAU:**

25 Okay. So, supervisors, people with...

1 **NAKUSET:**

2 Yes.

3 **M^e PAUL CRÉPEAU:**

4 Okay.

5 **NAKUSET:**

6 But it was interesting to make the, to have the
7 observation that even within this police body
8 itself, that anybody that was, that generalized
9 this, but, people of color or any diversity, they
10 were pockets. And it was interesting to note that
11 across the City as well, when I was in the mini-
12 sessions, that officers of color were also often,
13 kind of, by themselves.

14 And when I shared, in those sessions, I was
15 often, some of my own personal history and incidents
16 that I lived from police officers as a younger
17 woman. But also that I really believe in being a
18 part of the solution.

19 It was interesting to know that although there
20 was this very high criticism that was made after
21 that large pile of training, that they were still
22 interested in me coming into the police stations.
23 And I have trouble understand that I was noted as
24 unprofessional and incompetent, but I was still good
25 enough to go into the police stations.

1 So, all of these contradictions have played a
2 very big role where after all of those incidents I
3 really needed to step back and part of that was
4 self-preservation, to kind of regroup. Because all
5 of this mixed messaging really, yes, it was really
6 confusing.

7 Another thing that I had noticed in, you know,
8 Rachel had spoke earlier about the incident down in
9 St-Henri with a police officer. Officers going to
10 the door about the homeless within the
11 neighbourhood. And in the following week, at one
12 station where I was, they had a special guest
13 speaker in as well who was also with the SPVM. But
14 speaking about we needed to clean up the city in
15 anticipation of the three seventy-five (375)
16 festivities.

17 And I'm not naming things, because that, for
18 me, also I realized, I know what it is when we speak
19 of confidentiality. I've worked in the public
20 health also with the big institution, with the MUHC
21 and I understand that, what that is confidentiality,
22 but in these sessions here, so I'm not specifically
23 identifying. But I think it is important or that it
24 should be noted by the Commission.

25 I've also gone in with the Brigade des espaces

1 publics prior to these other trainings and had been
2 invited to come in for an hour and half with one of
3 the other facilitators who would join us, who was
4 with Quebec Native Women. And it was interesting
5 there again, it created confusion, that was in
6 April, March or April, I guess, two thousand sixteen
7 (2016), and actually I received a letter from the
8 Lieutenant, actually thanking me for my
9 professionalism.

10 And maybe one other thing that I'd like to add
11 to that of how, you know, the observations, Allison,
12 in particular on that day of the large training, how
13 it was our facilitators, the team that we had put
14 together, who actually had to intervene and kind of
15 get the officers to behave.

16 Not that, I mean, we've been duly warned that
17 this type of thing could happen with police
18 officers. That they could be much like high school
19 students. That there might be mockery and this type
20 of thing. I'm still trying to understand that. I
21 guess for me, part of the dedication in doing this
22 work is that these individuals are keepers of the
23 peace. That's what a police officer is, is a keeper
24 of the peace.

25 And even in... some of their behaviour within

1 the stations of what I saw and they're not having
2 consequences. Repeatedly in the small sessions, the
3 training sessions that we would do, I would often
4 hear the things of, you know, in sharing a little
5 bit of the historical, the colonial history in
6 Canada and why, perhaps, this relationship between
7 the Peace Keepers, the police officers and
8 aboriginal individuals, why it was so strained and
9 I often got, you know, heard like... but that was in
10 the past.

11 And we were at a vigil last night in the city
12 and the young woman who, there was one of the
13 students who spoke and she said, you know, the last
14 residential school closed in nineteen ninety-six
15 (1996) and she said, I'm twenty-six (26), but I
16 could have been in that school for at least a year.
17 And fortunately, she wasn't.

18 So, these things aren't in the past, they're
19 still very relevant in our current lives. And I
20 guess overall, within this system, some of the
21 things that do need to happen is that, my goal was
22 never, is not, as I say, it's to be part of the
23 solution, not to attack individuals. But this
24 system needs an overhaul.

25 And in the work that we were doing. Each time

1 when I go in and work with public service workers or
2 police officers or educators, at any level, I always
3 think that education is to empower the people. And
4 so that was, it was always done in that spirit.
5 And I thank you for this time and I will stop. So
6 if we move on to the next subject, it's the Comité
7 de vigie autochtone.

8 So, back in the day, when the original people
9 that we signed the agreement with, When we ask them
10 what is this committee, they said well, it's a
11 committee of indigenous people that represents
12 Montreal.

13 And how do we find these people? And we were
14 told write letters to different indigenous people
15 and invite them to come to this committee. And we
16 sat down and we drafted a letter and there was even
17 a section saying: if you want to be on this
18 committee, you're going to have a criminal
19 background check... and I mean, we worked with the
20 police to find out. They dictated to us This is
21 what you need to do and then we did it. And then,
22 we found people and people showed up.

23 Now, the original Commanders or police officers
24 in charge, basically, are all gone, except for
25 Carlo, and they were the one who were sort of

1 supporting or even running this committee. So when
2 people showed up to this committee, we were, you
3 know, trying to figure out, you know, what is the
4 mandate and you know, why are we here, and what are
5 we doing, and we noticed that were certain people
6 that we didn't invite. And then we were just
7 wondering, well if this is supposed to be an
8 indigenous lead committee, why do we have non-
9 indigenous people here that represent indigenous
10 committees. Because, you know, as an indigenous
11 person, I know exactly what it's like to have
12 racism, to be seen as an indigenous person. But
13 someone who is non-indigenous will never know what
14 it's like.

15 Like Allison here is an example, will never
16 know the kind of racism that I feel and what we
17 wanted were people that had lived, experienced, to
18 sit around that people and to share what issues come
19 up.

20 Well, I mean, when I was at that committee I
21 asked a lot of different questions. One was, you
22 know, does the black committee, because they had one
23 at the time, do they have non-black members that
24 represent the black committee and that was a real,
25 sort of point of contention, that I should not be

1 bringing up these subjects.

2 And I really wanted to sort of push it, to be
3 like, wait, I don't understand why we're having non-
4 indigenous people here. You told us to find
5 indigenous people, we found indigenous people,
6 you're still bringing non-indigenous people to this
7 table to speak for us. What are we doing? And
8 throughout this process, because I brought it up as
9 a question, I didn't say you can't come to these
10 meetings, I said why would you have non-indigenous
11 people?

12 And what happened, the thing is that during
13 these meetings, they had these conversations about,
14 okay, whatever happens in these meetings, stays in
15 these meetings. You're not allowed to go outside,
16 you're not allowed to... confidentiality, bla, bla,
17 bla.

18 So, there were a lot of... they had some rules
19 and then this, because I brought up this subject of
20 why is this not completely indigenous led, one of
21 the members who was non-indigenous spoke to her
22 colleague who is not at this meeting and he sent an
23 email to me. But he didn't send it me, he sent it
24 to about fifty-five (55) people in Montreal. And he
25 wrote and I'll read it, because you probably

1 received it. He wrote:

2 "Nakuset, Native Women's Shelter
3 I just have been informed by... blank...
4 that you made in public very negative
5 remarks on the fact that she was a white
6 person and should not participate on the
7 SPVM Montreal Police Department Committee
8 on murdered aboriginal women."

9 The committee was not about murdered aboriginal
10 women, but anyway.

11 "This is totally unacceptable, especially
12 from an aboriginal person. This is...
13 (blank's)... decision to
14 appoint...(blank)... on this committee.
15 Be assured that... (blank)... will be made
16 aware of your comments, the SPVM Director
17 of police, Philippe Piché, the mayor Denis
18 Coderre, Minister Jeff Kelley, Secrétaire
19 des affaires autochtones and Department of
20 Aboriginal Affairs"

21 And they're all cc'd and then they sent it to
22 about fifty (50) different people. So I get this
23 email and we were just told that this meeting, we
24 were not allowed to say anything that happened at
25 this, and now, everybody sees me as this monster,

1 right? So of course, I had to reply, which I did.

2 "Dear Bla Bla, In response to your email, there
3 are several points I would like to clarify.
4 The mission of the Rencontre du Comité de vigie
5 des communautés autochtones is to provide
6 aboriginal perspective and input on the SPVM's
7 interaction with indigenous community members.

8 After the June twenty-fifth (25th), twenty-
9 fifteen (2015) signing of the
10 Collaboration Agreement, a core group of
11 Network members were given the mandate by
12 the SPVM to find aboriginal community
13 members to sit on the abovementioned
14 committee.

15 In your email, you have taken issue with
16 item #7 on the committee's agenda about
17 aboriginal representation. Members did
18 indeed discuss the issue of aboriginal
19 representation. Such matters are
20 routinely brought forth in establishing a
21 committee to represent the interest of
22 aboriginal peoples.

23 These discussions are entirely
24 appropriate, given our mandate. Members
25 stated how they felt about non-aboriginal

1 representation of aboriginal issues and
2 which committee members, to include in
3 this process. It should be noted that
4 this was only the second committee meeting
5 and there was no final decision about
6 memberships that were made.
7 As you were not present at this meeting,
8 it is unclear to me that the information
9 you received about what occurred is
10 inaccurate.”

11 I'm sorry, I didn't read that properly.
12 (inaudible) the gist of it.

13 “Let us not lose sight of the overall goal
14 and purpose of this committee, which is to
15 provide culturally appropriate
16 representation for a community long denied
17 a seat at the table.”

18 So, what's difficult about this committee was
19 that, that letter went out everywhere and then at
20 the next meeting, it was not even acknowledged.

21 So, it's okay to treat the members of this
22 committee like that, it's okay to shame people
23 publicly on information they don't even have. It is
24 not a safe place. But we continue to go, we
25 continue to go.

1 So, this committee has been going on now for
2 about two years and the last meeting that we had,
3 they produced a mandate. We have been waiting for a
4 mandate. It should have happened two years ago at
5 the beginning, but nothing was produced.

6 When we looked at the mandate, when it was
7 presented at the meeting, it was presented like, oh,
8 by the way, here's your mandate. And now, the next
9 subject is bla, bla, bla.

10 And when we looked at the mandate, we were
11 like, woah, woah, woah, woah... are you serious
12 about this one? I don't remember signing up to
13 this.

14 So, for our next meeting, we're going to go
15 through every single line and decide whether as a
16 committee we agree to this, because some of these
17 things are just, I don't know... it's a top down
18 approach.

19 The thing is that, you know, the last committee
20 meeting, let's say there were like, twenty (20)
21 people at that meeting, there was only four of us
22 that were indigenous. Everyone else was non-
23 indigenous.

24 So, this... we have been watching the committee
25 changed, the membership changed, the rules changed.

1 At one point we were allowed to point who sits at
2 the table, we're not allowed to do that anymore. As
3 a matter of fact, if I want to invite, let's say
4 Ellen Gabriel to come to the table, the SPVM has to
5 approve that decision.

6 So, that's incredibly uncomfortable and I know
7 that my staff at the Native Women's Shelter who,
8 part of them sit, I have two members that sit on
9 that committee, they don't want to go to these
10 meetings. They were just, like they're so
11 uncomfortable, please I don't want to go. Now, I'm
12 like, you have to go. Because if you don't go, then
13 you don't get to share your voice. So I make them
14 go.

15 And they sit through and give their input and
16 they keep going back. Because I notice that there's
17 less and less people at the table and when you
18 continue to make the environment uncomfortable,
19 people will refuse to show up and that is what is
20 happening.

21 But I keep going, don't ask me why, but I keep
22 going. Because, you know, I signed the agreement.
23 I have to follow it through. I have to try to
24 create change, I have to, I mean, it even says, you
25 know, for this thing, that if we want to have a

1 smaller committee to talk about this committee, we
2 have to have an SPVM officer in that committee. I'm
3 like, really? We can't just, as a group of
4 indigenous talk about it, you have to have someone
5 in.

6 So, I find it excruciating and unclear. And I
7 remember when the new Commander became in charge of
8 this file and I asked her to read the agreement that
9 I signed, she wanted to have a special day for that.
10 She wouldn't read it in front of me. And I read it
11 right at the beginning of this meeting, like it
12 took, what... seven minutes.

13 With a lot of cajoling she eventually read it,
14 but there was just, we found so many obstacles in
15 our way and so much resistance, and all we want to
16 do is be treated fairly. And it seems like this
17 whole system is made so that we fail, but we won't,
18 because we'll keep working at it.

19 Do you have anything to say about the
20 committee? Because, Vicky just was appointed,
21 recently as the co-Chair, last year and she's been
22 to a couple of meetings whereas I have been a member
23 since the beginning of this committee.

24 **VICKY BOLDO:**

25 Well, I've been on the committee since the

1 inception, I think.

2 **NAKUSET:**

3 Yeah...

4 **VICKY BOLDO:**

5 I got one of those letters inviting to be on it and
6 it's been, these are all new things. These are new
7 things for the SPVM, for the City of Montreal, for
8 the Network. This was... I actually was told in
9 Winnipeg, because we signed the Collaboration
10 Agreement in June two thousand fifteen (2015) and
11 they signed theirs in September.

12 And so when I did reach out to them and say can
13 we meet... they were actually very eager, because
14 they said yeah, we've been watching you. And I
15 thought... oh, boy... good grief! But they are,
16 people are watching and these mandates and... or by-
17 laws or a code or something, I think was one...
18 because of the turnover that was happening, it never
19 happened in the beginning, when it should have. And
20 so now there's... we're two years into this and
21 still trying to pull this committee together. Maybe
22 there's too many people around the table.

23 I don't want to see it dissolve, I think it
24 needs to be there for a very good reason. Yeah, but
25 it's not led by the community.

1 And the agenda we don't create, they create it.
2 The issues that we want to bring up, we don't get to
3 bring up. They bring up their own issues, they
4 bring up everything that they think we need to know.
5 And it's not really relevant. There was one
6 meeting where we, they did like a tour of an
7 institution. I can go to an institution any day of
8 the week, I don't need to go to the SPVM to an
9 institutions. I need to talk about what's going on.
10 The over ticketing, all these different issues that
11 are been brought up, that our people are facing,
12 that's what we need to talk about. But they want to
13 create their own thing. So it becomes a little bit
14 watered down and it's not incredibly helpful.

15 I remember we had one member who is brand new
16 on the committee, she had never been on this
17 committee and she's indigenous and she said I feel
18 like a token Indian.

19 **M^e PAUL CRÉPEAU:**

20 Just a precision. You said that there were four
21 indigenous people on the committee. How many people
22 on the committee?

23 **NAKUSET:**

24 The last meeting, there's about fifteen (15) people.

25 **M^e PAUL CRÉPEAU:**

1 Okay.

2 **NAKUSET:**

3 And four of them, we're indigenous.

4 **M^e PAUL CRÉPEAU:**

5 Okay. So, you're not really a part not even on the
6 number?

7 **NAKUSET:**

8 Sorry, say that again?

9 **M^e PAUL CRÉPEAU:**

10 Not that part...

11 **NAKUSET:**

12 No, no, no, no. But the thing is that we used to
13 have a lot more indigenous people, it's just, it's
14 excruciating to sit through these meetings. So
15 people, I think, that's what I'm saying, if you make
16 it uncomfortable, people will stop coming and I
17 often... hmmm... okay, I've got to this meeting, I
18 can do it, I can do it, I can sit through it, and I
19 do, right?

20 But I remember even at the last meeting, they
21 were doing introductions and so when they got to me,
22 all the sudden I was skipped over. I was like, oh,
23 that's interesting, they don't even know, like who I
24 am, but maybe it was a mistake or whatever.

25 But you start, somebody else noticed it, like

1 they were like we notice that they skipped you. So,
2 yeah, there needs to be big improvements and I'm
3 hoping that, you know, they're going to have to
4 happen, because I don't know if it can get worse.

5 **ALLISON REID:**

6 So, that concludes our conversation about the Comité
7 de vigie.

8 **M^e PAUL CRÉPEAU:**

9 Okay.

10 **ALLISON REID:**

11 We're going to skip the section on the missing and
12 murdered indigenous women section of the agreement,
13 because Jessica and Nakuset will be picking that up
14 next Wednesday.

15 **M^e PAUL CRÉPEAU:**

16 Okay.

17 **ALLISON REID:**

18 I believe at eleven (11) or eleven thirty (11:30)
19 next Wednesday, the twenty-first (21st).

20 We're going to start discussing some of the
21 outcomes of the agreement and some recommendations
22 and that type of thing.

23 One of the things that I want to highlight
24 (inaudible), is that we did a survey to the
25 indigenous homelessness organizations, about their

1 relationship with the SPVM.

2 So, this survey, I concluded this in May of
3 twenty-seventeen (2017) and we surveyed the
4 relationship between the SPVM and the aboriginal
5 community of Montreal with members of the justice
6 and homelessness subcommittees of the Network.

7 The workers from the following organizations
8 responded: the Native Women's Shelter of Montreal,
9 Femmes autochtones du Québec, le Centre de justice
10 des premiers peuples de Montréal, le Centre d'amitié
11 autochtone de Montréal et Projet Autochtone du
12 Québec. And they were asked about challenges of the
13 relationship. One of which was the lack of
14 understanding of realities and of the issues.
15 And an assumption aboriginal people have the same
16 realities.

17 There is a lack of communication with families,
18 individuals and with the police.
19 There's a lot of prejudice and assumptions on behalf
20 of police. There's a use of intimidation when
21 interacting with clients and sometimes the use of
22 confrontational approaches with staff and clients.
23 There's the use of unnecessary force with clients,
24 leaving marks and bruises. There's a lack of
25 openness when we bring up issues. There's a lack of

1 acknowledgement has being true issues for a broader
2 context.

3 There's a lack of recognition and
4 acknowledgement on there being recurrent issues and
5 systemic issues at the SPVM, that need to be
6 addressed. There's a presence of racism and
7 profiling in intervention. There's a lack of
8 awareness of their own structure. Many agents don't
9 know there's even an aboriginal liaison officer.

10 There's a lack of knowledge and use of
11 resources for individuals close to the street.
12 There is abusive power and overstepping of rights
13 and lack of officers who explained rights to
14 individuals that they're interacting with. For
15 example, you have the right not to be searched or to
16 show your ID. And there's a use of intimidation
17 strategies to both staff, organizations and clients.
18 There's a non-transparency, non-collaborative
19 resistant way of working with the community. For
20 example, the Comité de vigie, a lack of community
21 trust with the SPVM.

22 When we do training, they're undermining and
23 condescending to our expertise and knowledge. We
24 hear: I already intervened and no know how to do
25 something, or your expertise is not valued here and

1 our officers do not want to hear it.

2 There's an ineffective use of the Advisory
3 Committee, Comité de vigie, organizations should be
4 bringing up the issues for the SPVM to address and
5 that willingness does not exist now.

6 The use of displacement approach to deal with
7 loitering and homelessness. The over ticketing and
8 the lack of understanding, like the bike brigade, to
9 individuals living close to the street.

10 There is profiling, stopping our clients on the
11 streets when they are not doing anything
12 particularly wrong in the moment and proceed to
13 ticket them once they discover something that they
14 judge unlawful.

15 There's the use of arrest or violence instead
16 of alternative modes to defuse the situation. So
17 over policing or behaviours like jaywalking or
18 drinking in the park.

19 The aboriginal liaison is not aboriginal and
20 not effectively bringing a relationship with the
21 community.

22 The second question that we asked these
23 organizations was how to improve the relationship
24 between the SPVM and the community. And the
25 following were the results.

1 Through relevant training, improving
2 understanding of individuals more would be
3 important, including issues, realities, traumas,
4 histories, including violence, addiction and trauma.
5 And the things that cause homelessness, conjugal
6 violence and the importance of the use of the
7 blanket exercise.

8 They talked about awareness resources and
9 contact with Outreach Workers as well as the
10 importance to address power and privilege with
11 officers.

12 The Network has a cultural training manual that
13 they suggest be adopted and used. This includes,
14 specific focus on cadets and those coming out of
15 school and officers and agents and staff in the
16 downtown poste de quartier.

17 They suggest getting information from police as
18 to what tools they feel are missing when dealing
19 with the aboriginal population and homeless and to
20 allow the indigenous committee to respond to those
21 themselves.

22 Hire more aboriginal police officers and
23 specifically an aboriginal person in the position of
24 aboriginal liaison officer.

25 A better connection between police teams and

1 intervention workers can sometimes help improve
2 interactions once they are called to our centre and
3 once they refer clients to us.

4 There is a focus on awareness and understanding
5 and change systems from bottom up with the cadets
6 and from the top down, the chief and the higher
7 staff to effect true systemic change to train all
8 personnel.

9 Talked about increasing awareness of SPVM's own
10 structures so that they understand the structure
11 that they're working in and that they can work, for
12 example, closely with the aboriginal liaison officer
13 or staff assigned to these files when needed.

14 Change and improve the procedure for complaints
15 so it's easier to navigate. Have a direct link with
16 specific personnel to follow through with
17 individuals throughout the process and be result-
18 oriented and have results communicated to
19 individuals.

20 They also talked about change and improve the
21 SPVM's procedure and the Municipal By-Law for
22 ticketing which (inaudible) to refer to when she
23 went to Val-d'Or for her last testimony in November.
24 So, I won't go into detail.

25 Have a better link with the upper level SPVM

1 personnel. This isn't an effective mechanism for
2 change... to address recurring and to submit issues
3 that we're bringing up.

4 (Inaudible) to acknowledge of systemic issues
5 that are not just actions for a few individuals, but
6 rather recurring issues throughout the system.

7 They talked about addressing racial and social
8 profiling. Acknowledging this is a systemic
9 changing of a policy level and changing practice
10 levels, like intervention styles and approaches.

11 Improving the way that we document testimonies
12 of intervention and learning from those who know how
13 to do this more appropriately.

14 And an annual report documenting good practices
15 that were put in place, like sanitization training,
16 positive interactions, increase referral of clients
17 by police to organizations, etc.

18 Last, third question, building an action plan
19 between the SPVM and the aboriginal community. We
20 asked the organizations in the context of
21 (inaudible) reconciliation, picture this
22 relationship in five years.

23 What would contribute to improving the
24 relationship between community and the SPVM. The
25 following were proposed:

1 An improved ticketing policy and practice for
2 individuals living close to the street.

3 An improved relationship between police and
4 clients, including: understanding, compassion and
5 trust and between police and with organizations, as
6 well as the use of approaches tailored to different
7 realities, including mental health.

8 An approach in an effective outlet and
9 procedures for complaints, to be improved for
10 individual interventions and of recurrent issues
11 that arrive.

12 These are two different things. If we're
13 talking about the individual case, there should be a
14 channel for that and there should also be a platform
15 to discuss the systemic recurring issues. The
16 Advisory Committee for example, could play a part
17 there.

18 A structure where all SPVM's staff would have
19 regular training including other first responders,
20 like 9-1-1 operators and firemen. They would all
21 have heightened understanding of cultural safety
22 including challenges and realities.

23 Have an improved consultation with community
24 organization, for example, determining the terms of
25 reference in the (inaudible) committee, but with the

1 committee, the Advisory Committee and with the
2 aboriginal members specifically.

3 And to acknowledge the expertise of indigenous
4 organizations. The lived experience, work
5 experience and any other experience that puts them
6 in a position of expertise.

7 Acknowledge from SPVM that for reconciliation,
8 there would be feelings of discomfort, that would be
9 perceived, i.e. feedback from officers who receive
10 the training.

11 A willingness to learn, to listen, to grow and
12 to move through this discomfort is necessary for
13 reconciliation. Reconciliation would mean that
14 organizations would be able to say that they have a
15 good working relationship with SPVM. This would
16 include an increased feeling of trust.

17 There is a suggestion to mimic the working
18 styles of collaborative officers as determined by
19 the community. Those that can be identified by the
20 indigenous community and those officers can maybe
21 share their approaches with other officers.

22 This aboriginal liaison officer would be an
23 aboriginal person and they would effectively bridge
24 the relationship between the SPVM and the community.

25 The increased services for those who are likely

1 to be incarcerated due to public intoxication or
2 violence on the streets. We should be talking about
3 services to support those, specifically, those with
4 severe addictions.

5 SPVM using alternative approaches is key.
6 Especially for crimes like disturbing the peace or
7 in cases that involve mental health. And so we
8 suggest using, sorry, the organization suggests
9 using restorative justice practices.

10 And finally, the openness for collaboration
11 from the leadership of both the SPVM and from the
12 aboriginal community is key towards reconciliation.

13 **Me PAUL CRÉPEAU:**

14 Thank you.

15 **ALLISON REID:**

16 And so those were outcomes after, following the
17 somewhat of a breakdown in the relationship after
18 the training. I had a new co-Chair with me who has,
19 since had to step down because she now works for the
20 City of Montreal.

21 But in the spirit of working in a good way and
22 continuing to build a relationship, there was a lot
23 of my team, after the training, that wanted to go to
24 the media and I really fought them hard to say no,
25 we're not going to the media, we're going to keep

1 working on this relationship. And ironically, now
2 here I am sitting here.

3 So, these outcomes were actually from a meeting
4 where we were able to, my co-Chair and I we were
5 actually able to secure a meeting with the then new
6 chief.

7 And then we had one other meeting following
8 that, but we haven't had a follow-up to that, I
9 suspect because of the recent turnover. So, that
10 was just trying to identify where that actually came
11 from.

12 Thank you.

13 **M^e PAUL CRÉPEAU:**

14 Okay. It's twelve forty-five (12:45).

15 **NAKUSET:**

16 Yes.

17 **Me PAUL CRÉPEAU:**

18 Do you still have a subject that you want to cover
19 today or the rest could be postponed until next
20 week?

21 **NAKUSET:**

22 Could we have another fifteen minutes and then we're
23 done?

24 **M^e PAUL CRÉPEAU:**

25 J' imagine...

1 **LE COMMISSAIRE:**

2 It's okay with me.

3 **M^e PAUL CRÉPEAU:**

4 Okay.

5 **LE COMMISSAIRE:**

6 Yes.

7 **M^e PAUL CRÉPEAU:**

8 Okay.

9 **ALLISON REID:**

10 I'm just going to add a few recommendations. And I
11 know that we've mentioned this a few times. But I'm
12 going to reiterate it. Because it's quite
13 important.

14 These are not my recommendations. I am not
15 indigenous and I work for the indigenous community
16 And these are recommendations that I've heard from
17 indigenous community members and that I'm
18 summarizing here as the coordinator of the Network.
19 An important one is that the aboriginal liaison
20 officer be an aboriginal person. In the "Entente de
21 collaboration" between the Network and the SPVM, it
22 specifically says that this person should be
23 appointed by the indigenous Comité de vigie. That's
24 not a process that has been done yet. So, I would
25 recommend that be implemented.

1 Also, as stated in the agreement, the Comité de
2 vigie should be the aboriginal community and should
3 represent the diversity of the community, which
4 includes Inuit, Metis and First Nations. The Comité
5 de vigie should be run in collaboration and led by
6 the aboriginal community.

7 The Network should be developing the information
8 sessions, which is what it says in the agreement
9 about aboriginal realities.

10 We have the structure that exists here in
11 Montreal. The Network exists to gather the
12 indigenous community.

13 Help the indigenous community, empower them
14 with the decision-making power to set up that
15 Working Committee, to gather the community members
16 themselves with this expertise. And refer to this
17 committee to advise on the content, to advise on the
18 content of the training sessions, the content of the
19 aboriginal people that should be on the Comité de
20 vigie. And those people should be in the positions
21 of power to be able to lead or at least to co-lead
22 the Comité de vigie.

23 Another quote from the Collaboration Agreement
24 says that the SPVM should provide the aboriginal
25 community with periodic information sessions about

1 the role of police in the SPVM. This should
2 include, for example progress on concrete actions
3 that are being taken to address systemic racism and
4 discrimination. This should be produced regularly
5 and that's for another recommendation.

6 And a final one is that this agreement was
7 signed in June twenty-fifteen (2015) and we're
8 almost three years later now, and I think it would
9 be wise for the new chief to sit down with the
10 Network to discuss this agreement and perhaps, if
11 it's not clear, because the implementation so far
12 hasn't matched the agreement. That we should be
13 revising that agreement with the person who signed
14 it, with the chief.

15 And looking on how that could actually benefit
16 the community. And if we need to flush out more so,
17 that it's clear in the implementation, that should
18 be done with the indigenous community.

19 **NAKUSET:**

20 I'm sort of going back to the beginning of when we
21 were talking about Cabot Square, but I think it's
22 important to know that, you know, because Cabot
23 Square is a meeting place for indigenous people and
24 they feel comfortable there, that right now the,
25 when indigenous people are in jail and when they're

1 released they have conditions and the conditions say
2 you can't go into Cabot Square.

3 And it was really ironic because there is one
4 particular woman who had her portrait painted and it
5 was in Cabot Square, but her ticket says she wasn't
6 allowed to go in. So she had to stand from across
7 the street and look at it. She wasn't allowed to go
8 in.

9 And we talked to the police about this and they
10 said: oh yes, we can reverse it. But then, they
11 can't. But I think that's really something we have
12 to do better. It's a systemic issue. Okay. Vicky,
13 you're going to say to the closing?

14 **VICKY BOLDO:**

15 I guess on behalf of the Network, I thank you for
16 having us here today. This has been incredibly
17 difficult and as I said earlier, I mean it really is
18 in good faith and in good spirit to do good work.

19 I know your jobs aren't easy. The realities
20 out there are still not easy and working at the
21 grassroots level is hard work.

22 But I guess my paying job now is providing
23 cultural support to the students at Concordia and at
24 Dawson and around the city. And I just, to give
25 some encouragement as I watched these youths that

1 are coming up that are future leaders, I'm really,
2 really hopeful, because they are shape shifters and
3 shift disturbers.

4 So, yes, thank you very much for your time and
5 be well.

6 **NAKUSET:**

7 I just want to say one more thing, if that's okay.
8 So yesterday we had this vigil and I organized the
9 vigil. So when I got there there was only maybe
10 about fifteen (15) people that were starting to come
11 together. But then all these police cars showed up
12 and then all these officers in uniform with yellow
13 showed up and the crowd was afraid. And I think
14 everyone had that, what's going on... why are they
15 so many? There's so... there were a lot.

16 And but, the person in charge came to me and he
17 said I am here for you, so, that's my role.

18 But that feeling that everyone felt when they
19 saw the police, of fear, if this Commission can do
20 anything, if we can try to alleviate that fear, that
21 next time we have a peaceful vigil and we see
22 police, we're like - hey, good to see you. Instead
23 of - oh, are you here for me? Am I going to be
24 arrested after this? Am I going to step out of
25 line? Because, for me to organize a vigil, I am

1 hyper sensitive to everyone in the group not
2 stepping out of line. Because we know what happens
3 when that does.

4 So, that would be awesome. That the next
5 vigil, that when we see police, that, you know, it's
6 in collaboration in a good way. And I'll see you
7 all next week.

8 **M^e PAUL CRÉPEAU:**

9 Thank you, Nakuset. Mrs. Reid, Deutsch and Boldo
10 (inaudible).

11 **LE COMMISSAIRE:**

12 It's almost one o'clock (1:00).

13 **M^e PAUL CRÉPEAU:**

14 Yes.

15 **LE COMMISSAIRE:**

16 I understand that's usually the time for our
17 counsels if they have questions to the witnesses. I
18 may do it, but I'll let know counsels that it's
19 almost one o'clock (1:00).

20 **M^e JEAN-NICHOLAS LOISELLE:**

21 It's for sure that we'll have some questions. But I
22 can make it next Wednesday.

23 **LE COMMISSAIRE:**

24 Next week?

25 **M^e JEAN-NICHOLAS LOISELLE:**

1 That's not a problem for me.

2 **M^e PAUL CRÉPEAU:**

3 Those subjects?

4 **M^e JEAN-NICHOLAS LOISELLE:**

5 Yes, no, but with those subjects. But I think
6 they'll come back. So I can for the time, I can
7 wait.

8 **LE COMMISSAIRE:**

9 If there is something special you may tell Me
10 Crépeau and it's possible for him to verify with the
11 witnesses and you may get that answer. You see,
12 we're not in a civil or criminal trial.

13 **M^e JEAN-NICHOLAS LOISELLE:**

14 No (inaudible) problem for me.

15 **LE COMMISSAIRE:**

16 It's an inquiry commission. There are many ways we
17 can inform people.

18 **M^e PAUL CRÉPEAU:**

19 Pour mon collègue, peut-être, lui dire que Mme
20 Deutsch ne sera pas là la semaine prochaine. All
21 three of you will be there. So...

22 **M^e JEAN-NICHOLAS LOISELLE:**

23 Okay, just Madam. No, it will be okay. I will...

24 **M^e PAUL CRÉPEAU:**

25 Okay.

1 **M^e JEAN-NICHOLAS LOISELLE:**

2 I have no questions for Mrs. Deutsch.

3 **LE COMMISSAIRE:**

4 The same for you Me Boucher and Me Laganière?

5 **M^e MARIE-PAULE BOUCHER:**

6 No questions for me, thank you.

7 **M^e MAXIME LAGANIÈRE:**

8 No questions either.

9 **LE COMMISSAIRE:**

10 Me Arteau? So it will time for me to thank you for
11 accepting our invitation to testify today. I want
12 to congratulate for your courage to decide to come
13 here. I understand you had to prepare, to get
14 ready. It may be difficult, we are listening to
15 what you have to say, what you said and I understand
16 that you will have much more to say.

17 I invite you to let us know if there is
18 something else you'll like us to know. You see, we
19 need to know what's going on. We know that
20 something is wrong. This is why there is an inquiry
21 commission. We have to understand what's going on,
22 why it's going wrong, and the only way to succeed in
23 this is to listen to you, listen to people living
24 those situations.

25 And I may add, it's not the first time I'll do

1 this, but it's obvious to me that people in Québec,
2 the general population in Québec, do not know the
3 history of First Nations and the Inuit. They don't
4 know about that. What happened for the last one
5 hundred and fifty (150) years before which can maybe
6 explain what's going on right now.

7 So, education and formation are necessary. You
8 told about me that, I understand that this should
9 not be an option, but it should be something that
10 even youngsters could learn should learn from the
11 beginning. So when they will be ready to become a
12 police officer, a nurse, a doctor, a lawyer or
13 anything else in the society, they will know that
14 First Nations are not the newcomers.

15 We have in Canada and Québec to respect
16 everybody, people coming from everywhere. But First
17 Nations people, indigenous people, were there much
18 more, a long time before us. You see, I have the
19 feeling that I am the immigrant, not you. Hum? So,
20 we have to respect that.

21 And when we are dealing with indigenous people,
22 we have to consider this. This is a feeling that I
23 will hope everybody in the province gets.

24 So, I want to thank you again for having
25 accepted our invitation. We'll be glad to see you

1 again next week.

2 So, have a nice day. See you next time.

3 Okay, we'll be back at two o'clock (2:00). I'll
4 give an hour to people to have lunch. Two o'clock
5 (2:00).

6 **LA GREFFIÈRE:**

7 La Commission reprendra à deux heures (14 h).

8 SUSPENSION

9 -----

10 REPRISE

11 **LA GREFFIÈRE-AUDIENCIÈRE:**

12 The Commission is back in session.

13 **LE COMMISSAIRE:**

14 Well. So, welcome back. Me Denis-Boileau, I
15 understand you're taking the place for...

16 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

17 Yes.

18 **LE COMMISSAIRE:**

19 ... the afternoon?

20 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

21 Yes, exactly.

22 **LE COMMISSAIRE:**

23 Yes? And we still have Me Boucher, Me Robillard et
24 Me Laganière là? So, welcome. Welcome to you.

25 So, Me Denis-Boileau, I understand you will present

1 us your next witness?

2 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

3 Yes. So, we will hear this afternoon for Jonathan
4 Rudin, who is Director of programs at Aboriginal
5 Legal Services in Toronto. So, we can start by
6 assessing(?) him, and after, I'll present him more
7 in detail.

8 **LE COMMISSAIRE:**

9 Uh-hum.

10 **LA GREFFIÈRE-AUDIENCIÈRE:**

11 So, you solemnly declare to tell the truth, say I
12 do.

13 **M. JONATHAN RUDIN:**

14 I do.

15 **LA GREFFIÈRE-AUDIENCIÈRE:**

16 Your name?

17 **M. JONATHAN RUDIN:**

18 Jonathan Rudin.

19 **LA GREFFIÈRE-AUDIENCIÈRE:**

20 Thank you. Your witness.

21 **LE COMMISSAIRE:**

22 So, welcome. We are happy to receive you this
23 afternoon. Thank you for having accepted our
24 invitation, we'll listen to you very carefully.

25 **M. JONATHAN RUDIN:**

1 Thank you.

2 **LE COMMISSAIRE :**

3 You may proceed, Me Denis-Boileau.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

5 Thank you. So, I was... as I was saying, so,
6 Mr. Rudin is Director of programs at... for
7 Aboriginal Legal Services of Toronto. He has an
8 LL.D. and a LL.M. from Osgoode Law School. He was
9 hired in nineteen ninety (1990) to establish
10 Aboriginal Legal Services in Toronto and has been
11 there ever since. He is currently the program
12 Director. He has appeared in... a lot of time
13 in... at different levels of Court, and he...
14 including the Supreme Court of Canada, and he
15 represented Aboriginal Legal Services of Toronto
16 before the Supreme Court in a lot of cases,
17 including the Reine v. (inaudible) Supreme Court
18 cases.

19 At Aboriginal Legal Services of Toronto, he
20 helped establish the Community Council, which he
21 will talk about today, and which is the first Urban
22 Aboriginal Justice Program in Canada. He also
23 helped establish the Gladue Court in the Old City
24 Hall in Toronto. So that will be a presentation, a
25 different presentation on the Gladue Court on

1 Friday.

2 He has written and spoken widely on a wide
3 range of issues on Aboriginal justice. Amongst
4 others, he co-wrote the Royal Commission on
5 Aboriginal Peoples Report on Justice. He also
6 teaches on a part-time basis in the lines of Native
7 Programs at York University.

8 So, he is here today to speak more directly
9 about Aboriginal Legal Services, which is an
10 institution giving legal services to Native people.
11 It is recognized, Aboriginal Legal Services is
12 recognized as a leader in Canada in services to
13 Native people in the matters of justice.

14 So, Mr. Rudin, I invite you to make us your
15 presentation.

16 **M. JONATHAN RUDIN:**

17 Thank you very much. Thanks to the Commission for
18 the invitation. I'm sorry that I can't do my
19 presentation in French, I would have preferred
20 that, but no one would have understood what I'm
21 saying, including myself.

22 **LE COMMISSAIRE:**

23 We have a good translator.

24 **M. JONATHAN RUDIN:**

25 Yes, but I think I will leave that in their capable

1 hand. So, I want to again thank you for the
2 invitation. Our organization originally was called
3 "Aboriginal Legal Services of Toronto". A number
4 of years ago, we changed our name to "Aboriginal
5 Legal Services", because we have programs in eleven
6 (11) different cities in the province, and I'll
7 talk about our growth and expansion in my
8 presentation.

9 I should also indicate that we have a
10 traditional Indigenous name. We have an Ojibwe
11 name that was given to us by Elder Jack of the
12 Valley(?). We gave her tobacco, we asked her to
13 give us a name, and the name she gave us was
14 "Gakigwywebabondwin(?)", which translates as "All
15 those who seek the truth". And I think the name
16 doesn't mean that we have the truth, it means that
17 we help people find the truth as best they can, and
18 I hope my presentation can help you in your work to
19 find the truth that's relevant to the situation in
20 Quebec.

21 So, I thought I would begin by talking a little
22 bit about the history of Aboriginal Legal Services,
23 why it started. Ontario, they are more Indigenous
24 people in Ontario than any other province in
25 Canada. It's not... the number of Indigenous

1 people aren't as visible, because Ontario has such
2 a large population.

3 And Toronto is the home for more Indigenous
4 people in Ontario than any other community. The
5 population estimates range from sixty thousand
6 (60,000) to eighty thousand (80,000) to a hundred
7 thousand (100,000) Indigenous people in Toronto.

8 Many of the programs in Toronto for Indigenous
9 people emerge from the Native Canadian Center,
10 which is a friendship center, and our program is no
11 different. In nineteen eighty-nine (1989), the
12 Native Canadian Center commissioned a research
13 project to look at the legal needs of Aboriginal
14 people in Toronto. At the time, the Center had a
15 core worker program, and they had an inmate liaison
16 program. They had individual schools go into some
17 of the jails, and they wanted to look and see if
18 there was a need for more programming. And so,
19 they commissioned a study in nineteen eighty-nine
20 (1989), which concluded that what Toronto needed
21 was a stand-alone agency that would be responsible
22 for trying to address the justice needs of
23 Indigenous people in Toronto.

24 And so, the Native Canadian Center agreed, and
25 in nineteen ninety (1990), a founding Board was set

1 up for... to create Aboriginal Legal Services of
2 Toronto, as it was then called.

3 The idea of the organization was it would take
4 the existing programs in the Native Canadian Center
5 had and would also seek funding from the Ontario
6 Legal Aid Plan. That's what it was called at the
7 time, it's now called "Legal Aid Ontario", to
8 operate a legal clinic, a community legal clinic in
9 Toronto.

10 Originally, it was thought, it was hoped that
11 the clinic would be able to do criminal law and
12 family law for Indigenous people, but Legal Aid
13 made it clear that they were not prepared to fund
14 that, because legal services in Ontario are largely
15 delivered by private lawyers working on Legal Aid
16 certificates, and they were not interested in
17 having a different model.

18 And so, the idea of doing criminal and family
19 law representing individuals in Court, that part
20 did not proceed with the organization.

21 So, I was hired in nineteen ninety (1990) to
22 help establish the organization and to develop the
23 funding application to Legal Aid. And one of the
24 issues that came up very early on was that there
25 was a feeling by people in Legal Aid that there

1 wasn't a need for a special organization to serve
2 the legal needs of Aboriginal people, and by "legal
3 needs", particularly things like landlord-tenant
4 issues, social assistance. There wasn't a need for
5 that, because in Ontario, we are... in Toronto and
6 in Ontario, there are a lot of legal clinics. And
7 the legal clinics tend to be established
8 geographically. So, in Toronto, there are a number
9 of legal clinics, and they tend to be located where
10 people of low income live. And so, the thought was
11 well, if you put a legal clinic where poor people
12 are, it won't matter who the poor people are, they
13 will use the legal clinic.

14 And one of the things that I did was I called
15 the legal clinics in Toronto, and I asked them -
16 how many Aboriginal people do you have using your
17 services? And most of them had no Aboriginal
18 people, at least no Aboriginal people that they
19 knew of, that were using their services.

20 And so, this suggested there was a gap. And I
21 remember, I still remember a conversation I had
22 with one of our founding Board members that I think
23 made this really very clear to me. He was a man
24 who was now living in Toronto, he was doing
25 computers, he had a very good job, but when he

1 first came to Toronto, he came from Manitoulin
2 Island, which is near Sudbury. He was a student or
3 he might have been even younger than a student, and
4 I said to him, I asked him - when you came to
5 Toronto, and you didn't have much in the way of
6 resources, if you'd had a legal problem, would you
7 have gone to a legal clinic? And he said I
8 wouldn't have gone to a legal clinic, because I
9 don't think they're there for me. He saw the
10 world as... the way to see the world really was
11 divided between Indigenous organizations and non-
12 Indigenous organizations. And if there was not an
13 Indigenous organization to provide him with the
14 services, then there weren't any organizations.

15 And this was something that was hard for some
16 of the people at Legal Aid, I think, to accept, you
17 know, lawyers who work at legal clinics see
18 themselves correctly as fighting the system and
19 trying to fix the wrongs of the system. But for
20 Indigenous people, those clinics are part of the
21 same system. They're part of the same system that
22 has oppressed and kept people separate.

23 And so, they didn't want to be involved in
24 that. They were going to access services, they
25 wanted services from an organization that was

1 controlled by Indigenous people, that understood
2 Indigenous issues intuitively, where you didn't
3 have to explain if you wanted to smudge, you didn't
4 have to explain that, you didn't have to explain
5 what the term "Derez(?)" mean. You didn't have...
6 you wanted a place where you could feel at home.
7 And legal clinics were not able to do that. And
8 so, we made that point to the Legal Aid Board, and
9 they eventually approved the funding for Aboriginal
10 Legal Services for the legal clinic portion. And
11 so, we began that work.

12 We started with about ten (10) or eleven (11)
13 staff in Toronto. We now have over sixty (60)
14 staff, and as I said, we're located in eleven (11)
15 different cities in Southern Ontario and what I
16 refer to as the near-North. So, you know, a couple
17 of hundred kilometers (200 km) away from Toronto,
18 not the far North that... that's a different part
19 of the province, and we generally don't provide
20 services there, there are some services we provide.

21 Broadly speaking, our services fall into four
22 areas. And so, I thought I would... identify the
23 four areas, and I'll talk about each of them.

24 So, the first is our legal advocacy work, our
25 legal clinic work. The second is our Court

1 workers. We have family and criminal Court
2 workers. The third is our Aboriginal justice
3 programs. And the fourth are our Gladue programs.
4 And the Gladue programs have now become the largest
5 part of our organization, but of course, when we
6 started in nineteen ninety (1990), no one knew that
7 it even existed.

8 So while I will talk about the four areas.
9 It's very important to understand that one of the
10 reasons I think we're successful is because the
11 experiences in one area influence and impact the
12 work in our other areas. You know, one of the
13 things that we're able to do is we're very much a
14 one-stop shop. So if someone comes to our... one
15 of our justice programs, and they have a landlord-
16 tenant problem, we... they just... they don't have
17 to go to another building across town, they just
18 see someone else in the same building that we're
19 in.

20 Our interventions in Court, which I'll talk
21 about shortly, are informed by the experiences of
22 our Court workers, of our Gladue staff. So, having
23 everyone in one place, and having one organization
24 delivering a range of services allows us to do that
25 work better, to identify new areas of work, and to

1 allow us to better advocate for our clients.

2 So, let me start then with the legal clinic
3 portion, our advocacy program. So, as I mentioned,
4 when we... when that program started, we were doing
5 what's often called "Poverty Law". Landlord-
6 tenant, people being evicted from their homes,
7 social... being evicted from... private landlords
8 or by social housing; we had social welfare people
9 being denied welfare, and those sorts of things.
10 Human Rights complaints. And that was what we did
11 for the first few years in terms of our legal
12 clinic. And when we started we had two lawyers.
13 I'm a lawyer as well, but I don't work (inaudible)
14 the clinic, so...

15 We now have four lawyers in the (inaudible).
16 So, we started doing that work, and a number of
17 things became clear to us over the years. One was
18 that there were areas of law that are unique to
19 Indigenous people, that no one was dealing with.
20 One of them, for example, was Indian Act
21 registrations. There were people who wanted to be
22 registered under the Indian Act and didn't know how
23 to do that. And so we actually had a fairly
24 significant program of trying to help people with
25 Indian Act registration. We were not able to ever

1 get that position permanently funded, and we
2 eventually had stopped doing that, we have
3 information kits for people. But that information,
4 that experience helped us in our intervention,
5 we've been involved in a number of Charter
6 challenges and Court challenges to provisions of
7 the Indian Act.

8 And we do public education materials for people
9 about registering. Recently, for example, in
10 Newfoundland, the government of Newfoundland-
11 Labrador has recognized with the federal government
12 the Qalipu Nation, which is a Mi'kmaq Nation. It's
13 the first new First Nation that's been recognized
14 in Canada. And the registration procedures are
15 quite unique, which is probably the charitable term
16 to use.

17 And so we prepared some materials to help
18 people who are going through that process because
19 we couldn't help every individual who called us,
20 but we provided information to assist in that
21 regard.

22 Another project that we were involved with the
23 American Indian Law Institute was about boarder
24 crossing and the Jay Treaty. So, you know, the
25 provisions of the Jay Treaty allow Canadian-status

1 Indians to go into the United States as a right.
2 And when they go to the United States because they
3 have status, they can... apart from welfare, they
4 can go and take programs, and go to university, and
5 all those things. Those provisions don't work the
6 other way, (inaudible) Canada didn't ever ratified
7 the Jay treaty. So, we would have people who were
8 very confused about why can my... why can I go to
9 visit my brother in the States and I can work, and
10 how come when my... or my cousin in the States and
11 when my cousin comes here, he gets arrested for
12 working illegally? So, we worked with the American
13 Indian Law Institute to do a pamphlet, which is
14 online, which explains the Jay Treaty.

15 So, what happened with our work is we started
16 to discover that there were important legal issues
17 that were unique to Indigenous people, and there
18 really wasn't an organization that was able to take
19 those things on. And so we took them on. And so
20 we started doing that work and we continued to do
21 that work in public legal education and other
22 areas.

23 The other thing that we... that I guess about
24 seven or eight years into our work, that we thought
25 we needed to start to get involved in was test-case

1 litigation. So, we started to become involve in
2 cases going to the Supreme Court of Canada, which
3 we thought had an important impact on Indigenous
4 people in Toronto, but all in... elsewhere as well.

5 The first case we were involved in was a case
6 called "Williams", which was a decision in the
7 Supreme Court in nineteen ninety-eight (1998),
8 which dealt with challenging jurors for cause where
9 the concern was that the individual would be
10 partial, would harbour discrimination towards an
11 Aboriginal person who is an accused person.

12 And so - excuse me - we went to the Supreme
13 Court, and we were an intervener in that case, and
14 the Court came up with a very important decision
15 allowing jurors to be challenged for cause on the
16 base of prejudice towards Indigenous people. We
17 were the only Indigenous organization at the
18 Supreme Court on that case. So, there were other
19 interveners, but we were the only Aboriginal
20 organization.

21 And what we found, we've been to the Supreme
22 Court now... by March or April, we'll have been
23 about twenty or twenty-two times. We are usually
24 the only Aboriginal organization that's there.
25 Certainly, if it's a criminal law matter, we're

1 almost the only one. We were the only Aboriginal
2 organization in Gladue, we were the only Aboriginal
3 organization in Wells. We were the only Aboriginal
4 organization in Ipeelee and that speaks to us to a
5 gap. I mean, it's nice that we're able to do this,
6 but it would be nicer if there were more
7 organizations like us. It... we've taken on roles
8 that we have to take on, but it would make sense if
9 there were other organizations who could do similar
10 work.

11 But the interventions have been important, and
12 they also help inform what we do. So, for example,
13 I mention Williams, which was the first
14 intervention that we did, and I should mention
15 Professor Kent Roach, of the University of Toronto,
16 who was very helpful, and he represented us in the
17 first three or four or five cases that we did and
18 then he taught us, and we generally deal with them
19 in-house now.

20 But a number of years after the *Williams*
21 decision, we had an Elder who was... who came to us
22 and provided us a lot of teachings, and a lot of
23 service, and her son was murdered and the
24 individual who was accused of his murder was a non-
25 Indigenous man. And she was concerned that... she

1 was concerned with a lot of aspects of the trial,
2 and one of the things that she was concerned with
3 was that jurors might not be... might look
4 differently in this case, because the victim was an
5 Aboriginal person, and so we... the case was
6 happening outside of Toronto, about an hour outside
7 Toronto.

8 And so we went to Court on her behalf to argue
9 that the *Williams* rule, which allows defence
10 counsels to ask potential jurors if their ability
11 to decide a case could be influenced by the fact
12 that the accused was Aboriginal, should apply as
13 well, and the Crown should be able to ask the
14 question of jurors if their ability to decide the
15 question would be influenced by the fact that the
16 accused is White and the victim is Aboriginal. And
17 there was a hearing and the judge allowed the
18 question to be asked.

19 And that's an example of how we're able to take
20 sort of the broad legal question that we intervene
21 on and try to make it work in a specific case and
22 try to expand the reach of that case. It's too bad
23 that the Crown, a couple of weeks ago, didn't do
24 that, probably in Saskatchewan, but that's an
25 example of how, you know, we do the interventions,

1 and the impact of the interventions. We also - and
2 I'll talk about this later if I remember, because I
3 keep saying I'll talk about things later, I don't
4 know if I'll remember everything, but you're taking
5 notes, so that will help, thank you.

6 You know, the work that we did with Gladue and
7 the expansion of Gladue, started with the case, our
8 intervention in the case. And then we were able to
9 carry it forward in other areas, and that's an
10 important thing for us. Because we're... it's one
11 thing to bring a matter to Court and it's great to
12 get a decision that's favourable, but making that
13 decision real continues to take work, and some of
14 that work is not lawyer's work, it's a legal work
15 in the same way and we're able to undertake that.
16 So, I'll give you some examples a bit later.

17 The other areas that we spend a lot of time in
18 our advocacy work on, we've done a lot of work, a
19 lot of inquest work. The over-representation of
20 Aboriginal people in jails means that Aboriginal
21 people also are over-represented among those people
22 dying in jail. And in Ontario, when someone dies
23 in jail or in police custody, there's a mandatory
24 inquest, a Coroner's inquest.

25 And we became very involved. I guess, starting

1 in the late... starting in... it is the late
2 nineties (90's), we now do inquests across the
3 province. Our legal advocacy Director who would
4 have been here, can't be here, because she is in
5 Sioux Lookout, which is in the far North of
6 Ontario, in an inquest involving an Indigenous
7 woman from a Reserve community who died in police
8 custody, and also received, we think, and we'll see
9 what the jury thinks, substandard medical
10 attention.

11 A couple of years ago, I was co-counsel with
12 one of our lawyers in an inquest in Thunder Bay
13 into the death of several First Nations youth who
14 were attending High School in Thunder Bay and over
15 a ten-year period, died in Thunder Bay. It was the
16 longest and largest inquest, I think, in Ontario
17 history.

18 So, we do a lot of inquest work. And one of
19 the reasons that we do that is because we developed
20 an expertise, but also because Indigenous people
21 know that we provide that service. And when you do
22 work on inquests, it's not... it's often not really
23 a "who done it", you know, we know what happened.
24 What you really try to do is think about what are
25 the appropriate recommendations that could make

1 things better. And because of our experience
2 working with Indigenous people and with our staff,
3 we're able to approach inquests always with a view
4 of what the recommendations might be, with an
5 understanding of what on the ground happens on
6 First Nations, what on the ground happens to
7 Indigenous people in urban areas.

8 So, we bring a perspective to the inquest, I
9 think that often very good lawyers, but lawyers
10 who, you know, they practice, they do litigation
11 work and they do a couple of inquests, they don't
12 know the lives of the clients that we... that they
13 are representing in an inquest. We know their
14 lives both personally, because we talk with them,
15 but we know their lives, because we work with other
16 people, and we know the broader scope of the
17 situation. And so we're able to bring to the
18 inquest, I think, a level of suggestions in terms
19 of recommendations that wouldn't be there. We're
20 able to ask witnesses questions that perhaps they
21 wouldn't be asked.

22 And similar to our inquest work, we're also
23 involved in public inquiries. So we receive
24 standing to appear at public inquiries in Ontario.
25 We appeared at the... we had standing at the

1 Ippeewash Inquiry into the death of Dudley George.
2 We had standing with Nishnabe Aski Nation at the
3 Goudge Inquiry, which looked at pediatric
4 forensics. This is the Charles Smith case, the
5 Doctor in Ontario who, as a... because people
6 thought was an expert, kept saying that... children
7 had been killed by individuals when they hadn't
8 been killed.

9 The focus of that inquest was not... the
10 inquiry was not initially to deal with Indigenous
11 issues, there was one Indigenous man who was
12 wrongfully convicted as a result of Charles Smith's
13 testimony, but because of our work on inquests, we
14 knew that the Coroner system, particularly in the
15 North, for pediatric death investigations, is
16 completely lacking. That the term "Coroner" had
17 absolutely no meaning to First Nations people in
18 remote communities. Although pediatric deaths,
19 tragically, were much more common, are much more
20 common in Indigenous communities because their
21 health are so much worse.

22 And so we were able, because of our involvement
23 along with the Nishnabe Aski Nation, we were able
24 to get the inquiry to look specifically at that
25 issue, and there's a chapter in the final report

1 that talks about the needs for pediatric Coroner
2 services, or Coroner services in the North around
3 pediatric deaths. And that's... that has been very
4 helpful for the Coroners to help move that system
5 forward.

6 So again, we were able to take the experience
7 that we had with our inquest and move that into our
8 work with inquiries.

9 We've also been involved, and we are... we've
10 also been involved in inquiries in other parts of
11 the country. We are... we have standing at the
12 Nation Inquiry into Indigenous Murdered and Missing
13 Indigenous Women in Quebec. We had standing in the
14 inquiry into the death of Frank Paul, who was a
15 (Mala...audible) man, in... living in Vancouver,
16 who was left to die on the street by police.

17 We had standing in the Sinclair Inquiry in
18 Manitoba about Mr. Sinclair who was left in a
19 hospital for two days and died. We... and that
20 work as well, the reason that we do that work is
21 because we think we bring a perspective that some
22 of the other parties don't bring to this work.
23 Because even though we don't work in Vancouver, we
24 work a lot with homeless people, Indigenous
25 homeless people, so that when we were at the Frank

1 Paul Inquiry, and there was talk about what sort of
2 services the homeless people need, we were able to
3 bring in an expert from Toronto who talked about
4 the way in which... the shelter system which...
5 require people to be abstinent before they get into
6 the system, brings about risky and harmful drinking
7 impacts. And the idea of creating shelters for
8 people who are alcoholic, who can drink while
9 they're at the shelter.

10 And that was a recommendation that we were able
11 to bring to the inquiry, that the inquiry
12 incorporated into their results, that we were
13 then... when we did another inquest in Northern
14 Ontario, we were able to bring that information in.
15 So, we were able, that's sort of the way in which
16 things, we're able to sort of bring our perspective
17 into a number of different forums.

18 I should also mention I hadn't... that our
19 Court work, we have also intervened in Court cases
20 outside of Ontario as well. We were at the British
21 Columbia Supreme Court of Appeal in a matter around
22 the Frank Paul case. We intervened at the
23 Saskatchewan Court of Appeal in a case of dangerous
24 offenders. And I had the opportunity to appear at
25 the Quebec Court of Appeal in a case called "Cloud"

1 about the victim surcharge.

2 So again, we've been able to do that work,
3 because our experience in doing that work in
4 Toronto has informed the work that we do elsewhere.
5 And so, when we, I think, when we go to Court, when
6 we go to the Supreme Court, for example, we're able
7 to bring the experiences of our clients, and that's
8 an experience that Courts don't usually see.

9 Another example would be the *Golden* case of
10 the Supreme Court of Canada, which is the case
11 about strip searches. We got involved in that case
12 because many of our clients were being strip-
13 searched by the police, the Metropolitan Toronto
14 Police Service, and they were doing that
15 essentially, in our opinion, to humiliate people.
16 And we wanted individuals to know that, so we
17 raised that issue with the Supreme Court in *Golden*,
18 and the Supreme Court again made a particular
19 mention of that.

20 So, those are ways, I think, in which the works
21 that we do on the ground informs the work that we
22 do in our intervention work.

23 The last thing I'll say about our advocacy for
24 the moment is what we have started to do more
25 recently, is we have started to get involved in

1 cases, intervene in cases right at the outset. So,
2 we intervene in cases at first instance,
3 particularly where there's a Charter case. So,
4 we're... we have done, I guess, three of those so
5 far. We have... next Tuesday, actually, we'll be
6 getting a decision from the Superior Court in
7 Ontario. It's a challenge to the mandatory minimum
8 for drug importing, and also a Charter challenge to
9 the lack of availability of access to condition of
10 sentences, because of the amendments made in two
11 thousand and seven (2007) under the Safe Streets
12 and Communities Act.

13 So, we thought it was important, because if you
14 just intervene at the appellate-level, the record
15 has been set, all the evidence has been called, but
16 if we get involved, when we get involved at first
17 instance, we're able to... and we have called
18 experts. So, we're able to, I think, provide a
19 grounding for matters that wouldn't otherwise
20 happen, and for busy defence counsel, the advantage
21 is we have some expertise in this area. We know
22 some of the experts, and so we can work with them
23 in that area. So, those are all areas where our
24 advocacy work, I think, has developed quite
25 significantly over the years.

1 I guess the last part of advocacy that doesn't
2 deal with going to Court is appearing before, I
3 mean, bodies like this, when we're asked, or House
4 of Commons committees, Senate Committees. We
5 regularly make representations at those Committees.
6 Again, an example of how these things all fit
7 together, I mentioned the work that we did on
8 Indian Status Cases, people who wanted to apply for
9 Indian status. We had a case called "GEHL",
10 G-E-H-L, that took probably about seventeen (17) or
11 eighteen (18) years to finally work out, which is
12 an Indigenous woman who was denied status, because
13 it wasn't clear who her paternal grandfather was,
14 and the Indian Act rules have changed over the
15 years.

16 So, that litigation just took forever. It was
17 finally concluded at the Court of Appeal last year
18 successfully. And at the same time, the House of
19 Commons and the Senate were considering the
20 amendments to the Indian Act as a result of the
21 decisions out of Quebec as well. And we were able
22 to go to that Committee and then make suggestions
23 for amendments based on our experience, working
24 both with individual clients, but also, with the
25 *Gehl* case.

1 So, all of this helps inform the work we do and
2 I think makes us all better advocates. It's not
3 that lawyers who don't work for Aboriginal Legal
4 Services aren't good advocates, but they don't
5 always have the grounding and the lived experiences
6 of our clients, and we're able to bring that. And
7 I think that's an important part of our work.

8 You know, I have to say I don't think we didn't
9 imagine that we'd be doing this when Aboriginal
10 Legal Services was formed in nineteen ninety
11 (1990), we didn't think we'd be going to the
12 Supreme Court regularly or any of those things, but
13 it's been an important aspect of our work.

14 So, I'm going to move to another area. Do you
15 want me to do that or do you...? Okay, so, I will
16 move to... I'll talk a bit about our Court workers.
17 I know you're familiar with the Court work program.
18 I think the SPAK(?) is the acronym here for the
19 Indigenous Court workers. We have a Court work
20 program only in Toronto, we have five (5) criminal
21 Court workers, and one... the Youth Court we've got
22 one Family Court worker.

23 And the Court workers are often sort of the
24 gateway to our services. Access to our Gladue
25 program often towards justice... Aboriginal justice

1 programs come from the Court workers. The Court
2 workers often make referrals to our legal clinic
3 for people who also have landlord-tenant issues.
4 The Court represent really a central part of our
5 work, and we integrate them quite fully in the work
6 that we do in our other areas, and I'll talk about
7 that, but that's all I was going to say about the
8 Court workers. We're... I think we have a great
9 Court worker program, we're really proud of them,
10 and they are very much seen by the Courts as an
11 integral part of the Court system, and I think when
12 I'm back on Friday, and Justice Green is here, she
13 can talk about the role of the Court workers. And
14 I guess, all I'll say about that at this point is
15 that I know that in different parts of the
16 province, certainly in Ontario, Court workers are
17 viewed differently. In some places, they're seen
18 as a resource, in other places, people don't seem
19 to want to know that they exist. And they are a
20 great resource, they can be a really valuable
21 resource, and I'm very proud of the fact that our
22 Court work program has... is being seen as really
23 integral to the work of the Courts in Toronto.

24 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

25 I just have a question. How many Court workers do

1 you have in Toronto from Aboriginal Legal Services?

2 **M. JONATHAN RUDIN:**

3 So, I think it's... let me just check. One, two,
4 three... six, and we have a Court work trainee. So
5 we have seven (7) in total. So all the Court
6 workers in Toronto are... work for Aboriginal Legal
7 Services.

8 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

9 Okay.

10 **M. JONATHAN RUDIN:**

11 And one of the advantages is... of that is that...
12 set in Toronto is... Aboriginal services is
13 developed, really all the justice programs in
14 Toronto are all under our roof. So, the advantage
15 of that is that when we want to support our
16 Aboriginal justice program, which is the next
17 program I'll talk about, when we want to talk about
18 that program, we want to work for that program, we
19 can tell the Court workers - this is what you
20 should be doing, you should be working with this
21 program, you know, because you're all working
22 together, we all meet together. You're supervised
23 by the same person. So, people know that they're
24 on the same team.

25 I know in other provinces the Court workers are

1 often, work for one organization, the Aboriginal
2 Justice Program or the Criminal diversion, or they
3 may work for another organization. They may not
4 talk to each other. They probably should talk to
5 each other, but they don't and there's no way to
6 make them talk to each other. I would like to
7 think we don't force people, but we do make people
8 talk to each other, because you're all working for
9 the same place.

10 And that's an important point to allow us to do
11 our work, is that we cannot... we are this sort of
12 on-stop-shop to a large extent and that's very
13 helpful. So, when we have some of our Gladue staff
14 who work in other communities, the Court workers
15 don't work for us. And so, our relationships with
16 Court workers may not be as ideal as we would like
17 it, but it's hard to get that to work out, because
18 they don't work for us, and so, if I call
19 (inaudible) to say who are you... the Court workers
20 will say who are you? Why are you calling me?
21 So...

22 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

23 Just to... sorry, to make a... And I understand
24 that on Friday, you'll talk more in depth about the
25 role of these Court workers?

1 **M. JONATHAN RUDIN:**

2 Yeah, I'm going to talk about... I'm probably going
3 to talk about their role in the Gladue Court.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

5 Okay.

6 **M. JONATHAN RUDIN:**

7 I'm going to talk about the... I'm going to talk
8 about our Aboriginal justice program, and then,
9 I'll talk about the role of the Court workers for
10 that program as well.

11 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

12 Okay.

13 **M. JONATHAN RUDIN:**

14 So, the third program we have is our Aboriginal
15 Justice Program, and it has two components to it.
16 We have what we call the "Community Council
17 Program", which is a criminal diversion program for
18 Aboriginal adults and youth. And our Giiwedin
19 Anang program, G-I-I-W-E-D-I-N, new word,
20 A-N-A-N-G, Giiwedin Anang is a... an Ojibwe word,
21 it means "North Star", and I'll explain how we got
22 the name a little bit later.

23 So, our Community Council program was the
24 first... it was mentioned, the first urban
25 Aboriginal Justice Program in Canada. It started,

1 it heard its first case in nineteen ninety-two
2 (1992).

3 The genesis of the program, I think, is
4 interesting. At the time, in the early nineties
5 (90s), that were in nineteen ninety (1990)
6 basically, the provincial government was funding
7 two (2) Aboriginal Justice Programs in the North.
8 They were basically Elder Advisory Councils, so
9 there would be Elders who would sit with judges
10 when the judges came in on the circuit through the
11 Court. And our Board thought that well, this was
12 good and important. There are Indigenous people in
13 the city and they need programs too.

14 And so we wrote a letter to the Attorney
15 General at the time and said: we would like funding
16 to create an Aboriginal Justice Program in Toronto,
17 which is the largest Indigenous population in the
18 province. And we got the funding, it was... which
19 was great.

20 We didn't know exactly what the program would
21 look like, because we didn't have any models. So,
22 we had nothing to go on, except the knowledge that
23 we had come up with something better than what was
24 happening. Because what was happening now was
25 despite our Court workers and how good our Court

1 workers were, really, what was happening was an...
2 a person would be charged with a criminal offense,
3 the Court worker would help them, they'd get a
4 sentence, they go to jail, they come out, they
5 commit another offence, the Court worker would help
6 them, but we weren't breaking the cycle. The Court
7 workers couldn't break the cycle, and then we need
8 to find another way to break the cycle, and the
9 cycle was not being broken by these constant
10 periods of incarceration for people. That wasn't
11 doing it. Jail was not successful in changing
12 people's lives, certainly our clients' lives. And
13 so we thought there needs to be another way, there
14 has to be another way to do this.

15 So, we were pretty confident there was another
16 way to do it. We weren't confident as to what that
17 way was but were confident that we could find that
18 way. And we were confident we could find that way
19 because we could rely on the Elders and Traditional
20 Teachers.

21 And so that was the crucial part of our... the
22 program. So we received funding, and the funding
23 allowed us to spend a year developing the program.
24 And that was very important for us, because we
25 needed to find something that worked for people in

1 Toronto. And what works, what may work in the
2 North, may work in some communities in the North,
3 may not work in Toronto. Maybe it will work in
4 Toronto, but maybe it won't. We needed to find out
5 what was going to work in Toronto.

6 And so, we took the funding and we were able to
7 spend a year, well nine or ten months developing
8 the program. We spent time at the beginning
9 negotiating with the Crown's office in Toronto
10 about the parameters of our diversion program. So,
11 our diversion program is slightly... had broader
12 parameters than most criminal diversion programs.
13 We can pretty much take any offense into the
14 program, except we really can't do sexual offences
15 and domestic offenses, because of Crown policy.
16 We... when a matter is diverted into our program,
17 the Charters are withdrawn or stayed at the
18 beginning. So you don't go back, there's no need
19 to go back to the Crown to say this is what the
20 person did. It's simply withdrawn right at the
21 beginning, which was an important issue for us.

22 People can come back into our program if they
23 have offended again, as long as they completed the
24 first diversion. So we had a lot of flexibility
25 built into our program, which was very, very

1 helpful.

2 I'll just speak about why, for us, it's
3 important that the matter not go back to Court.
4 Many diversion programs work with the individual
5 having the charges withdrawn, and then, the Crown
6 saying: okay, you have, you know, ninety (90)
7 days, three (3) months or four (4) months. Then
8 you come back, tell me what you've done. And if
9 it's sufficient, I will then withdraw the charge.

10 And to us, that was problematic for two
11 reasons, and I think we understand it more now. We
12 do understand it more now than we did then, but it
13 was problematic for two reasons. First of all,
14 because healing takes time. You know, maybe it
15 takes three months, maybe it takes more than three
16 months, but if you say to someone: okay, I'm going
17 to divert your charge, but you have to come back in
18 three months, and I'll tell you whether you've done
19 enough. What that... we were concerned that what
20 that would do is it would stop our program from
21 actually recommending to someone what they really
22 needed, but instead, we recommend: what can you do
23 in ninety days that will satisfy the Crown? And
24 that's a different question. That's not about what
25 is healthy or healing or going to address the root

1 cause of someone's behaviour, it's about how can we
2 please someone external to the process?

3 The other thing that... having to go back to
4 the system, to the Court system does, is that it
5 means that the Crown attorney is holding the
6 hammer. If you don't do what we ask you to do, you
7 could go back to Court. You could be convicted.

8 And we wanted to run the system where if
9 someone was going to do what they were going to do,
10 it was because they wanted to, not because they
11 were afraid of anything. We thought we would try
12 and operate our program, if you will, without a
13 net, like see if it works. And I'm happy to say
14 that the program is very successful. We're the
15 largest and the busiest urban or Aboriginal justice
16 program, I think, in the country. We deal with
17 over two hundred (200) cases a year.

18 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

19 Just a question before you go on. You say the
20 program has been very successful. There is no net
21 it doesn't go back to the Crown. Do you have some
22 number about recidivism, or how do you evaluate the
23 success of the...

24 **M. JONATHAN RUDIN:**

25 Right. So, that's a very good question. I would

1 say, so I give two answers. One is that the
2 federal government, the Department of Justice, has
3 in fact studied our program and other programs and
4 they find... have found actually that the program
5 does reduce recidivism by a statistically
6 significant margin.

7 I'm not a big fan of recidivism studies.
8 Healing is a process. I don't think someone who
9 offends and then reoffends is a failure. There may
10 be reasons, as long as they continue to work on
11 their healing.

12 We measure success in different ways. One of
13 the things that happens at our work is we lose a
14 lot of clients. Every year, people die. And
15 very... few times do they die of natural causes.
16 People are killed, they're killed very violently.
17 They overdose. They... all sorts of very tragic
18 things happen. We spend a lot of time at the
19 funerals, we spend a lot of time doing ceremonies
20 for clients.

21 What our program is about in many cases is
22 trying to save people's lives. And we know that
23 our program works, because people come to us, and
24 they say: now, I have a house, now I'm not living
25 on the street. And that's how we measure success.

1 But we also have the recidivism numbers, so that
2 helps.

3 So, when we were starting the program, after we
4 got the paramaters sort of how the program would
5 work with the Crown, we went to the Elders and
6 Traditional Teachers, because they're the ones who
7 had the answers. We... they only knew. It would
8 be wrong for us, it would have been wrong for us to
9 try and figure out what the program would look
10 like. The knowledge and the wisdom was with the
11 Elders and Traditional Teachers. We are not...
12 this isn't anything new, this is returning back to
13 communities what they always had. Dispute
14 Resolution, all communities have Dispute
15 Resolution. We can't function without that. It
16 may not be jails, it may not be judges and it may
17 not be Courts, but there's Dispute Resolution.

18 So, we wanted to go to the Elders and ask about
19 that. And so, in the summer of nineteen hundred
20 ninety-one (1991), I went to a gathering at the
21 Native Canadian Center. They had an Elders
22 gathering. They had probably twenty (20) or thirty
23 (30) others Traditional Teachers. And I went with
24 two questions. Which... and it was important for
25 us that we ask two questions.

1 The first question was we said we have this
2 funding to do this program. The first question
3 was: Should we do this? Because if you're going
4 to ask people who you respect for their advice, I
5 think the first question isn't - we're doing it and
6 this is... well, tell me what it should look like.
7 The first question is should we do it? And if we
8 were told we weren't the right organization or we
9 weren't ready, or... then we wouldn't have done the
10 program.

11 And then the second question was: If we do
12 this, what should it look like? And the Elders and
13 the Traditional Teachers said we should do the
14 program, and they said as to what it should like
15 that's a longer discussion.

16 And so, they asked... they said: we're going
17 to ask someone in our group to get a gathering
18 together for you to look at these questions. And
19 so you'll be able to get answers, but not here.

20 And so, we went away, I went away, and they
21 asked particular individuals to get this gathering
22 together, and I wanted to tell the story because I
23 think it's instructive about some of the conflicts
24 that arise sometimes between the ways in which
25 government works and what needs to actually happen.

1 So, we had done this funding proposal, saying,
2 you know, if you will do this after three months,
3 it's after six months, it's after, you know, what
4 you have to do. And I was under some pressure
5 to... because I had to respond to the funders, but
6 what this program would look like. And you know,
7 we're coming up to September, the... our fiscal
8 year starts April first (1st), six months in, I'm
9 worried that we're not going to hit our milestone,
10 so I start calling the Traditional Teacher who was
11 supposed to set this up. So, I call him in July,
12 and I say, he lives in a... he lives... he's passed
13 away now, but he lives in a community near Owen
14 Sound, and I called him, and I say - Hi... how's it
15 going? When do you think it's going to happen? He
16 said don't worry, you know, it's happening.

17 And then, after a while, he stopped taking my
18 calls altogether, because I kept... because he
19 wasn't going to talk to me, because I... he knew
20 what I was calling about. I wanted to know when
21 it's going to start, and he wasn't responsible to
22 me, he was responsible to the Elders. And the
23 Elders and teachers wanted him to set this up, and
24 that meant finding the right people at the right
25 time at the right place. You know, you don't

1 just... you don't get to people with the knowledge
2 you want and call them, say - hey, come to the
3 hotel, and we're going to have a meeting. It has
4 the right people, the right time and the right
5 place. And my need to try and get everyone
6 together so I could write something down on the
7 report was not of any significance to him, and it
8 shouldn't have been. But it was hard for me, but
9 then, I got the message when he never called me
10 back.

11 And then one day in August, I think a
12 Wednesday, I got a phone call from him saying
13 okay, it's happening tomorrow. You're getting...
14 you have to... get keys to a cottage on Birch
15 Islands, the Manitoulin Islands, near... I
16 mentioned near Sudbury. Get the keys to the
17 cottage from so and so and drive up and you're
18 going to get some supplies and you bring a tent,
19 because the Elders are staying in the house and
20 you're staying outside.

21 And so, I went up, because he had then found
22 the people, he found the place, because Birch
23 Island is near a place called "Dreamers Rock",
24 which is a very sacred place. And it was the right
25 time, which was near the middle of August.

1 And so we spent two and a half ... I spent two
2 and a half days with the Elders there, and it was
3 really... I mean, it was a profound experience for
4 me, although it's not about me, but it was... what
5 it was, because I got to ask a lot of questions.

6 You know, I... when I approached these issues,
7 I come burdened with the fact that I went to law
8 school. We have a very... law school teaches us to
9 think about justice in a very narrow way, you know,
10 this is what justice is going to look like. And
11 you know, I thought I hadn't been practicing law
12 actively, I was doing other work in the community
13 at the time. After I while, I don't have these
14 narrow views of law, but actually I had very narrow
15 views of law.

16 And it was illustrated to me a couple of ways.
17 So one of the first questions, so when the meeting
18 started, I guess on the Friday morning or whichever
19 day it started, we went outside, there was a sacred
20 fire that was lit, prayers were said, and we spent
21 the whole day around the fire. And the first
22 question I asked was: we have this program, we have
23 this funding. We're going to have volunteers. The
24 idea is volunteers will sit with the people who we
25 (inaudible). What qualities, like, who should we

1 get to be these volunteers? How do we pick the
2 volunteers?

3 And it took me a long time to get this. The
4 Elders were incredibly patient, but they... it sort
5 of summarized, broken down into, you should look
6 for people who will treat offenders and victims
7 with kindness and respect.

8 And you know, it's interesting, because when I
9 think of two words to describe the criminal justice
10 system, sort of dominant criminal justice system,
11 the Western criminal justice system, kindness and
12 respect are not two of the words that leap to mind
13 in the process. Ah, you know, there is respect,
14 but there is a very much a one-way respect, which
15 is when the judge walks into the room, we all stand
16 up, so we respect the Court. But the Court doesn't
17 actually necessarily respect the people who are
18 before them. Often it disrespects the people.
19 That lawyers get some respect, and that people have
20 been behind the bar get very little respect.

21 So, thinking about kindness and respect in
22 terms of justice was actually hard for me to get,
23 and that was my problem, but the reason that they
24 talk about that is because when you treat people
25 with kindness and respect, you can actually have

1 conversations with them about what's really going
2 on in their lives. And that proved to be true. So
3 the first thing we were told is kindness and
4 respect.

5 The second thing I asked, I mean, this was the
6 second I asked was... I said you know, we're
7 starting this program, I know that there are a lot
8 of people who could qualify to enter the program,
9 because we are going to deal with Indigenous people
10 before the Courts, and we want to start slowly,
11 we'll probably start with forty (40) or fifty (50)
12 cases maybe the first year. How do we pick who
13 should come into the program?

14 And when I said "how should we pick... who
15 should come into the program" what I was really
16 saying was how do we get the winners? Right?
17 Because someone is going to ask how successful the
18 program is, and you're going to want to say well,
19 you know, forty-eight per cent (48 %) ... forty-
20 eight (48) of the fifty (50) people completed. So
21 really, when you're saying who should come in?
22 What you're saying is who do I think will do well
23 in the program? who probably doesn't need the
24 program, but would do well enough that if we get
25 in, our staff will look good?

1 And I got this look from the Elders and
2 Teachers, which I, at this point, had gotten used
3 to, which is like: what planet are you from? And
4 they said essentially - who are you to look into
5 someone's heart and know what will happen if you
6 treat them with kindness and respect? All you know
7 of the people that you're working with in the
8 Courts is that they have prior convictions, many of
9 them. And the criminal justice system doesn't work
10 for them. That doesn't tell you anything about how
11 treating them differently will work.

12 So, we were told we were not to make judgments.
13 We were to take anybody who was before the Courts
14 and wanted to come into the program.

15 Now, I want to say that not all programs
16 operate this way, and when I speak about our
17 experience, I only mean it as our experience. I
18 don't mean that our experience is the only way or
19 the best way, but it is... but it's the way that
20 worked for us.

21 And the Elders shared many things over the two
22 and half days that we were there. They talked
23 about the importance of treating everyone
24 individually, that you have to give people
25 decisions that they can do. That there's no point

1 giving people something they can't do, that they...
2 the clients that we're working with, the people
3 that we're working with in the criminal justice
4 system are people who had failed all their lives
5 often, people for whom failure is not only the norm
6 it's what expected of them, they're expected to
7 fail.

8 And so that, for failure is not an issue for
9 them. So, what we have to do is give them, we were
10 told you have to give them a decision that they can
11 do. And then, you build on that. So, if they do,
12 and then they re-offend, then, they come back. And
13 when they come back, the Elders, the Traditional
14 Teachers said they feel two things that are really
15 important, that they probably haven't felt before.
16 One is, they feel pride, because they finished
17 something. It may seem like... it might not seem
18 like much to some people, but they did something,
19 they started something, and they finished it. And
20 they also feel a little bit ashamed, because
21 they're back. And that's not a bad thing, because
22 you can use that to start the discussion about what
23 else needs to happen.

24 You know, there's no point telling someone who
25 has an addiction that they have to stop, you know?

1 If they are an alcoholic, they have to stop
2 drinking if they don't realize they have an
3 addiction. You can tell them all you want, but
4 it's not going to change, so you have to find
5 another thing for them to do, and then, later, you
6 can have that conversation, and that's been our
7 experience.

8 And again, the Elders said many things that
9 they said, and I provided... we did a little
10 outline of this, and it's on our Website, it's
11 the... we call it the Birch Island of Elders and
12 Traditional Teachers gathered.

13 So, we got a lot out of that. It was a very
14 significant meeting. And then it allowed us to
15 think about how the program was going to develop.
16 So, we came back to Toronto, we wrote to... we
17 summarized the Birch Island discussions and we
18 wrote to all the Indigenous organizations in the
19 city and said: we need volunteers for this
20 program. If you can think of people who meet these
21 criteria, tell them, tell us, and we'll take them.
22 We're not going to interview people, we'll just
23 take whoever (inaudible).

24 The last phase, or the second last phase of the
25 process was that we had community consultations.

1 So we had two community consultations. Which was
2 with the community, but also I know, frankly,
3 largely with Indigenous organizations and service
4 providers, to talk about what should the program
5 look like from a very practical on-the-ground-in-
6 Toronto approach.

7 And we got some very valuable feedback. Again,
8 we started the discussion by saying we've been to
9 the Elders, this is what they said. Do you think
10 we should do this, because if you don't think we
11 should do this, we won't do this. And they said:
12 no, you should do this program.

13 And then, the question was... then, a number of
14 issues came up. The people at these meetings were
15 very clear they did not want us to do domestic
16 violence or sexual assault cases initially. They
17 were very clear: we don't know what you're going to
18 do, we don't know what your capacity is; don't
19 touch that stuff.

20 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

21 You mean the partners at the Crown?

22 **M. JONATHAN RUDIN:**

23 It's... no, the community.

24 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

25 Oh, the community.

1 **M. JONATHAN RUDIN:**

2 It wasn't the Crown. No, it was the community.

3 Thank you.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

5 Okay.

6 **M. JONATHAN RUDIN:**

7 The community said that. "So, don't do that." And
8 we took that advice. They... a couple of years
9 later, they changed, they... when people felt
10 comfortable that we knew what we were doing, that
11 was okay, but that was one of the things.

12 And then, there was a very interesting
13 discussion that I... again, that I still recall,
14 which speaks to this idea of what does it mean to
15 bring Indigenous justice into the twentieth (20th)
16 or twenty-first (21st) century? Because both of
17 them were involved at this point.

18 One of the questions that one of the
19 participants raised was: what if someone doesn't
20 complete their Community Council decision? And
21 what do we do with that person? And then someone
22 else in the room said: well, you know,
23 historically or traditionally, people who didn't do
24 what they were supposed to do were banished. So,
25 while we can't banish someone from Toronto, maybe

1 what we would do is, if you don't complete your
2 Community Council decision, the Community Council
3 of Aboriginal Legal Services would tell the other
4 Aboriginal organizations, and the person couldn't
5 access services and programs until they completed
6 their diversion. And there was a lot of discussion
7 about this, and there were a lot of opinions on
8 both ways, and we said we're going to wait for
9 another meeting, and we had another meeting.

10 And at the second meeting, the conclusion was:
11 it's true that banishment was traditionally done in
12 Indigenous communities, but that was done before
13 there were residential schools. That was done
14 before the sixties (60's) scoop. That the people
15 that we're working with who are before the Courts,
16 have already been banished from enough places. And
17 that it would be wrong to banish them again because
18 they have nowhere else to go. And so we didn't do
19 that. So, as part of that discussion with the
20 community, what we said was if you come to our
21 program and you don't complete, then you can't be
22 diverted again until you finish, and we will keep
23 your file open for twenty (20) years. We have
24 files that have been open for twenty (20) years.
25 If someone, you know, was diverted in nineteen

1 ninety-four (1994) and didn't finish their
2 diversion, and they're in trouble again, they have
3 to come back and they have to finish that
4 diversion, or at least, meet the people and figure
5 out what would be appropriate now, and then, we'll
6 deal with their... once they finish that, we'll
7 deal with their next charge.

8 So, those were... we learned a lot from that
9 process. The last stage in developing the program
10 was we got the first set of nominees to be the
11 first set of Community Council members and we met
12 with them for two days, and said, what we said to
13 everyone else is that if at the end of the two
14 days, you don't think we should do this, we're not
15 going to do it. But we spent two days and everyone
16 wanted to participate and the program began in, I
17 think, February of nineteen ninety-two (1992), we
18 diverted our first case.

19 The program has evolved significantly. We like
20 to say that we're never there, we're always
21 working. It was funny, when we first started we
22 were also wedded to legal things that we start with
23 by the Council member sitting on one side of the
24 table and the client on the other side and then, I
25 was the staff person at the time, and I'd be on

1 the... on one corner, writing notes. And we did
2 that for a few months. So, someone said why are we
3 doing this? We should be sitting around in a
4 circle.

5 And that's... so now, we meet in a circle, and
6 the hearing start with the volunteers sharing, they
7 all introduce themselves, everybody introduces
8 themselves. And it's an opportunity for everybody
9 to talk and to share. And it's remarkable how
10 powerful the experience that people have, many
11 clients come out of this saying I was not planning
12 to tell you anything. Or I was never going to tell
13 you this about my life, but I'm doing this, I'm
14 telling you these things, because I realize that
15 you care, and that you understand.

16 I mean, you know, one of the things that is
17 very significant is the volunteers that we have,
18 have themselves a wide life experience, and so for
19 many of our clients who are... many of our clients
20 are really estranged from the Aboriginal community.
21 Many of them, because of adoption, have never
22 really been in the Aboriginal community, they have
23 never known how to identify. Some have grown up
24 knowing they're Aboriginal, but not knowing what
25 that means. Trying to be an Aboriginal person in

1 the city can be a challenge.

2 And being in a room with three other people who
3 are volunteering their time to be with you, that in
4 and of itself, is incredibly powerful. And what...
5 and it makes what the people say, what the
6 volunteers say so incredibly powerful.

7 And this idea of kindness and respect, so it's
8 very difficult conversations that I've heard in
9 those circles, but everybody knows where they come
10 from. There was a woman who worked on our program
11 for a number of years, named Jackie Alten(?) and
12 she could be really tough. She was really tough,
13 she was an alcoholic, she hadn't had a drink in a
14 long time, but she would call people out, you know,
15 in an instant. If you were faking it she would
16 call you on it in very explicit, expressive terms
17 that I won't repeat here, but...

18 And at the end of the day, the client would
19 leave, even though she had been really stern with
20 them and she called them some pretty tough names,
21 they would leave going... they knew that were that
22 came from was a place of love and caring, that this
23 came from... she was doing this because she cared
24 about them and she wanted them to succeed and they
25 knew that.

1 So, this was different from the other lectures
2 they receive from people. And so, it's been a
3 very, it's been an incredibly successful and a very
4 powerful program.

5 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

6 Just a question...

7 **M. JONATHAN RUDIN:**

8 Yes?

9 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

10 ... about, because you're talking about the fact
11 that there are always three volunteers who are
12 there. Is it important for these people to be
13 volunteer? Why can't it be like paid workers? Is
14 there something there?

15 **M. JONATHAN RUDIN:**

16 We've always felt that we... there is a role for
17 staff, and we have staff who are present, and the
18 staff are there to help people following the
19 hearing, succeed with the hearing, but there's a
20 whole different relationship between being paid to
21 do something and not being paid. And we've had
22 clients... lots of people have said to us, you
23 know, I... When they need the volunteers, they say
24 I've never been in a room where anyone's been
25 interested of my life who wasn't being paid to hear

1 about it.

2 You know? So, when you're in Court, as much as
3 your lawyer cares about you, as much as the Crown
4 cares or doesn't care about you, as much as the
5 judge cares about you, or when you're in jail,
6 everyone in the room is getting paid but you, and
7 maybe they care, maybe they don't, but it's a job.
8 For the volunteers it's not a job. They're there
9 because they want to be there, and that is
10 incredibly powerful. Even though they may not be
11 from the Nation that the individual is from,
12 because Toronto has people from many Nations,
13 they're all Indigenous, they share histories, and
14 the fact that these people are volunteers is really
15 powerful. But thank you for asking that, that's
16 very important.

17 We... what we have done for the last ten or
18 fifteen years now, every year, we have something
19 called "an honorary ceremony", which we have in
20 March, where we invite all the people who have
21 success, who have been through the program and
22 succeeded, we invite them to a feast. And we don't
23 just invite them to the feast, we also invite the
24 Crowns who consent to the diversion. We invite the
25 judges, we invite the duty counsels, and it's

1 really just basically a good time. We have
2 drumming, we have a feast, and a few words.

3 And after everyone has eaten, a number of the
4 people who agreed to that, who have been to the
5 program, talk about the experience. And it's
6 really, it's really great, because for people in
7 the justice system, they don't have to see what
8 happens when a person has been diverted. You know,
9 the person is gone. So, it's really great for them
10 to hear that this process, the Community Council
11 process has really made a difference. And we find
12 it helps bridge that gap between the mainstream
13 system and our program, and people understand it
14 better.

15 The last thing I want to say about the
16 Community Council is the role of the Court workers,
17 because you asked about that earlier, and one of
18 the ways that our... one of the ways the program
19 works has been very important for us, is that we do
20 not... expect Crown referrals to our program. We
21 go to the Crown to get our clients. So, our Court
22 workers, when they have a... someone in Court, they
23 go to the Crown and they say: I would like you to
24 approve this person for diversion. And the Crown
25 can say yes or the Crown can say no, or the Crown

1 can say why... or the Crown can say why not... and
2 the Crown workers will get into a discussion.

3 Sometimes, you know, if they're relatively
4 minor charge, it will be pretty simple, we'll get a
5 yes, even though the person might otherwise get
6 some time in jail, because they have a prior
7 record. But sometimes, you know, the offense may
8 be more serious and we have to explain why the
9 person should be diverted, but the Court workers
10 play that role. We advocate for the clients, and
11 that's an important aspect of what we do. We can't
12 rely on Crown's giving us permission to do things,
13 you know, because they feel like it, just because
14 they have a lot of other things on their plate,
15 they have a lot of other things to do.

16 And so that's been a very important part of the
17 program. That our Court workers go and find a
18 Crown who has the... who has been approved to make
19 these decisions, and advocate for the clients.

20 The other thing we do in order to protect
21 victims, because that's obviously very important,
22 is that where the offense is an assault, we always
23 get... we always contact the victim, and get their
24 input into diversion. We never tell, we generally
25 don't tell the clients that we're doing that,

1 because we don't want pressure put on the victims,
2 if they know the victim, and we never tell the
3 client that the victim didn't consent.

4 We will go... if the victim says: I really
5 don't want this diverted, we will still go to the
6 Crown and say: we spoke to the victim and the
7 victim doesn't want this matter diverted. And if
8 the Crown says: okay, I'm not diverting it, that's
9 fine, then, we go back to the client and say: the
10 Crown didn't consent. Why didn't the Crown
11 consent? Well, you know, it's a serious offense
12 and, you know, you heard someone... But we try as
13 much as possible, and we've been... I think we've
14 been successful in this, deflect any pressure from
15 the victim, because that would be wrong. You don't
16 want people consenting to things, because they feel
17 they have to.

18 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

19 Yes. Is there a moment where the victim doesn't
20 consent, and it gets diverted?

21 **M. JONATHAN RUDIN:**

22 It can. I mean, sometimes, victims often have
23 unrealistic expectations. So, you might call a
24 victim who says: I know, I want this person to go
25 to jail for four months. So, you know, we will go

1 to the Crown, and the Crown will think well,
2 there's no way he was going to be going to jail for
3 four months, and I think this is better, but we'll
4 leave that up to the Crown. But you know, the
5 Crown generally takes victim input fairly seriously
6 if the victim input is considered. We do invite
7 the victims to attend the council hearings.
8 Sometimes, they attend, often, they don't, which is
9 too bad. We think it would be greater if they did
10 attend, but nevertheless, even if the victims don't
11 attend, we still go ahead with the hearing, because
12 I think there's a real value in that.

13 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

14 Is there some services that are provided through
15 Aboriginal Legal Services to a victim? Or it's not
16 really your place?

17 **M. JONATHAN RUDIN:**

18 Right. So, that's... so we do have a victim
19 services program now. We... it's struggled along,
20 but we now have funding. So if the victim is an
21 Indigenous person, we will tell them that there are
22 services, we have victim services and we refer them
23 to that. If the person is not Indigenous, what we
24 do is we... when we speak to them or when we write
25 to them, we include a brochure about the Criminal

1 Injury(?) Compensation Board, and how to... we tell
2 people how to apply. And we also let people know
3 that even though the matter has been diverted, so
4 it shows up on the criminal record if the charge
5 was withdrawn or stayed. If they want a letter
6 from us we will indicate that the client has
7 accepted responsibility, and that's the basis on
8 which it was diverted, so that the Criminal Injury
9 Compensation thing can go forward.

10 So, I think I'm left with the...

11 **LE COMMISSAIRE:**

12 It's time for a break?

13 **M. JONATHAN RUDIN:**

14 Yes, I think probably.

15 **LE COMMISSAIRE:**

16 Okay. Fifteen minutes? It's okay?

17 **M. JONATHAN RUDIN:**

18 Okay. If you... all right.

19 **LA GREFFIÈRE-AUDIENCIÈRE:**

20 Recess for fifteen minutes.

21 SUSPENSION

22 -----

23 REPRISE

24 **LA GREFFIÈRE-AUDIENCIÈRE:**

25 So, the Commission is back in session.

1 **LE COMMISSAIRE :**

2 Welcome back. Professor Rudin, we're listening to
3 you.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

5 So, I will just...

6 **LE COMMISSAIRE :**

7 Oh, you have some questions?

8 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

9 Yes.

10 **LE COMMISSAIRE :**

11 Oh, good.

12 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

13 I have some questions about what Mr. Rudin was
14 explaining about the Community Council. So first,
15 Mr. Rudin, you were explaining that the family
16 offenses are excluded, are not part of this
17 Community Council as well as sexual assault. And I
18 want to ask you if there's a distinction between
19 indictable offenses and sorry... convictions in
20 that?

21 **M. JONATHAN RUDIN :**

22 Okay. So yes, so let me answer, there's two, I
23 guess, answers. Initially, the decision not to
24 allow for domestic violence and sexual assault came
25 from the community.

1 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

2 Uh-hum.

3 **M. JONATHAN RUDIN:**

4 But then the province came up with its own
5 guidelines. It did not allow for those sort of
6 offenses to be diverted. The community
7 subsequently asked us to start taking these cases
8 on, so the Aboriginal Women shelter asked us to
9 consider doing domestic violence cases, but there
10 were concerns that a lot of Indigenous women were
11 not reporting domestic violence, because they were
12 afraid that their partners would be arrested and if
13 they were on bail or on probation or parole, be go
14 back to jail. And so what they wanted was the
15 violence to stop and they didn't necessarily want
16 jail.

17 So, we've been engaged at various times in
18 discussions about trying to deal with that issue,
19 but that is not proven. It really hasn't... we
20 haven't made any progress on that. We would like
21 to be able to deal with domestic violence cases.
22 We know that we might have to deal with them
23 differently than we do, but we would like to be
24 able to try that. We know there'd be more training
25 required for our Council members. We're willing to

1 do that, but we (inaudible) at the province to
2 agree to this.

3 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

4 So, the Crown attorneys don't... are not opened to
5 that right now?

6 **M. JONATHAN RUDIN:**

7 Yeah, it's more than just that the Crown attorneys
8 aren't opened, the province has sort of told them
9 that they can't agree to those things. So at least,
10 so we're not able to get those sorts of cases.

11 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

12 And what are the reasons why now, people want you
13 to take them into charge, in... like, why?

14 **M. JONATHAN RUDIN:**

15 I think because there's a feeling that the way that
16 the system is working, works with the people
17 doesn't work. So, for example, there are programs
18 in Ontario for domestic violence. It's we call the
19 "Partners Assault", it's called PARS(?), it's the
20 acronym. I don't know what exactly it stands for,
21 but there's only one Indigenous PARS(?) program and
22 it still has to follow a fairly rigorous template
23 that isn't necessarily relevant to Indigenous
24 offenders. The other problem is that access to
25 some of these programs, you don't have access if

1 you have other criminal records, so, whenever
2 people don't... even though they might otherwise
3 qualify, don't get access to the programs. And so,
4 the feeling is, I think, that listening to members
5 of the community talk about these issues and giving
6 people, helping people identify what the root
7 causes of their anger are would be helpful. That's
8 why people like us to take it on, I think, because
9 they've seen that we're able to deal well with
10 other cases. So, I think that's probably why.

11 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

12 From what we hear last time, one of the reasons why
13 there is maybe this fear of giving it to diversion
14 program is because there is this fear that victim-
15 only protected?

16 **M. JONATHAN RUDIN:**

17 Yes. I think that's a valid concern in certain
18 places. It's not... IS much of a concern in
19 Toronto, so, we don't have the same, I think, I
20 know that, you know, in communities that are, you
21 know, circuit, I visit on circuit Court, the Court
22 can't know what's being going on between sex and
23 they don't know people being facing pressure to
24 agree to something they might not want to agree to,
25 but that's not the situation in Toronto. So, the

1 power and balance issues are not as present.

2 Almost all the... most of the Indigenous
3 organizations in Toronto are led by women. Women
4 make up by far most of the staff in these
5 organizations, so that the sort of power and
6 balance concerns that you hear about in other
7 communities I don't think really are present. So,
8 I don't think that's... so, it's just not as much
9 of an issue here.

10 The other thing is that a lot of victims don't
11 feel heard by the victim witness programs. We have
12 victim programs... and you know, what happens now
13 all the time is that people are charged and they're
14 told: you can't communicate. And we tell them,
15 (inaudible), say: you can't communicate, but we
16 know they're communicating, they have children,
17 they have whatever, maybe they shouldn't be
18 communicating, but they are communicating and so,
19 the current system isn't really protecting people.

20 Obviously, if someone doesn't want to be
21 involved with their spouse because they're violent,
22 that's a perfectly natural reaction and you would
23 want to do whatever you can to keep that person
24 safe, but diverting it or not diverting it is not
25 really how you deal with the safety issues.

1 I mean, obviously, if someone feels they need
2 to have a... you know, a Court Order forbidding the
3 person from coming near them, then they should have
4 that. But again, we were trying to think of a way
5 that we could deal with this in a diversion type
6 method that might allow still for some of those
7 personal safety options as well. But as I said, at
8 this point, we can't... that discussion hasn't
9 gotten very far.

10 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

11 Okay.

12 **M. JONATHAN RUDIN:**

13 You also asked about some of the indictable
14 offenses.

15 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

16 Uh-hum.

17 **M. JONATHAN RUDIN:**

18 So, I that was an interesting discussion we had at
19 the very beginning of the program. It was a
20 suggestion that well, we'll make all summary
21 offenses sort of inherently divertible, so,
22 (inaudible) no indictable and then, we'll do
23 something about the hybrid offenses and no one is
24 quite sure what. And one of the meetings that we
25 had, this was the meeting we have with the Crown

1 attorneys, in one of those meetings, there was a
2 police officer who attended, the only meeting this
3 police officer attended, and he said: if you come
4 up with a list of offenses that are or are not
5 divertible, you can be sure that the police will
6 charge the person with an offense. It is not
7 divertible. That if the police would decide they
8 don't think this person should be diverted, they
9 will take it into their hands.

10 So, we didn't do that. So, what our protocol
11 says basically is anything is divertible, but with
12 the consent of the Crown. And the Crown can decide
13 what they want to do. I mean, the reality is that
14 something like robbery, which is an indictable
15 offense, what's robbery? It's a theft and an
16 assault. And we certainly have seen many examples
17 in Toronto where, you know, we had a... we
18 diverted, I still remember the early case where a
19 man was panhandling and he got angry at a woman and
20 started yelling, and she became fearful for her
21 safety and he got charged with robbery. Attempted
22 robbery, because he hadn't actually done anything.
23 But when we came to... we didn't have any trouble
24 diverting it.

25 So, the label doesn't necessarily tell you

1 anything about the offense. We have diverted some
2 serious offenses, we... not often, but we diverted
3 a case once of someone who breached a public trust
4 for an individual. It was a particular set of
5 circumstances, but that was the appropriate charge,
6 but we had that diverted. We've had some...
7 occasionally some very serious assaults diverted,
8 because the victim was willing and because the
9 individual had done a lot of work beforehand in
10 terms of healing, so, to sort of say you can
11 only... you can never do an indictable offense, I
12 think in some ways does an injustice to the Crown
13 as well. I mean, they're intelligent enough to
14 know when a matter should or shouldn't be diverted.

15 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

16 And so, the... so, Aboriginal legal services, the
17 Court worker go to the Crown and ask well, maybe I
18 think this person or this person should be
19 diverted. And then, the Crown decides if it's
20 going to happen or not?

21 **M. JONATHAN RUDIN:**

22 But the Crown has to consent...

23 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

24 Uh-hum.

25 **M. JONATHAN RUDIN:**

1 ... because...

2 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

3 Uh.

4 **M. JONATHAN RUDIN:**

5 ... it's their process. So, we... the conversation
6 we have with the client, the requirement we have
7 for the client is they have to accept
8 responsibility for, if not all the offenses,
9 because often, our clients are charged with many
10 different things. At least one of the offenses
11 that they're charged with. Or if the client says:
12 I can't remember a thing, but if they said: I did
13 it, I did it, then, we're half... then, we'll take
14 them. We just don't want to divert someone and
15 have them come into the Council and say: I didn't
16 do it, because then, you're not going to have a
17 particularly helpful discussion with what they need
18 to do. So ultimately, it is the Crown's
19 discretion, but we will... we advocate as much as
20 we can in order to try and get things diverted.

21 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

22 And how like, since the beginning, how was this
23 relation with the Crown, so like, is everybody
24 open? Or is... it depends on the person how...?

25 **M. JONATHAN RUDIN:**

1 Well, I mean, the law is often based on
2 relationships. And there was a time when the Crown
3 shifted between different Courts in Toronto and
4 there were some Crowns that were more willing to
5 divert than others and you would see... okay, well,
6 we're going to wait until this Crown goes or we're
7 going to pitch it to someone else in another month,
8 can we just adjourn the matter? I mean, that's
9 just the reality.

10 I mean, I think the advantage we have over,
11 you know, in some communities, you know, there's
12 really one person, there's a Crown or a police
13 officer who makes all the decisions in smaller
14 communities. And if the Crown is supportive of the
15 justice program, they get a lot of work. If the
16 Crown changes and then all is reported, suddenly
17 nothing happens. And so, we don't have that. I
18 mean, there are, you know, different Crowns take
19 different positions on things, just like different
20 judges would decide a case differently, but I think
21 we're at a point where we're... the program is
22 established enough that, you know, we don't have to
23 worry about that. If someone, you know, frankly,
24 if a Crown is totally unreasonable, then, we... and
25 it doesn't happen often, but we're willing to go to

1 another Crown and say can you take a look at
2 things?

3 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

4 Thank you. And I would like to hear you a little
5 bit more, because you talked about the way sometime
6 we measure success and I don't know if this has an
7 impact, because organizations like yours, you
8 always need us for funding and this depends on
9 success, I think, and the way you... we measure
10 success might not be the best way, from what you're
11 saying, so I'm just curious to hear you on that.

12 **M. JONATHAN RUDIN:**

13 Yes, and so, as I said, I mean, you know, I'm happy
14 to quote recidivism statistics when they look good
15 for us, and so I do, but I don't think they're a
16 very good measure of success. I think we need to
17 think about success not just on a quantitative
18 level, but on a qualitative level, what changes or
19 happening in people's lives, and I think we have to
20 look at that. And so, I think that's an important
21 way of looking at success.

22 And the other thing in terms of looking at
23 success, which I think is important for Indigenous
24 justice programs in a way that it's not for other
25 programs, is to what extent is the program helping

1 develop the capacities of the community? So, you
2 know, in non-Indigenous diversion programs, victim-
3 offender reconciliation programs, the focus is on
4 the two individuals, and that's important. But in
5 Indigenous programs, the focus is not only on the
6 person, but also on the community, restoring
7 capacity into the community. It's very significant
8 that, you know, the Indigenous community in Toronto
9 is taking control over justice. And so, that's
10 another way, I think, an important way to measure
11 success.

12 We have had evaluations of the program, we had
13 evaluations when the program started in the first
14 years and they looked at qualitative factors as
15 well as quantitative factors, and we've had some
16 subsequent evaluations of the Gladue Court and
17 other things that have looked at the people who
18 have been to the Community Council. And what's
19 really striking is how significant that experience
20 is for people.

21 You know, the problem with recidivism is that
22 so much of how we measure it is really a question
23 of who you are. So, the example I often give is if
24 I were arrested and told, you know, to keep the
25 peace and be a good behaviour and not consume

1 alcohol, you know, I would just go to a friend's
2 house if I wanted to and I would consume alcohol.
3 And if I get into a dispute with my friend and I
4 break his table, my friend is going to put me on
5 the couch and I'm going to sleep it off, I'm going
6 to give him some money for the table, I'm going to
7 go away and no one's going to know.

8 But if I live on the street and I stay in a
9 shelter that won't let me drink in the shelter and
10 I'm an alcoholic, I'm going to drink and I'll drink
11 outside, and if I fall, I'm going to fall against
12 some public building or a private window, and I'm
13 going to break that window, and then I'm going to
14 be breaching a condition. But I don't... that's
15 why I don't think recidivism really measures a
16 whole heck of a lot... and I think it's not the
17 greatest measure of how things are successful, but
18 again, we do well in that measurement, so I'm happy
19 to rely on it for the moment.

20 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

21 And just one last question on that Community
22 Council, watching (inaudible), first, you were
23 talking about the fact that the... when a case IS
24 diverted, it doesn't come back to the Crown? So
25 you don't have to report to the Crown and that's

1 important for a lot of reasons that you already
2 explained, but it's not the case for any other...
3 for all the programs until this is special to
4 Aboriginal legal services, right?

5 **M. JONATHAN RUDIN:**

6 That's correct, the other... my understanding is
7 most of the other Aboriginal Justice Programs in
8 the province, there is this report back to the
9 Crown process.

10 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

11 Uh-hum. And why do you think... so, you underline
12 that it's important...

13 **M. JONATHAN RUDIN:**

14 Yes, let me...

15 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

16 ... (inaudible).

17 **M. JONATHAN RUDIN:**

18 ... they... I think in addition to the reasons I
19 gave, the other reason I think it's important is
20 that one of the things that we found is that the
21 root causes of someone's criminal... the root cause
22 of people's criminal behaviour differ widely, so
23 two people can be charged with the same offense.
24 So why they committed the offense may be very
25 different. So we've had people who committed, who

1 steal. So, theft under, but maybe they're doing it
2 because that's the way they compensate for the fact
3 they were sexually abused when they were younger.

4 So, that comes up in the discussion and so,
5 when it comes up, they say: I want to go to a
6 program for... a healing program for victims of
7 sexual assault. So that's what the Community
8 Council asked them to do. I don't think that's the
9 Crown's business to know that this person has gone
10 into a healing program for survivors of sexual
11 assault. What does, you know, why do they need to
12 know that? They just need to know that we dealt
13 with it and they finished the program. If they,
14 you know, they're being diverted again, that's all
15 anyone needs to know.

16 I think - and I'll talk about this in the
17 Gladue context, but I don't think people should
18 have to give up every aspect of their right to
19 privacy in their personal lives in order to
20 participate in programs and I think, you know, I
21 would like to hope that people trust us. We've
22 been doing this for, you know, twenty-five, twenty-
23 six years now. That people trust the program and
24 you don't need to keep monitoring, you don't need
25 to keep watching us and I think that it keeps

1 programs in sort of... it makes them sound like
2 they don't have any responsibility. They're not...
3 these programs are often very sophisticated and you
4 know, we're not children and I think programs
5 should be treated as responsible. If they can show
6 they're responsible, they should be treated as
7 responsible. It's hard.

8 I think sometimes, the bigger issue is that
9 people with control don't like to give up control.
10 As an organization, we don't have control. We have
11 no power, right? Other than when I go to Court.
12 When I go to Court, I have power, it's vested in me
13 because I'm a lawyer. So, I get to say certain
14 things, I get to speak in a certain way, I get to
15 do whatever I want, because I'm a lawyer and I have
16 power. But in all our other involvement with the
17 criminal justice system, we don't have any power,
18 we can't force anybody to do anything. But people
19 with power don't like to give it up and so, I think
20 sometimes, this desire for Crowns to see what you
21 did is not really about what's helpful for the
22 program.

23 Not even the Crown has any input, it's just
24 people don't like to give up power and I think it's
25 more of an issue in smaller communities. In

1 smaller communities, I think the public sometimes
2 thinks, you know, the police officers, the Crown is
3 the justice system, in additional to the judge, of
4 course.

5 And so, you know, that power is put on people
6 and think, well, I can't let this go. And I... and
7 unfortunately, I think that inhibits the
8 development of Indigenous Justice Programs. I
9 mean, part of the problem is the impact of
10 colonialism and we don't solve the impact of
11 colonialism by maintaining all the aspect of
12 colonialism. And so, you know, diversion programs
13 are a very small measure of returning control over
14 justice to communities, and I think it's a sign of
15 respect to those programs to say we trust you to do
16 certain things. And then if you can't, then
17 that's... we'll deal with those issues, but you
18 don't have to hold the... people who wield power
19 don't always have to hold it, they can let it go.

20 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

21 Thank you. And also something you said is that you
22 cannot take in charge someone who doesn't take his
23 responsibility. So in a way, someone who will
24 plead... well, plead guilty, and... so, is there
25 like some issues that came across and that are some

1 questioning around this?

2 **M. JONATHAN RUDIN:**

3 Well, we just think that in order to come into the
4 Community Council, we're trying to deal with
5 someone who has an issue, that they want out. If
6 you say you didn't do it, then you should rely on
7 the fact that you're not guilty and you should take
8 the matter the trial. And we've had discussions
9 sometimes with Crowns, there have been cases where
10 I think the Crowns have said, you know, I don't
11 really have much of a case. I could withdraw, so,
12 why don't I divert it? And in our analysis, no,
13 you should withdraw it. If they didn't do it, if
14 you don't think you can prove they did it and they
15 have not told us they're going to accept
16 responsibility, then don't give it to us.
17 That's... you should do what you need to do and do
18 the proper thing and withdraw the charge.

19 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

20 Thank you, you can go on.

21 **M. JONATHAN RUDIN:**

22 Okay, thank you. So, the last area perhaps, I'll
23 see how I go, that I want to talk about is our
24 Gladue program. So, I will be talking about the
25 Gladue Court on Friday with Justice Green, but when

1 the Gladue Court was set up, and we were involved
2 in its establishment, one of the things that we
3 realized that needed to happen, from our
4 perspective, was there needed to be a way to get
5 information before the Court and the Gladue
6 decision and the appealing decision say the judge
7 needs two types of information just before they
8 sentence someone. They need to know the
9 background, the systemic factors of the individual,
10 and then, flowing from that, they need to know what
11 alternatives to incarceration might exist. But
12 where is that information going to come from? The
13 Crown doesn't know this. Most defence counsels
14 don't know much about their client, they surely
15 don't know enough about their client to answer any
16 of those questions.

17 And so, when the first Gladue Court was
18 started, we said why don't we write some report?
19 We had done a little bit of this before, we had,
20 prior to Gladue, we decided we had done a couple,
21 one of two reports about individuals and we thought
22 - let's do this more systemically. And so, we came
23 up with this idea of Gladue reports. So, we
24 invented Gladue reports. We didn't copyright the
25 term, so we don't get two cents every time someone

1 says "Gladue report", which would have been great.

2 So, we decided to do this and I can now talk
3 about this as though this was all planned, but I
4 want to be clear, I don't... I think some of this
5 is circumstance and the first Gladue writer we had
6 was a journalist, her name is Mandy Wesley, she
7 went on, she left us, went to law school, came
8 back, worked for us, now she works for the
9 Indigenous justice division at the ministry of the
10 Attorney general.

11 But I think our Gladue reports very much
12 reflect a couple Indigenous values that are
13 important. One is our reports are stories. We
14 tell the story of someone's life. I don't... I've
15 not seen a pre-sentence report from Quebec, but I
16 know in Ontario, the pre-sentence reports are all
17 done in these little categories, you know...
18 there's one category for family relationships, one
19 for schooling, one from employment one. And I can
20 never figure out someone's life when I read these,
21 because it's... here, I'm reading this and now,
22 they're twelve (12), and they're eight (8), you
23 know, I never... how it goes, that sort of cuts
24 them up and puts them on the floor and rearrange,
25 and to understand them.

1 Our Gladue reports tell someone's story and
2 storytelling is very important in Indigenous
3 culture. So, they tell the story and they tell the
4 person's story, not just their story, but other
5 people's story. They tell the story from their
6 parents and grand-parents. None of our stories
7 start with us. As important as we think we are,
8 our stories don't start with us, our stories start
9 with our parents, our grand-parents.

10 They start with decisions they made, they
11 start with decisions that were made for them. I
12 mean, I think of the, you know, the Syrian refugees
13 that would have come to Canada. Their story starts
14 with decisions that their parents did not... the
15 kids... that their parents didn't make, that were
16 made for them by other people. Many people in this
17 country, you know, their lives are based on
18 decisions that people consciously made or that
19 people made for them because they were vulnerable.
20 So, we tell the story as best as we can, starting
21 from, you know, if we can get to great-grand-
22 parents, we can, but starting with grand-parents or
23 parents.

24 We tell the story as much as we can in the
25 words of the individual. So, we spend a lot of

1 time quoting people. This is another difference
2 between our Gladue reports and pre-sentence reports
3 in Ontario. Pre-sentence reports, you almost never
4 see quotes, you never get quotes. What you get is
5 the opinion, you get the summary of what the
6 probation officer heard when they interviewed the
7 person, but you don't know what they said, you know
8 what the probation officer thought about what they
9 said. I often say that I feel when I read a pre-
10 sentence report, I know more, I learn more about
11 the person who wrote the report than I know about
12 the person who is the subject of the report.

13 So, we tell the person's story and some of the
14 stories, they don't know. Like, we're telling
15 stories that often the individuals don't know.
16 We're speaking to their grand-parents, we're
17 speaking to their parents and they're talking about
18 things that often they never talked about. You
19 know, people talk about the impacts of residential
20 schools. And often, the person who is the subject
21 of the report, all they knew is that a parent went
22 to residential school.

23 So, we tell the story, we use people's own
24 words and we don't fix them up. If someone is
25 using profanity, then we use profanity. We don't

1 put "F dot dot dot". If they use a word, then
2 that's whole word goes in, because that's what they
3 said.

4 The other thing is, and this is another, I
5 think, another Indigenous concept is that you can
6 only speak the truth that you know and we don't
7 attempt to find out the truth of someone's life.
8 And we try as much as possible to corroborate
9 someone's story. So, if someone said, you know, we
10 had a client once who said: my mom was... her
11 boyfriend grabbed her and I was in... they held her
12 hostage and... So we gobbled it, we found a new
13 story and we... yeah, the story is true and here's
14 why it's true, so, we put that in.

15 But so much of our lives, in our history,
16 people have different perspectives of. So, we
17 could interview someone, and you know, this is not
18 uncommon to have someone say "my dad beat me." And
19 we talked to the father, because we're not... we
20 can, you know, we have to talk to him and the
21 father say: I never really beat him, maybe I hit
22 him once, but I never beat him. I would never do
23 that.

24 Well, we don't know what happened. I mean,
25 we'll talk to someone else and maybe, they'll say:

1 yeah, I remember when he got whipped really bad.
2 But we're not going to conclude who is right or
3 wrong, we'll put as many versions, as many stories
4 as we can and we'll let the judge and the Crown and
5 defence figure out what's going on, but it's not
6 our job to determine the truth, because how can we?
7 All people can do is talk about the life as they
8 know it.

9 And one of the other things that I... that's
10 important about the reports is that so much of
11 the... you need to get a number of perspectives,
12 so, it's not unusual to say to someone what your
13 childhood like and I'll say it was okay. But
14 "okay" is a completely relational term. So, if I
15 say "my childhood was okay", all, everyone in the
16 room goes to their sense of what an "okay"
17 childhood is and they go alright, well, that's must
18 have been what the childhood was like.

19 But you know, what "okay" means is, compared
20 to everybody else, it was no different. But the
21 lives of our clients are very different. Many of
22 their lives are very different from the lives of
23 the judges and the lawyers who hear their cases.
24 The... our clients, you know, if you're living in
25 a, you know, in a very dysfunctional community,

1 because of impacts and things like residential
2 schools where levels of violence are just normal,
3 then you don't think your life was any different.
4 It's like everyone else's and everyone's life is
5 probably like this. As much as, you know, we, you
6 know, we watch television and we see TV couples,
7 families, but we... the life that matters is the
8 one that we experience and if the life you
9 experience is one where everyone is... deals with
10 violence, then, your life seems okay.

11 So, it's often when we write these reports,
12 we'll talk to the client, we'll say - what was your
13 life like... it was okay. And then we'll speak to
14 a sister, for example, who... they've gone through
15 a treatment program and she'll say: I know he says
16 his life is okay, but I remember when my dad used
17 to beat him so bad. And this would happen, you
18 know, every... at least once a month. So we try
19 and put that perspective in, because we need to
20 make the person's life real for people who are
21 reading it, who've never seen or experienced that
22 life.

23 We try to, you know, talk to as many different
24 people to get... Sometimes we, you know, we did
25 one recently for someone who was severely abused by

1 his father. And his father was, I think his father
2 was a residential school survivor or his grand...
3 or his father went to residential school, the
4 grand-father did. And the person read the Gladue
5 report and what he said after he read the Gladue
6 report was he doesn't... his father never should
7 have done this to him. So, what happened to his
8 father didn't excuse what has been done to him, but
9 he understood it now in a different way, you know?
10 It wasn't... in some way, it wasn't about him, it
11 was about what had happened to his father. And so
12 many of our... for many of our clients again, I
13 mean, not all Indigenous people get in or are in
14 conflict with the law, but for those who are, there
15 are often historic circumstances.

16 So often, the residential schools, for
17 instance, is never spoken about. And people, you
18 know, the saddest Gladue reports for me to read are
19 the ones often where the grand-mothers are talking,
20 because it's their grand-son or grand-child who is
21 now before the Court. And they talk about how they
22 went to residential school and they never hugged
23 their daughter or son, and they never told them
24 they love them. And now, they see that playing out
25 into yet another generation. And that's a level of

1 awareness that the individual may have, but the
2 client has never heard that before. We've had
3 people, mothers in their Gladue reports... for
4 their sons explain why they gave their son up for
5 adoption. You know, people... why, why, why did I
6 get... why did you give me to CAF and why did you
7 keep my... sister? You know, they've wondered this
8 all their lives and they've never been able to find
9 a way to talk to their parents and so, the Gladue
10 report is a place for that to come out.

11 One of the other differences with the Gladue
12 reports from the PSR is that a PSR is, in some
13 ways, my experience again in Ontario, I don't want
14 to presume about Quebec, in Ontario, a PSR is a
15 point of time report. So, the probation officer
16 comes to you and says: okay, what are your plans?
17 Well, my plans are this. And then, the probation
18 officer goes away and will say: well, maybe that
19 plan makes sense. Maybe that plan doesn't make
20 sense. But for us, the Gladue report is a process.

21 So, we'll meet the client the first time:
22 what do you want to do? I'm going to do act - so
23 you have an issue with drinking? - no, I don't have
24 an issue with drinking? And then you go back and
25 you talk to other people, and then, you go back to

1 talk to the client and you say: well, let's talk
2 about this, because people said, you know, you do
3 have an issue with drinking and all your offenses
4 happen when you were drinking. Well, maybe that's
5 true. And then over time, the person might say:
6 you know, I guess I do have a problem with
7 drinking. Or the person might say, the person
8 might talk about again, you know, an idea they were
9 sexually abused when they were younger, because
10 now, because they now have heard that there's
11 actually programs that they can go to. So, if you
12 treat it as a process and you work with the person
13 through the process, it's a journey you take with
14 them. That at the end, you get somewhere different
15 maybe than you were at the beginning. You won't
16 see that in a PSR often, but you'll see that in a
17 Gladue report.

18 There's also times in some ways where the...
19 we have to stop the story, where someone will say:
20 now, this is not... we don't do as much, we
21 still do it, we don't do as much now, but you know,
22 we started doing these reports in two thousand and
23 two (2002), two thousand and three (2003), someone
24 seem like my parents went to residential school.

25 Well, we can't assume that the judge or the

1 Crown or defence really know about residential
2 schools. You know, the Gladue and I purely
3 decision say the judges can take judicial notice of
4 the circumstances of Aboriginal offenders, but how
5 do you take judicial notice of what you don't know?

6 So, we will sometimes, the report stops. We
7 sort of stop them there and we put in an insert, we
8 have an insert about residential schools which
9 refers to the TRC and pure review journal article.
10 There, the issue of the sixty (60) scoop and the
11 current continuing adoption of Indigenous kids,
12 they are a lot of lawyers we work with, Crowns we
13 work with... and judges too who will say, you know,
14 when someone was adopted when they were six months
15 old and raised in a non-Indigenous family, you
16 know, you... they will actually say: well, I know
17 he's Aboriginal, but he's not really Aboriginal,
18 because he wasn't raised in an Aboriginal family.

19 So, people don't understand that the mass
20 apprehension of Aboriginal children is a
21 circumstance of Aboriginal people. And that the
22 adoption of Aboriginal kids has an impact on
23 Aboriginal kids as they grow up, so we have to put
24 an insert, we have an insert about that, so the
25 people understand those issues. So, we have a

1 number of those. We have one we just got one
2 completed about HIV and AIDS. HIV in the
3 Indigenous community is different from HIV in a
4 non-Indigenous community. It's largely drug use.
5 It stands from residential schools. It's one of
6 the outcomes of the residential schools
7 experiences, HIV and drug use.

8 And so we need to put these things in context,
9 because otherwise, you can't draw those connections
10 if you don't know those connections are there. So,
11 we tell the story, but on occasion, we pause the
12 story to put in the contextual information.

13 And then all of that, and we try to reach as
14 many people as we can, a Gladue report is not your
15 opportunity to settle grudges with people. If you
16 say that (inaudible), we'll have to say: look, you
17 know, we're going to talk to your dad. You know,
18 we can't just like you throw things out about
19 people without giving them a chance to respond.

20 But all of this then helps lead us to the
21 recommendation. So, you... need to know why the
22 person is where they are, to know where you go
23 next. And so, the... so, our reports, generally,
24 we talk about the person's history, we talk about
25 the prior criminal offenses, we talk about the

1 particular criminal offense. If they pled guilty,
2 we'll get their input and their thoughts about the
3 offense. If they pled not guilty and were
4 convicted, generally, we won't talk about the
5 offense, because they're still maintaining their
6 innocence, so...

7 And then, we'll talk about what's happened in
8 their lives since they were convicted, if they've
9 been out of custody, what they've been able to
10 accomplish. If they've been in custody, what
11 they've been able to accomplish. You know, how
12 people who've seen them since the offense. And
13 then, out of all that will come some
14 recommendations. These aren't - and it's important
15 that these aren't sentencing submissions, we don't
16 make sentencing submissions, these are not advocacy
17 documents, that would be wrong if they were
18 advocacy.

19 But they're saying, they're suggestions for
20 the Court to say: If you're... when you're
21 sentencing this person, if you're looking at an
22 (inaudible) option, whether that be they're not
23 going to jail or probation condition, here are some
24 things to think about. And we try and flash these
25 out as much as we can, so, we won't just say they

1 should go to treatment, we try and find a treatment
2 center. If they are not in custody, we'll work
3 with them to apply to the treatment center, so
4 they've been accepted.

5 As an organization, we'll provide the funds
6 for them to get to the treatment center if it's out
7 of town. So, we try and take all those roadblocks
8 out of the way so we can say to the judge: if
9 you're so inclined, he's been accepted at Rainbow
10 Lodge. The program starts March third (3rd).
11 We'll cover his costs to get up to Manitoulin where
12 the treatment center is located. So, we try to put
13 all those things together and then, we submit the
14 report. The report... our writers are all full-
15 time. So, they're full-time, they're all
16 Indigenous people, they work full-time for us and
17 their only job is Gladue report writing. That's
18 all they do.

19 The Gladue reports usually range from probably
20 twenty (20) pages to thirty (30), forty (40), some
21 of it fifty (50). It's a bit long, but... and all
22 of the reports are reviewed by one of our senior
23 staff before they go out. So, no Gladue report
24 ever goes out without being reviewed. And no
25 Gladue report that's reviewed ever does it have

1 changes that has to be made. We always find things
2 to change. Sometimes we're just sort of fact
3 checking, you know. If they say the person has
4 eight kids, we want to make sure they name them,
5 they have eight names. Sometimes, we'll suggest,
6 you know, here's some questions you need to ask if
7 you didn't ask. We try and the reviewers try and
8 put themselves in the head and the mind of the
9 judge. What questions does the judge want to know?
10 You know, why didn't you speak to the mother?
11 Well, she wouldn't answer my calls. Okay, we have
12 to put that in the report, you have to explain why
13 you tried to call the mother, what happened when
14 you called, so, we do that. We want to make sure
15 that people...

16 You know, it's easy once you spend a lot of
17 time with people to believe in them very much and
18 so, but we want to make sure the reports don't go
19 further than they can possibly go. So, our writers
20 can't say, you know, he's committed to change,
21 because we have no idea what he's committed to do.
22 We can say he says he's committed to change and we
23 can quote him. We can quote his mother saying:
24 he's always said he wanted to change, but this
25 time, I think it's different for this reason. At

1 the end of the day, it's not our decision. We're
2 just providing information to the Court, but we
3 need to review the reports to make sure that they
4 provide adequate information.

5 One of the things that we have done more of
6 now is we identify in the report whether there's
7 particular sensitive information. So sometimes,
8 people will tell us about sexual abuse,
9 particularly sexual abuse that they may have
10 experienced when they were younger. They often
11 have not talked to many people about that. We
12 often now put it at the beginning of the report,
13 the information on pages whatever to whatever are
14 very sensitive and we would ask the people not
15 discuss it in open Court.

16 Because one of the things that we found is
17 that while we try to be sensitive to the use of
18 Gladue reports, not everyone is as sensitive and
19 sometimes, the Crown, but more often defence
20 counsel use the reports, we think, improperly and
21 re-traumatize clients. And that's a very important
22 issue for us is this issue, we don't want this
23 process to re-traumatized them with.

24 It's one thing to have established a sense of
25 trust with someone who you've met in an interview,

1 you know, in her office or maybe even an interview
2 or in jail. It's one thing to tell them something,
3 it's another thing to hear that spoken aloud in
4 Court. It's one thing to tell someone and share it
5 with a judge and the Crown and defence, it's
6 another to have it heard by your parents, heard by
7 other members of the community, reported in the
8 newspaper, which has happened. I mean, those
9 things are... you don't need to do that. And so
10 we've taken, we've tried to take steps to make
11 clear the things that need to be kept, well, we
12 hope the things would be kept confidential.

13 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

14 And this is something you talk about with the
15 client, which part he would... he's not comfortable
16 going out public, which...? How do you decide what
17 should be kept more...?

18 **M. JONATHAN RUDIN:**

19 It's pretty clear, the client just says I haven't
20 told anyone. So, we just now routinely keep that
21 out. We don't need to talk about that and I mean,
22 if a client says I don't want anyone to know this,
23 then we can't put it in the report. You have...
24 you can't... if you want no one to know about it,
25 then just don't tell us, because if it goes in the

1 report, there will be at least three people who
2 are going to know it and we can't guarantee what
3 any members are going to do with it, but we can try
4 our best to try and hope that that doesn't come out
5 and as I said, we're being... we're more aggressive
6 about this now, you know, so, we'll actually put it
7 in the front of the report, so that way, if a
8 lawyer starts going somewhere, the judge can say:
9 excuse me, I read the report, we don't need to go
10 into that sort of detail. So, that's become
11 important.

12 We found that the reports have been very
13 significant. You know, the criminal justice
14 system, we fill in all the gaps in the criminal
15 justice system, you know? If we don't know
16 something, we often know it's not to ask, we just
17 pretend we know the answer. So, when some... your
18 standard sentencing submissions, which in Ontario,
19 you can probably start to finish in ten minutes or
20 less, you know, what does the Crown know first,
21 and what does the Crown know about the person? The
22 Crown's got a synopsis of the offense and the prior
23 criminal record. And the Crown, based on that,
24 says: well, Your Honor, this person clearly... he
25 doesn't respect authority because he has four fails

1 to comply and etc., etc. Last time, he got an
2 eight (8) month sentence, similar offense. But
3 we've got to go for twelve (12) months.

4 You know, and that's... I'm not blaming them,
5 that's all they've got. And defence counsel, who
6 often doesn't really know their client well either,
7 says... well, no, and he comes up with a couple of
8 other things, but they don't really know the client
9 really as well either.

10 So, what we see with the Gladue report is that
11 people's positions really change. We've had
12 Crowns... we've got Crowns who say: you know, I
13 know... I thought I knew this person. And defence
14 counsel says: I thought I knew this person. I
15 represented this person for years, or I prosecuted
16 this person for years, but I didn't know anything
17 about him. Which isn't really surprising, because
18 when we think about our own lives, you think about
19 the people you know, who you're close to, and you
20 discover later that, you know, one or someone was
21 an alcoholic. Or someone, you grew up in a home
22 where their parents, there was domestic abuse, but
23 we don't know the lives of people. We know their
24 public faces, we know what is... what... for people
25 charged with criminal offences. We know their

1 offense and their synopsis, but we don't know their
2 lives.

3 And so, what we find when we do Gladue reports
4 is that positions change. When we have a form that
5 has to be filled out before the Gladue report and
6 it includes the Crown position, the defence
7 position, the Crown position. Because we want to
8 know, you know, what kind of... we're looking at.
9 And it's not unusual for us to find after we do the
10 Gladue report that the Crown position has changed
11 significantly and it's not going up, it goes down.
12 Now, there's still maybe, they're still off and
13 is... you know, submissions on sentence, the Crown
14 and defence haven't always agreed.

15 But when you know something about someone, the
16 way you see them changes and the idea, you know,
17 Gladue and I freely speak or appeal in particular
18 speaks of moral blame worthiness. And you know,
19 some people have left, you know, because there are
20 circumstances, their moral blame worthiness and
21 (inaudible). But how do you know that unless you
22 know something about their life?

23 But it's also important for us in the Gladue
24 report not just be a list of deficits. I think
25 there's a criticism of Gladue which I don't think

1 has to be valid, right? I think it's sometimes
2 valid. That Gladue is a synonym for "deficit".
3 Gladue is everything that's wrong. Gladue is why
4 being an Aboriginal person is an awful thing,
5 because awful things happen to you. And no one, or
6 very few people, are all deficits. And so, it's
7 also very important in the Gladue reports to talk
8 about the person's strengths, their gifts, what
9 they've been able to accomplish.

10 So, our writers will often look at the
11 criminal record. It's not unusual to look at
12 someone who has a very long criminal record and
13 then, you see: I noticed for three and a half (3½)
14 years, you had no offences. It's not like you were
15 in the pen, you just, you were out, you had no
16 offences. What was going on? Oh yeah, then right,
17 well, I met this person, we had a relationship, we
18 had a kid, you know, and I got a job, things were
19 really working well. - And then, what happened?
20 Well, then they talk about what when off the rail.
21 But what it shows is the person is not just a
22 series of deficits, they're not just a series of
23 failures. They have skills. You have to show
24 that, because otherwise, I think, the judge is left
25 with saying... If all you show is deficits, the

1 judges are left saying: yeah, I'm really sorry this
2 happened to you, but what can I do? I've got to
3 send you to jail, because clearly you're not
4 capable of looking after yourself and managing your
5 emotions. But that's not what people are and so,
6 the Gladue reports, we make a point of making sure
7 that they talk about the person's strengths and the
8 person's abilities so that they become a well-
9 rounded person, which is what we all are, not just
10 a catalogue of deficits.

11 So, we found the Gladue reports have been very
12 helpful. Sometimes, sometimes, they're just
13 helpful to the clients. We've had clients who
14 carried a Gladue report around with them. They
15 don't really... they know they're going to the pen,
16 but now they know something about themselves. I
17 mean we've had difficult Gladue reports. We had
18 Gladue reports where we had to tell people the
19 father that they haven't seen in fifteen years or
20 ten years is dead.

21 We have actually told people, the people who
22 thought... who they thought were their parents
23 weren't their parents. Which is not an easy thing
24 to tell someone while they're facing criminal
25 charges. But you know, that's the truth of the

1 situation we... and so, people learn, and as I
2 said, the example of the guy who was beaten by his
3 father, people... the residential schools
4 experience is not just new for non-Indigenous
5 people. Many Indigenous people grew up at home
6 where no one talks about residential schools. No
7 one talks about it. You know, the only time you
8 hear about it is when someone was drinking or you
9 hear about it because you didn't know, but you
10 realise later, well, that's because, that's why mom
11 always wanted to scrub with lye or... you know, all
12 these sorts of things.

13 So, it gives people insight into their own
14 lives and their family's lives. And that becomes,
15 that's, I think that's a real value. So, in some
16 respect the reports are helpful just for the
17 clients themselves, but I think from the Court
18 process, they're able, they're helpful because as I
19 said, they make the person a person and there's a
20 real plan.

21 And what we've been able to do more recently
22 is, we know have, we started actually in the early
23 nineties (90's), pardon, in two thousand (2000).

24 **VOIX MASCULINE NON IDENTIFIÉE:**

25 No, no.

1 **M. JONATHAN RUDIN:**

2 Yes, the early two thousand (2000), sorry. Gladue
3 is ninety-nine ('99). We created a position called
4 "Gladue caseworker". So that's... because the
5 Gladue writers would write the report and then,
6 they would go on to write another report.
7 Meanwhile, the client is there going: excuse me,
8 they're all these things I'm supposed to do and I'm
9 not sure how I'm supposed to do them. Just as with
10 the Community Council, we have to help people.
11 It's important to help people, you know, do the
12 things they need to do to get through their... to
13 meet the conditions of their sentence and probation
14 officers are often too busy to do that.

15 So, we started, we had a couple Gladue
16 caseworkers and we've been able to get funding now
17 from the province, so all our Gladue writers, also
18 our Gladue caseworkers are associated with them.
19 So that the Gladue writers, when the report
20 actually is important to being written, ideally,
21 the caseworker is working with the client and then,
22 after the report is done, the client can continue
23 to work with the caseworker. We are currently in
24 discussions with the Ontario Parole Board so that
25 our caseworkers will be able to attend parole

1 hearings in... with the Ontario Parole Board to
2 talk about the person's plans for release to make
3 them more real and flesh them out so the Parole
4 Board has a better understanding of what the person
5 might do when they're first eligible for parole.

6 So, the role of the caseworker has become very
7 important. We write Gladue reports when the
8 Crown's position is ninety (90) days... more than
9 ninety (90) days. In some ways, that was just a
10 way of controlling the volume. Also, you know,
11 again, by editorializing, although much of today's
12 (inaudible) in my editorializing, but you know, a
13 ninety (90) day sentence or a sixty (60) day
14 sentence is really, I think, everyone in the room
15 just admitting they don't have enough imagination
16 to come up with something sensible, because what's
17 a sixty (60) day sentence going to do?

18 So, where the Crown indicates they're
19 interested in a ninety (90) days... less than
20 ninety (90) days, we have our caseworkers write a
21 Gladue letter, which doesn't take as long, it's not
22 as intrusive in the person's life, but focuses on
23 what sort of options, what sort of practical and
24 immediate steps can the person take? If the
25 person's out in custody, we try to get them to

1 start taking those steps before the letter is
2 submitted to Court.

3 The report or the letter, we submit them to
4 all the parties at the same time, so the judge, the
5 Crown and defence gets our Gladue report and a
6 Gladue letter at the same time. No one gets an
7 early look at it, no one gets to suggest what comes
8 out of it. That no... that's not what they are.
9 They are, from our perspective, they are a friend
10 of the Court report. They're not expert reports,
11 because we are not taking a position, we can't
12 diagnose people.

13 If someone... we suspect someone may have
14 foetal alcohol spectrum disorder, we'll mention
15 that in the report and talk about what FASD is, but
16 we won't diagnose them. If they had a traumatic
17 brain injury and they talked about it, we'll say
18 they had a traumatic... they say they had a
19 traumatic brain injury. Here's how their parents
20 and everyone knows... who knows them say their
21 behaviour has changed. Here's what we know about
22 traumatic brain injury, but we don't diagnose them.
23 So, they're not expert reports, but nor are they
24 defence reports or Crown reports.

25 No one gets to review them beforehand no one

1 gets to say: Take this out, other than our... the
2 person, the reviewer who works for Aboriginal
3 (inaudible) and we say: take this out or put this
4 in... take this and put this in. But no one gets a
5 first look at it, because that, I think, would
6 compromise the strength and the value of the
7 report. So, we have resisted Crowns and defence
8 asking us for those sort of things, because we
9 won't do it.

10 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

11 Yes, could you tell me, you said already some type
12 of things that you recommended in these reports are
13 treatment, but could you give us other examples of
14 things that could be recommended in a Gladue
15 report?

16 **M. JONATHAN RUDIN:**

17 Sure. I mean sometimes there may be a counselling
18 program, a form of treatment. There could be
19 employment issues, there could be volunteering
20 issues, volunteering things. Ceremonies. A lot of
21 people have participated in ceremonies. We want to
22 be careful, you don't want... we don't want the
23 Court to order someone to go to ceremonies, but you
24 want to be able to talk about ceremonies.

25 We always talk to the clients about the

1 recommendations or we try to always talk to the
2 clients. We want the recommendations we make to be
3 things that the client has agreed to do. We don't
4 want to upset the client, we don't want to say: you
5 should do this, if the client is not going to do
6 it. We try... so, for example, if it's quite
7 apparent to everyone that the person has an
8 addiction issue and they don't want to go to
9 treatment, then we try to say in the report: we
10 can't do this treatment with the client, they're
11 not interested in doing that, so it's not a
12 recommendation, you know. If anyone else wants to
13 take the shot at getting to convince him to go,
14 that's fine, but we're not suggesting that.

15 And sometimes, there's parenting, you know?
16 Sometimes, the person... the charge may have
17 nothing to do with children, but they have
18 children, or they've lost their children to CAS -
19 child welfare - and they would like to get the
20 children back. That's something we may recommend
21 as well.

22 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

23 Is there some kinds of recommendations in... with
24 the Community Council? Like...

25 **M. JONATHAN RUDIN:**

1 Well, the Community Council is a diversion program,
2 so no, but we have... the Community Council also
3 offers programs like anger management, so we might
4 recommend a person go to an anger management
5 program. We do have a victims... I mentioned we
6 have a victims program. The person may be... met
7 person may have been the victim of an offense, we
8 may recommend a date they meet with the victim
9 worker. So, as we try and identify all those
10 issues, we try and make recommendations that might
11 apply to those.

12 Not all of them, you know, should be... I mean
13 one of the debate discussions we have is that not
14 all the recommendations we necessarily put in the
15 report or some we say, you know, these are things a
16 person might want to do, but we don't know the
17 Court should order them to do that. I mean, the
18 difficulty is when the Court tells you to do
19 something, that's not just a helpful suggestion,
20 that's a requirement of the Court. And if you
21 don't do it, then that can lead to a failure to
22 comply charge. So we want to be careful about not
23 putting too many things in that would be nice for
24 the person to do but may not be really relevant as
25 an Order of the Court.

1 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

2 So, I don't know if you are going to talk about it,
3 but I wanted you to talk a little more about the
4 role, I think, in parole hearings?

5 **M. JONATHAN RUDIN:**

6 Oh right. So, we... this came up a couple... it's
7 come up a few times in the past year, so with our
8 Gladue caseworkers, we're working with people who
9 have gone to jail and who have parole hearings
10 upcoming and have asked for our assistance. And so,
11 we put together parole plans for them. In some
12 cases, it's... they... you know, they found
13 employment and we've shown that they have employment
14 and where they're going to go and what they're going
15 to do and how they're going to get there. So, we're
16 able to provide that to the Parole Board.

17 In another case, an individual was in custody.
18 We worked with him, we completed a... an
19 application for treatment, into a treatment
20 program, he was accepted into that treatment
21 program. We also got him accepted into a post-
22 treatment program in Toronto. Our Gladue
23 caseworker appeared at the program hearing and set
24 that plan out with a lot of details, but the client
25 probably would have difficulty doing, because, you

1 know, he wasn't really... he knew what was
2 happening, but he didn't know all the details of
3 it. So we've talked to the Ontario parole Board
4 and we are in the process of entering into a
5 Memorandum of Understanding which will give our
6 caseworkers a particular role when an individual is
7 sentenced to provincial custody. So that when
8 their parole hearing comes up, which is often
9 pretty quick, you know, people are, you know,
10 you're sentenced to, you know, nine (9) or twelve
11 (12) months jail, you're going to be up, your
12 parole hearing is going to be one third. So,
13 that's four months, so we want to be able to get
14 our caseworkers in touch with the clients, to help
15 them develop a parole plan and also, to attend the
16 parole hearing so that we can provide the Parole
17 Board with some meat to the release plan.

18 These often, you know, parole hearings are...
19 the individual is speaking to the Parole Board and
20 the Parole Board are asking questions about, you
21 know, this detail or that detail about your release
22 plan. The clients don't always... are not always
23 aware of that. It's not easy to work all that set
24 up while you're in custody. So we're hoping for a
25 particular role for our caseworkers at the parole

1 hearings and we're looking forward to that
2 development.

3 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

4 And I understand so the caseworkers are there
5 before the sentencing? So, while the Gladue report
6 is being made, the Court worker are there...

7 **M. JONATHAN RUDIN:**

8 The caseworker.

9 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

10 ... the caseworker, sorry.

11 **M. JONATHAN RUDIN:**

12 Yeah. So, some... when a client is out of custody,
13 we try to have the caseworker meet with the client
14 sort of right off the top. Maybe while the Gladue
15 report is being written, the caseworker will... can
16 work with the person to find particular programs
17 for them. So they can work before. Sometimes we
18 have clients who are released on very challenging
19 bails. They have a lot of, you know, difficult
20 bail conditions or a lot of bail conditions.
21 Sometimes, we'll assign a caseworker to help the
22 person in that case. So, they can work with
23 someone before they are sentenced. Certainly, for
24 writing a Gladue letter and the client is out of
25 custody, we will definitely working with the person

1 before sentence. And then, it's they... they're
2 there to work with people after they've been
3 sentenced as well.

4 **Me EDITH-FARAH ELASSAL:**

5 You explained a little earlier about some problems
6 that we can see if a Gladue report goes into the
7 file of the... of a person going to jail. Could
8 you just explain a little bit?

9 **M. JONATHAN RUDIN:**

10 Yes, we... our approach to Gladue reports in jail
11 has changed over the years. So when we started, we
12 thought it would be a great idea if the Gladue
13 report followed the client into jail, because then
14 people in the jail would know what the clients were
15 and they would know what the issues were, and they
16 could start to develop a correctional plan for the
17 person.

18 We now no longer think that's a good idea. A
19 number of people have spoken to us about this.
20 Certainly, there are two reasons that it's not a
21 good idea, I think. One, certainly for people who
22 are going to the federal system; Gladue reports
23 have... the role the Gladue reports play when
24 someone is in the federal system is very different
25 from the role they play when they're being

1 sentenced. So, when they're being sentenced, the
2 judge looks at the Gladue report, takes in the
3 factors, they might speak to, well, your
4 circumstances reduce your moral blame worthiness,
5 so instead of the Crown wants a twelve (12) year
6 sentence, you're getting a seven (7) year sentence.
7 Or whatever.

8 If that Gladue report goes into the federal
9 system, it's used for a completely different
10 purpose. It's used for risk assessment and all the
11 boxes get picked. And risk assessments, as I
12 understand have two components to them. They have
13 what are called "static factors" and "dynamic
14 factors". The dynamic factors are the ones that
15 are in your control, the static factors are
16 thorough the world you're born in.

17 And risk assessment tools generally over
18 assess Indigenous people as risks. I often say
19 that in our office, you know, almost all our staff
20 is at risk to re-offend, even though they never
21 offended, because they're Indigenous people. So,
22 you know, they... you know, family break-up,
23 addictions, do you know people with criminal
24 records, all those things are present. And so the
25 concern with the Gladue report going to a

1 correctional facility is that all those things that
2 help mitigate the sentence aggravate their
3 classification when they get into the federal
4 system in particular. And we know from the offices
5 of the correctional investigator that Aboriginal
6 people tend to serve longer than warrant expiry,
7 or just tend to serve time to warrant expiry,
8 because they've over classified. And I worry about
9 that in the provincial system too, that suddenly
10 we're giving information that's going to be taken
11 in a completely different context, a completely
12 different way, the same information, but used very
13 differently.

14 And the other reason that I... that we're now
15 reluctant to send the Gladue reports on is that
16 there's a lot of very personal information in the
17 Gladue reports. You know, people sharing about
18 their childhood, their physical abuse sometimes,
19 their sexual abuse, their family's history, what's
20 happened to their parents or their grand-parents.
21 I think just because you've been convicted of an
22 offense doesn't mean you've given up all your
23 rights to privacy. You should be able to decide
24 who hears those aspects of your life and when they
25 hear them.

1 And some of these things that are in Gladue
2 reports can actually be quite risky for people when
3 they're in jail. You don't want people to know
4 certain things, you wouldn't... you know, you go to
5 jail, you're afraid that people, information about
6 you may go to certain people. You may think I
7 don't want any of the correctional officers to know
8 this, because what if they somehow leak this
9 information to someone else? So, people should be
10 able to determine what parts of their lives are
11 revealed to the people that they're in the
12 institution with or to their probation officer.

13 We often get... people who get probation, we
14 get these consent forms signed by the client and
15 the probation officer writes: Please send the
16 Gladue report, here's the consent form. But that's
17 not really a consent form, because you're required,
18 when you're in probation, to sign whatever form
19 you're given, so you have to sign a consent form or
20 else, you're in breach of your probation.

21 So, our position, as an organization is, we'll
22 don't release the Gladue reports unless we have
23 spoken to the client and got their express
24 permission to release it. We will sometimes let
25 defence counsel, if they're using the report for a

1 subsequent offence, to send that consent in
2 afterwards, but you know, we're not going to
3 release that information until we've had a chance
4 to speak to the client to see if that's really what
5 they want. They may have signed a consent form,
6 but that doesn't compel us to release information.
7 So, if someone is in custody and the institution
8 wants a Gladue report, we have to speak to the
9 client.

10 One of the ways that we've started to try...
11 that we tried to deal with this is that in the
12 Gladue reports, we summarize the recommendations
13 and we put that summary on a separate page, so we
14 can say to the institution: here are our
15 recommendations, you don't really need to know all
16 the other stuff. Here are the recommendations.
17 And that really came about actually partly with
18 discussing with the client.

19 We had a client who... the probation officer
20 really wanted the Gladue report and the client said
21 there's material in here that I don't want the
22 probation officers... no, it's none of their
23 business. And when we talked to the probation
24 officer, really what they wanted were the
25 recommendations, and so we were able to accommodate

1 that. But I do think that we need to respect the
2 fact that people are entitled to privacy and so, we
3 now... we don't send Gladue reports on to the
4 institutions. If we can control what happens, the
5 judge may, and should the report get sent on, the
6 Crown may, for whatever reason, send them on, but
7 we don't do that without the client's consent.

8 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

9 Thank you. I don't know if you had any other
10 comments on Gladue, because I wanted to ask you
11 about the program you have for child protection?

12 **M. JONATHAN RUDIN:**

13 Yes. No, I think that's okay on Gladue.

14 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

15 Okay, so, because as you know, our inquiry is
16 also studying the relation between Youth Protection
17 Services and Native people, and I know you have a
18 program, so if you could...?

19 **M. JONATHAN RUDIN:**

20 Yes. So, we... the program that we have, I
21 mentioned, it's called "Giiwedin anang". Giiwedin
22 anang is Ojibwe for the word "North Star". We got
23 the name, we asked an Elder Jacob Gonay(?) to give
24 us a name and he thought about it, and he burned
25 some medicines and he said the name that he's given

1 us is Giiwedín anang, which means "North Star", and
2 I have no idea what the name means. He said
3 Giiwedín anang means "North Star" and I went...
4 okay... I don't know what that means, but he
5 explained, which was very helpful, he said that the
6 reason needs... the program is called "North Star"
7 is that, you know, if you are in the woods, if
8 you're in the forest and you're lost, and you want
9 to leave and you want to get out, you look up and
10 you find the North Star. And once you find the
11 North Star, you can find your way out. If you want
12 to find your way out, you can find out using the
13 North Star. And this program, that's what this
14 program is designed for, it's designed to help
15 individuals who are in the child welfare system to
16 try and get out of that system, and also to help,
17 you know, child welfare workers if they want to
18 help people get out of the child welfare system.

19 I don't have to tell you, you know, the rates
20 of over-representation in child welfare. We know
21 they're horrendous. So, we've been doing this
22 probably now, the program has changed a lot. In
23 the last eight, ten years, we've developed a pretty
24 good program, I think. It's unique, it's different
25 from the other child... Indigenous Child Welfare

1 programs in Ontario. The idea behind our... so, in
2 Ontario, Alternate Dispute Resolutions, which is
3 the term that they use, is mandated in all child
4 welfare cases. So, the... all (inaudible) sites
5 are required to (inaudible) consider Alternative
6 Dispute Resolution for all files. An Alternative
7 Dispute Resolution in Ontario includes family youth
8 conferencing, mediation and Aboriginal approaches.
9 It's called "Aboriginal approaches" and they don't
10 define what Aboriginal approaches are, which
11 actually is a good thing.

12 But the requirement in the Act is just for the
13 child welfare agency to consider, so you know, they
14 get a file, they look at it and go: Um!... should
15 we consider Alternative Dispute Resolution? - No, I
16 don't think so... but they've considered it and
17 they just put it away.

18 So, for our program, our program just as we
19 don't expect Crowns to recommend people to our
20 Community Council, we don't expect child welfare to
21 recommend people to Giiwediiwin, talking circles, it
22 happened, but we don't expect it. Clients can come
23 to us directly and say my... we're involved in
24 child welfare or it looks like we're imminently
25 going to be involved in child welfare and we would

1 like the assistance of your program.

2 And again, the way the program works now and
3 this has been a series, an evolution, we will talk
4 to the child welfare agency and encourage them to
5 participate. And what we ask them to do is we want
6 to... we hold a series of talking circles. We
7 don't expect to resolve everything right away. I
8 think the idea is that someone who is had a child
9 apprehended, who made themselves have a history of
10 child... involved in child welfare, you know, it's
11 not like you get people together in two hours or
12 three hours and somebody worked it all out and
13 suddenly, the kid's back home.

14 When children are apprehended it's usually
15 because there is a lack of trust, a relationship
16 that's broken down between the child welfare agency
17 and the client. And that has... that trust has to
18 be re-established. But it has to be re-established
19 in a way that people feel comfortable.

20 So, by having Giiwedini anang circles at our
21 building, in our space, the individuals feel
22 they're protected, they're not having to go to the
23 child welfare agency for this process. Again, we
24 use volunteers, although they do... many will get
25 an *honoring* for this. We have Elders, we have

1 Traditional Teachers, we have aunties, we have
2 uncles and we have community members. And we will
3 often, before a circle is held, we will meet with
4 the clients to identify some of the initial issues.
5 We will often have the clients meet with an Elder
6 of Traditional Teacher beforehand because you want
7 people to go into the circle ready to discuss
8 things. And many of our clients have had their own
9 history of child welfare, they have anger towards
10 child welfare. We have to... they have to be able
11 to get that out before they get into the circle,
12 because otherwise, the circle is just going to be,
13 you know, their expression of anger, which they...
14 which is real, but may not be relevant to this
15 particular case.

16 So, they meet with the Elders and then we have
17 a circle, and then if the child welfare agency is
18 there, at the end of the circle, we'll say okay,
19 what do we do next? We don't know where we're
20 going, you know, the family wants the children
21 back. We don't know if that's going to happen.
22 What do we... what needs to happen next? And the
23 child welfare agency will say well, the person
24 needs to do X and Y - and then, if they do X and Y,
25 what will you do? And the child welfare agency

1 will say what they will do.

2 So, we insist that the people from the child
3 welfare agency who attend have decision-making
4 ability. They can't go... they can't say well, I
5 have to go back to talk this over. Because one of
6 the difficulties with child welfare, and I'm not
7 blaming child welfare institutions, but there's
8 this phenomenon, the English term, I don't know the
9 French term is of the interest to know what the
10 translator say, "moving the goal post". No? Okay,
11 so, I thought so. Ah-ah. So, the idea is, you
12 know, you say to the person - you do X and I'll do
13 Y. And then, you do Y and then, you come back to
14 child welfare agency who says - yeah okay, but now
15 you have to do something else. Now, you have to do
16 something else. But you never get to where you're
17 going, you're never get to the goal line, because
18 the goal post keeps moving, because the child
19 welfare agency is reluctant, there's a huge risk
20 aversion in child welfare.

21 And so, a lot of families express frustration
22 about that and the advantages of having a Giiwedin
23 anang circle is everyone says beforehand and
24 publicly - if you do this, we will do that. And it
25 makes people think carefully about what they're

1 prepared to say they'll do. And then they're able
2 to be held accountable. And then, that's just the
3 step, it's a step and then, a step, and then, a
4 step. And in-between those steps, we often have
5 the parents, I said work with Elders or Traditional
6 Teachers to try and deal with the issues they have
7 to because they will have issues.

8 In children - excuse me - sometimes children
9 are apprehended mistakenly, but often there's an
10 underlying issue. So we want to talk about that
11 and we want to help the families figure that out.
12 We've been very... so we... the program actually is
13 very... we have one full-time staffer and who works
14 incredibly hard, and we probably are going to do
15 sixty (60) or seventy (70) cases this year. And we
16 have a very high success rate.

17 One of the things that we found that's been
18 very interesting is sometimes, a family will come
19 to us and say we want Giiwedini anang circle and we
20 call the child welfare agency, and the child
21 welfare agency... suddenly becomes aware there's a
22 problem. They weren't aware there was a problem,
23 because maybe the family didn't feel they could
24 talk to them. So, sometimes when we just call the
25 child welfare agency, they look into their own

1 practices and the matter resolves. It doesn't
2 really need any more, they just... knowing that
3 we're there and knowing that we want to look at
4 what they did, and suddenly, everything gets
5 solved.

6 And sometimes the child welfare agency says:
7 we don't want to come, we have no interest. We
8 will still work with that family and we have still
9 managed to get children returned, even though the
10 child welfare agency won't participate, because we
11 found a way to motivate the parents to want to do
12 the work that they need to do and the child welfare
13 agency sees the changes. And so eventually, the
14 kids got returned.

15 They're have been cases where we can't resolve
16 everything, but where the issues are significantly
17 narrowed, so if the matter has to go to Court,
18 there are only a couple of questions left. I mean,
19 these can be very challenging issues, because you
20 have the parents, you have the child welfare
21 agency, you have the First Nation sometimes, or two
22 First Nations involved. You know, how does this
23 get resolved, sometimes, we can work it all out.

24 But the program has been very successful, and
25 I think because it's again, just as a Community

1 Council, it's based on what the Elders and
2 Traditional Teachers think we should do and what
3 the needs of our clients are. It's an intensive
4 program, people have to want to participate, but it
5 seems to work.

6 The other aspect, I guess, it's important, is
7 the role the auntie or the uncle. Particularly
8 where the kid, the children are older, they need
9 someone to look after them too, so, we have an
10 auntie or an uncle who talks to the children. The
11 auntie and uncle will also come to the talking
12 circle. If the children are not old enough to come
13 to the circle, the auntie and uncle will represent
14 the interests of the children. I mean, I know we
15 always say that child welfare is about the
16 interests of the children, but it's often about
17 competing interests of adults. The auntie and
18 uncle can make, you know, those issues very clear.
19 The auntie and uncle are there to be someone the
20 kids can talk to as this process is going through,
21 to give the kids the teachings they want.

22 We've had... we had a Giiwedin anang circle
23 involving a young man who was from the North, who
24 was in a group home and we gave him some teachings
25 about who he was and gave... he was given a drum

1 and it really helped him, he didn't end up going
2 home, but he ended up going to the place with, I
3 think, a family member, and that whole process
4 helped him along a lot.

5 So, we see a big role in child welfare,
6 because I think, you know, it is, you know,
7 Indigenous people are so over represented in the
8 child welfare system and it's a system where...
9 because of the histories for many people, they feel
10 powerless. So, our experiences, you know, a lot of
11 times when a child is apprehended, the parents give
12 up. They don't want to give up, but it's just for
13 them, it's... okay, this is... the worst thing, you
14 know, I never wanted this to happen to me, to my
15 kid, because it happened to me. Now, it's
16 happened, I can't do anything. And they just give
17 up.

18 And so we try and give people an option so
19 they don't have to give up, so they can play a
20 role. If they're not able to parent, at least
21 they're able to make some suggestions about where
22 the child should be placed.

23 And it's... one of the reasons it's really
24 important to do this work is because, you know,
25 what happens to families when a child is

1 apprehended, particularly, you know, to women where
2 a child is apprehended, is... they have another
3 child. Like, that gap, they want to fill that gap
4 and they have another child, and then that child is
5 apprehended, and then they're on the child welfare
6 radar. Then, we have families who, when they give
7 birth in the room with them, you know, the doctors,
8 the nurses and the child welfare authority who is
9 taking the child away. So, we have to break...
10 that's a cycle that we have to break.

11 And you know, having people think about what
12 they need to do and how they need to parent is an
13 important step. So, we have a healthy
14 relationships program that we offer our clients
15 where they learn, you know, how to talk to people,
16 how they learn, you know, to develop healthy
17 relationships, not just with each other, with mom
18 and dad, but also with the child welfare agency of
19 with other social service providers, because you
20 need to learn those skills so you can better parent
21 your child and you know, keep your child.

22 So, yes, so that program has been very
23 helpful. We are exploring the idea of Gladue
24 reports in a child welfare context, but we...
25 that's at a very, very preliminary stage. We have

1 done one report and we're going to spend some time
2 digesting the learnings from that, but there's...

3 The other area that we're thinking of
4 expanding the program is there are Indigenous
5 families where there's no child welfare
6 involvement, but where there's family Court
7 involvement over access to children. And a lot of
8 families would rather not go to Court to work this
9 out and so, we're... they sometimes come to
10 Giiwedini anang, so, we're trying to piece that part
11 of the program after as well, so we'll be able to
12 deal with what essentially brought these speaking
13 child welfares. The child welfare within the child
14 welfare system and child welfare just between
15 parents who are splitting up.

16 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

17 Thank you. I don't know if you had any more
18 comments on that program or others before we just
19 talk about the McDougall Inquest, and then, your
20 recommendations?

21 **M. JONATHAN RUDIN:**

22 Okay. No, I think that's... because...

23 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

24 Okay, so, yes, so, you were an expert witness into
25 that inquest into the death of Craig McDougall.

1 And in that case there was a discussion around
2 systemic racism in the police force. And of
3 course, this is something we are interested and we
4 inquire, so I'm just wondering if you could, based
5 on that experience, talk about a little bit of your
6 perspective on that?

7 **M. JONATHAN RUDIN:**

8 Sure, thank you. There have been a lot of
9 inquiries in Canada about Indigenous people and
10 policing. You know, the police, as much as we talk
11 about the justice system and Crowns and judges, for
12 Indigenous people, the police are really the
13 justice system, it's the part of the justice system
14 they see most often. Whether it's because they're
15 accused of a crime, because they're victim of a
16 crime, the police really are the place where
17 Indigenous people get themselves involved with the
18 justice system.

19 The other thing about policing is unlike other
20 parts of the justice system. Police officers have
21 to react and make thousands of decisions in a split
22 second. So, when we talk about Gladue, you know,
23 we write in the Gladue report, the Crown goes away
24 and thinks about it, the defence goes away and
25 thinks about it. They make submissions to the

1 judge and the judge goes away and thinks about it.
2 It's not to say that there's not systemic racism in
3 all aspects of the criminal justice system. The
4 Courts have been clear that there is, but you have
5 time to think about those things. But police
6 officers are making decisions in a split second and
7 so, if they have unconscious bias and prejudice and
8 stereotypes about people, it's really... it has a
9 much bigger impact, because they have to make
10 decisions so quickly.

11 And the other thing is that, you know, the
12 police have a particular history in Canada with
13 Indigenous people and it's not a very nice history.
14 That in Canada, we have used the police primarily
15 as the means to enforce colonial practices, you
16 know? The Riel rebellion was put down but the
17 North West Mounted Police. Dudley George at
18 Ipperwash was shot by the OPP. The Oka crisis
19 began with the SQ trying to remove the people in
20 Kanesatake.

21 It's the police who are the ones that
22 governments ask to go in when Indigenous people
23 assert their rights and the police can engage in
24 that behaviour and then later the Courts sort out
25 what happened. So, the police play that role. And

1 of course, the police were the enforcement arm of
2 residential schools. When people didn't leave
3 residential schools, it was the police, the RCMP,
4 the OPP, whatever, who would take them away.

5 So, the police have a long history in
6 Indigenous communities and it's not a great
7 history. And so, a lot of Indigenous people have,
8 quite rightly, real concerns about the police, a
9 reasonable suspicion and apprehension about the
10 police.

11 I was at a conference in Timmins a number of
12 years ago and I was talking, and a police officer
13 came to see me at the end and he said: I'm... you
14 know, I'm from Mississauga, Mississauga, Ontario.
15 Not the First Nation of Mississauga. I'm from
16 Mississauga, Ontario, I'm not an Indigenous person.
17 I have nothing against Indigenous people. I'm just
18 trying to help. I go into the community, wear my
19 uniform. I just want to help, I want to protect
20 people and people look at me like I'm some villain.
21 They won't talk to me. You know, what the... you
22 know, I don't like this, what's going on? And all
23 I could say to him was: You're not the first person
24 with the uniform they've seen. And that uniform
25 has a whole different meaning for Indigenous people

1 than it does for non-Indigenous people.

2 You know, the murdered and missing Indigenous
3 women inquiry, the inquiry into the Pickton deaths
4 show that... and the royal Commission on Aboriginal
5 peoples have talked about this, Aboriginal people
6 are victims of both over-policing and under-
7 policing at the same time. They're over-policed in
8 that all sorts of minor activities engage police
9 activity. And again, historically, that would be
10 enforcing all sorts of alcohol. I mean, Indigenous
11 people are arrested where there are laws against
12 public intoxication. Indigenous people are
13 arrested constantly by the police, really not
14 because they're a danger, but because they're a
15 nuisance and people want them removed. They're
16 over-policed and they're under-policed. When
17 Indigenous people are often seen as less worthy
18 victims.

19 And so people are not... crimes are not
20 investigated. The Saskatchewan report into the
21 death of Neil Stonechild. The judge who conducted
22 that talked about the fact that in Saskatoon, he
23 said there are two solitudes. I know "two
24 solitudes" has a different meaning in Quebec, but
25 they're two solitudes in Saskatoon. There's the

1 White population and the Indigenous population.
2 And the White population sees the police as the
3 place you go when you need help, and the Indigenous
4 population sees the police as the people that
5 aren't there when you want them to be there and are
6 there when you don't want them to be there. And of
7 course, in Saskatoon, the police who are involved,
8 you know, taking Indigenous people out and leaving
9 them to the outskirts of town in the middle of
10 winter.

11 So, all of those things are there. And so, it
12 makes for a difficult relationship to begin with.
13 Police officers tend not to know a lot of
14 Indigenous people. They don't come from, you know,
15 many don't come from Indigenous communities, they
16 don't know Indigenous people. And they only see,
17 because of the way policing works, often, all you
18 ever see is the negative, because you're responding
19 to things, so it's easy if you don't know a
20 community, you then start to think well, they're
21 all like this, because all you're doing is
22 responding to the negative, to the calls for help
23 or the arrests.

24 So, you don't see the Indigenous people who
25 are doing well or are living good lives and so, all

1 of that is an environment where systemic racism is
2 going to be a factor. I mean, all the inquiries
3 have looked at this and they have no problem saying
4 that there's a huge problem with systemic racism in
5 police forces across Canada. The RCMP has
6 acknowledged that recently to the Assembly of First
7 Nations. So, you know, it's a big problem and it's
8 a big problem, as I said, because the police are
9 the first point of contact with the justice system.
10 And so, the Craig McDougall inquest was just, you
11 know, it was an example of that.

12 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

13 Do you have any thoughts on how to mend that
14 bridge... that bridge, that distress, how like...
15 that's a big questions, but...?

16 **M. JONATHAN RUDIN:**

17 What I've seen is that over the years, different
18 approaches have been taken. So, first, it was the
19 Native awareness training. You know, maybe if you
20 learn more about Indigenous people you will not
21 have these attitudes. And then there was sort of
22 systemic racism training. One of the... I mean, I
23 think that obviously, learning more about
24 Indigenous people is a good thing, but it's not
25 clear necessarily how a police officer who learns

1 how to smudge or goes into a sweat lodge is going
2 to do their job differently when they're on the
3 street and have to make split-second decisions.

4 And so, what seems to be the latest ways, and
5 I can't, you know, just... from what my research
6 shows is what in the States is called "Implicit
7 Bias Training", which is starting from the
8 assumptions that we know that people have biases
9 and we want to acknowledge those biases, have
10 people recognize those biases and then work to
11 figure out how you address them.

12 But you don't have to do that necessarily by
13 learning about Indigenous culture, you have to
14 learn it by acknowledging your biases. We, as
15 Canadians, most Canadians know very little about
16 Indigenous people, we know very little about
17 Indigenous history, but we think we know a lot.
18 It's one of the problems we have. It's not that we
19 don't know, not knowing is fine. If you don't know
20 something, that's fine. You say I don't know
21 something, I guess I should learn about it.

22 But we think we know when we don't know. And
23 so, that's the problem. We think we... and so,
24 Implicit Bias Training is... you say, let's get
25 past all that, let's just make sure how does this

1 not have an impact on the decisions you make as a
2 police officer? And there are a number of programs
3 that have been adopted by police forces in Canada
4 to do Implicit Bias Training, not just for
5 Indigenous people, but for other minority, for
6 minority groups as well.

7 So, you know, that seems to be promising, but
8 what the... I guess the only thing I'm probably
9 sure about is if you ask me about the seven years
10 from now, there'll probably be something else that
11 people will do. I mean, a lot of the reports
12 talked about developing community policing as
13 opposed to the sort of reactive policing model that
14 we have now. It's harder to see how that's going
15 to happen in urban centers. It is something that
16 could be perhaps adopted in Reserve communities and
17 more rural communities.

18 There's also, you know, the development of
19 Indigenous police forces and equipping them
20 properly, and training people properly as well.
21 Those are all options.

22 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

23 Thank you. And now, well, I don't know if you have
24 other thoughts on that, and if not, we can go to
25 your recommendations.

1 **M. JONATHAN RUDIN:**

2 Okay. I think...

3 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

4 Uh-hum.

5 **M. JONATHAN RUDIN:**

6 Yes, I think I've gone on long enough. So, I think
7 in terms of recommendations, I do think that the
8 model, the Aboriginal Legal Services model,
9 obviously, I like it, but I think it's a good model
10 and I think that it's something that the Quebec
11 government should think about implementing. What
12 it requires is an understanding that... and it
13 doesn't, you don't have to start with sixty (60)
14 people right away, you know, you start small and
15 grow, but recognizing that having services for
16 Indigenous people, a variety of services in one
17 place under one roof, under one set of supervision,
18 is a way to try and deliver services more
19 effectively.

20 And that means also thinking that there is...
21 there are costs that are independent of each
22 program. One of the challenges we face at
23 Aboriginal Legal Services is, you know, our
24 Community Council program is funded by one place,
25 our (inaudible) program by another place, our

1 Gladue program by another place. No one actually
2 says how do you... who is going to cover your human
3 resources costs? Who is going to cover your
4 reception costs? Because no one wants to cover
5 your Court expenses. So, I think that's something
6 to look at. And making sure those, you know,
7 making sure the agency is a community agency.

8 We are a community agency, we have a community
9 Board of Directors. We are actually two
10 corporations for reasons that needn't bother you,
11 but one of them is a charitable organization. So,
12 I think thinking about that and seeing that there's
13 also an advocacy role, the idea that, you know, the
14 test case litigation, inquest, that's a role
15 that... I know the private paralaawyers can fulfill,
16 but I think our experiences that it's better filled
17 by an Indigenous organization if only, even if
18 they, you've only to advise a private paralaawyer
19 who is representing them. So, I think that's
20 important. You know, this model may not work in
21 the North, so in sort of the more Northern
22 communities, in the Cree and the Inuit communities,
23 there may be another approach that makes sense.

24 But I do think wherever these things are
25 located, if you're thinking about locating them in

1 Northern communities, that the organization be
2 distinct from Chief and Council. That these...
3 that, you know, justice decisions are hard to do.
4 I mean, I think about many of our Gladue reports.
5 Many of our Gladue reports are done in communities
6 where the victim and the offender are from the same
7 community. And often, these are murder cases,
8 serious sexual assault cases. That would put, I
9 think, a lot of pressure on a Chief and Council if
10 they were funding a program that was providing
11 services to, for example, the offender in that
12 case. People in the community might say why are
13 you spending money that way? There could be
14 pressure on the people who are doing the reports
15 So, creating a separate agency... into Nova
16 Scotia, they've done that, so Nova Scotia, they
17 have an organization called "Mi'kmaq Legal Services
18 Network". They used to be associated with the
19 confederacy of Mi'kmaq Chiefs and they decided it
20 made more sense to be a distinct organization. So,
21 that way, they could represent the interests of the
22 people they're representing. The Chiefs in
23 particular communities would have their own
24 perspectives, but it wouldn't put undue pressure on
25 the organization. You're keeping the roles

1 distinct, which I think is important.

2 So, I think those are some... those are some
3 suggestions. I think another recommendation,
4 Quebec is really a... again, my understanding is
5 Quebec is fairly new to the Gladue report process.
6 And I've heard some concerns raised about the
7 Gladue report process in Quebec. The way it's
8 funded and how it's being done, and I think it's
9 worth someone taking a look at the process, looking
10 at what's being done in other provinces to see what
11 model makes the most sense.

12 You know, the reality is often decisions about
13 provisions of Gladue services. Sort of goes like
14 this. We're not going to do it, which is what
15 happens in Manitoba and Saskatchewan, then, we are
16 going to do it, but how can we do it and spend, we
17 don't have a lot of money, so, how can we do it and
18 not spend a lot of money? And if that's the... so
19 while the intention is good, maybe the execution is
20 not as good. And so I think it's worth looking at
21 the programs, looking how they operate, getting a
22 sense from judges about the reports, but also
23 looking at what reports are produced in other
24 places, because it's always hard to know if what
25 you've got is really good if you don't know what

1 else is out there.

2 Again, I have a complete bias, I'm totally
3 upfront with this. I mean, I think the idea of
4 people who are full-time Gladue writers working for
5 Indigenous organizations is the way to go. I know
6 a lot in Quebec, a lot of Court workers working
7 were STACK(?) are writing Gladue reports as well,
8 but being a Court worker is a full-time job and I
9 don't know how you... how a Court worker... and
10 write a Gladue report as well. I don't know how
11 realistic that is. So, I think that that's worth
12 looking at.

13 I also, and again I don't know, I've said
14 privately to you, but I mean, I do feel some are
15 reluctant coming to another province and telling
16 them, you know, here's what you should think about,
17 but because you asked... I do think that looking
18 for Indigenous approaches to child welfare is an
19 important approach. If you're thinking about child
20 welfare, we want to do things differently, just as
21 we're looking at different ways to do justice,
22 criminal justice, and we're looking at diversion
23 programs. I think we should look at different ways
24 until the (?) child welfare and looking for
25 Alternative Dispute Resolution models that are

1 grounded in Indigenous traditions.

2 Doing family group, doing mediation with an
3 Aboriginal person is nice, but that's still more
4 mediation with an Aboriginal person than it is an
5 Aboriginal approach. And I think that's overall
6 one of the things just generally, I think, that
7 needs to be taken a look at. How much of what's
8 going on both in child welfare and in criminal
9 justice that is in... that seems to be an
10 alternative. How much of it is what the community
11 really wants versus what the community is told they
12 can have?

13 So, Justice Committees, for example. Is that
14 what you call... so, Justice Committees. That
15 maybe exactly what a community wants. But they may
16 want something very different, but they have a
17 Justice Committee, because that's all they've been
18 offered. And this is, I think, if we're serious
19 about wanting to allow Indigenous communities to
20 start to take control over things, we have to be
21 responsible enough to let them think about how to
22 do it.

23 So, our Community Council approach is
24 different from what other communities do and that's
25 good, it's not like one is good and one is bad.

1 Each responds to the capacities and the abilities
2 of the community, but to say to every community you
3 can do whatever you want as long as it looks like
4 this... is not really giving people choice. And
5 so, I think that just as I think you want to look
6 at options in child welfare, I think the same for
7 criminal justice. You want to look at what the
8 communities identify. What are the issues that
9 matter to them? Not what are the issues that
10 matter to us, okay? You know, the criminal
11 (inaudible) say (inaudible) discovery of these
12 summary conviction just deal with (inaudible).
13 Maybe the community wants to do that. Maybe they
14 don't, maybe they want to do something else.

15 So, I think having those discussions, those
16 serious discussions, because those are often not
17 what happens. Often, what happens is communities
18 are told - this is what you... you know, this is
19 what on offer, do you want it? And that's what
20 you've got. And so, I think those would be... I
21 know they're very broad, but they manage to touch,
22 I think, on everything that I talked about. So,
23 those would be the recommendations, I think.

24 **LE COMMISSAIRE:**

25 Yes. And obviously, it has to be implemented after

1 discussion and consultation, and decision
2 altogether with people concerned.

3 **M. JONATHAN RUDIN:**

4 Yes.

5 **LE COMMISSAIRE:**

6 Uh-hum. Indigenous people and their communities.

7 **M. JONATHAN RUDIN:**

8 Yes, and I think those, you know, and those
9 discussions, I mean, I think Chief and Council have
10 a role, but I think other individuals have roles
11 too.

12 **LE COMMISSAIRE:**

13 Uh-hum.

14 **M. JONATHAN RUDIN:**

15 And every community has its own dynamics, so, we
16 need to respect those dynamics, but...

17 **LE COMMISSAIRE:**

18 Uh-hum.

19 **M. JONATHAN RUDIN:**

20 ... we also need to give people real choice.

21 **LE COMMISSAIRE:**

22 I don't know if other counsels have questions?

23 **Me MARIE-PAULE BOUCHER:**

24 I don't have any questions, thank you.

25 **VOIX MASCULINE NON IDENTIFIÉE:**

1 No question for me.

2 **LE COMMISSAIRE:**

3 No more question, Me Denis-Boileau?

4 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

5 No, I'm okay.

6 **LE COMMISSAIRE:**

7 No?

8 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

9 Thank you.

10 **LE COMMISSAIRE:**

11 So, it's the time I will take to thank you very
12 much for having accepted our invitation to testify
13 today and to let us what's going on elsewhere. We
14 are interested to know what's going on. That's why
15 we have some matters to examine and we have to try
16 to have some calls to action to improve the
17 situation after discussion with people concerned.
18 But I want to thank you very much for what you have
19 brought to us today, to help our thinking about
20 that.

21 **M. JONATHAN RUDIN:**

22 Well, thank you, and thank you for your patience
23 listening to me and I've had so much fun I think
24 I'll come back Friday morning.

25 **LE COMMISSAIRE:**

1 I understand...

2 **M. JONATHAN RUDIN:**

3 Yes.

4 **LE COMMISSAIRE:**

5 ... you have much more to say.

6 **M. JONATHAN RUDIN:**

7 But it's hard to believe that I would have anything
8 more to say, but...

9 **LE COMMISSAIRE:**

10 But if you have ideas or things to add to this,
11 it's very welcome. I understand you know how to
12 join Me Denis-Boileau and let her know what maybe
13 suggested to complete to improve, to help us to...
14 in our work, which is not easy, I have to admit,
15 and that's why we have hearings to listen and try
16 to understand. So, thank you very much again.

17 **M. JONATHAN RUDIN:**

18 Thank you.

19 **LE COMMISSAIRE:**

20 So, we'll adjourn until tomorrow morning, nine
21 thirty (09:30)?

22 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

23 J'aurais quelques pièces.

24 **LE COMMISSAIRE:**

25 Oh, you have some documents to file?

1 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

2 (Inaudible).

3 **LE COMMISSAIRE:**

4 Okay.

5 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

6 P-350?

7 **LA GREFFIÈRE-AUDIENCIÈRE:**

8 356.

9 **Me MARIE-ANDRÉE DENIS-BOILEAU:**

10 Trois cent cinq... Alors, sous P-356, "Report of
11 the Program Director" from two thousand seventeen
12 (2017).

13 **- PIÈCE COTÉE P-356 -**

14 Report of the Program Director for two
15 thousand and seventeen.

16 **- PIÈCE COTÉE P-357 -**

17 P-357, Evaluation of the Aboriginal Legal
18 Services of Toronto Community Council program, April
19 two thousand (2000).

20 **- PIÈCE COTÉE P-358 -**

21 P-358, Report of the Interim Legal Advocacy
22 Director on the program's activities for the two
23 thousand sixteen (2016)-two thousand seventeen
24 (2017) fiscal year.

25 **- PIÈCE COTÉE P-359 -**

1 P-359, des informations au sujet du programme
2 de déjudiciarisation, le Diversion Program.

3

4 - PIÈCE COTÉE P-360 -

5 P-360, Inquest into the death of Craig Vincent
6 McDougall.

7

- PIÈCE COTÉE P-361 -

8 P-361, Protocole d'entente avec la Couronne
9 fédérale.

10

- PIÈCE COTÉE P-362 -

11 P-362, le Protocole d'entente avec le Bureau
12 des procureurs de la Couronne de Toronto.

13

- PIÈCE COTÉE P-363 -

14 P-363, le Protocole d'entente avec le Bureau
15 des procureurs de la Couronne de Toronto pour les
16 jeunes contrevenants.

17

- PIÈCE COTÉE P-364 -

18 Et finalement, P-364, a Review of Justice
19 Services to Native People in Metropolitan Toronto,
20 June... from June nineteen eighty-nine (1989).
21 Ça complète.

22 **LE COMMISSAIRE :**

23 So, good evening. Tomorrow, nine thirty
24 (09:30 a.m.).

25 **LA GREFFIÈRE-AUDIENCIÈRE :**

1 Alors la Commission ajourne à demain, neuf heures
2 trente (9 h 30).

3 -----

4
5 Je soussignée, **Monique Leclerc**, sténographe
6 officielle bilingue, certifiée sous mon serment
7 d'office que les pages qui précèdent sont et
8 contiennent la transcription exacte et fidèle, au
9 meilleur de mes connaissances et de mon jugement,
10 de l'enregistrement numérique effectué hors de mon
11 contrôle et au meilleur de la qualité dudit
12 enregistrement, le tout conformément à la loi.

13
14 Et j'ai signé,

15
16



17
18
19
20
21

Monique Leclerc
Sténographe officielle