

Public Hearing

Audience publique

Commissioners / Commissaires

The Honourable / L'honorable J. Michael MacDonald,
Chair / Président

Leanne J. Fitch (Ret. Police Chief, M.O.M)

Dr. Kim Stanton

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II Appearances / Comparutions

Ms. Krista Smith

Senior Legal Policy Officer / Conseillère
juridique principal

Dr. Emma Cunliffe

Director of Research and Policy /
Directrice des politiques et recherches

III
Table of Content / Table des matières

	PAGE
ROUNDTABLE: IPV, GBV AND FAMILY VIOLENCE: POLICE AND INSTITUTIONAL UNDERSTANDING AND RESPONSES TO INTIMATE PARTNER VIOLENCE AND FAMILY VIOLENCE	2
Facilitated by Ms. Krista Smith	2
ROUNDTABLE: POLICE AND INSTITUTIONAL UNDERSTANDING AND RESPONSES TO SEXUAL VIOLENCE AND OTHER FORMS OF GENDER-BASED VIOLENCE	60
Facilitated by Dr. Emma Cunliffe	60

IV
Exhibit List / Liste des pièces

No	DESCRIPTION	PAGE
	None entered	

Halifax, Nova Scotia

--- Upon commencing on Wednesday, July 20, 2022 at 9:33 a.m.

COMMISSIONER FITCH: Good morning. Bonjour at bienvenue.
Hello, and welcome.

We join you from Mi'kma'ki, the ancestral and unceded territory of
the Mi'kmaq.

Please join us in remembering those whose lives were taken, those
who were harmed, their families and all those affected by the April 2020 mass casualty
in Nova Scotia.

Part of our mandate is to explore a number of issues related to the
mass casualty, including police policies, procedures and training in respect of gender-
based and intimate partner violence. Today we will hear two roundtables focused on
police and institutional understandings and responses to these forms of violence.

As with earlier roundtables, we anticipate today's discussions will
assist us in our work to understand the broad context behind the mass casualty and to
bring forward well-informed recommendations that can help make our communities
safer.

I will now ask Krista Smith from our Research and Policy Team to
begin this morning's discussions.

Krista. Thank you.

MS. KRISTA SMITH: Thank you, Commissioner Fitch.

So my name is Krista Smith, and I'm on the Research and Policy
Team. And this -- today's roundtables will focus on police and institutional
understandings to gender-based and intimate partner violence.

This morning we'll be focusing on institutional responses to intimate
partner and family violence, whereas this afternoon we'll be focusing on institutional
responses to gender-based and sexualized violence.

As with every roundtable, we will not focus on the facts or evidence

1 related to the mass casualty of 18th and 19th April, 2020. This work is being done in
2 other aspects of the Commission's process. Instead, we will be focused on examining
3 the broader context and causes of the mass casualty as enumerated in the
4 Commission's mandate. This includes how women's experiences of intimate partner
5 and family violence and how police, courts and other institutions understand and
6 respond to intimate partner and family violence.

7 **--- ROUNDTABLE: IPV, GBV AND FAMILY VIOLENCE: POLICE AND**
8 **INSTITUTIONAL UNDERSTANDING AND RESPONSES TO INTIMATE PARTNER**
9 **VIOLENCE AND FAMILY VIOLENCE**

10 **--- FACILITATED BY MS. KRISTA SMITH:**

11 **MS. KRISTA SMITH:** So this morning, we'll be looking at barriers
12 to effective police and other institutional responses to intimate partner and family
13 violence, the cultural aspects of those barriers and how they can be addressed, and the
14 promising and best practices in police and institutional responses.

15 So as with every roundtable discussion, the intention is to provide
16 the Commissioners and public with a deeper understanding of the core themes so that
17 everyone is well positioned to engage in conversation in Phase 3 about lessons learned
18 and potential recommendations.

19 As facilitator of this roundtable, I will be directing the questions,
20 asking follow-ups and moderating the dialogue. The Commissioners may choose to
21 pose questions at any point.

22 Roundtable discussions form part of the Commission record. They
23 are being livestreamed now and will be publicly available on the Commission's website.

24 Before we proceed, I want to pause and acknowledge that much of
25 the work underlying today's roundtable discussion was led by my colleague, Serwaah
26 Frimpong.

27 So we're very fortunate to be joined today by several experts who
28 have dedicated their lives to understanding these issues, so I would like to invite each of

1 you to introduce yourselves now and to speak a little bit about your work.

2 We'll start -- I think we'll start with Lori, who's online there.

3 **DR. LORI CHAMBERS:** Good morning. Thank you for the
4 invitation to participate today.

5 My name is Lori Chambers, and I'm a Professor of Gender and
6 Women's Studies at Lakehead University, Thunder Bay campus, on the Territory of the
7 Anishinaabe people.

8 I am a legal historian and I've worked in quite a few areas of
9 women's legal history, but in the last seven or eight years I've worked primarily on
10 gender-based violence with particular focus on intimate partner violence and coercive
11 control and responses of police to these problems. And I think that's all I need to say
12 today.

13 **MS. KRISTA SMITH:** Thank you, Lori.

14 Patrina?

15 **DR. PATRINA DUHANEY:** Hello, everyone. Good morning.
16 Thanks for the invitation to participate in this very critical conversation.

17 My name is Dr. Patrina Duhaney. I'm Assistant Professor in the
18 Faculty of Social Work at the University of Calgary and culture of the faculty's anti-black
19 racism task force. I have worked in the domestic violence sector for a number of years.

20 My research is inter-disciplinary in nature, looking at critical social
21 work chronology, critical race studies, critical anti-racism and black feminist traditions.
22 In terms of my theoretical framework, it's often focused on critical race theory, critical
23 race feminism and intersectionality and looks at the ways in which race, racism,
24 victimization and criminalization are interconnected.

25 Currently conducting research to support black and racialized
26 individuals and so, for example, in 2021 I was commissioned by Calgary Police Service
27 to conduct an environmental scan to review and produce a final report to assess the
28 knowledge and the environment and actions needed to address systemic racism within

1 the Calgary Police Service and support the development of anti-racism strategy.

2 My current research looks at black women's experiences with the
3 police and my second research project aims to build domestic violence prevention
4 knowledge, focusing specifically on black Canadian women, men, families and
5 communities.

6 Thank you.

7 **MS. KRISTA SMITH:** Thank you, Patrina.

8 Carmen?

9 **DR. CARMEN GILL:** Thank you, Krista, Commissioners.

10 My name is Carmen Gill. I'm a Professor in the Department of
11 Sociology at the University of New Brunswick. I've been teaching courses on violence,
12 mainly, and so in criminology.

13 My research area is and has been for over 30 years now intimate
14 partner violence and I've been working on this particular issue in different capacities and
15 I've been working at the court level looking at how we're treating cases through the
16 court system and, lately, for the last, I think, 16 years, I've been working with police
17 agencies and I work in partnership mainly with the Canadian Association of Chiefs of
18 Police. And I am conducting research now on coercive control, risk assessment and
19 intimate partner violence at the police level and how they're responding to this particular
20 issue.

21 And I'm in the process of developing a Canadian centre for policing
22 intimate partner violence, and this is done as well with the Crime Prevention,
23 Community Safety and Well-Being Committee at CACP. And there's a resolution that --
24 and I'm very, very excited about this because there's a resolution that is going to be
25 submitted at the general meeting next week to CACP, so we are hoping that they are
26 going to approve this particular resolution.

27 So I'm delighted to be here with you to share my experience
28 researching IPV.

1 **MS. KRISTA SMITH:** Thank you so much, Carmen.
2 Nancy?

3 **DR. NANCY ROSS:** Hello. Thank you so much for having me
4 speak today. I offer my condolences to the family and all harmed by the events that
5 have led to this Commission.

6 I have been focused on research related to gender-based violence
7 and child -- adverse childhood experiences and early trauma for several decades now
8 as well, and I worked as a social worker and a clinical therapist in mental health and
9 addiction settings for 20 years. And during that time, many people shared with me their
10 experiences of childhood trauma and experiences of gender-based violence, which led
11 me to pursue a PhD in peacebuilding.

12 And currently, I am doing research related to the ways in which the
13 pro arrest, pro charge, and pro prosecution policies impact the service and -- the police
14 service and institutional responses to people when they reach out for help. And I'm
15 working on research related to cultural responsive healthcare and services in response
16 to gender-based violence, and looking at what it might mean to apply a trauma-
17 informed, family-centred, decolonised lens to those responses. Thank you.

18 **MS. KRISTA SMITH:** Thank you, Nancy.

19 So to begin today, I want to just make sure we're all clear on a
20 couple of terms. So Carmen, I'd like to take you to your commissioned report, which is
21 Exhibit P003352, and if you can just give us a quick rundown of the terms "intimate
22 partner violence", "family violence", and how those -- how those two terms relate to the
23 term "gender-based violence".

24 **DR. CARMEN GILL:** So I will try to not repeat what has already
25 been said here because I heard others talking about this. I generally make the
26 distinction between intimate partner violence and family violence. Intimate partner
27 violence is really violence that occurs between partners, whether they are living
28 together, married, common-law, or ex partners. When we talk about family violence,

1 here I'm really, really cutting short on these terms, but family violence is going to be
2 broader. It means that everything that occurs where people do have a family
3 relationship, it can count under the term "family violence". So it can be intimate partner
4 violence, but it can be as well violence against children, against older parents, among
5 siblings. So we are going to see that it's broader.

6 And so when we talk about what's happening in a relationship, we
7 have a tendency to use the term "intimate partner violence". How is this connected to
8 gender-based violence? Well, gender-based violence is violence that is experienced
9 due to the person's gender, identity, and how they are going to live it. It's rooted in
10 gender inequality. And of course when we talk about gender-based violence, there is
11 abuse of power. Well, women and girls are generally the largest ones who are carrying
12 the burden of gender-based violence. So when we talk about gender-based violence,
13 we are encompassing all forms of violence that women and girls can be experiencing.

14 But it's not necessarily only with an intimate partner relationship. It
15 encompasses that too, but there are other forms of relationships where -- or there is no
16 relationship between the woman and the person who is going to be the perpetrator, and
17 this is where we're going to start looking at violence that is hate violence towards
18 women, where we are going to see that there are misogyny that is going to be in --
19 working in -- coming to play when it comes to gender-based violence. But gender-
20 based violence really encompasses all forms of violence that generally women are the
21 recipients of this type of violence, and if we start adding some vulnerabilities, let's say
22 there are more vulnerable groups in our population that are going to be more the target
23 of this gender-based violence, for example, racialized women, women with disabilities,
24 women from remote areas, so we are going to see that they are more vulnerable to this
25 form of violence.

26 So I am going to go back to intimate partner violence to talk about
27 not just about the forms of violence that we are seeing in intimate partner violence
28 relationships, we need to as well add this element that is extremely important to

1 highlight, and it has to do with the pattern of power and control, and this is what we are
2 going to recognise with an intimate partner violence. And so when we talk about a
3 pattern of power and control, it encompasses all forms of violence in the relationship,
4 but it goes beyond and broader. And this is where we have -- we are now talking more
5 and more about coercive control.

6 **MS. KRISTA SMITH:** And we'll head to coercive control in just a
7 moment. As you were speaking, I was -- you can correct me if this is wrong, because
8 this just occurred to me, but it almost sounds like the Venn diagrams that are
9 overlapping circles, and gender-based violence is one circle, family violence is another,
10 and the intersection can be intimate partner violence.

11 **DR. CARMEN GILL:** It's possible.

12 **MS. KRISTA SMITH:** Okay. Just thinking.

13 **DR. CARMEN GILL:** Yeah. And there's also -- if you -- if we want
14 to go even further, we can add the term "domestic violence", which I did not talk about.
15 But here, just to confuse everybody, when we talk about domestic violence, we can talk
16 as well of intimate partner violence. Depending on who's using, who's doing the
17 research, some people will use the term domestic violence.

18 I have a tendency to avoid using the term "domestic violence"
19 because for me, when we talk about domestic violence, it's all forms of violence that I
20 will see within the domestic sphere, so the private sphere. So it can be related to IPV,
21 but it can be related to other forms of violence that are occurring in the private sphere.
22 So I have a tendency to make the distinction.

23 But at the same time, in the Foundational Document that I wrote
24 with Mary Aspinall, we use interchangeably IPV and domestic violence because of the
25 complexity where people are using one term versus the other. But generally, I have a
26 tendency to use intimate partner violence. Despite the fact that it's a gender-neutral
27 term, it doesn't mean that I'm not focussing on women that are mainly the victim of
28 intimate partner violence.

1 **MS. KRISTA SMITH:** Thank you, Carmen.

2 Patrina, I wanted to pick up on something that Carmen said in
3 discussing these definitions, in that oftentimes vulnerabilities play a role in how we
4 understand these terms. Can you -- can you speak a little bit to how people's
5 marginalised experiences need to be taken into consideration when considering these
6 terms?

7 **DR. PATRINA DUHANEY:** Absolutely. I certainly agree with what
8 has been stated in terms of the definitions, and it's really important that we look at how
9 experiences of intimate partner violence and gender-based violence is more
10 complicated and further complicated by people's intersect and identities. And as
11 Carmen mentioned, race, disabilities, and so forth, and also economic marginalisation.

12 And so for instance, our research tells us that racialized Black,
13 Indigenous women are at increased risk, greater risk compared to their White women
14 counterparts of experience in -- of violence for a number of different reasons in terms of
15 how society might even explore violence in these -- across these various groups. And
16 so with limited research on these various populations there is also the resources and
17 supports for these women as well, and people who experience gender-based violence,
18 as well as intimate partner violence, and -- which certainly increases their risk in terms
19 of the extent to which they will call for support, how they might access resources and
20 even engage with formal supports as well.

21 **MS. KRISTA SMITH:** Thank you. And we'll flesh some of that as
22 we go in this conversation today.

23 I want to take us now to the term, "Coercive control," which Carmen
24 alluded to. And, Lori, you've -- much of your work deals with this concept. We included
25 an article that you authored at P003655, which really gives us a working definition of
26 coercive control. Can you help us to understand the term and how it shows up?

27 **DR. LORI CHAMBERS:** Certainly. I'm happy to do that, and I'll try
28 to keep it reasonably brief and not repeat too much of what is in the materials, the

1 written materials that you were provided with.

2 Coercive control is extremely gendered. So we come back to what
3 Carmen was talking about, about power and control. Coercive control is based in
4 traditional patriarchal assumptions about gender roles. And it exploits -- the men who
5 are abusive and use coercive control deliberately exploit expectations of female
6 subordination to both normalize and justify their behaviour and to render it invisible to
7 the wider society.

8 So coercive control is a pattern of behaviour that develops over
9 time, which uses isolation, intimidation, and control to keep women from being free to
10 make decisions for themselves, to keep them tethered to men who treat them with
11 complete and utter disrespect. It does not have to include a lot of daily violence. So
12 what do I mean by that?

13 Well, women are not necessarily being hit all the time; they're not
14 black -- they don't have blackened eyes and broken bones. They're not showing up in
15 the hospital, necessarily. What they experience instead is a kind of micro-regulation of
16 absolutely everything they do all day long.

17 So their partners -- they start out with what appears to be loving
18 concern and correction of their behaviours, which turns into a really totalitarian regime
19 which feels like you are a victim of kidnapping or a prisoner of war.

20 So women aren't allowed to think for themselves; they can't have
21 their own opinions, they're corrected, they're gaslighted and told that their version of
22 reality is wrong. And sometimes men do all sorts of weird things to make women
23 question their sense of reality; hide the keys, do things to make them think that they're
24 losing their ability to think rationally.

25 They insult them, they degrade them so that women start to feel
26 increasingly worthless. They criticize all of the things that are about women's gendered
27 performance in society; their cooking, their cleaning, their management of the
28 household, their rearing of children. And they also take all their money and leave them

1 so that they are dependent. Even a woman who has a well-paid, secure job is not
2 financially secure living with a coercive controller because he will take control of her
3 salary and limit her access to cash. Often a woman will either not be allowed to have a
4 phone or will have tracking on her phone so that she's being listened to every time she
5 uses it. They follow, they put GPS devices on people's cars, track -- use video to track
6 people. And they use violence when they need to, to reinforce their power.

7 So when I -- for example, with the book that I wrote on the *R. v.*
8 *Ryan* case, Mike Ryan frequently would grab Nicole Doucet by the neck and hold her up
9 against the wall. So it's not explicitly strangulation but it's a very clear demonstration of
10 power, control, and potential for lethality. So women are terrified. They live in a state of
11 constant existential fear; like, they just think that their lives could end at any time. And
12 they're also threatened that not only that their own lives but the lives of all those they
13 care about could end at any time, including children, parents, anyone to whom they
14 might turn for assistance.

15 So they become increasingly isolated to protect people they love.
16 They don't want those people harmed because of what they view as their problem, not
17 the problem of those they love. So they're isolated and in environments often, they'll be
18 trapped also in environments where they're quite invisible from society, so rural women
19 are at particular risk. If you're in a place where people don't see you and you don't have
20 opportunities to leave, that makes it even more difficult.

21 I really also want to stress here that sexual violence is a routinized
22 part of this. So women may not say explicitly they're raped, but they're forced to have
23 sexual -- engage in sexual activities they wouldn't choose for themselves, and they're
24 forced to it at times when they don't want to. So woken up in the middle of the night,
25 told that they have to do this. And there's no option of saying no, and it's very clear that
26 there's no option of saying no.

27 But because there aren't bruises and broken bones, there isn't a
28 physical record of abuse in many cases. And so women don't feel confident about

1 calling for help, they don't necessarily name themselves as abused because, of course,
2 this is exploiting all these stereotypes that you're supposed to do what your husband
3 tells you anyway.

4 So they don't necessarily call for help and if they do call for help,
5 they say, "I'm afraid. I'm afraid," but they can't necessarily name approximate incident of
6 violence that police can recognize and say, "Oh yes, you're abused," so they often don't
7 get the help they need. They're perceived to be exaggerating or lying about what has
8 happened, and in particular this is true if the partner is there saying, "Oh, she has
9 mental health problems. She exaggerates everything," which is something else that
10 often happens in these situations.

11 The final thing I really want to say about coercive control is that the
12 myth that it ends when you leave is overwhelmingly dangerous because, in fact, in
13 coercively controlling relationships, the most dangerous moment is when you attempt to
14 leave, because it is about control; it's not about violence. It's about controlling you and
15 keeping you. So if you are not being kept, if you're refusing -- if you're refusing this
16 paradigm, then you're now at risk of being killed because this is the moment when you
17 are threatening power and control of your coercive controller.

18 So it is -- the danger is heightened at the time of separation and for
19 a significant period thereafter, and coercive controllers use every trick in the book after
20 separation to try to continue to have control over their partners. So child custody and
21 access, times when you have to meet, tracking continues. Your phone is terrible in this
22 regard, the phones that we now have that follow us everywhere that tell the world where
23 we are. And they're showing up at your workplace; they're showing up wherever you
24 might be and making you feel that even though you've left, you're still not safe, and so
25 therefore maybe you will go back.

26 Is it unrelenting and, as I said, the best comparison is with a victim
27 of kidnap or a prisoner of war.

28 **MS. KRISTA SMITH:** Thank you.

1 As I was reviewing your article, I believe I recall seeing that there is
2 more of a correlation between coercive control and ultimate lethality than there is
3 between physical violence and lethality. Do I remember that correctly?

4 **DR. LORI CHAMBERS:** It's significantly more correlated with
5 lethality than major damage to the body.

6 **MS. KRISTA SMITH:** Thank you. So we'll continue with these
7 topics as we go, but we're going to start to shift into considering the institutions that are
8 involved in responding to these types of situations.

9 And to continue setting the scene for us a little bit, Nancy, I was
10 hoping you could talk to us about the policies that have been followed in Nova Scotia for
11 the last, I think, couple of decades?

12 **DR. NANCY ROSS:** Yes. So the pro-arrest, pro-charge, and pro-
13 prosecution policies were initiated in 1980s and the 1990s, in the 1990s in Nova Scotia,
14 largely in response to mainstream feminists, I would say, who felt that domestic violence
15 -- and I use the term "Domestic violence" here because these policies name -- refer to
16 domestic violence, but they're more broadly governing the police response to intimate
17 partner and gender-based violence.

18 So these policies were implemented because people were
19 concerned about safety, they were concerned that they wanted to make gender-based
20 violence a public session, not a personal issue or private issue, and they wanted to
21 remove the onus, responsibility from the victim survivor to report to the police.

22 So they have been -- so they were initiated by the Government of
23 Canada in cooperation with the Solicitor General and local police departments across
24 the country, so they contribute to the criminalization of domestic violence by providing
25 legal authority to police and prosecution to proceed with criminal charges where
26 reasonable and probable ground exist that domestic violence has occurred. And as I
27 said, they remove the responsibility from the survivor to lay a charge, and many people
28 felt this was a very positive initiation because many -- as Lori has talked about in terms

1 of coercive control, many women may wish to not charge their perpetrator.

2 However, since these policies have been initiated since the 1990s,
3 there has been -- they have been subject to some critique and we have conducted a
4 scoping review of all the literature published related to these policies since the 1990s
5 and reviewed 296 articles, and there are mixed reviews about these policies now. And I
6 would say that the evidence clearly points to the need for some revision regarding these
7 policies.

8 **MS. KRISTA SMITH:** Thank you.

9 And we'll continue that conversation as we so as well.

10 Just for the purpose of the record, the scoping review that was
11 conducted is -- has been entered as Exhibit P-003661. Actually, that's a PowerPoint.
12 And then the scoping review article is P-003672.

13 So with that kind of lay of the land in mind, I'd like to turn now to
14 what we know to be true, is that women often don't report to the police that they have
15 experienced intimate partner or family violence.

16 And Patrina, I'm hoping you can help us to start to understand why
17 women wouldn't call the police in such a situation.

18 **DR. PATRINA DUHANEY:** Certainly. I mean, there are certainly
19 many reasons why women would not call the police, but what I really want to highlight
20 first before I unpack that is talk about the overwhelming evidence that shows a
21 relationship between race and the frequency and severity of police stops and searches,
22 arrests and incarceration rates both in Canada and the U.S.

23 And so there is certainly unequivocal evidence that shows that
24 black indigenous people are significantly over-represented in the criminal justice
25 system, and so we know that there's a horrific history of colonial violence, oppression
26 and racial injustices.

27 And so when we think -- you know, looking at that history and
28 thinking about the reasons why women might be reluctant to call the police, there are a

1 number of different reasons why they might express this reluctance, and so there might
2 be a concern around fear or retaliation from their partners. They might fear the police
3 may mistreat their partners or even mistreat them.

4 Some women might not even believe that the situation is severe
5 enough to warrant police intervention. There might be a general distrust of the criminal
6 justice system.

7 Within racialized communities, black racialized communities and
8 even indigenous communities, there might be certain messages, whether it's overt or
9 covert messaging, around disclosing the abuse. I want to be really clear that it's
10 because of that long history of racism and oppression.

11 Some women may believe that if they were to call the police for
12 help, they might be either mistreated by the police or they might not be believed. If they
13 have had previous negative contact with the police, they might fear that it might result in
14 another negative experience. They might be disrespected or the police may undermine
15 or even minimize the extent of, the severity of violence in their relationship.

16 **MS. KRISTA SMITH:** Thank you, Patrina.

17 There are a few other concepts that we'll look at later on as well
18 related to this.

19 For now, I want to turn us to how institutional, particularly police
20 responses are shaped when encountering allegations of intimate partner and family
21 violence. The feminist scholarship has pointed to the fact that many people have
22 misconceptions about intimate partner and family violence. This is often referred to in
23 shorthand as myths and stereotypes.

24 And Carmen, I'm hoping that you can describe what types of myths
25 and stereotypes tend to circulate about intimate partner and family violence and
26 coercive control.

27 **DR. CARMEN GILL:** Thank you, Krista.

28 First I would like to go back to coercive control. And just to give us

1 an image about coercive control, I generally use the image of the iceberg floating on the
2 ocean. And when you talk about coercive control, you're talking about what you see
3 and you're talking as well about what you don't see, what is underneath.

4 So there are a lot of behaviours that we are not necessarily seeing
5 that are going to be non-physical, so it's always important to remember that when we
6 talk about coercive control, it involves control and all the forms of violence that we see
7 in intimate partner violence.

8 I make this link with myths because what we are going to start
9 seeing is that women that are caught in abusive relationships will need to start first to
10 recognize that they are in an abusive relationship and, believe me, this is one of the
11 most difficult tasks for those that are caught in those abusive relationships because it's
12 occurring over time. You don't wake up one morning saying, "Oh, I'm a victim of
13 violence".

14 So when we want to talk -- when we are looking at how we are
15 perceiving this particular issue, I heard this question many times during the commission,
16 "Why does she stay?". And this is where we start hearing about myths and stereotypes
17 about intimate partner violence/coercive control.

18 So I will more talk about more coercive control because this is what
19 it is.

20 So when we talk about myths, it's basically myths, belief about
21 intimate partner violence that are going to lead us to minimize, normalize or, you know,
22 it's going to be considered completely normal to see violence. So basically, we are
23 minimizing the situation.

24 So myths, for example -- and I -- we can look on the internet for a
25 number of myths about intimate partner violence. The very first one that we are going
26 to hear about is that if they are staying, it may not be that serious, it may not be that
27 violent. We're going to consider that violence is not serious. Like when police are
28 responding, they will see more like verbal arguments, so it will be seen as less serious.

1 And there's as well when we start looking at how we are treating
2 those that are in abusive relationship, there's blaming the person because we are going
3 to consider that when you are in an abusive relationship, you should take the
4 responsibility to get out of this relationship. And this is not necessarily what is
5 happening.

6 There are attitudes that are really focused -- there's attitudes that
7 are really focusing on gender roles and gender norms, so basically we are going to view
8 particular roles for men and women in our society, and therefore, when it comes to
9 recognise some form of pattern of violence in a relationship, we will have a hard time to
10 determine this because we are going to consider that men are more in a dominant
11 position and women are more in the private sector, not necessarily making all those
12 decisions.

13 But what we need to remember with coercive control is that women
14 are losing their agency, and they don't have the capacity. At some point, it's really hard
15 when you're not in those shoes to understand that victims of intimate partner violence
16 have a very hard time rationalise their decisions, and they are going to stay in abusive
17 relationship because it's going to be a way of coping, they are going to develop coping
18 mechanisms. And so when we talk about stereotypes we're forgetting to look at the
19 complexity of the issue, and instead, we are doing like more like a black and white math
20 about, well, if it's violence you should not be there, you should leave. And this not how
21 it's occurring in our society.

22 And of course, there are as well some stigmatisation that is going to
23 occur around victims of intimate partner violence. So victims are going to fear
24 stigmatisation, especially if they start talking about or disclosing what they are going
25 through, may not necessarily be comfortable in being identified as a victim. There is as
26 well the internalisation of a form of stigmatisation, and they are going to internalise the
27 fact that they are -- that it will become their truth, that they are in an abusive relationship
28 and they deserve it.

1 And of course there is -- and this is where we're going, we're going
2 through the stigmatisation through cultural stigmatisation, and this is where we are
3 stigmatising victims of abuse through professionals that are dealing with intimate
4 partner violence, with victims of intimate partner violence.

5 And of course, when we start looking at police, what are the main
6 factors that are going to lead police officers not to be convinced that someone is a
7 victim? Well, you need to be a true victim. Okay, I'm saying something that is absurd
8 here. But what is a true victim? It's someone that is going to be helpless, that is going
9 to potentially be crying, will be shaky, will have some bruises, will really show that she is
10 a victim. This is what we're seeing, this is what we are expecting. Police officers are
11 not going to believe a victim if she fails to show that she is a victim, that she is
12 victimised.

13 Imagine, you call the police, you fear the -- your spouse, you don't
14 know what's coming next, and yet you have to demonstrate that you are a victim. And if
15 they are unable to demonstrate a particular posture, it's going to be very difficult for a
16 police officer to understand.

17 And what I'm saying here, and I'm not -- I'm not judging police
18 officers. I think -- I think they deal with the instrument and the -- they have a toolbox to
19 intervene, so we are going to talk about this, but really, there are elements that are in
20 front of police officers and that prevents them from recognising someone as a victim.

21 And of course -- can I continue? When we talk about IPV coercive
22 control, we're not talking about an incident. The police officer shows up, he's
23 responding, she's responding to an incident. So when they come to a place, a victim
24 that has to demonstrate that she's a true victim, who is not necessarily reporting an
25 incident but a pattern that she's caught in, how do you do this? And the police officer's
26 narrow in his way of approaching this particular issue because they're asked to look at
27 an incident, they're not asked to look for something else. We're not asking them to look at
28 the complexity of the issue. That's a problem to me and others.

1 **MS. KRISTA SMITH:** Thank you, Carmen.

2 To follow up on that, I'd like to ask you, Lori, in some of the work
3 that you've done in Ontario in assessing, you've been assessing responses, police
4 responses to intimate partner and family violence. From that, maybe can you speak
5 about when police first arrive on a scene, how are they making sense of what they see
6 when they first arrive? How do they make sense of what they're hearing what people ---

7 **DR. LORI CHAMBERS:** Well ---

8 **MS. KRISTA SMITH:** --- are telling them?

9 **DR. LORI CHAMBERS:** --- what they're supposed to do is
10 separate the parties, speak to them in a quiet, controlled environment, and try to get to
11 the gist of the incident. And Carmen made a very important distinction here, because it
12 is all about the incident that they have just arrived at.

13 So they do use -- in Ontario, they use ODARA, which is a risk
14 assessment tool, and they are supposed to go through all of those questions. But even
15 those questions, they're often in a hurry, they don't have the amount of time that's
16 necessary to build rapport with a person who's been abused so that they'll get honest
17 answers about things like sexual violence in your personal relationship. So often these
18 forms are not fully completed.

19 So I would say what our study shows, and it's still in its kind of
20 preliminary stages, I'm just working on writing one of the earliest articles that deals with
21 the coercive control piece of the study. It's about 4,000, just under 4,000 police calls
22 over a three-year period in a jurisdiction that is partially rural, partially small urban, and it
23 seems like the police respond very well to incidents that have clear indices of violence.
24 They are concerned about that, they want to address it, they charge appropriately, they
25 take women to places of safety.

26 But when we then looked at -- what we did with the data was also
27 take unique numbers for the identifiers for the individuals and track multiple interactions
28 with police. And so what we see is that there are people who had 12, 13 interactions

1 with the police during this three plus year time period, and in one of those -- and it's all
2 over the place, the responses to these -- the couple. Sometimes it's considered low
3 risk, it's non-criminal, nothing is done; other times, the person is arrested. A person
4 who's been arrested for a very violent crime could then be deemed low risk down the
5 line because they don't necessarily even consult the previous data when they go to a
6 new call. And it's really not about assessing process, observing changes over time in a
7 relationship, or talking to women about wider patterns of control.

8 And I echo what Carmen is saying, that this is not about police
9 deliberately missing this stuff, in most cases. There are of course some bad cops, and I
10 think we can see some of that in the *Ryan* case. But there are -- there are all sorts of
11 procedural things that make it really difficult. They don't have the time and resources to
12 spend the hours that are necessary to build the rapport that is required to gather
13 information in these highly fraught circumstances.

14 And we need to understand that and provide other kinds of services
15 at the moment of crisis or at least in follow up immediately after a call, wellness checks
16 within a short period of time after a call. Because what we see in the cases that we've
17 looked at in this jurisdiction is that because there isn't any continuity, because we don't
18 necessarily follow the data from one intervention with the couple to the next, there are
19 missed opportunities to prevent escalation and explosion of violence, and we should be
20 concerned about that.

21 **MS. KRISTA SMITH:** Thank you.

22 Patrina, I'd like to take it to you if I can, and taking us back to the
23 myths and stereotypes conversation and thinking about how myth and stereotypes may
24 pervade police responses and how they sort of make sense of what they're seeing. Can
25 you help us to think about how that might affect how a police enter a scene of a culture
26 or nationality that's not their own?

27 **DR. PATRINA DUHANEY:** No, certainly.

28 And you know, to really pick up on what Lori and Carmen have

1 highlighted, oftentimes police do not understand the complexities of violence in black
2 women's lives. We know that women who are often in conflict with the law have
3 histories of victimization, whether in childhood, in previous relationships or current
4 relationships, and many may engage in defensive actions in response to this
5 victimization.

6 And so for a black woman, it's really important for us to understand,
7 you know, there's this history of violence even from police officers, and so highlighting
8 the piece around stereotypes just like derogatory stereotypes exist in society, officers
9 may also endorse these derogatory stereotypes and may construct black women, for
10 instance, as argumentative, aggressive, violent, who instigate a fight or are more likely
11 to provoke their partners or emasculate black men.

12 And so these women run the risk of their victimization being
13 undermined and being classified as an accomplice. As Lori highlighted, oftentimes
14 police do not have the time or even use any -- much time to really uncover what has
15 happened in a relationship and how things have really deteriorated.

16 And so we know that because of these stereotypes that may be
17 held of black women, black women may tend to safeguard black men, black
18 communities from further racial and gendered oppression.

19 And so certainly what was said earlier in terms of the ways in which
20 some women may conform to this stereotypical images of femininity that construct
21 women as passive, controlled, constrained and if black women conform to those
22 stereotypical images of what a woman is supposed to be and how a woman is
23 supposed to behave, they might not be considered as credible victims.

24 And so there's certainly stereotypes associated with blackness,
25 crime and criminality which oftentimes masculinize black women's use of force against
26 their partners. They're often demonized and their actions are characterized as criminal,
27 and so with all those different layers, they might not receive the same protection as
28 other women. And police may also justify their use of force and brutality against them

1 or even justify the fact that they might not even take their situation serious or provide the
2 same level of protection.

3 **MS. KRISTA SMITH:** Thank you.

4 I want to follow up on -- with Nancy. And I see you wish to speak.
5 Let me pose the question I have in mind for you, but please feel free to comment on
6 anything you've heard as well.

7 I'm just thinking about what Lori said a moment earlier, and Patrina
8 mentioned as well, that there isn't time -- there isn't time in these moments of initial
9 response for the police to build the rapport and to really assess the situation and to
10 create access to the services that are really needed. And I'm wondering how the pro
11 arrest, pro charge, pro prosecution policy may play into some of that initial assessment
12 of police.

13 **DR. NANCY ROSS:** Okay. I would like to respond to that
14 question, but I have been thinking about the myths and I just wanted to follow up on
15 what was just said because in my work, I have found that victims or survivors of gender-
16 based violence want a voice. They are some -- I think a myth is that they are passive,
17 vulnerable and have nothing to say. And so when they get to the court, often they feel
18 that they -- well, their experience is that they don't have an opportunity to speak barely
19 at all.

20 And so for me, I think that we need to hear from victims more and
21 then, in terms of the police, I think it does response -- it does get down to a resource
22 issue because given that to listen to people's stories you need to have time and I think
23 oftentimes people -- police don't give the time necessary to hear from women.

24 So that's one of the myths, is that victims are passive, that they're
25 vulnerable, that they have nothing to say. Most victims, I think, want to contribute to
26 making -- to ending gender-based violence.

27 And then the other thing that I think is really important to recognize
28 and I think that Carmen started to talk about is victim blaming is out there so

1 prominently and that this is an individual problem rather than a societal issue.

2 It's so easy for us to think about it as that person over there, but to
3 think about it as a societal issue I think it something that invites complexity and invites a
4 thought that this is something that's -- we're all responsible for. When people about
5 "Nova Scotia Strong", you know, I think we need to think about what that means and
6 how do we support people rather than blame them.

7 And then the other myth that I wanted to address is that all people
8 want to end their relationship and that the best outcome is that -- is that the relationship
9 ends.

10 About 70 percent of people want to remain in relationship and I
11 think that the possibility of healing and that people can learn skills and learn conflict
12 resolution skills is something we need to consider.

13 So those pro-arrest, pro-charge, pro-prosecution policies set in
14 motion a response that often people describe as traumatic and women have described -
15 have said that if they knew what it set in motion, they wouldn't have called the police in
16 the first place. And this is more so for people who are racialized, who have disabilities
17 and who are economically marginalized. And that is because it also sets in motion
18 scrutiny from child protection services and from other services where women feel that
19 they are under increased surveillance, that they are, as I said, scrutinized and fear
20 losing their children, so I think in terms of a trauma-informed response often these pro
21 arrest, pro charge, pro prosecution policies set in motion a response that is more
22 traumatic and adds a layer of trauma that I think is something we need to really pay
23 attention to and I think provide some impetus for change.

24 **MS. KRISTA SMITH:** Thank you. And thank you for following up
25 on the other myths that you wanted to articulate. That's -- I'm glad they're out there.

26 Carmen, I think you had some follow-up comments.

27 **DR. CARMEN GILL:** I think I would like to go back to the pro-
28 arrest and pro-charging policies because when they put this in -- when they decided to

1 implement this in Canada, the one thing that they wanted to do was to remove
2 discretion used by police officers. And here we have the perfect example of
3 unanticipated consequences about a policy that has been put in place in good faith that
4 it would help police officers to shape their understanding of the issue, but it's like a
5 double-edged sword, so to speak.

6 Police officers are not exempt from sharing stereotypes and have
7 common beliefs about a victim of abuse, and so research have been showing that
8 police officers that do really consider that women -- that they share a traditional view
9 about women in relationships are less likely to arrest and less likely to refer a victim for
10 counselling.

11 So really, when we start looking at this particular issue, we're doing
12 with policies that we're putting in place in order to provide some guidelines or
13 parameters for those that do have this important job to determine that they are in the
14 presence of a situation of intimate partner violence but, at the same time, they are
15 dealing as well with their own perceptions.

16 So I did a study in New Brunswick a few years back where we did a
17 survey with police officers and I wanted to know how they were defining the issue and
18 how they were perceiving this particular issue, and I came up with two groups: those
19 that had a very conventional way of viewing intimate partner violence, and the other
20 group that was more like the progressive -- the progressive group that was viewing the
21 issue more in its complexity. And 60-percent are considering more -- have more
22 perspective, a conventional perspective.

23 And when I say conventional perspective, police officers are
24 defining IPV in light of the offences that they can use through the *Criminal Code of*
25 *Canada*. So you can imagine that mainly they're focussing on assault and sexual
26 assault, everything that is going to be related to physical evidence. And then you have
27 police officers that do have this understanding that this is more complex, that this is a
28 pattern, that they have to go beyond what they see at the scene.

1 So there are some roadblocks, so to speak, when it comes to police
2 response to intimate partner violence, and Lori has been as well mentioning this about
3 the risk assessment tool, but I know we are going to come back to this in a few minutes.

4 **MS. KRISTA SMITH:** Thank you, Carmen.

5 So I'd like to sort of take all these things that we have been talking
6 about and think about a specific case that happened here in Nova Scotia.

7 Lori, you've recently released a book I think called *No Legal Way*
8 *Out*, about the case of *R v. Ryan*. So I'd like to spend the rest of our time before the
9 break talking about this case and maybe unpacking a little bit of what patterns can be
10 seen through the -- through those facts. So maybe you can just start with telling us
11 about the case and the facts.

12 **DR. LORI CHAMBERS:** Okay. It's a -- it's an interesting but
13 horrific case, and it's interesting in a myriad of ways. I'll just try to start with the
14 beginning.

15 It's the kind of a classic presentation of coercive control in that he is
16 somewhat older than her. He meets her in a situation where he has power over her.
17 She's a cadet and he is a trainer in the -- in the Reserves, and she's very young when
18 they meet.

19 And he love bombs her. He is absolutely infatuated with her, and
20 she falls for the fairy tale, falls for, and that sounds like I'm judging her, I'm not judging
21 her. It is the fairy tale that little girls are fed, that a man who loves you the most will love
22 bomb you. He will be so attentive, he will so caring that he'll just carry you away to a
23 perfect future. And this is what she sees initially with him, even though from the
24 beginning he's aggressive and mean with other people, and she recognises this.

25 Fast forward, she gets married. She doesn't feel confident telling
26 her family she's gotten married. She hides it from them for a period of time because
27 they're concerned about the relationship. She gets married. He is serving and she
28 moves around the country a little bit with him.

1 Violence erupts first in -- when they're out West, she's with him at a
2 posting, and it starts with a political argument. She's not allowed to have her view of the
3 world. They disagree about politics. He tells her that she's not allowed -- that as a wife,
4 she's not allowed to speak against what he says in public, and from here, you see the
5 beginnings of pretty serious deterioration of a relationship, control of her behaviour, and
6 episodes of physical control and violence.

7 Fast forward a few years, they buy a home in Nova Scotia, in a
8 rural area. They buy it with money that comes from her parents, not from him, and the
9 parents are distrusting enough that it's in her name with her stepfather, not owned by
10 the husband at all. There's -- there are a lot of signs that things are not well.

11 They have a child. He becomes increasingly possessive and
12 demanding, doesn't like her paying attention to the child, cuts her off from the family
13 because the family's involved with the kid. She's not allowed to even see her immediate
14 siblings and parents. And he continues this control even when he is posted overseas in
15 Bosnia. He phones her. She has to be home at a set time every day to answer a
16 videocall, and if she's not she knows there is going to be hell to pay.

17 And she's a teacher in the community with a secure job and a good
18 reputation, and none of this protects her from being absolutely controlled in the most
19 intimate of ways, including sexual violence on a routine basis, being held by the neck,
20 threats that he will kill her, threats that he will bury her. He kills pets, he destroys her
21 property, the list goes on and on. He is a miserable human being.

22 And she loses weight. She is under 100 pounds, closer to
23 90 pounds, skin and bones, suffering from PTSD, and starts to discuss PTSD and
24 eating problems and her marital problems with a doctor and a counsellor.

25 She finds out that he is having an affair with their babysitter, who is
26 underage, who is the woman he later marries and has children with, and she finally
27 says, "I don't have to stay in this marriage anymore." She had been very committed to
28 the idea of legal and religious marriage, and when she finds out he's having an affair

1 she says, "I don't have to stay", and she tells him she's leaving.

2 And he is very concerned about keeping the property in the
3 marriage, and is threatening her about -- they have taken from -- there's a very
4 complicated financial picture where he is stealing money from her parents, effectively,
5 and he wants to maintain control over that money, so he threatens her a lot. And it
6 culminates in a day when she is trying to move some of her belongings out of the
7 house, and he phones her repeatedly while she's in the house with friends moving stuff,
8 and he threatens to burn the house down with her in it and with her child in the house.
9 And this threat is heard by others.

10 And she phones the police and the police take her to a place of
11 safety. She works with victims services. She's determined to be at high risk of lethality,
12 and they recommend that she get a panic button so that she can contact the police
13 immediately. The police, nonetheless, the Meteghan detachment, make the decision
14 that she doesn't need any such device, that it's all just ordinary family separation, it's a
15 civil matter, and none of it is a -- represents a danger to her.

16 In the three -- in -- over a three-month period after their separation,
17 his surveillance of her heightens. He is -- he follows her to work, he goes -- waits in the
18 parking lot for her at work, he phones her repeatedly. She feels that she is never going
19 to get any help. She calls the police over 17 times, nothing happens. In fact, she is told
20 when the police come to the school where her husband is waiting in the parking lot, she
21 is told not to criticize a soldier by the police. And she decides that there is no way she
22 is ever going to get out of it, it's him or her, and he has to go or she is going to die.

23 She's also very concerned about custody proceedings because she
24 has been deemed by an assessor, who doesn't understand domestic violence, as
25 having mental health problems based on Michael Ryan's story, and she sees that
26 there's a possibility she's going to lose custody of the child.

27 It's a -- it's all very upsetting and disturbing.

28 She then is called by the police, cold-called by the police offering to

1 solve her problem. They have heard about this, we don't know exactly how they heard
2 about it, but they -- cold-calling to offer to kill him for her. And so she meets a police
3 officer in a sting operation, a Mr. Big operation, totally inappropriate for use in the
4 context of domestic violence, and they -- when she gives -- hands over money and
5 says, "Here's the contract on him, please kill him", she's arrested.

6 She is charged with a crime not committed. She is sentenced --
7 she is set for trial. She posts bail, her family posts bail. She says when she is put in jail
8 that it's the first time she's felt safe in years, which in itself is overwhelmingly sad.

9 In the meantime, the custody proceedings go forward before the
10 court case can go ahead, and he gets custody of her child and she has not really seen
11 her daughter since.

12 When they go to court, her lawyer, Joel Pink, does an excellent job
13 of bringing evidence about this abuse, and she spends many painful hours on the stand
14 describing in intimate detail guns being held to her head while he rants, the threats to
15 kill her.

16 She only breaks down at one point. She is remarkably strong and
17 powerful on the stand, and I agree 100 percent, Carmen, abused women have a lot to
18 stay about what abuse looks like. And she -- her comments could be -- stand alone as
19 a definition of coercive control because she talks about, "He's my husband. I'm not
20 supposed to say no to sex". What does it mean? He holds me by the neck and tells me
21 not to say things, but he's not hurting me. So this failure to see even for herself that it is
22 legitimately abuse.

23 But the -- Justice Farrar, at the court of first instance, is very
24 attuned to these issues. He acquits her. She chooses a non-jury trial, just before the
25 Judge, Justice Farrar. He acquits her on the basis of duress.

26 This acquittal is upheld by the Court of Appeal in Nova Scotia under
27 Mike MacDonald, and the -- and a panel with him, of course. And the appeal decision is
28 a very feminist, principled discussion of how the law has to understand the position of

1 what they referred to in the decision as a battered woman when she is trying to escape
2 and acknowledging that it doesn't end when you leave. In fact, it intensifies.

3 The case then goes before the Supreme Court, where the Court
4 acknowledges that she is a deeply abused woman, that he subjected her to a reign of
5 terror and that -- but the case is overturned on the basis of a legal technicality that
6 duress should not have been applied, but because the Crown changed its mind about
7 using -- about whether or not duress was legitimate, they say you can't be a retrial, so
8 there's a stay of proceedings so she can't be forced to go through this process again.
9 And they also castigate the RCMP. They say the -- it seems -- it's disturbing, they say,
10 that it's -- disturbing that the RCMP seemed more eager to engage in a sting operation
11 with an abused woman than to come to her assistance when she asked for it.

12 So there is a real rebuke of the RCMP's behaviour in the Supreme
13 Court decision.

14 So immediately following the Supreme Court decision, Mike Ryan
15 responds with a YouTube video in which he deflects, denies and defames, and he says
16 that instead Nicole Doucet is the aggressor, that she is the person with the violence
17 problem and that he's innocent and has never done anything wrong.

18 This gets thousands of views, mostly likes, and unbelievably vicious
19 misogynist comments. In fact, threats to Nicole Doucet's life appear on this -- in the
20 responses to this video.

21 This is only a few days after the Supreme Court's decision is
22 released.

23 In the wake of all of this, there's demand -- public demand for an
24 investigation into the behaviour of the RCMP and the Commission for Public Complaints
25 reviews the case. But we need to understand here the problems in the process of
26 review of police because police review themselves, effectively.

27 There is no accountability for police when they do the wrong thing.
28 It is -- it's absolutely appalling the way this decision deflected all blame from the RCMP

1 and it may have been reasonable to say that individual officers were not at fault
2 because they were following the letter of the law. And Carmen and Nancy have talked
3 about some of the real problems in the law, and so they were following policy. There
4 were no -- there were discretionary mistakes, but there were no clear violations of
5 existing policy. But they went beyond that and they suggested that Nicole Doucet was,
6 in fact, lying and that the abuse hadn't happened.

7 It is an absolutely appalling report.

8 As soon as it was released, media coverage of the case was
9 dramatically transformed and culminated in an episode of W5 with Lloyd Robertson, you
10 know, Canada's most respected news network. The program by Victor Malarek --
11 directed by Victor Malarek and produced by Victor Malarek in which he completely
12 ignored all of the written decisions of the courts, all the evidence before the court and,
13 instead, relied on Mike Ryan and his family and -- to describe what he saw as a
14 vengeful and jealous wife who wanted to get money from Mike Ryan by killing him and
15 getting his life insurance policy and getting revenge because he was having an affair.

16 This is absolutely not the case. She was happy to be separating.
17 She had been working towards it for a long period of time. And the money was all hers
18 to begin with. It had nothing to do with him. And there was no life insurance policy.

19 So the entire story that appears in W5 is straight-up wrong and it's
20 one of the most disturbing pieces of this case when we were writing this book. It's
21 written with my friend and colleague, Nadia Verrelli.

22 And one of the most disturbing pieces to me is that the police, yes,
23 made mistakes, the court actually -- the lower court got it right, which is unusual. The
24 Court of Appeal was fantastic. The Supreme Court, while they offered a very limited
25 doctrinal decision, still saw the abuse for what it was, but the media behaved in a way
26 that is absolutely reprehensible and extraordinarily damaging.

27 And it raises grave concerns for me about public understandings of
28 intimate partner violence and coercive control, and I think that's probably enough

1 evidence about that case. Have some good discussion.

2 **MS. KRISTA SMITH:** Thank you.

3 That did -- that gives us a lot of detail to work with. And I think the
4 way I want to use the rest of our time before break is to invite each person on the
5 roundtable to think about the different institutions that were players in this story and just
6 - I provided some comment on, you know, whether that rings true with your experience
7 or your research, so for me, the institutions that I heard were the police. And I'm
8 interested in matters including oversight and accountability, sort of complaints
9 processes, and as well I'm interested in training that police may receive, policies that
10 guide their actions.

11 So that -- that's one institution, the police. There's something --
12 there's conversation to be had around the courts and how the courts approached this
13 set of facts and, as well, intersections within the court process between sort of criminal
14 processes and family processes and how that creates a whole picture for a woman and
15 her life that the courts sometimes don't see each other. And then the institution of the
16 media.

17 So I'm just going to throw out the different institutions and kind of let
18 you each comment.

19 Nancy, can we start with you?

20 **DR. NANCY ROSS:** Sure.

21 There's so much to say there, I don't know where to start. But in
22 terms of the media, I guess I would -- and the concern that Lori raised about how
23 gender-based violence, domestic violence is perceived in the general public, it raises -- I
24 think these roundtables have a role to play maybe in terms of raising this issue as one
25 that is a societal issue.

26 It's not uncommon. It's very pervasive. It's one where often the
27 victims are blamed where, in this instance, we could see clearly that her trajectory as a
28 woman who was victimized by her partner was downplayed and how her partner was

1 able to manipulate all systems, I think. Often partners are able to manipulate the court
2 system. He certainly manipulated the media. And I think police often are careful
3 around how they treat men and perpetrators and have -- often don't see the whole
4 picture in terms of what a woman is going through.

5 So I think -- I think this case really highlights the need to check our
6 attitudes related to gender-based violence, to recognise it -- that it is pervasive and to
7 see the complexity involved.

8 **MS. KRISTA SMITH:** Thank you, Nancy.
9 Carmen?

10 **DR. CARMEN GILL:** Let's talk about an elephant in the room, and
11 it's about training. And from my experience, and from what I've seen in Canada, police
12 organisations do provide training about this particular issue for police officers to
13 intervene, but the problem is that it seems to me that when they are providing training
14 they seem to think that they train once and they're done. And the problem is that the
15 issue evolves.

16 Police officers are changing, and if we talk specifically about the
17 RCMP, they move around a lot. Where do police officers receive training, do you think,
18 about intimate partner violence? They go through the different schools of police. They
19 get few hours about this particular issue. What they are learning is how to use the
20 *Criminal Code* and how to intervene on those incidents. They are not necessarily
21 trained to understand the complexity; however, police agencies are saying "My police
22 officers are trained", but they are trained to see something very specific.

23 This particular case is it's a no-brainer. It's clear that there is
24 violence in this relationship. It is not just the one time, it's not just the one incident, it's
25 repeated, it is overtime, it's accumulation of different behaviours and a combination of
26 strategies that the abuser have been using against this particular woman.

27 So when I start thinking about police intervention, police response, I
28 think we need to go even further with police officers because they do have this

1 responsibility to recognise what they are dealing with. It's -- it's extremely difficult to see
2 that they cannot see it when we are, I say "we" because I feel -- I -- I am a woman, and
3 if I was in an abusive relationship, I would want to get the protection of the police, I
4 would want them to do something in the situation. I would not want them to come in my
5 house, stir the pot, separate the partners, and then leave. Because we know through
6 research that the police intervention, if they don't do anything, it's generally fuelling the
7 abuser, so we're leaving the victim there with the abuser. He composes himself, is --
8 you know, he's really good. Right?

9 But this is what coercive control is about. Those people are
10 extremely good at presenting themselves as really controlling the situation, and they are
11 perfect, and then they -- the police are going to leave, and we are leaving a victim in
12 that particular situation.

13 Training is going to be key, but there is more to do. Can I go there?

14 I think we really need to recognise the complexity of the issue. If
15 we want to train police officers, it's not just about how they intervene at the scene on an
16 incident basis. We need to have a real paradigm shift in the criminal justice system that
17 starts with the policing, but then it goes as well to the court. It goes to lawyers,
18 prosecutors, and then judges. Everybody has to be on the same page.

19 If we want police officers to have a better understanding of the
20 issue, they will, and in fact, I can name you places in Canada where it's happening,
21 there is work happening. But if police officers are making those changes and the
22 changes are not happening at the prosecution level, what will happen? Those police
23 agencies are going to be extremely discouraged. And then if you have prosecutors who
24 are embarking on this, but then the judges can't see a thing, this is going to be
25 extremely problematic.

26 So I know it's a -- it's big, but we need a major paradigm shift in the
27 criminal justice system that starts with policing and all those levels. That's what I think.

28 **MS. KRISTA SMITH:** Thank you.

1 Patrina?

2 **DR. PATRINA DUHANEY:** You know, I -- Lori, that was such a
3 passionate telling of the story, and thank you so much for giving us such great context.

4 I do agree with what has been stated by both Lori and Carmen.
5 And you know, not to repeat what has already been said, as I listened to Lori sharing
6 this story, it made me realise just the -- when we think of intimate partner violence, IPV,
7 we must recognise the various systems that are implicated in either reinforcing or
8 revictimizing a woman who has experienced violence. And so we see -- we hear about
9 the accused, the criminal justice system, even social service responses and how the
10 media has taken up the issue. And so, you know, I agree that the media plays a vital
11 role in capturing accurate information and ensuring that they really discuss the
12 complexities of a woman's experiences of IPV, but I really agree with what Carmen has
13 just said, that there has to be a paradigm shift.

14 And oftentimes we think of the police as if they are -- they are a
15 standalone entity, and we have to look at the system, the criminal justice system, as a
16 whole, from the court system and so forth, and how policies and procedures play a role
17 in reinforcing some of these barriers what women continue to face, and the violence that
18 they continue to face. And so we can't even begin to unpack the nuances without
19 looking at the interconnections between these systems and that we need to make
20 changes on multiple levels, not just with the police, because these systems are all
21 implicated in reinforcing violence against women.

22 **MS. KRISTA SMITH:** Thank you.

23 Lori, anything you would add to kind of wrap up our discussion on
24 this topic? No, you're a little bit muted.

25 **DR. LORI CHAMBERS:** Full system changes. A paradigm shift.
26 Everything that could go wrong will go wrong, and we need to tear down the system and
27 fix it with something brand new.

28 **MS. KRISTA SMITH:** Okay. Well, when we come back we are

1 going to talk a little bit about the work that's being done presently to try to start to create
2 the change, and then we'll finish with a discussion of perhaps what's getting in the way
3 of some of that work and what's needed to go the distance here. So thank you very
4 much.

5 **COMMISSIONER MacDONALD:** Thank you very much, Krista,
6 and panel. We'll break for 15 minutes.

7 --- Upon recessing at 11:00 a.m.

8 --- Upon resuming at 11:18 a.m.

9 **COMMISSIONER MacDONALD:** Thank you.

10 Ms. Smith?

11 **MS. KRISTA SMITH:** Thank you very much.

12 So as promised, we're going to pick up the conversation now with
13 some of the work that's being done to move things from where we have been, sort of
14 historically, and continue to work through today.

15 I'd like to start off with Carmen. Can you tell us a little bit about
16 how police use risk assessment tools, and how that might influence their exercise of
17 police discretion?

18 **DR. CARMEN GILL:** Absolutely. Risk assessment tools that are
19 used in -- for incident of intimate partner violence have been developed in a way that
20 police officers will have some form of guidelines when they intervene, when they
21 respond to a particular situation.

22 Those risk assessments have the purpose of giving some
23 parameters to police officers when they respond. So basically, just to give you an
24 example, police officers are not showing in at a scene and starting to make their own
25 decisions, in light of what they feel and how they see the situation. They will have some
26 guidelines that are going to be provided to them, and they are going to respond in light
27 of those questions that they can ask in -- depending on the tool that they are going to
28 use.

1 And so in Canada there are some tools that have been
2 implemented and used, and I want to acknowledge here my colleague, Dr. Mary
3 Aspinall, who has been writing this particular piece in our Foundational Document.

4 So there are different type of assessment tools, and I'm flipping the
5 pages because there's a lot of acronyms when it comes to risk assessment tools, and I
6 can't remember the long terms about those assessment tools.

7 So I will just mention earlier Lori was talking about the ODARA.
8 Well, the ODARA is the Ontario Domestic Assault Risk Assessment, and it's been used,
9 and it's still used, in Ontario, New Brunswick, and Nova Scotia.

10 There is, as well, what we call the B-SAFER. The B-SAFER is the
11 Brief Spousal Assault Form for the Evaluation of Risk. To my knowledge, they are
12 using this risk assessment tool in British Columbia, and in combination with a new
13 assessment tool that they are using to assess coercive control.

14 There is as well another risk assessment tool that is called a
15 Danger Assessment. The Danger Assessment has -- and I'm going to come to the
16 purpose of those risk assessment tools. So the DA, the Danger Assessment, is to try to
17 assess the risk of lethality. In the case of the ODARA, we are really looking at the --
18 we're assessing when there is physical violence, when there is evidence of physical
19 violence, or if there is a threat of being killed in a relationship.

20 So the police officer is going to use this assessment tool when
21 there are those two elements in the situation, and they're going to start to see that this
22 can be problematic.

23 Then the B-SAFER is also going to look at making an assessment
24 about a particular situation. They are not necessarily looking only at threat and physical
25 violence, but they are going to contextualize, a little bit more, the situation.

26 These are really the two main risk assessment tools that are used
27 by police officers. Then you will have what we call checklist, depending on where you
28 are in the country or under which police agencies you are working with, you will have a

1 checklist, and we will check different items in -- on the list to determine if we are in the
2 presence of, first, intimate partner violence and how risky the situation might be.

3 So I will come back to the ODARA because this is the one that is
4 really of concern for us in, I would say, the Maritimes. And you will understand that, for
5 me, working and trying to understand the complexity of intimate partner violence, if
6 we're asking police officers to understand this complexity and the only thing we're giving
7 them is the ODARA, they will not assess the complexity of the issue because they are
8 just going to assess the risk of -- it's going to be a predictive tool to see if someone has
9 a chance to reoffend. And, really, it has to be -- I see your face; I'm not clear.

10 It has to do with physical or the threat of being killed by the
11 perpetrator. So, basically, if there's none of those two things, what do you think the
12 police officer is going to do? They do not have the tool, the mechanism, in order to
13 really assess a situation. And, for me, this is extremely important to recognize that --
14 well, first I want to say that those assessment tools have done good, you know; it's not
15 completely negative, but they are far than enough to really understand the situation.

16 So on one hand, we can say police officers are not doing much.
17 But how can they do more when we are not giving them the opportunity to go further?
18 And the risk assessment tools have been used especially to limit the discretion that
19 police officer may use.

20 The use of discretion means that your perception, the attitude that
21 you share about intimate partner violence, can come in the way in your intervention. So
22 if you are considering that, you know, this may not necessarily be dramatic, you can use
23 your own discretion for not assessing.

24 Now, I'm going to shift, and I will say, well, with what we have right
25 now, police officers need to use discretion. They need to go further in order to
26 understand, to really put -- to really determine that they are facing intimate partner
27 violence.

28 So these are risk assessments that are used in Canada. Of

1 course, we can go further and look at what's happening in the world, and there are right
2 -- there is right now some other risk assessments that have been developed and so we
3 are looking more at a risk assessment tool, it's called the DARA, just to confuse
4 everybody. After the ODARA, we have now a tool that is called DARA, and now I am
5 looking for where it is here, because I would like to give you the proper -- if I have the
6 proper name on it.

7 It is a tool that has been developed following -- and I'm going to -- I
8 don't have the -- I just have the acronym. But in the UK they had a risk assessment tool
9 that is called the DASH, and they've been using this particular tool to assess situation of
10 intimate partner violence. With the offence of coercive control that they have
11 implemented and adopted in 2015, they realized that the risk assessment tool they were
12 using was not allowing them to really assess those situation. So they come up with an
13 assessment tool that they piloted last year, and it's called DARA, where they are really
14 asking questions about if someone is making threats, if you have been called names,
15 humiliated, degraded, controlled; does someone control your daily activities, so it's
16 broadening the understanding. It's really helping understand the complexity of the
17 issue. And instead of having a yes/no response because that's really boxing people, it
18 gives a gradation so from "never" to "all the time", so the person, the victim, can actually
19 put a timeline or a timing or the repetition in the particular behaviour that they are asked
20 about.

21 I want to come back to Canada because in British Columbia,
22 especially with the police force in Victoria, especially -- this is there where they have
23 been really focusing on coercive control, and rightly so, following the case of *Cotton and*
24 *Berry* where there was coercive control. He finally got access to the children and he
25 killed the kids.

26 What they've been doing in Victoria is that they really start looking
27 more at how to assess coercive control situation. And they have developed a training
28 module that is now on the Canadian Police Knowledge Network that is assessing -- that

1 allows police officers to better understand the issue because it's not just about the
2 physical violence, but it's all the non-physical violence that they are going to be training
3 in order to be able to assess those situations.

4 Police officers, and I'm going to repeat myself because I've said
5 this many, many times, they have a very important role in our society when it comes to
6 the criminal justice system. They have the role of determining that what they're dealing
7 with is a crime of violence in intimate relationship.

8 So if we are not providing them with better ways of approaching
9 those situations, we are going to continue to fail many victims that are not finding any
10 support and response when they call the police.

11 **MS. KRISTA SMITH:** Thank you.

12 Lori, I'm wondering if you want to follow up a bit, if you have views
13 on risk assessments and if they -- from your perspective, if they do help us, are they a
14 step in the right direction in helping police to grasp more quickly what it is they're
15 encountering when they come to respond to a call.

16 **DR. LORI CHAMBERS:** Well, I think that we're -- we need to
17 distinguish between two different types of risk assessment, and I don't think we do this
18 very well.

19 So police are coming to the door trying to assess immediate safety
20 and I want -- if someone has a gun to my head, I want someone to respond and make
21 sure that gun gets, you know, released to the police and that I'm protected. But the
22 longer-term protection requires a much more detailed understanding of the individual
23 situation than just resolving an immediate threat and the risk assessment tools that
24 have been thus far used by police are really designed more -- as Carmen noted, other
25 than the one starting to be used in B.C., they're really designed more for that immediate
26 response and is there an imminent threat of lethality.

27 And what we've been doing in Thunder Bay is I have worked with
28 our local shelter and designed a coercive control assessment that they use at the

1 shelter when someone comes in that is a much more detailed document. It's -- it really
2 takes quite -- a couple of hours for them to work through. And it's also accompanied by
3 a whole bunch of training materials talking about why each of the topics needs to be
4 covered and talking about ways that you could explain it to someone who's a victim who
5 might not recognize that the behaviours to which they've been subjected are actually
6 abusive.

7 And so I think that the wider assessment needs to be done outside
8 of police and then police need to accept the assessments that are made by agencies
9 that are better informed about what abusive relationships look like.

10 Not that we shouldn't also improve police response, police
11 understanding and police training, but I fundamentally believe we need to separate
12 these things out and provide more resources on the supporting the victim side that are
13 non-police based.

14 So there are programs in a number of places with police advocate
15 kind of partnerships in arriving at domestics and where the advocate will connect with
16 the victim and then do wellness checks and follow-up, and that would be a better
17 opportunity for a more fulsome and holistic under -- to develop a more fulsome, holistic
18 understanding of the relationship and to develop rapport with the victim so that
19 someone might have a person they can look to with trust which, for many people, is not
20 going to be the police, right.

21 There are fundamental barriers to that, and that's not -- that's also
22 true for some victim services. It's certainly true for CAS and social work in some cases.
23 But still, it's a better possibility that you're going to have a more fulsome understanding
24 and better rapport if you move it out of the hands of police.

25 So that would be my response on that issue.

26 **MS. KRISTA SMITH:** Thank you.

27 Before I take it the next step, I want to pause and note that
28 someone came to our aid, thank you, with some of the acronyms.

1 DASH is Domestic Abuse Stalking and Honour-Based Violence
2 Risk Identification and Management Model. That is a mouthful. And that's referred to at
3 page 41 of your Commissioned Report. And then DARA, D-A-R-A, is Domestic Abuse
4 Risk Assessment, and that is described at page 42 of your Commissioned Report.

5 Thank you.

6 So Lori, to go back to where you just left off -- Nancy, I know -- I
7 mean, you're coming from the school of social work and in some of our conversations
8 you've said to me that it's not always about the police response or carceral approaches.

9 How would you kind of pick up on where Lori just left off?

10 **DR. NANCY ROSS:** Oh, yes. There's so much to say here.

11 But many people have shared with us in our research that the
12 immediate response was often traumatic and then they felt they had no response, they
13 were left on their own. And so the safety falls apart following the initial response, and
14 they also feel that they're left with no support.

15 So I believe that in exploring alternatives to police response that
16 social workers could accompany police. I know there's different models, as Lori was
17 referring to, around the world and in our country that look at mental health trained
18 people to accompany police on all domestic calls.

19 So I think that we do have to invest more resources and that we
20 have to start to get better at acknowledging the complexity. And at that initial time of
21 contact, often people are traumatized and we don't necessarily hear the full picture.

22 And you know, so I think it's within that context of relationships over
23 time that people begin to get a firmer picture of what's happening and a more detailed
24 perspective of that relationship.

25 And then also, I think in terms of follow-up, people are starting to
26 talk a little bit about what happens when you call the police and often child protection
27 services is involved. And as I mentioned earlier, often women and families experience
28 heightened surveillance and also, at the same time, report a lack of support.

1 And so I think tomorrow's session will talk a little bit more about
2 community supports and wraparound supports and ways that we can intervene that is
3 not punitive or adversarial, but more relational and more supportive. And I think people
4 have talked earlier about the public health model and looking at -- and a social model
5 and looking at these issues of relationship violence in terms of a broader context that
6 begins to acknowledge some of that complexity that I think we've all been addressing.

7 **MS. KRISTA SMITH:** So to say with the theme of complexity and
8 getting better at recognizing complexity, Patrina, I was hoping you could talk to us a little
9 bit about the work that you've been doing with the Calgary Police Force.

10 **DR. PATRINA DUHANEY:** Absolutely. And you know, in doing
11 this work with Calgary Police, they recognise that police -- the police culture needs to
12 change. And so with some of the -- with the work that I've done, I have -- I conducted
13 research that looked at Canada, the U.S., looked at New Zealand, UK, really to look at
14 the ways in which these systems were taken up issues of equity diversion inclusion, as
15 well as anti-racism.

16 And what I found in conducting this environmental scan is that
17 oftentimes police agencies they might respond in a reactive way. So they are using
18 language of equity diversity inclusion, but it's really performative. Right? When it gets
19 down to you're dealing with these deep-seated issues, the police is a system, and you
20 know, the way they've been operating historically for them it has worked. Right? And
21 we use the term, you know, "punitive", "adversarial", and because it's worked they want
22 to, you know, maintain that power and control over individuals.

23 And so I see that there is significant work that needs to be done
24 because of the way the system has been designed and the way it has been functioning,
25 and so with some of the recommendations I made, it's really important that we examine
26 alternative approaches to policing. And I know that it's been mentioned that social
27 workers can also be part of this change, but -- so social workers have historically been
28 agents of the state, and I'm speaking as a social worker myself.

1 And so I think we also have to be critical in terms of those roles,
2 and whoever is intervening, that they are not necessarily acting as agents of the state to
3 continue to criminalise communities or often marginalise. And so just some initial
4 thoughts right now.

5 **MS. KRISTA SMITH:** I'm still curious, though, to know with some
6 of the recommendations that you made to the Calgary Police Force, like did you start to
7 suggest ways that some of the historical ways of acting and perceiving can be
8 dismantled?

9 **DR. PATRINA DUHANEY:** Absolutely. So, you know, I can
10 certainly list some of the recommendations that I made to the police. So there are
11 actually nine recommendations, and the first recommendation is that it's really important
12 for the police to implement anti-racism training and education for all police personnel.
13 Oftentimes, it's frontline officers or workers who are asked to do this training, but it has
14 to be a top-down, bottom-up approach. So that's the first recommendation.

15 And the second recommendation is that it's really important to
16 develop recruitment, retention, and promotion strategies for who -- the bodies who are
17 within police so that we diversify the police force from management to frontline staff, as
18 well as those in positions of power.

19 There also has to be a complaint process that really takes into
20 consideration the horrific harm that the police has actually engaged in with, specifically,
21 racialized Indigenous communities.

22 Another piece is that we need to overhaul the current policies and
23 modify police use of force. Because oftentimes we might think that police use of force
24 is, you know, taking place in the U.S., but are certainly seeing a lot of cases here where
25 the police are engaging in problematic and violent behaviours. They have body cams,
26 but oftentimes research shows that a body cam is -- can be really ineffective, especially
27 if they can just turn off the body cams when they wish to turn them off.

28 But when we go a little bit deeper, some of the recommendations

1 had to do with developing mechanisms to engage with Indigenous and racialized
2 communities. Right? Because currently, it's -- these communities really experience the
3 police, they're really distrustful of police, and so, you know, the police need to invest
4 time and effort to build relationship with these communities. Because the relationship is
5 not established, it's very difficult to enact change.

6 Another recommendation was around transparency and
7 accountability. The police need to be more accountable for their actions. They are not
8 above the law, they're currently functioning as if they're above the law. And we can see
9 that in terms of even the research in terms of when they had engaged in problematic
10 behaviour the fact that they're policing themselves they are less likely to be held
11 accountable for their actions.

12 It's really also important, we talked about resources, that, you know,
13 although a lot of resources is being spent to criminalise communities and surveil
14 communities, these resources need to be allocated towards training and developing
15 effective strategies to bring about change.

16 And finally, we need more race-based data collection. And I've
17 critiqued the ways in which our current government collects data that homogenizes
18 everyone's experiences, and so it's really important that we have this aggregated data
19 that looks at the complexities across different racial and ethnic groups.

20 **MS. KRISTA SMITH:** Thank you so much for detailing all of those.

21 I'm going to turn now to -- back to Carmen, and ask you a little bit
22 about the work that you have been doing with the Canadian Police Association --
23 Canadian Chiefs.

24 **DR. CARMEN GILL:** I would like to as well share what has been --
25 has been mentioned so far, and what I -- what I remember here, what I will -- what I will
26 remember is collaboration. And this is something that needs to happen more and more
27 often between police agencies and other organisations, and this is something that is
28 extremely difficult for police agencies to cross that line to work with others.

1 There are police agencies in Canada that are doing great work.
2 They have developed a domestic violence unit that they call that; they do have real
3 collaboration, for example, with community-based organisations, in particular places in
4 Ontario. Patrino was talking about social workers. Police officers could work with social
5 workers as long as both of them are recognising what their role is when they are
6 working with a victim of intimate partner violence. So that was my comment.

7 My work right now, which has been since I joined the Crime
8 Prevention Committee at the Canadian Association of Chiefs of Police, has been to
9 really help transform and change practices. So in 2012, I started doing some think
10 tanks with police officers to start talking about what are their practices in different
11 regions to realize that they don't talk to each other necessarily; however, we will have a
12 police agency somewhere in Canada that does a great job working with communities,
13 nobody else is aware of this.

14 So we started this way -- this is how I started my work with CACP,
15 which is the acronym of the Canadian Association, and from there, police agencies
16 have been asking me to keep them together. And of course my response was, "Well I
17 don't have the money to keep you together, but we are going to work together." And I
18 have decided to develop what we called the National Framework for Collaborative
19 Police -- Collaborative Police Action and Intimate Partner Violence. That was the very
20 first document that has been endorsed by CACP in 2016.

21 In this particular document, they are laying out different guidelines
22 on how police agencies should handle intimate partner violence. And here I'm speaking
23 about this because it's taking us to the organizational culture and the desire at a certain
24 level of policing to change how they're doing things. So I see this from, of course, this is
25 what I'm witnessing with my work with police agencies.

26 Then after that, of course, it's percolating; right? Police agencies
27 are telling us they want to stay connected, but you don't know how they can stay
28 connected, so I decided I would go further on the understanding of intimate partner

1 violence. And so I did an evaluation of the national framework across Canada, and I
2 met again with the Crime Prevention Committee, and they -- what I heard at the Crime
3 Prevention Committee, they said, "We're doing -- we think we're doing what we're
4 supposed to do in order to better intervene in those situation. We train our police
5 officers tell us what we're doing wrong." Like, how can you answer such a question to
6 police agencies? And that day, genuinely, I said, "Are we sure that we are looking at
7 the issue the right way?" And this is where my project about coercive control and risk
8 assessment came to light, because I thought, gee, there is something that we're missing
9 when we talk -- when police officers are responding. So I started this project. , I thought
10 I would be the only one jumping in and that police agencies would just, you know, like
11 mice just run away. And then I realize that they wanted to be in this particular project,
12 and they support this particular project, to the point that they are considering that
13 coercive control should be criminalized.

14 So I decided to do round tables, which I'm well known to do in my
15 research projects because I like to hear from the experience of those that are dealing
16 with those issues, and I was surprised and not surprised to hear police officers telling
17 me what is coercive control. And so those round tables have been allowing them and
18 myself to get to understand that they don't understand the complexity of the issue.

19 However, police officers are not stupid. When police officers are
20 intervening, when they go in a home, those that do have a progressive perspective --
21 remember what I was talking before the break -- know there is something happening in
22 the home, but they have no way of addressing, or making a move, or taking action
23 because their toolbox does not allow them to do anything.

24 I heard police officers telling me, and this is really hard to hear,
25 they're saying, "You know, we're leaving that home, and we're just hoping that next time
26 we're going to come here that there will be evidence that we are going to -- that are
27 going to be sufficient, so we can be able to charge the abuser." This is frightening when
28 you hear police officers that are telling you this.

1 So in this particular project, I've done numerous round tables
2 across Canada. I heard about police officers, some of which are more advanced than
3 others, and then we have to make that distinction between the higher level in police
4 agencies and those that are on the ground, I mean, the patrol. And when we talk about
5 the patrol, we're talking about another group of people in policing. They have -- the way
6 they are doing their work is that they are responding to different calls. It's not just --
7 they're not just doing IPV, the whole -- during their whole shift. They're doing all sorts --
8 they're responding to all sorts of calls. And in their work, they have to be efficient. And
9 efficient means how long do you spend responding to a particular call.

10 What I've heard from, and here's the level, the higher level of police
11 agencies where I talk with chiefs, deputy chiefs, those that are in command of those unit
12 for serious crimes are saying, "We're asking our patrol to spend the time to really
13 respond to those situations." I haven't heard a police chief telling me, "Well, they should
14 not spend more than 20 minutes in a scene." That's not what I heard. It's the opposite.
15 But at the patrol level, you will have different ways of viewing this. You will have police
16 officers that are going to be seen as very effective because they have responded to
17 many, many calls, and some police officers that are seen as less productive because
18 they're responding to less calls. In fact, it's not -- it happens that a police officer is
19 responding to an intimate partner violence situation and he's going to receive a call from
20 the superior asking how long you're going to stay there. So there are different ways that
21 police officers are working that could be revised. So my project is really about
22 understand the complexity.

23 We did a survey across Canada with police agencies. We're just
24 looking at the results of this particular survey. We used a survey that was conducted by
25 Amanda Robinson in the UK. Of course, I'm looking at the UK a lot because they're the
26 first to develop -- to adopt the course of control offence, and she was producing two
27 vignettes in her survey. One was there was two sentences about physical violence, and
28 in the other one, there was no sentences about physical violence. And so the idea is to

1 understand how police officers are reading those two vignettes. And, of course, police
2 officers were not reading both. They were randomly receiving one or the other. And
3 surprisingly, we've noticed that even in the vignette where there was no physical
4 violence, they were recognizing that there was violence, but there's not much that they
5 can use in order to move forward with this particular -- with those particular offence. So
6 this is one -- another aspect.

7 This project is going to lead to help develop training with L'École de
8 police nationale du Québec, because we have a partnership with Quebec as well. And
9 CPKN, the -- I always have to think. The Canadian Police Knowledge Network. And so
10 there's this particular project that is ongoing, and then we're developing right now the
11 Canadian Centre for Policing Intimate Partner Violence, and really, we want to ensure --
12 and I'm coming back to stay connected -- we want police agencies to stay connected.
13 We want them to share their promising practices. We want to see more a holistic
14 intervention from a police perspective. So the Centre is about policing but it involves
15 other people. It involves other agencies, so there will be in this particular centre,
16 collaboration with other agencies.

17 Finally, I have a group of, I will call them police officers, well, I
18 would call them my experts, that are now working on the development of another
19 national framework -- I think I like national frameworks -- on coercive control from a
20 police perspective. And I say I like national framework because I really think that we
21 need to understand the issue from coast to coast to coast to coast. Whatever coast
22 we're looking at, we should consider the issue, have a similar understanding
23 everywhere in Canada. So that's why I'm working more at the national level; however, I
24 like to work with police agencies in New Brunswick.

25 **MS. KRISTA SMITH:** Thank you very much, Carmen. There was
26 a lot you just shared there, a lot to unpack. I think I'm just going to pick on one element
27 of it.

28 Lori, I'm wondering, what do you think of the idea of criminalizing

1 coercive control?

2 **DR. LORI CHAMBERS:** I think we need to criminalize coercive
3 control because it sends a public message that these behaviours are unacceptable and
4 criminal. At the same time, I'm really nervous about it because in the same way that
5 pro-arrest policies have led to dual charges and women being -- finding themselves in
6 jail because they're deemed to be aggressors, coercive control legislation could be
7 manipulated by abusers and used to punish women. And I don't see criminal solutions
8 as ultimately what we need to do. We need to start -- instead of responding after the
9 fact, we need to move to more preventative types of approaches. And I also do believe,
10 in all but the very worst cases, in the possibility of healing that Nancy was talking about.
11 So, yes, I think we need to, but with deep reservations.

12 And I think something else that I want to make sure gets mentioned
13 is that training needs to happen beyond police. This has to be a paradigm shift for the
14 wider society. It's not just about changing policing policies, because if all we do is look
15 at the police and say, well, they're the problem, it's not going to get fixed. I mean, if we
16 look at the *Cotton v Berry* case, and I submitted the article that I wrote, it's submitted as
17 one of the exhibits, those -- she was subjected to coercive control, and she extricated
18 herself from the situation, and criminal proceedings were never engaged. But Family
19 Courts don't understand and we're not keeping children safe. And those children died
20 because the Family Court didn't recognize a pattern of coercive control that put the
21 mom and even more so the children at risk, and they were sent into a very dangerous
22 situation which could have been prevented and Nicole Doucet lost custody of her
23 daughter. And so we need, very clearly, we need training for judges. We need training
24 for judges not just in criminal proceedings but across all sectors that engage with
25 families.

26 And this is happening. There is a push for this. It's led in Ontario
27 by a woman by the name of Jennifer Kagan, who I've worked with quite closely. She --
28 it originates in a very sad story. She was a victim of coercive control. And in a revenge,

1 what she believes is a revenge killing, her ex-husband and her then four-year-old
2 daughter were -- their bodies were found in the valley in Rattlesnake Point after he took
3 her hiking in completely inappropriate weather. She's certain it's a murder/suicide and I
4 agree with her that it is, although you can't -- we can't explicitly say that. It's not proven.
5 But it is certain that restrictions on his access would have prevented that. And they
6 didn't happen despite unbelievably strong evidence in her case of coercive controlling
7 behaviour, which she had documented for years. And police had supported the
8 documentation. She had police reports, but she had courts that kept saying, no, this is
9 just between you and the perpetrator. It has nothing to do with the child. And we need
10 to understand that coercive control and intimate partner violence can also spill into
11 familial violence, and can go beyond that; right? Men who are this enraged and this
12 angry and this sure that they're entitled to have control over every aspect of their lives
13 and the wider world also act out beyond their families.

14 **MS. KRISTA SMITH:** I'd like to take the same question to Patrina
15 now. What's your perspective on taking a more carceral approach to coercive control?

16 **DR. PATRINA DUHANEY:** I do agree with everyone on the panel
17 that, you know, given -- you know, coercive control is problematic. I am concerned of --
18 about taking a carceral response to addressing that issue, and for the various reasons
19 that Lori and others have highlighted. And I think given that we're still working through
20 some of these complexities of domestic violence or family violence or IPV, I think we still
21 have a long ways to go before we add another piece to the mix. Yes, we need to take --
22 really understand that it is a serious issue, and it needs to be addressed, but I would
23 caution us against using the criminal justice system as a form of response because we
24 have seen individuals who continue to be harmed by the criminal justice system's
25 responses and they will continue to be harmed by that. And I do agree that, you know,
26 not just looking at the police, but we need to look at lawyers. We need to look at
27 judges. We need to look at all of those different systems that are involved in women's
28 lives. Children's Aid Society, and so I think all of these systems could, you know, make

1 a woman's situation even worse because they're all about looking for, oh, my gosh.
2 And sometimes people who are reporting these issues, they don't even have the
3 training, the proper training to report these issues or to even identify it appropriately. So
4 I think we need to look a bit deeper, dig a little bit deeper before we begin to even think
5 of penalizing from a, you know -- or having the carceral responses or approaches to
6 dealing with this issue.

7 **MS. KRISTA SMITH:** Thank you, Patrina.

8 Carmen, we have a couple minutes before I move on to Nancy.

9 **DR. CARMEN GILL:** I think I somewhat agree with Lori and
10 Patrina, but at the same time, we're talking about complex behaviours that we are
11 leaving out of what is criminalized. So basically, if we criminalize coercive control, or if
12 we decide that we have an offence about IPV, like in Scotland, then we are recognizing
13 that there is an issue that is a crime. Criminalizing coercive control would force
14 everybody at every level to start looking at this issue in a very different way.

15 We have, in Canada, different family policies that are in place that
16 are specifically addressing the issue of coercive control, depending on where you are in
17 the country. The *Divorce Act* has been amended following the *Cotton Berry* case in
18 B.C., and they're stipulating even if it's not criminalized, we have to take this into
19 consideration.

20 I would not -- I would caution us to keep it outside of the criminal
21 justice system, because before the 1980s, intimate partner violence was a private
22 matter. I don't think we will want to go there. I understand that the criminal justice
23 system is not perfect, but I am more into seeing things like the glass half full. So
24 everybody will agree that we're doing better now addressing intimate partner violence
25 than we were in the 1970s. Like, to me, that's clear. There is a lot to continue to do,
26 absolutely. So I -- that's where I agree with both of them.

27 **MS. KRISTA SMITH:** Thank you very much.

28 Nancy, you've very patiently sat through this whole conversation.

1 Can you tell us what you've been thinking?

2 **DR. NANCY ROSS:** I've been thinking a lot because I'm -- a lot of
3 my research is framed within looking at a violence and trauma-informed approach to
4 family violence and looking at charting a pathway forward that addresses that
5 complexity. In both victims, survivors, perpetrators or those who have caused harm,
6 most of them have experienced prior trauma. And I think looking to further legislation
7 does acknowledge, of course, the seriousness of these issues, but it doesn't really
8 address the root of the problem, which is that we need to look to ways that we can
9 provide support for families, that we can address the pervasive issue of adverse
10 childhood experiences, childhood trauma, gender-based violence as societal issues.

11 And so looking to a court system, I know Carmen mentioned that
12 we need a paradigm shift, but I think we need to reimagine justice, and we need to
13 reimagine community responses that maybe take some of these issues outside the
14 criminal justice system entirely. Because to address relational issues, intimate issues
15 within an adversarial, combative, traumatic system seems to result in more harm for so
16 many people, and I don't know if it can address those complexities of race, of
17 colonization, of newcomers coming. Like one-fifth of women coming to this country are
18 -- you know, are -- one-fifth of women in the country are immigrants.

19 I mean, all these issues that we're -- that are so complex and so
20 nuanced, I feel that they are -- we're failing to address those within the current criminal
21 justice system and I think we need to imagine something different, something
22 completely new that addresses the complexity and looks to the potential of
23 accountability and healing that I think is potentially a reality that we could strive to.

24 **MS. KRISTA SMITH:** With that in mind, can you tell us a little bit
25 about the work that you're doing right now? I think it's called "Charting Our Path
26 Forward"?

27 **DR. NANCY ROSS:** M'hm. We've interviewed people across the
28 country and internationally about alternative responses to gender-based violence and

1 family violence and trying to look at ways that institutions and systems and communities
2 can respond in ways that is helpful, that is supportive instead of this punitive,
3 adversarial system that really is so narrow and so dehumanizing, often.

4 And so we've heard about different places in New Zealand, but also
5 one that stood out to me was we talked to Kristen Basque in Eskasoni in Cape Breton
6 who looks at family group conferencing, bringing people together to talk about their
7 experiences, to talk about what they wish to happen. And I've imagined that this could
8 happen across the province, you know, across the country where we could have more
9 family group conferencing, that we could look at restorative approaches, look at what --
10 what does transformative justice mean, what does -- what is a call from abolitionists in
11 terms of what do they imagine could be a reality in this province.

12 I think that we are narrow in terms of a focus on an institutional --
13 like a colonial sort of dated institutional -- our criminal justice system is dated. It's
14 rooted in, you know, colonization. I think we need to step out of it and to think about
15 alternatives.

16 So we've talked about -- we've talked to people that envisioned
17 supporting families in ways that acknowledges that for many offenders, they say that,
18 you know, "All I've ever known is violence. I grew up in violence. I've seen violence
19 and I'm met with further violence in the criminal justice system", so where do we offer
20 people skills, opportunities to learn, opportunities to change?

21 I think we have to hold up those as possibilities, that people can
22 change, that people can heal, that given supports, people can flourish. And so all the
23 people we interviewed, I think, are thinking about indigenous -- learning from indigenous
24 ideas from looking at Afro-centric perspectives that really look at gender-based violence
25 as a collective issue, as a societal issue that we all have a duty to respond to. And I
26 think it means reimaging community in a different way.

27 So those are just some of my thoughts that I have stirred.

28 **MS. KRISTA SMITH:** So we could keep -- there's so much to talk

1 about and explore and, unfortunately, our time draws short. So I would like to do just
2 one last round. I want to make sure we have time for some questions from
3 Commissioners.

4 So if each of you could just take a couple of minutes as your last
5 call, last chance, the question I want to ask is, we've identified potential ways forward.
6 What are some things that stand in the way, potentially, of moving forward?

7 That's something you could talk about or you can -- you can just
8 share something that you wanted to share today that you haven't had a chance to
9 speak to yet.

10 Thanks.

11 Oh, Lori, do you want to start?

12 **DR. LORI CHAMBERS:** I don't know that I feel the need to add
13 anything at this point apart from that I believe it has to start if we're going to -- and this
14 aligns a lot with what Nancy was saying about stepping outside of the criminal justice
15 system, is that teaching these skills, making them central to our educational programs
16 to thinking, actually, really, about relationships and healthy relationships and healthy
17 interaction as a big part of how we educate people from the ground up and talking
18 openly about coercive control and other kinds of problems as part of the day-to-day way
19 in which we raise children because otherwise, how do people know to hope for better
20 and to work towards something better.

21 And I just -- everything that we're doing with the criminal justice
22 system is a band-aid after the event, and we need to instead be getting at what is
23 making this society sick underneath from the inside.

24 **MS. KRISTA SMITH:** Thank you.

25 Patrina?

26 **DR. PATRINA DUHANEY:** Lori, I think the panel has done an
27 excellent job, you know, contextualizing the complexities of these issues, but reflecting
28 on specifically black women's experiences, I think it's really important for us to always

1 recognize the very factors that influence their experiences, historical, societal, political
2 conditions and the ways in which certain women's experiences have been rendered
3 invisible and minimized or diminished completely.

4 And so from the conversation that we've had, it's -- what I'm
5 gathering and from my own work is that current legal responses have largely been
6 ineffective and so context matters, therefore, acts of violence, recognizing that they're
7 not equivalent in terms of motivation and intent and impact. So it's really important, as
8 has been highlighted, that we really need to take preventative approaches.

9 And I just want to emphasize that, that oftentimes responses are
10 reactionary. It's dealing with an issue right on the spot as opposed to having long-term
11 solutions.

12 And we need long-term solutions to enact change, and so I concur
13 that we can simultaneously have accountability, we can have healing outside of the
14 criminal justice system, allow communities to take more ownership as we've seen in
15 indigenous communities of these problematic behaviours and actions that are taking
16 place. And you know, again, I do agree that colonial -- you know, our criminal justice
17 system is rooted in colonization and so even the responses are marred based on this
18 problematic history.

19 And so adopting additional approaches, whether it's indigenous,
20 Afro-centric ways of knowing as well in terms of what's been used in the communities, I
21 think we really need to look at different strategies, interventions and approaches to
22 actually make impact and sustainable changes.

23 **MS. KRISTA SMITH:** Thank you, Patrina.

24 Carmen, I'm going to take it over to you. And again, it's open to
25 you to respond if there's something you want to share that you haven't yet, but I'm also
26 interested in your -- any comment you might have on, you know, what is needed -- what
27 is needed to take the path forward.

28 **DR. CARMEN GILL:** We need to recognize that coercive control is

1 the violence that we see in intimate relationships that is clearly problematic, and this is
2 something that we are still not addressing properly. So that's -- that would be what I
3 would say.

4 And since I've been asked by the Federal Ombudsman for Victims
5 of Crime in 2019 to write a paper about the feasibility of criminalizing coercive control in
6 Canada, of course I'm still thinking that I don't want to ditch the -- how do you say that in
7 English -- ditch the baby with the water bath. I think we still need to consider this as a
8 formal issue that has to be criminalized because if we take all those relationships
9 outside of the criminal justice system because it's the band-aid and it's not working,
10 then what else within the criminal justice system that we are going to remove from the
11 criminal justice system because it doesn't work.

12 And I would go even further. We need to criminalize coercive
13 control and we should have an offence about femicide. Because when we talk about
14 intimate partner homicide, generally, we talk about intimate partner femicide, because
15 woman are the one who are killed in abusive relationship. So, for me, this form of
16 violence is a crime. I cannot see someone terrorizing a woman for 15 years and that's
17 fine, but he punch her in the face once and it's a crime. But once it's criminalized, it
18 doesn't stop there. This is not the solution. You need all the resources to be able to
19 support how we are going to address coercive control in our society.

20 **MS. KRISTA SMITH:** Thank you, Carmen.

21 Nancy, last word.

22 **DR. NANCY ROSS:** I think it's important to remember that
23 between 70 and 80 percent of gender-based violence is not reported to the police. And
24 the reason it's not reported to the police, I think we've elaborated on it to some extent
25 here, but often, the response is traumatic and poses a barrier in general to reporting it to
26 the police because the response they receive is not what they're hoping for.

27 And, you know, if we think about ways that communities and
28 individuals can build strength, resilience, it's really to acknowledge, like, the sources of

1 stress that people have. And those sources of stress are often structural, historic, and
2 we need to go there. And I think as a society often, we don't want to hear those
3 instances of what causes stress, and I think we have to acknowledge that, and then we
4 have to respond to that source of stress, establish supports to help and build
5 relationships, and then I think we need to, as Lori said earlier, start young. Like, we
6 have to model what is a healthy relationship, how can we strengthen those life skills,
7 how can we teach people to resolve conflict in ways that is non-violent.

8 So, you know, we in this province, 30 percent, in some areas at
9 least, grow up in poverty. I mean, when you grow up in a system like -- you know, in a
10 family where you don't have enough resources, you feel stressed. And oftentimes, we
11 criminalize that. So I think we need to look really deep and look at ways that we can
12 reimagine justice and reimagine what is meant by supporting people across the
13 province. And I think if we did that, I think more people would flourish, we'd have less
14 violence.

15 **MS. KRISTA SMITH:** Thank you very much. I'm going to turn it
16 over to the Commissioners now, so in case they have any questions.

17 **COMMISSIONER MacDONALD:** Thank you so much, Krista.
18 Commissioner Fitch?

19 **COMMISSIONER FITCH:** Thank you, everybody. Your
20 contributions have been outstanding today and I really have more commentary than I do
21 questions, but I think that's for further down the road of our process.

22 I do want to say that, you know, when we talk about a paradigm
23 shift in transformation, I really think that has to be a whole society, and I think you've all
24 touched on that, that the grounding of all of this is a whole of society change and a
25 recognition of the complexity of these issues, you know, starting young, educating
26 people, training people.

27 When we look at policing, our police officers are recruited from the
28 human race, and they come into their profession with their own backgrounds and own

1 experiences, whether it's -- they just become responders to these situations as
2 professionals, or they come into the profession as victims themselves, or observers of
3 the IPV in their personal lives, or as abusers. It's very complex and I think we can lay
4 that veil over anybody in society and how they respond to some of these very complex
5 issues.

6 So I am going to just ask one very direct question and it's to Dr. Gill
7 because I know you've done a lot of work in terms of training for police, and Dr.
8 Chambers as well, and I guess actually all of you have had a hand in training of police.
9 Do you have any recommendations on how we can disrupt the prevailing sentiment of
10 police officers that training around multiculturalism, LGBTQ, intimate partner violence
11 are all soft training and some officers that possess the belief that that is time not well
12 spent because they should be focussing solely on hard skills? How do we disrupt that
13 narrative, because that is based in whole of society framework?

14 **DR. CARMEN GILL:** I do remember when a team at the Muriel
15 McQueen Fergusson Centre for Family Violence Research developed Train the Trainer
16 for police officers. And the way that we can deconstruct, you know, how they are
17 viewing this particular issue is to put them in. And in this particular Train the Trainer,
18 there was a particular module where police officers were to look at themselves. And it
19 was difficult for police officers to look at themselves because we put them in a place
20 where they had to look at themselves as potential abusers or potential victims. And so
21 it's extremely important, as Commissioner Fitch was just saying, where we're taking
22 people and bring them in policing and they have -- they come from different walks, and
23 they come with their own experiences. But when they start policing, they have as well
24 to recognize that they are going to be impacted by what they are going to experience
25 when they are intervening. And if they are, can we imagine that a police officer who's
26 already controlling his spouse, abusing his spouse, how this police officer can decently
27 intervene in a situation where there is intimate partner violence. Will he really see that
28 there is intimate partner violence, or he will see something just normal?

1 So we need to work with them to deconstruct their own beliefs and
2 how they enter in this particular profession. Police officers have been saying that they
3 leave the problems at work at the minute they take off their uniforms. Well, they are
4 impacted by what's going on in their work, so they have to understand that as well. So
5 am I responding, Commissioner Fitch?

6 **COMMISSIONER FITCH:** Thank you. I think it's such a deep
7 issue. I think it's probably hard to address in one answer and one setting but thank you
8 very much.

9 **COMMISSIONER STANTON:** I think the topic today is really -- I
10 mean, everyone has touched upon in one way or another the need for a fundamental
11 shift, the need for fundamental change, the need to, you know, take down the larger
12 structures. But, you know, systems are made of people, and I think some of the
13 discussion has touched on the need to address, you know, from an early age, how we
14 construct the people that then construct the systems. And these are enormous
15 concepts and questions, and we are charged with making recommendations that are
16 implementable by the people who make up the systems that are part of the mandate
17 that we've been given.

18 So thinking about the iceberg and the example of the *Ryan* case,
19 you have the tip of the iceberg where you can see an extreme example that is still -- the
20 narrative for which is still rejected by a large swath of the society. And we've heard
21 about the patterns of coercive control that are below the surface of that iceberg that are
22 widespread, and common, and unseen, or undetected, or ignored, and that we've been
23 hearing quite a bit over the last week and a half about the public, private dichotomy. So
24 I think the challenge is to take the different approaches that all of you have spent a
25 great deal of time developing and glean from them the pieces that we can apply in a
26 way that is doable for the actors in the systems that are the subject of this Inquiry. And
27 -- so it's not a question so much as a -- an attempt to define what it is that we need to do
28 in terms of our path forward here.

1 So I just want to thank you all for the -- for the insights that you've
2 given us into the ways that each of you have tried to tackle the iceberg, because it's --
3 there -- it's apparent that there is no one approach that will be readily doable. It's
4 obviously a multi-factored approach because it's an extremely complicated set of
5 problems. But I'm very grateful for the commissioned report and for the materials that
6 have been put together by the Research and Policy Team and from all of you. It's of
7 great assistance to us to understand better the various tentacles of this -- of this
8 problem. So thank you.

9 **COMMISSIONER MacDONALD:** Yes, and let me begin by
10 thanking you, Krista, for organising such a stellar panel and an excellent roundtable.
11 And to Serwaah, of course, for organising much of it, and of course you were involved
12 with that as well, but we're greatly indebted to you both for this.

13 And Dr. Gill, and Dr. Ross, and Dr. Chambers, and Dr. Duhaney,
14 thank you all so very much for assisting us with our -- of very difficult work, difficult
15 subject matter, and enormously challenging. And my thanks, really, are given on three
16 levels:

17 First of all, thank you for the work you all do day in, day out to
18 address the enormous harm visited by coercive of control. Thanks for your tenacity,
19 dedication, and courage, actually, for pursuing that.

20 Secondly, thanks for helping us. And I've said this many times, and
21 it is worthy of repeating, that one of the gratifying things about the work we are doing is,
22 is how people step up when we ask, and everybody is anxious to help. And you are
23 stepping up and you have helped us immensely tackle a very difficult problem, and for
24 that we are enormously grateful. You're helping the Commission, but you're more
25 fundamentally helping the people of Nova Scotia and the people of Canada and
26 beyond.

27 I, personally, am learning so much, and I'm particularly grateful for
28 that, learning about the insidious nature of coercive control. And I think if we had a

1 word cloud exercise here today, I think complex or complexities would be prominent.
2 It's so easy to oversimplify the challenges we're discussing, and that's something we
3 cannot do. So I am very grateful for the ability to have our perspectives broadened.

4 And thirdly, thank you for your -- for your optimism and for your
5 forward-focussed recommendations, tangible recommendations going forward, which is,
6 of course, our raison d'etre. So thank you all very much. We -- on behalf of the
7 Commission, we're very grateful for your contribution. Thank you.

8 Yes, and we will return for our second roundtable today at 1:30.
9 Thank you.

10 --- Upon recessing at 12:32 p.m.

11 --- Upon resuming at 1:33 p.m.

12 **COMMISSIONER MacDONALD:** Dr. Cunliffe.

13 **DR. EMMA CUNLIFFE:** Thank you, Commissioner.

14 **--- ROUNDTABLE: POLICE AND INSTITUTIONAL UNDERSTANDING AND**
15 **RESPONSES TO SEXUAL VIOLENCE AND OTHER FORMS OF GENDER-BASED**
16 **VIOLENCE:**

17 **--- FACILITATED BY DR. EMMA CUNLIFFE:**

18 **DR. EMMA CUNLIFFE:** As Commissioner MacDonald has
19 indicated, my name is Emma Cunliffe, and I have the honour of serving as the Director
20 of Research and Policy for the Mass Casualty Commission.

21 This afternoon's roundtable will focus on police and institutional
22 understandings of and responses to sexual violence and other forms of gender-based
23 violence, including, for example, criminal harassment. We'll be building on this
24 morning's conversation about intimate partner violence and family violence. It's
25 important to acknowledge, as we heard this morning and will explore further this
26 afternoon, that these forms of violence overlap.

27 We'll also consider how the burden of sexual violence and other
28 forms of gender-based violence inequitably distributed across Canadian society. So for

1 example, Indigenous women and Black Canadian women have different experiences of
2 sexual violence and different experiences of police responses to these forms of violence
3 than White women; older women experience sexual violence and police responses
4 differently than younger women, and so on.

5 A package of materials has been prepared and shared with both
6 roundtable members and the Participants. The core themes of this roundtable are the
7 barriers to effective police and other institutional responses to sexual violence and other
8 forms of gender-based violence; cultural aspects of these barriers and how can they be
9 addressed; and promising and best practices in police and institutional responses.
10 Based on these core themes, I'm going to ask the members of this roundtable a series
11 of open-ended questions that will give each of them the opportunity to share their
12 experience and expertise with us. As you will hear in a moment, when I invite them to
13 introduce themselves, our roundtable members bring a wealth of both to this
14 conversation.

15 As facilitator, I'll be directing the questions, asking follow ups and
16 moderating dialogue. I would ask that you please speak slowly for the benefit of our
17 accessibility partners.

18 Roundtable discussions will form part of the Commission record.
19 They are being livestreamed now, and will be publicly available on the Commission's
20 website. The Commissioners may choose to pose a question or ask for clarification at
21 any point this afternoon.

22 As with all of the Commission's roundtables, today we will not focus
23 specifically on the mass casualty of April 18 and 19, 2020, or the perpetrator of these
24 crimes, and nor will we seek to interpret the evidence that is before the Commissioners.
25 That work is being done in other aspects of the Commission's process.

26 This is also a good opportunity to remind those who are present
27 today or are listening that we are presently conducting a further public consultation, this
28 one online, in which we are seeking input about the recommendations that you would

1 like to see considered as part of the Commission's work. You can find more information
2 about this consultation on the Mass Casualty Commission website at
3 masscasualtycommission.ca under the Proceedings menu. Look for the option called
4 Public Submissions.

5 As with every roundtable discussion, the intention today is to
6 provide the Commissioners, Participants and the public with a deeper understanding of
7 the core themes so that everyone is well-positioned to engage in conversation in
8 Phase 3 about lessons learned and potential recommendations.

9 Before I begin today's roundtable, I would like to acknowledge the
10 work of Serwaah Frimpong, whose work with the Research and Policy Team forms the
11 basis for today's roundtable and the associated materials.

12 So to get us started, I am going to ask each of the roundtable
13 members to introduce themselves.

14 Lana, may I begin with you?

15 **MS. LANA MacLEAN:** Well, good afternoon, everyone. My name
16 is Lana MacLean. I'm a practicing clinical social worker here in Halifax. I've been
17 practicing for close to well over 25 years. My specialty tends -- leans towards the
18 impacts of race and culture on the lives of people of African Nova Scotian descent, and
19 it spills into the African new Canadian community, as well as the Caribbean community.
20 In my private practice, which I'll speak to this evening, or this afternoon, it's the work
21 that I've done with particularly African Nova Scotian women who have been survivors of
22 intimate partner violence and sexualised violence. Thank you.

23 **DR. EMMA CUNLIFFE:** Lana, many thanks for joining us today.

24 Pam, can I ask you to go next?

25 **DR. PAMELA PALMATER:** Kwe' Ni'n Teluisi, Pam Palmater. It's
26 an honour to be back home on unceded Mi'kma'ki territory. I am from Eel River Bar
27 First Nation. I have been a practicing lawyer for 23 years focusing on laws and policies
28 that impact indigenous peoples, but in particular indigenous women and girls. I worked

1 for 10 years at Justice Canada and had many interactions with the RCMP. I was a
2 human rights investigator at the Human Rights Commission here in Nova Scotia, and I
3 currently serve as the Professor and Chair in Indigenous Governance at Toronto
4 Metropolitan University, formerly Ryerson University.

5 And my research is primarily on police corruption, racism, misogyny
6 and sexualized violence with a focus on the RCMP and the links to far-right groups,
7 hate groups, white supremacy and how that impacts violence against women both
8 inside and outside police forces. And to that end, I've given testimony at the UN and
9 the national inquiry on these issues.

10 **DR. EMMA CUNLIFFE:** Many thanks for joining us today, Pam.
11 Emilie, welcome.

12 **MS. EMILIE COYLE:** Thank you, and good afternoon.
13 My name is Emilie Coyle. I'm the Executive Director of the
14 Canadian Association of Elizabeth Fry Societies. I live on the unceded and
15 unsurrendered territory of the Algonquin Nation, and so I'm very pleased to be
16 welcomed here in Mi'kma'ki today. I use the pronouns "she" and "her".

17 And our organization is an organization that works to address the
18 persistent ways in which women and gender diverse people are impacted by
19 criminalization and routinely denied their humanity and often excluded from community
20 and considerations around who we talk about when we talk about the public and public
21 safety.

22 We do this through advocacy, through engagement, education,
23 public awareness raising, legal reform and often legal interventions. And as part of this
24 work, we go into the federal prisons that are designated for women across the country,
25 we monitor conditions of confinement therein in order to ensure that the human rights of
26 the people who are incarcerated there are being upheld.

27 Our membership is comprised of 24 local member societies across
28 this land known as Canada, and they offer critical frontline services to their

1 communities. Each organization is self-governing, with its own Board of Directors, and
2 we collaborate on key issues, best practices.

3 Our membership works with all of the institutions that we have
4 constructed to keep people safe. We work with police, we work with courts, we work
5 with the judiciary, we work with counsel, we work with the prisons and we work with
6 parole. And the reason that it's important to bring this into the work of the Commission
7 is that policing is just one arm of our legal system that people get caught up in.

8 And when I use the term "criminalized", I wanted to make sure that
9 that is defined because we use the word in recognition that systems and institutions that
10 we created and uphold serve to create the conditions that criminalize the women and
11 gender diverse people that we work with. I just wanted to make sure that that definition
12 was clear because I think we've been using it a lot throughout this last few days.

13 And I'll get into the rest of it later, but thank you very much.

14 **DR. EMMA CUNLIFFE:** Emily, many thanks.

15 If I can now turn to those who are joining us virtually today.

16 Deepa, welcome.

17 **MS. DEEPA MATTOO:** Thank you.

18 My name is Deepa Mattoo. I am a lawyer and Executive Director of
19 Barbra Schlifer Commemorative Clinic. And over 23 years of my experience in my dual
20 roles as a lawyer, manager and advocate, I have worked with access to justice, have a
21 lot of history of working in the field of gender-based violence and with survivors from
22 racialized and marginalized communities.

23 I've trained thousands of service providers in best practices in legal
24 education to work with forced marriage survivors, racialized non-status women and
25 immigration law clients in the context of gender-based violence.

26 For the benefit of everyone in the room, the Barbra Schlifer
27 Commemorative Clinic is a clinic which was built in the memory of Barbra Schlifer, a
28 young lawyer who was assaulted and killed on the night of her call to the bar

1 celebrations in 1985. The clinic was opened to commemorate her legacy and
2 commitment to social justice. The clinic is the only kind of institution in Canada, and it
3 provides holistic and accessible services to those who have experienced gender-based
4 violence. The services include legal representation, counselling and interpretation
5 services.

6 The clinic is a teaching clinic for law and social work students and,
7 over the years, we have incubated and successfully executed multiple knowledge
8 projects related to gender-based violence. The clinic has assisted over 100,000 women
9 in the span of its services, and last year alone, the clinic served over 8,000 women.

10 The clinic leads its services in a trauma-informed client-centric
11 approach with realistic risk assessment and safe family processes and works in
12 collaboration with the survivors' experiences and needs.

13 Thank you.

14 **DR. EMMA CUNLIFFE:** Thank you so much for joining us today,
15 Deepa.

16 Sunny, if I may turn to you.

17 **MS. SUNNY MARRINER:** Good afternoon, and thank you for
18 having this roundtable and inviting me to participate with such a great group of people.

19 My name is Sunny Marriner. I am the National Project Lead of the
20 Improving Institutional Accountability Project.

21 What the Project is, is the outgrowth of approximately 25 to 30
22 years of frontline work to address issues of primarily case attrition with sexual assault
23 reports, both at the policing level and then throughout the criminal justice system.

24 IIAP was formulated after many years of looking at possible
25 responses to case attrition, addressing barriers, identifying barriers and trying to
26 determine what the key factors were that were making sexual assault reports drop out
27 of the criminal justice system. The primary work of our Project, although we interact
28 with all levels of policing on all issues of policing and sexual violence and then further

1 into the criminal justice system, the primary work is implementing frontline advocate-led
2 independent case review teams in communities around Canada that review all cases
3 that did not proceed to charge.

4 What that means is that if a report of sexual violence was made to
5 police and that case did not proceed as, on average, 80 to 85 percent do not, then an
6 independent reviewer will review that case within three months to determine whether --
7 what aspects of the case created the barrier to proceeding and whether or not there are
8 additional steps that can be taken.

9 The model is utterly unique to Canada. We're currently
10 implemented in 28 communities across five provinces, and we add more every day.
11 And my role within that is both training, advocate reviewers, working with police services
12 around what the methodology of review needs to be to be rigorous and ensuring that
13 the reviews can proceed operationally into the future.

14 All of this work of mine is informed from 25 years of working in
15 frontline sexual assault centres. My work has primarily been with criminalized and
16 marginalized teenager girls, so thank you to Emily for the definition of "criminalized"
17 young women. And the theme that run between all of the frontline work that we
18 provided with young women who were criminalized and marginalized was very often
19 their trajectory to criminalization was or occurred shortly after or subsequent to them
20 reporting or disclosing sexual violence and that not being believed, particularly within
21 the criminal justice system, but at other levels as well.

22 And so that work over 20 years was frontline advocacy and legal
23 interactions with young women who had encountered that barrier to their cases not
24 moving forward.

25 Thank you.

26 **DR. EMMA CUNLIFFE:** Many thanks for joining us today, Sunny,
27 and we'll be delving into the victimization/criminalization continuum, as it's sometimes
28 called, a little bit as we move through the roundtable today.

1 And last, but certainly not least, Isabel, welcome.

2 **MS. ISABEL GRANT:** Thank you, Emma. And thanks to everyone
3 for inviting me to participate today.

4 My name is Isabel Grant. I'm a professor at the Allard School of
5 Law at the University of British Columbia, and I specialize in criminal law.

6 I'm grateful to live and work in the traditional ancestral and unceded
7 territory of the Squamish, Tsleil-Waututh and Musqueam Nations.

8 I've spent most of my career, which feels like a long one now,
9 working on responses to male violence against women. My expertise in particular is in
10 the area of sexual assault, criminal harassment and homicide and femicide.

11 I'm a member of the Expert Advisory Panel for the Canadian
12 Femicide Observatory for Justice and Accountability where we work to put a face and a
13 name to every femicide that takes place in this country. I've also been involved in
14 multiple contexts and litigation and law reform efforts with feminist groups and with
15 disability organizations.

16 Right now, I'm working on an SSHRC funded project with my
17 colleague, Janine Benedet, looking at the ways myths and stereotypes play out
18 differently based on the age of the complainant. So thus far we've published work
19 based on older women and on adolescent girls and now we're looking at intimate
20 partners. And we see the different ways that gender and age and then other forms of
21 marginalization as well such as indigency or race play out in these cases and how they
22 create barriers to affect the prosecution of sexual assault at each stage of the
23 complainant's life.

24 I'm very honoured to be able to participate today, although I have to
25 say I'm also very humble just by the gravity of the task that you are involved in and by
26 the pain of so many people involved in the events that we're dealing with. I don't have
27 any of the answers but I hope that this conversation can contribute something useful to
28 the work of the Commission.

1 **DR. EMMA CUNLIFFE:** Many thanks indeed, Isabel.

2 I'd like to begin our discussion today by discussing some aspects of
3 the Canadian law with respect to sexual violence and other forms of gender-based
4 violence. We'll start by talking about the law itself and explaining some of the principles
5 that animate the criminal law and evidence in this context. We'll then turn to questions
6 about the extent to which this law is reflected in police and institutional responses to
7 complaints about sexual violence.

8 And so, Isabel, if I can please turn back to you. We've heard a lot
9 today about the idea of myths and stereotypes and you alluded to it in your introduction.
10 I'm wondering if before we turn to other questions you could provide us with your
11 definition of what that phrase means. What does "myths" and "stereotypes" refer to,
12 and how have they been observed to play out in the case law of the Supreme Court of
13 Canada?

14 **MS. ISABEL GRANT:** Yeah, that's a big topic. I mean when I talk
15 about myths and stereotypes, I'm talking about beliefs that make assumptions about
16 how people behave and how people are expected to behave in certain situations. That
17 can distort a finding and legal determinations about the violence that is done to people.
18 And what I've looked at particularly, is how those myths and stereotypes change but are
19 very much the same, depending on the groups of women looked at. So they may
20 manifest in different forms but they are similar and rooted in the same kinds of beliefs in
21 my work about women and girls. So, for example, the idea that women and girls are not
22 trustworthy, are recounters of what's happened to them, that they tend to lie, that
23 women and girls are more likely to lie when they're talking about sexual activity and that
24 somehow coming forward to police is something that – an experience that someone
25 would be likely to do even if they don't have an honest story to recount. So the ways
26 that myths and stereotypes intersect with race and with gender and with other forms of
27 marginalization I think is really important in understanding how they operate in courts.

28 **DR. EMMA CUNLIFFE:** So would it be fair to say on the basis of

1 some of the examples that you've shared with us, that myths and stereotypes provide
2 an interpretative lens through which people understand, for example, the narratives that
3 women share about their experiences of sexual violence?

4 **MS. ISABEL GRANT:** Yes, I think that's right, and I think what's
5 interesting about them is how embedded they can be so that you don't see the lens, you
6 just think of it as common sense or something you intuitively know and so they're not
7 contested or challenged in that regard; we just take them for granted; they're the way
8 we see the world. And that applies to police, that applies to judges and to many lawyers
9 as well.

10 **DR. EMMA CUNLIFFE:** And so the term myths and stereotypes is
11 pejorative, of course; does it suggest that there's something incorrect about these ideas;
12 is that fair?

13 **MS. ISABEL GRANT:** I mean, I think often myths and stereotypes
14 may be rooted in some degree of experience, but it's the automatic application of them
15 to people without looking at the experience of that person, of that complainant, and the
16 context in which she finds herself in the context of sexual assault. So there may be
17 elements of truth in some cases that may be distorted, but it's applied without looking at
18 the individual as you say, as a lens through which to understand sexual interactions.

19 **DR. EMMA CUNLIFFE:** Thank you very much. Isabel, I'm now –
20 I'm going to stay with you, but I'm now going to turn to some aspects of the criminal law,
21 and in particular, to the Canadian legal definition of "consent". Could you please explain
22 how Canadian legislation and judicial decisions define the idea of consent to sexual
23 activity, and from whose perspective is consent...

24 **MS. ISABEL GRANT:** Yes, there's a simple definition in the
25 Criminal Code of consent which is voluntary agreement to the sexual activity in
26 question, but that doesn't tell us a great deal about what "consent" means. What the
27 Supreme Court of Canada has said, is that we have an affirmative standard of consent,
28 and what that means is, I think of that in terms of kind of setting the starting point. Prior

1 to the Supreme Court of Canada deciding that we had an affirmative standard, a person
2 could assume that a complainant was in a perpetual state of consent and she had to
3 say “no” in order for there to be any departure from that. What affirmative consent
4 does, is flip that around and it says that it’s only when someone says “yes” that they are
5 consenting. So you do not need to say “no”, it’s only when you say “yes” that consent is
6 given. And consent in law has two dimensions. It has the physical act, so did the
7 complainant consent? And that is judged entirely from the perspective of the person
8 consenting or not. So it’s whether in – usually her mind, she wanted that sexual activity
9 to take place. So that is the physical *actus reus* component of sexual assault.

10 The *mens rea*, because we are talking about a criminal justice
11 process and we don’t convict people who don’t have a fault component, the *mens rea* is
12 did the accused person know or was he reckless with respect to that consent. And
13 when we get to *mens rea* there has to be some indication that the complainant
14 communicated her agreement to participate. So it’s really important to understand that
15 saying nothing, or acquiescing or submitting, none of those things constitute consent in
16 law. There does not have to be force for there to be non-consent. There does not have
17 to be resistance on the part of the complainant. And I think all of those things – I mean
18 you shared with us the RCMP Best Practices document, which I think was frankly out of
19 date in 2017 and even more out of date now in terms of understanding what is required
20 for sexual assault to be established in a court.

21 **DR. EMMA CUNLIFFE:** Thank you, Isabel, and I was planning to
22 turn to the best practice guide a little later, but actually let’s do so now as I search for
23 the Exhibit number of it. I just want to just clarify for the benefit of those who may not be
24 legally trained, “*mens rea*” simply means the mental element of the crime that needs to
25 be proven by the Crown; is that a fair definition? *Mens rea*, sorry. Isabel, is that a
26 correct articulation?

27 **MS. ISABEL GRANT:** Yes, yes.

28 **DR. EMMA CUNLIFFE:** Okay. And now let’s turn briefly to the

1 question of the RCMP Sexual Assault Investigation Best Practices Guide which,
2 Commissioners, has been tendered before you as Exhibit P003677. At pages five to six
3 of that Guide is provided an explanation of consent and the Canadian law on page five
4 there, some extracts provided from the *Criminal Code*, some examples of
5 circumstances where consent is not given, and then a paragraph which provides
6 examples of lack of consent. And so – it reads: “The law indicates that agreement or
7 lack thereof may be expressed in word or gesture. In other words, saying ‘no’ is not the
8 only way that a person may indicate a lack of consent. A lack of consent may be
9 indicated by words such as ‘I’m not into this right now, I don’t think this is a good idea,
10 maybe later, I’m not sure’ or by gestures such as silence, crying or body language”, and
11 then a variety of examples of body language are given.

12 So Isabel, was that the passage that you had in mind when you
13 suggested that it was....

14 **MS. ISABEL GRANT:** Yes, because that passage again is
15 suggesting, going back to the affirmative consent concept, that someone has to say “no”
16 or at least communicate a “no” through body language or the other – the other things
17 that you just read out -- body language or the other -- the other things that you just read
18 out, when really that is not required. There is no obligation on a woman to say no to
19 sexual touching. The accused who wants to say, "I didn't know she didn't want this"
20 needs to be able to point to her saying, "yes", or communicating "yes" through body
21 language.

22 But again -- and that definition, I was really surprised to see that
23 definition in 2017, because this law was established by the Supreme Court of Canada in
24 the 1990s in a case called *Ewanchuck*. So yeah, I think that definition creates the idea
25 that it's all about the complainant saying "no", which is not an accurate statement of the
26 law.

27 **DR. EMMA CUNLIFFE:** Thank you. I'm going to shift gears again
28 slightly now, Isabel, and stick with you as our -- as the person who is helping us to

1 understand the law in this case.

2 You have written about the law of criminal harassment in an article
3 called Intimate Partner Criminal Harassment.

4 Commissioners, this article has not yet been tendered before you,
5 but it will be. And for the benefit of the Participants, it is already available on Relativity
6 at COMM0059877.

7 Isabel, in that article you describe the elements of criminal
8 harassment, and suggest that to a certain extent those elements, as they're presently
9 interpreted, fail to protect women. Could you expand on or explain the basis on which
10 you reach that conclusion?

11 **MS. ISABEL GRANT:** Well, there's a couple of harassment to
12 criminal harassment. If people aren't familiar with how criminal harassment works, it
13 usually -- the crime in section 264 of the *Criminal Code* requires that somebody
14 repeatedly communicate with someone in an unwanted way, or follow them, or threaten
15 them, or engage in other activities that are persistent.

16 But the two elements of the crime that have created troubles --
17 problems for complainants in this area relate to the fact that in order to establish
18 criminal harassment, the Crown has to show not only that the complainant was afraid
19 but that her fear was reasonable. And that reasonableness element is not necessarily
20 seen entirely from the perspective of her being aware of her circumstances, and doesn't
21 necessarily recognise that she may understand triggers or behaviours that suggest she
22 may be in danger, that might be as comprehensible to the outside observer. So the
23 idea that we only respond to women's terror when we have assessed it as reasonable
24 creates barriers, both to laying charges and then of course to prosecuting those
25 charges.

26 The other issue in the -- in the definition is that it has to be shown
27 that the accused intended to or desired to cause her to fear and to be harassed. And,
28 you know, in a lot of these cases in the intimate partner context what you see is "I just

1 wanted her back. I wasn't wanting her to be afraid, I just wanted to get her back to me."
2 So behaviours that have left a woman terrified are being justified based on the elements
3 of the offence.

4 So those two elements of criminal harassment I think are
5 particularly problematic when -- and especially when the harassment is between two
6 people who know each other, who may have access to each other in particular ways,
7 through children, through other family members, et cetera.

8 **DR. EMMA CUNLIFFE:** Isabel, many thanks indeed.

9 Sunny, I'm going to turn to you now. Isabel has explained that
10 Canadian law has a definition of consent that centres on sexual autonomy, the idea that
11 sexual activity should be subjectively welcomed by parties who have communicated
12 their consent to one another. You, of course, have a great deal of experience and
13 expertise between your work on the frontlines of sexual violence response and your
14 work in the Institutional Accountability Project.

15 In your experience, how do police approach the question of consent
16 when a sexual violence complaint is laid?

17 **MS. SUNNY MARRINER:** That's a huge question, and I appreciate
18 your raising it in the confines that you did.

19 There are variations that I think we have to start with in terms of
20 understanding that with sexual violence, obviously consent only becomes an issue at 12
21 and over in -- under Canadian law, but the question of whether or not a complainant
22 consented turns on an assessment of their credibility. And credibility assessments are
23 often where we see a lot of subjective decision-making taking place in terms of policing.
24 So what that means is that an officer has to establish that they have reasonable and
25 probable grounds to believe that a crime occurred, that's the burden of proof that they
26 need to meet, and in order to do that they'll assess whether or not the complainant is
27 credible in the story they have brought forward in terms of articulating their lack of
28 consent.

1 Unfortunately, police assessments of credibility and whether or not
2 consent were present are deeply inconsistent across both police services and also
3 across the country. So nationally from coast to coast to coast, you see widely disparate
4 determinations of whether or not consent is present and whether or not an account is
5 credible. Even when you have multiple cases with very similar, on all fours fact
6 patterns, we mean that they have very similar components to them, the decision-making
7 about whether or not consent is present often is difficult to track across those different
8 cases, even though you have a similar body of evidence, a similar narrative, similar
9 circumstances.

10 And so I think that issues of discretion in police assessments in
11 terms of consent really factor in. They -- it frequently has less to do with what the
12 complainant actually articulates in the interviews, or what they say in their statements,
13 what we tend to look at in reviews is what did the officer hear. So as opposed to what
14 the complainant said, how is that interpreted and understood by the officer listening to
15 it?

16 And frequently there, we see some of what Isabel was just
17 referencing in terms of this notion of what is considered reasonable and what we
18 believe is a -- to be a reasonable or not a reasonable response, again, which may be
19 based, hearkening back to some assumptions about potentially rape myths or
20 stereotypical beliefs, we certainly look at influences of the potential for implicit or
21 confirmation bias.

22 Confirmation bias for the benefit of Participants is just a tendency to
23 seek out, analyse and interpret information through a lens of what we already think.
24 Most of us, actually, are very susceptible to that possibility. And we note the
25 interactions of a lot of those things when officers are assessing complainant narratives
26 of sexual assault.

27 Finally, I would just add that one of the things that we see across
28 reviews across the country is that there is a disturbing range in understanding of the

1 actual law of consent. We frequently, to again hearken back to Isabel was just saying,
2 we frequently see officers saying, "well, you didn't say no, so it's not sexual assault", or
3 "he didn't know that you weren't consenting, so it's not sexual assault", again, not
4 understanding the affirmative consent law in Canada. And so even at the baseline of
5 understanding what is consent, we see issues there.

6 And connected to that, we also do sometimes see issues of what I
7 would say is not just a lack of knowledge of consent law, but in fact of disagreement, an
8 active disagreement with consent law, and thus, even if the law is understood, it's not
9 necessarily agreed with by the institution of policing itself or the individual officer, and
10 thus, their interpretation of what is required for sufficient evidence, the standard
11 becomes very, very high.

12 **DR. EMMA CUNLIFFE:** Thank you. It was -- it was apparent in
13 your last answer, Sunny, that you were drawing on some of the things you've learned
14 through the Institutional Accountability Project, and you alluded to it of course in your
15 introduction.

16 I wonder if you can provide a little bit more of a description of how --
17 of why this model has been so powerful for you, and how you arrived at the view that
18 this model of civilian advocate review of police decision-making was an important part of
19 a healthy functioning system?

20 **MS. SUNNY MARRINER:** Absolutely. Well, if I can hearken back,
21 as most things do, to my experience working frontline with survivors of sexual violence.
22 One of the first things that we see, or we learn when we work directly with survivors is
23 that there's a huge, obscure area in policing which is that once the survivor walks
24 through the door of the police station, nobody truly knows what happened behind that
25 door except for the survivor themselves and the officer that was engaged. So there's
26 actually no visibility into, if we can use that word, visibility into what's occurring in sexual
27 assault investigations, and that's evident to us most expressly usually through specific
28 cases. So working with a survivor who was told that they were not believed in sexual

1 assault and trying to advocate for that survivor's case to move forward, I certainly
2 learned how difficult it was to determine what actually happened in the police decision
3 making in that specific case. And so that led my project and my work to many years of
4 assessing what types of reform efforts we tried to implement in order to address some
5 of these systemic issues.

6 It's important to note that these issues have been under discussion,
7 under certainly a great deal of discussion in Canada, particularly in violence against
8 women movement since before 1973, and so in looking at repeated attempts to make
9 change to those issues in policing, what had worked and what had not. And that drew
10 my eye and others that I work with to models of oversight and different mechanisms for
11 overseeing police decision making in sexual violence, outcomes in sexual violence, and
12 models around the world, including also legal advocacy for survivors, and that whole
13 range of possible responses.

14 Ultimately, one of the mechanisms that we settled on and that we
15 developed uniquely in Canada was a model of case review that took some core
16 foundations from a Philadelphia practice that had been ongoing for about 20 years. And
17 what differentiated it from other types of police oversight were a couple of core things,
18 but the most powerful thing was who was doing the reviewing of the cases.

19 Traditionally, oversight models tend to draw on people from within the institutions or that
20 are adjacent to or connected to the institutions that are being overseen. And this model
21 of case review instead goes to the subject matter experts in sexual violence, so those
22 individuals who are doing legal reform work or legal advocacy work or frontline and
23 long-term work with survivors of sexual violence in the community that is reporting to
24 that police service.

25 So what that means is that, ultimately, we drew on what is a loose
26 network across Canada of frontline independent sexual assault centres who were
27 created largely by survivors and for survivors across the country for their kind of core
28 subject matter expertise and dealing with those same survivors and those same

1 communities that are accessing that police service on the day-to-day basis, but still
2 have a strong subject matter expertise in sexual assault, sexual violence, the behaviour
3 of complainants and its perpetrators. This was heretofore unheard of, and it took
4 approximately 11, maybe 12 years to build that, including work with privacy law and all
5 kinds of Canadian legislation to be able to implement it. But the idea is, again, to
6 ensure that there's a safety net for every single case that is not proceeding and that it's
7 being seen by somebody who brings a trauma-informed intersectional subject matter
8 lens about the dynamics of sexual assault and the behaviours of complainants, the wide
9 array of responses, protective behaviours that we take on as survivors in order to
10 ensure that we're minimizing harm, all of those various dynamics.

11 So that model, I think what drew us to it particularly was that it did
12 not rely on the idea that we can do a couple of things and fix institutional or systemic
13 problems. Instead, it said we need to create effective, operational oversight for every
14 single survivor, so that folks who are reporting to the police tomorrow can count on the
15 fact that there is a review mechanism that will be in place for their case; otherwise, what
16 we're doing is we're requiring survivors themselves to be responsabilized for bringing
17 systemic problems to the attention of everybody else in Canada. They are the only
18 people who can disclose what those issues are unless there's a mechanism like that
19 that identifies those issues. So that was what was particularly drawing to that model.

20 **DR. EMMA CUNLIFFE:** Thanks very much, Sunny. And one last
21 question, what comes of your reviews? What happens next?

22 **MS. SUNNY MARRINER:** It's a good question. There is no one-
23 size-fits-all model that works in every community in Canada. As we know, this is a very
24 diverse, broad country with very significant differences between policing from one area
25 to another. So a lot has to do with what the openness to a given police service is in
26 terms of how recommendations, how commentary might be received. But that said, the
27 idea of review is to attempt to draw attention usually to multiple different areas of an
28 investigation and contribute to multiple different areas of improvement. So we will both

1 look at systemic issues, trends, observations over time, possible areas where there may
2 need to be greater knowledge, skills and abilities available to policing around what
3 they're doing, but we also look at specific individual cases. So, for example, if I'm
4 reviewing a case and I see that there are steps that were not taken, or perhaps that the
5 evidence in the case doesn't appear to lead to the same decision making that we see in
6 it, the review team can bring this back to the police service and say that that case
7 maybe should be reopened, or looked at a second time, or have additional investigative
8 steps taken. So the goals are -- well, there are multiple goals, but the key goals are
9 twofold, which is to identify those systemic issues, but also, to create an actual systemic
10 oversight mechanism such that survivors no longer have to do that piece of work for
11 themselves when they encounter those barriers.

12 **DR. EMMA CUNLIFFE:** Thank you, Sunny.

13 Deepa, I'm going to turn to you next. We've heard the word
14 intersectionality a couple of times already in this round table. And so I wanted to ask
15 you what does the word mean, what does a, for example, intersectional approach to
16 sexual violence connote?

17 **MS. DEEPA MATTOO:** I'll start by saying that it's work of
18 Professor Kimberlé Crenshaw from States, and she's a black feminist activist who gave
19 the terminology so that we can understand that survivor's experience are at the
20 intersection of number of simultaneous oppressions, and we can't have an approach of -
21 - or the idea that everything needs to be seen as the sameness.

22 So when we talk about simultaneous operations, it could be race, it
23 could be class, it could be caste, gender, ethnicity, sexuality, disability, nationality,
24 immigration status, geographic location, such as rural and remote communities, and
25 religion, and so on. I mean, there are many other issues, as we know, related to
26 homophobia and transphobia, ableism that can also be at the intersections of the
27 experience.

28 These multiple overlapping systems of operations means that

1 survivors are not experiencing violence or not -- are not vulnerable to violence in the
2 same way, plus, it also means that they have additional barriers, at times, which are
3 unaccounted for in the interventions, whether it's state interventions such as police
4 services, or sometimes service interventions such as resources given by not-for-profit
5 organizations and other service resources that are structured by the government
6 funding. These intersections could be all of them together on a continuum, they could
7 be one or more. But I think what is really important to note is that, as Professor Grant
8 was talking about, the myths and the stereotypes, like, that -- similar to that lens, that
9 this lens, when it lacks in the service provision, or when it lacks in any kind of
10 intervention, you come to the intervention with a lot of assumptions and biases at the
11 onset itself, and therefore, this repeated call for action from the service providers, such
12 as myself and Sunny and Professor Grant, to have interventions structured with an
13 intersectional lens without any myths and stereotypes attached to it is to actually
14 remove those biases that we see sometimes inherently structured in these
15 interventions.

16 **DR. EMMA CUNLIFFE:** Thank you. And if I can pick up on one of
17 those dimensions, just one of those dimensions that you referred to. Immigration
18 status, can you explain why that's an important thing to consider in this context?

19 **MS. DEEPA MATTOO:** Well, for multiple reasons. So within the
20 context of the immigration status comes the continuum of the violence that a survivor
21 might be experiencing before coming to the country and then after coming to the
22 country. There's also an inherent trust issue that we see among a lot of survivors
23 towards the police services or anyone in the uniform and folks with precarious
24 immigration status or who are non-status, they have that inherent challenge of not
25 trusting the police services or anyone in the uniform or anyone in authority because they
26 don't see them as people who would be supporting them and their experiencing
27 violence but, rather, they see them as people who might possibly be harming them or
28 harm them in many cases, as we see.

1 Immigration status also means that you don't qualify for a lot of
2 services that might be available to people with the status. Immigration status also
3 means that you would be seen as someone coming forward with a complaint with an
4 ulterior motive of trying to get a passport or an immigration status to this country.

5 And all of those reasons of intersections of experiences make it
6 more complex and more difficult for survivors to come forward and get support and
7 routinely neglected in the system.

8 **DR. EMMA CUNLIFFE:** Thank you for sharing that example with
9 us.

10 Deepa, I'm now going to turn to one of the programs you offer
11 through the Schlifer Clinic, the independent legal advice program. I wonder if you could
12 please explain how the program works.

13 **MS. DEEPA MATTOO:** So the program came into being in 2016
14 with the help of the funding of provincial government, and the program was structured
15 right from the beginning in two ways. The one aspect of the program was that it was --
16 it is still executed through the provincial government directly through a certificate which
17 is issued to the survivors for up to four hours of service, and there's a roster of lawyers
18 that -- who are on the panel to accept those certificates.

19 The program was a pilot. It was started in three cities. Toronto,
20 Ottawa and Thunder Bay were the three places where this was started. And recently, it
21 has been expanded to all over Ontario, but that roster of -- list of lawyers has not been
22 expanded from what I know as of today.

23 The second aspect of the program right from the beginning was
24 that it was also situated at the Barbra Schrifler Commemorative Clinic. At the Clinic, that
25 cap of four hours was not -- right from the beginning was not kept at its cap for the
26 reasons that we have a very different structure of intake. We have a very different
27 structure of wraparound service. Anyone who's coming to the clinic with their legal
28 issues and get advice on the issue of the sexual assault or sexual harassment

1 experiences would also be offered a risk assessment, would also be offered a safety
2 planning and support from our counsellors for counselling as well as housing support.

3 So from -- for that -- for those reasons, the program right from the
4 beginning was not structured just for four hour services and it continues to be so.

5 In terms of what all the program offers, along with being listened to,
6 being believed and validated, being acknowledged, I think survivors -- so those are the
7 things that survivors, a lot of times, don't get.

8 So along with that, survivors get advice on any next legal step in
9 terms of their experience of sexual assault and violence that they have experienced. It
10 could be a recent case, it could be a historical case. And they get support on the next
11 steps that they want to take. They also get support on decision-making around whether
12 they want to report or do not want to report and that they also get appropriate referrals if
13 they need so and, basically, capacity to better understand what all is going to happen at
14 the next step of this situation as they're accessing justice system or any other system,
15 for that matter, because a lot of times survivors who come to us they're not necessarily
16 going to the justice system directly. They might be thinking about making a complaint
17 through Human Rights Tribunal. They might be thinking of accessing a civil remedy.
18 And Injuries Compensation Board was in existence in Ontario. Many of them would
19 actually choose to go to the Board as well.

20 **DR. EMMA CUNLIFFE:** Thank you.

21 And so you've alluded to the fact that you assist survivors with a
22 range of options beyond police reporting. I'm wondering if you can speak to the
23 patterns you're observing, if any, in the decisions that survivors make about which of
24 those options to pursue.

25 **MS. DEEPA MATTOO:** I think the pattern of the experiences that
26 we see are very much similar to what we see in a lot of data that comes out, that most
27 of the survivors who come to us, they, many times, know their assailant or they know
28 the perpetrator and a lot of their decision-making around what they want to do next is --

1 definitely stems from that very knowledge and what they want to do sometimes is
2 definitely around that experience.

3 So say, for example, if I can give you a more concrete example of
4 that, if she's going to the same workplace or if she's going to the same university, a lot
5 of times the decision-making is around what would happen to my education next, what
6 would happen to my career next.

7 So the reason, you know -- and we know that. Most of the
8 survivors that we work with, generally it's a general stat that women don't choose to
9 report. But I think what this project is teaching is why do they not choose to report, and
10 why do they not choose to report is because in most of the cases, over 80 percent of
11 the cases, they know this person. They know this person from a very intimate place,
12 and that knowledge itself creates a lot of hardship and barriers in making their choice of
13 going to the cops.

14 The additional knowledge is around how the criminal justice system
15 works. The minute she tells us, "I want to report. What would happen?" and we start
16 telling her about the steps of the process right from there will be a statement taken and
17 there will be a video recording and what would happen, will she be -- will there be
18 charges pressed, we can never guarantee that.

19 So all of those basic things that Sunny was talking about earlier,
20 what happens at the police station and what we have to, as, you know, advisors of the
21 situation have to tell her because what Sunny was saying is exactly what we have to tell
22 her, and those are the reasons that also discourage her in reporting.

23 In terms of some of the things that we saw earlier in the project
24 which we don't see as much is that when some of those statutes of limitation was, you
25 know, changed and people could come forward with their historical cases, so we saw
26 influx of historical cases come forward at one point, it's not at the same level any more.
27 And I think one other additional observation that I can -- I can share with you is that
28 during COVID, while we saw that the number of cases went really high, we saw a

1 number of people reporting go even less.

2 So again, what happens in an economic environment, what
3 happens in our work environment also impacts survivors' capacities to come forward
4 and their choices of taking it forward.

5 But a lot of times -- something which is worth noting is a lot of times
6 when we do our evaluations of survivors and we try to do a check-in with them after the
7 fact and ask them if they did choose to report, what was the choice of reporting, a lot of
8 times they say, "I wanted to report because I did not want this to be repeated to
9 someone else".

10 So I think those are some of the observations that I can share with
11 you, but if you have anything specific, I would be happy to answer that, too.

12 **DR. EMMA CUNLIFFE:** No, Deepa, you've been very generous.
13 Thank you very much, indeed.

14 Lana, I'm going to turn to you now. You work closely with the
15 African Nova-Scotian community and we know that African Nova-Scotian women are
16 even less likely to involve police when they become victims of sexual violence than
17 white women are.

18 I wonder if we can begin, for the benefit of those who may be
19 unfamiliar with Nova Scotia's African community, by inviting you to share some basic
20 information about the African Nova-Scotian community, its history and its present here.

21 **MS. LANA MacLEAN:** Certainly. It is an honour to actually speak
22 to the voices of women of African Nova-Scotian descent.

23 It's important for the Commissioners to know that since 1783,
24 people of African Nova-Scotian descent have settled in this province alongside our
25 Mi'kma'ki brothers and sisters who helped keep us alive and survive the systemic
26 racism. So to my Mi'kma'ki brothers and sisters, survive the systemic racism. So to my
27 Mi'kma'ki brothers and sisters, thank you.

28 There are approximately 48 historical African Nova Scotia

1 communities in Nova Scotia. The majority of these communities are located in rural
2 districts or jurisdictions which tend to be policed or not policed at all by the RCMP.

3 What's really quite important is the history of the African Nova
4 Scotian community in terms of its under or over policing of the black community and
5 black bodies as one of the determinates, or the social determinates to why black women
6 do not necessarily call or contact police.

7 These unique historical factors, both hold history and contemporary
8 lenses and must be considered as Deepa was saying, in terms of the intersectionality of
9 gender-based violence, the legacy and historical legacy of racism in the Province of
10 Nova Scotia. The experiences of the black community under-police and over-policing of
11 our bodies, our view and our lack of security with police is informed by certainly our
12 rooted – or rooted in the history of enslavement in North America. What we do know, is
13 that our bodies are always surveilled under the chattel slavery, which even was here in
14 Nova Scotia and in our country.

15 Being policed under the model also led to, back in the day we say,
16 police patrols. So police patrols would make sure that there were no runaway black
17 slaves or would be sent out to find black slaves and black women, anyone who chose to
18 runaway or seek freedom.

19 And what is unique to Nova Scotia is, even in 2019 with the Scott
20 Wortley Report, is that there's a different configuration of the policing of black bodies in
21 this province through the implementation of street checks. It is therefore reasonable to
22 suggest that people of African Nova Scotian, have a very complex and deeply rooted
23 mistrust of policing. It's also important to note that within the African Nova Scotian
24 community our core values are not based on the individual, but on the community and
25 the collective well-being of others which can be a pivot point for woman of African Nova
26 Scotian dissent reaching out to, or contacting police as a protective factor when in fact it
27 could be a very community-disrupter and place not only the community at risk of being
28 over-policed or as I believe Sunny and Deepa spoke to, the institutionalization of

1 racism, and as Isabel spoke to, the myths and the biases and those being leveraged
2 against the community without being interrogated with truth and integrity.

3 So for black women, intimate partner violence or gender-based
4 violence, must be viewed in terms of whether or not we are going to betray the
5 community in reaching out to police. That a betrayal has a lot of cognitive dissidents, a
6 lot of psychological and emotional aspects of well-being that must be taken into
7 consideration, and for particularly all women, but particularly African Nova Scotian
8 women who have prevalence of having our children apprehended by child welfare. As
9 our brothers and sisters in the indigenous community, we need to be protective of that
10 particular vital resource.

11 We are also conditioned in terms of some of our cultural and social
12 norms given our history with systemic racism over and under policing, that it's our view
13 that we cannot be a sellout. And so there are very complex nuance social constructions
14 within the African Nova Scotian community that impact on how women of African
15 dissent choose to make informed decisions when they're under trauma experiences
16 about how they want to move forward. But the core essence of it, is that we are
17 community-based people, ones that are based in trust and relationship and any
18 particular aspect that would make that vulnerable.

19 We say black women are the keepers of culture in our community
20 and we have to be protective of the larger – or have more situational awareness and not
21 just our own issues of our own protectiveness, but – and we are very mindful of the
22 impact of what it looks like for black men if they are the perpetrators, to be actually
23 engaged in the criminal justice system and that they are over-represented in the
24 criminal justice system. So for us, it's also another generation of loss into the criminal
25 justice system and do we want to actively participate in that which is a part, again, of our
26 interrogating our cultural normal and our faith-based practices with what is seen as
27 trajectory towards justice.

28 **DR. EMMA CUNLIFFE:** Lana, thank you for sharing those

1 insights. In our preparatory conversation for this roundtable, you said to me that black
2 women encounter racialized and sexualized tropes every day. Can you explain to me
3 how a wide circular cultural operationalizes tropes about black women in ways that
4 engender sexual violence or excuse and minimize that violence?

5 **MS. LANA MacLEAN:** Certainly. First, the idea of those tropes
6 are based in a womanist or black feminist politic and critical race theory and are
7 formulated within the framework of “misogynoir” which is a term coined by the queer
8 black feminist Moya Bailey to describe the particular racialized sexism that black women
9 face on a daily basis. And those tropes tend to be, in simplest terms, in four categories.
10 That the black women are viewed as too sassy, too loud; we take too much space and
11 then presenting to the larger society, “Well, she must have been deserving, she claimed
12 too much space” or she must have been speaking back.”

13 The hyper-sexualization or the Jezebel issue that is rooted in
14 systemic racism that we are overly sexualized and, therefore, looking for some form of
15 our attention, whether it’s around sexualized violence. Or are we the angry black
16 woman who needs to be shut down, that we have, again, too much to say. And then
17 there’s this really interesting piece which is the strong black woman, that we have to
18 take whatever is given to us, particularly in the issues around gender-based violence,
19 and do it with a sense of dignity and decore and not to show any fragility.

20 So those myths and stereotypes and this particular sense of
21 Misogynoir, how they show up in our lives as black woman can be a silencing impact on us,
22 and then therefore, not move us forward in terms of seeking supports that are in the larger
23 community because we’re internalizing those because they have been embedded in some
24 of the myths of how we perceive ourselves and how we have actually been seen and been
25 impacted by society. And it’s quite nuanced that, you know – what I would say is that black
26 womanhood is routinely and systematically devalued and dismissed in ways that white
27 womanhood isn’t. And the above – those four particular tropes are just a few ways in which
28 Misogynoir shows up in society and in gender-based violence and intimate partner abuse as

1 ways to mitigate the community's response and accountability to black women.

2 **DR. EMMA CUNLIFFE:** Thank you. One more question and I
3 think to a certain extent you've alluded to some of this, but I'd really like to service it
4 more directly. What does state institutions and service providers get wrong when they
5 seek to work with African Nova Scotian communities, or African Nova Scotian women?

6 **MS. LANA MacLEAN:** That's a large question. In my clinical
7 practice I think what people get wrong is that they lean into the myth of a strong black
8 woman and believe that because we're not reporting, that it isn't happening. They lean
9 into that the community takes care of itself, and historically, yes, I would say – I am of a
10 generation which knows that the African Nova Scotian community has its own informal
11 restorative justice process. It's not facilitated in ways that are formalized, but there
12 would be a level of accountability where mostly women would meet up with each other
13 to say your son did this to my daughter, we've got grandchildren that we need to share,
14 how do we want to process this and keep him accountable, and then they would engage
15 other black men in the community to provide mentorship, accountability, to talk to them
16 about what it means to be a man and particularly within the African Nova Scotia
17 community, a man of God, and what are their levels of community, a man of God, and
18 what are their levels of accountability as a father, and ways in which the community
19 historically would have provided the women or the children, or take the children out of
20 the community or out of the home as a protective factor so child welfare wouldn't be
21 involved.

22 So those particular ways of engaging have been -- have -- I think it
23 -- I would say historically have been ways of our informal restorative justice process,
24 which kept the community intact, kept people accountable, but also made sure that the
25 women and children were protected. And there would always within the communities
26 have informal safehouses that people could go to, whether it was an aunt, an uncle; or if
27 someone had to leave the community, that there would be someone -- those women,
28 predominantly, would say "Who has got the car to drive Lana to such-and-such a

1 community stay with so-and-so until things cooled down?" And then when those things
2 occurred, the people could -- the family could go back to reunification.

3 That's how we informally have done the work and been able
4 maintain some of those core cultural values and world views. That has -- since the
5 communities are rural and aging, those resources are becoming much more thin. And
6 so the supports for racialized, particularly African Nova Scotian women, in rural
7 communities, that particular way of looking at family reunification, maintaining cultural
8 and normative values has actually become very weak, and women now and children are
9 becoming much more vulnerable and at risk because we don't have that internal
10 resources. The place in which all those internal resources have been actually allocated
11 have been mostly in the urban centres, and that place of being allocated to urban
12 centres have left our Black women and children in rural settings much more vulnerable
13 without the supports.

14 **DR. EMMA CUNLIFFE:** Many thanks indeed, Lana.

15 Emilie, I'm going to turn to you now, and indeed, back to the
16 victimisation, criminalisation continuum. The roundtable package included an extract
17 from a book by Elspeth Kaiser-Derrick called Implicating the System, resonating actually
18 with your introductory remarks.

19 Commissioners, that extract has not yet been tendered, but it will
20 be. And the extract that was shared describes a phenomenon called the victimisation
21 criminalisation continuum built on the work of other scholars and those, such as Sunny
22 and Emilie, who have described this pattern for women, particularly Indigenous and
23 racialized women, of experiences of victimisation, and as Sunny quite properly said, of
24 disbelief about victimisation propelling some women into the criminal justice system as
25 offenders or as accused.

26 I'm going to start Emilie, by asking you from your vantage of ED of
27 CAEFS, what can you share about the patterns within criminalised women's
28 experiences of sexual and gender-based violence that you see?

1 **MS. EMILIE COYLE:** So I was watching one of the earlier panels
2 discuss the binary between public and private violence, and I think there is an equal
3 myth around the binary of a victim's or survivor and a perpetrator of harm, particularly in
4 the work that we do at the Canadian Association of Elizabeth Fry Societies because most
5 of the people that we work with, who are in the jails and prisons, are people who have
6 experienced, countless times often, violence in their lives. And that violence could have
7 been perpetrated by by an individual, but also that violence has and continuous to be
8 perpetrated by state actors, such as the police, such as, Deepa probably would agree
9 with this, Canadian Border Services Agency, such as our prison system.

10 And so this myth that there's a clear binary means that we're
11 creating a narrative that portrays some people as being good and some as being bad,
12 and often that is interwoven with ideas and biases around certain peoples. So we're
13 looking at classism, we're looking at racism, transphobia, homophobia, all of those
14 biases play into who is good and who is bad, who is deserving of protection and who is
15 not.

16 And I'm thinking a lot about what you were just saying, Lana,
17 because this idea of being over and under policed is this idea of often being overly
18 surveilled, but then, conversely, under protected. And so what does it mean to have
19 systems that were set up to protect people that don't end up protecting and end up
20 harming instead? And so we're encouraging a system, then, that is inflicting structural
21 violence on some of the most marginalised people in our country.

22 And one of the really obvious ways that this has shown up is
23 around sexual violence and coercion in the prison system that has been exposed lately,
24 and particularly in Nova Scotia. Around 2018 and 2019, some very brave women came
25 forward in Nova Institution, which is a federal prison here in Truro, Nova Scotia, and
26 they told the prison that there was a staff member who had been sexually violent with
27 them. They were not believed, and it took them continuing to push and the work of the
28 local Elizabeth Fry Society believing them, like many of the frontline organisations do, to

1 believe, as Deepa said, to validate, and to help them to understand what the
2 consequences would be for them to come forward. And of course, you may have seen
3 that this person has just recently pled guilty to the sexual violence that was perpetrated
4 against these people.

5 The Office of the Correctional Investigator, which is the
6 ombudsperson for the prisons across the country, the federal prisons, in their latest
7 annual report also did a very, I would say, preliminary study of sexual violence and
8 coercion in the prisons and the prevalence of that, and the government has recently put
9 money toward a larger study of violence in the prisons.

10 And we use that as an example because if you look at some of the
11 ways that people who are criminalised by coming forward, with their examples of the
12 sexual violence that they have experienced in their lives, and the way that the
13 continuum of the legal system treats them, all the way up to... So for example, if you've
14 been in prison, you understand that someone has a correctional plan, and that
15 correctional plan follows them all the way to their parole hearing, and at the parole
16 hearing the members of the Parole Board of Canada will actually get police reports
17 when they're determining the liberty of that person who is before them. And the police
18 reports, for those of you who are aware of how our judicial system work, are not, you
19 know, taken as proven to be true right away. You have to go through the court system
20 and you use that as part of your evidentiary record. But those police reports are often
21 used at the end of a person's sentence to determine how their liberty is going to be
22 structured.

23 And so, you know, all of this ties together, and it means that we
24 have both individuals who are experiencing the sexual violence that may come from a
25 perpetrator, but also the violence of a system that doesn't believe them, and continues
26 to perpetrate falsehoods about them from state's actors all the way through their
27 experience with the legal system.

28 So I'll leave it at that.

1 **DR. EMMA CUNLIFFE:** Thank you, Emilie, and you may want to
2 pick up again on the example of Nova Institution in your answer to the next question.
3 But I just wanted you to invite to amplify a little more, what are the additional barriers
4 that criminalised women face when they seek institutional responses for sexual violence
5 that they encounter?

6 **MS. EMILIE COYLE:** Can you repeat that?

7 **DR. EMMA CUNLIFFE:** Of course. What are the additional
8 barriers that criminalised women face when they seek to report sexual violence?

9 **MS. EMILIE COYLE:** Well, the fact that they're criminalised is one
10 of the pieces of the intersection of oppression that the people that we work with face.
11 The criminal record and the fact that they have been involved with the system means
12 they already have been branded in a certain way, and probably, in many people's
13 minds, within the system as less deserving of protection.

14 And so when these people came forward, they were not believed, it
15 took a really long time for them to finally be believed. And you know, behind the scenes
16 what I'm trying to do right now with the Government of Canada is push to, sorry, is push
17 them to understand that when we're looking at sexual violence or sexual coercion that is
18 perpetrated by a state actor it's really important that we get the voices of the people who
19 have experienced this violence in the mix. I think, Sunny, you talked about this in your
20 work as well because if we're always going to have experts, people who study this as
21 the voices that we listen to, we're not going to get the reality of people's experiences.

22 And we have to believe them and we have to create spaces where
23 they are not tokenized but, in fact, that we value the experience and their perspective
24 because it will help us all to create systems that are better communities of care.

25 I think about what you were mentioning, Lana, around the collective
26 well-being of others and how the African Nova-Scotian community came up with non-
27 carceral responses in many ways to the harm that was being done in the community,
28 and those non-carceral responses are certainly the responses that we at the Elizabeth

1 Fry Societies are looking towards as solutions. And I know we'll probably talk about
2 solutions later.

3 **DR. EMMA CUNLIFFE:** Emily, thank you very much indeed.

4 I'm now going to shift gears a little bit and turn to Pam, but it's a
5 conversation that I'll invite each of you to engage in.

6 Sunny alluded to the fact that we've been -- that there have been
7 efforts at reform of one sort or another of institutions, of policing, of the law about sexual
8 assault at least dating back to 1973, and arguably earlier, and it's to this pattern of
9 reports and recommendations that I would now like to turn.

10 Pam, you recently co-authored a report for an organization called
11 FAFIA, or the Canadian Feminist Alliance for International Action. That report focuses
12 specifically on RCMP culture with regard to misogyny, racism and violence, and it has
13 been tendered as Exhibit P-003654.

14 The report brings together a number of research reports and
15 inquiries conducted by others, including the final report of the National Inquiry into
16 Murdered and Missing Indigenous Women and Girls, the Bastarache final report on the
17 implementation of the Merlo Davidson settlement, reports produced by international
18 agencies such as SIDOR and the Inter-American Commission on Human Rights and
19 reports produced by non-governmental organizations such as Human Rights Watch.

20 Let's begin, Pam, with the patterns that have been documented in
21 these reports with respect to how police handle complaints of sexual violence,
22 particularly sexual violence against indigenous women.

23 What did you and your team find in this regard?

24 **DR. PAMELA PALMATER:** Thank you for the question.

25 We did the unpopular research of police as perpetrators of
26 domestic violence, sexualized violence, corruption, exploitation, you name it, and it
27 really goes to the question of who shows up to the call when you've been raped, when
28 you've been assaulted, when you're experiencing domestic violence. And

1 unfortunately, in many police forces but disproportionately the RCMP, in First Nations,
2 remote communities, rural communities, northern communities which, you know, are
3 primarily indigenous and black, you have a high chance of a domestic abuser showing
4 up at your door, a rapist, a pedophile, someone who has not only committed sexualized
5 violence against their own teammates, female teammates, but has done so in the public
6 with a high degree, almost complete impunity.

7 To say that that would impact the way in which the RCMP
8 investigates domestic violence calls would be a gross understatement.

9 All of these reports found that the RCMP represent a toxic culture
10 of racism, misogyny and sexualized violence and also domestic violence at every level
11 of the RCMP and in every region of the RCMP, and it's been well known and well
12 documented for decades. They are themselves a public safety issue for women in
13 general, but disproportionately indigenous women and girls. They are, in fact, predators
14 or they cover up for predators.

15 What does this mean?

16 It means all of the focus on charging and whether we have the
17 elements of a charge and whether there's evidence really is a completely separate
18 issue when we look at the RCMP breaching the laws and human rights of women in
19 general, but in particular indigenous women and girls. They, themselves, regularly and,
20 according to their own internal reports on their own corruption, breach lots of *Criminal*
21 *Code* provisions, including sexual assaults, sexual touching of minor, physical assaults.
22 Domestic violence is rampant and systemic, according to the research.

23 They violate *Charter* equality for women and non-discrimination,
24 and they don't treat violence against women very seriously, not surprisingly, because
25 they do it themselves. And the wealth of international human rights laws.

26 So the focus on charges limits the conversation to the *Criminal*
27 *Code*, but Canada has legal obligations, as do the RCMP and all other police forces, to
28 -- legal obligations to prevent violence against women, to investigate fully and fulsomely

1 and properly investigate violence against women, to prosecute. And while people might
2 think police aren't involved in that, not doing investigations, not filing reports or doing
3 shoddy reports actually hinders prosecutions and then, of course, redress, redress from
4 police as perpetrators themselves of sexualized and domestic violence, but also the
5 failure to protect women or follow up for domestic violence.

6 This results in, unsurprisingly, large cases of unfounded
7 conclusions, unopened files, and under reporting by indigenous communities and
8 women, a lack of follow-up, assessments of the woman's credibility as -- well, improper
9 assessments of the woman's credibility, improper assessments of what constitutes
10 consent and whether or not they choose to investigate.

11 Contrary to the popular police defence, this isn't about unconscious
12 bias. These are conscious criminal choices that the RCMP, primarily, and many other
13 police forces are making to engage in acts of sexualized violence against the public and
14 their own members, but also breaching all of these human rights laws with, again,
15 impunity and it hasn't gone unnoticed by all of these international communities about
16 what's happening.

17 So you've got, you know, skewed discretion, lack of assessments
18 and, even worse, in rural, northern and First Nation communities, they cover for their
19 best friends who are doing it, so you don't even have to be an RCMP officer in order to
20 be part of the male group of people who are immune from prosecution or they don't
21 have to worry about it because in rural communities, that's your soccer coach, that's
22 your next door neighbour, that's, you know, your best friend is the RCMP. And they all
23 admittedly cover for each other.

24 And so, I mean, that's just kind of a basic overview, but it's the stuff
25 people don't want to talk about in these kinds of scenarios.

26 **DR. EMMA CUNLIFFE:** Thank you, Pam.

27 And I wonder if we can focus on a couple of particular reports and
28 particular findings.

1 If we can begin, please, with the Bastarache report, which is
2 perhaps the most recent and the most comprehensive study of sexual violence within
3 the RCMP, what did the former Justice Bastarache find in that final report?

4 **DR. PAMELA PALMATER:** It's -- I think it's important to
5 understand that this is a former Supreme Court of Canada Justice. They work within
6 the justice system, so he and his team would not say these things lightly. But he and
7 his team were shocked at the level of racism, misogyny and sexualized violence.

8 So we're not just talking about not allowing female RCMP officers
9 to be promoted, not just not including them in opportunities, but actual violent
10 penetrative rapes. They were shocked at how often they could do that and how easily
11 they get away with it. And also, that there was no consequence, that oftentimes what
12 happened, if it was even reported, and many of them were, was that the offending male
13 officer would be promoted. So then you have consistently within the higher ranks
14 predators, sexual predators, people who are engaged in -- I mean, these are crimes.

15 The RCMP will treat them as HR issues, you know, you might get
16 docked a couple of days pay, but in fact these are crimes and they're not treated as
17 crimes. And so Justice Bastarache and his team found a high level of, you know,
18 sexual assault, sexual harassment at every level and in every region. And, you know,
19 he didn't specify all of them, but anyone can go to the internet and just do a five-minute
20 cursory look at RCMP in Nova Scotia, and you will find tons of sexual assaults of
21 children, sexual assaults of women, uttering threats against women, domestic violence,
22 corruption, you name it. So it's here in Nova Scotia too, and that's an uncomfortable
23 truth.

24 They found that this led -- had lots of consequences. It could be
25 potentially suicide from the women who weren't helped or believed, or who were
26 traumatized in the investigatory process, who lost opportunities. Retaliation is common.
27 Even today, one of the complaints is that the RCMP officers and officials are making fun
28 of those who are participating in the settlement portion, and, you know, calling them --

1 not believing them. But also, severe psychological trauma, and that impacts you
2 physically, post-traumatic stress disorder, divorces, the inability to function, the inability
3 to work. Like, these were severe consequences. And not the one or two bad apples,
4 and he specifically addressed that myth: well, there's one or two bad apples in every
5 institution. No, in fact, it's rampant in the RCMP, has been for a long time, all the way
6 up the chain, and they have refused to address it.

7 And I think that's the other key part of this report is not only do they
8 not have the capacity to reform themselves, is that they have refused to do so. When
9 confronted with other reports like the Human Rights Watch Report that documented
10 numerous reports of indigenous women and little girls being raped by RCMP officers,
11 the response by the former Chief Commissioner was an email to all RCMP saying,
12 "Don't worry, guys, I got your back," not, "Oh, my goodness, this could be a public
13 safety crisis and we better look into this, we better investigate." It's, no, I got your back.
14 The Auditor General too has also said they are concerned more about their reputation
15 than dealing with the predators. And according to the date of her response, no one had
16 ever been fired for this.

17 The other thing I think that comes out of this Bastarache Report is a
18 really clear indication that in the billions of dollars now of class action and civil suits
19 against the RCMP, that has not stopped the problem, nor has there been accountability
20 on the offenders. Now imagine calling the RCMP, for guys who have raped their own
21 female officers, and expecting them to have any semblance of dispassionate, unbiased
22 assessment of consent, of credibility, of whether or not there's a potential of fear,
23 whether it could be a lethal event, whether it couldn't be a lethal event. They are simply
24 no longer qualified to be in that role anywhere near women, domestic violence,
25 sexualized violence, or anything else.

26 And Bastarache, his number one recommendation is consistent
27 with the recommendation of the UN Special Rapporteur on violence against women and
28 indigenous women. There needs to be an external, comprehensive, powerful review of

1 the RCMP, which does several things, looks at whether or not the RCMP can be saved
2 or should it be dismantled, but, too, to go after every single perpetrator in that force and
3 look at every file that they have touched, and whether or not that could have had an
4 influence on whether or not a woman was protected, whether or not she was believed,
5 whether or not the guy was allowed to go on and continue to commit crimes.

6 **DR. EMMA CUNLIFFE:** Many thanks, Pam.

7 Emily, I'm going to turn back to you. The pattern of
8 recommendations and reports and failure to pick up on recommendations and reports is
9 one that I know is also known within the correctional context. I'm wondering if you can
10 talk a little bit about that pattern, whether through the lens of the experience of the
11 Creating Choices Report by Madam Justice Louise Arbour or the experience of the
12 Office of the Correctional Investigator, which you've already alluded to, to a certain
13 extent.

14 **MS. EMILIE COYLE:** Well, actually, Madam Justice Louise Arbour
15 wrote in the Commission into the inquiry of certain events that happened at the Prison
16 for Women in 1996, but that was 6 years after Creating Choices, which was the report
17 of the taskforce of federally sentenced women in Canada. And she said in her --
18 actually, so I wrote it down because I didn't want to get it wrong. She said in the
19 Commission into inquiry of certain events at the Prison for Women in 1996, and this
20 stands true today, that the rule of law is absent in the prison, although rules are
21 everywhere. And I think we have to remember that as we -- this is 1996 that that was
22 said. And when we go into the prisons designated for women across the country, we
23 see that all the time, that the rule of law is absent but that rules are everywhere.

24 And so just to give a little bit of background on Creating Choices, in
25 April 2020, that was the 30-year anniversary of the Creating Choices Report, which was
26 a report of the taskforce on federally sentenced women, which the executive director of
27 the Canadian Association of Elizabeth Fry Societies co-chaired along with Correctional
28 Services Canada at the time. And there was a lot of optimism that we were going to be

1 creating a system that addressed the issues that were identified at the time. And I think
2 if I tell you what the issues are that were identified in 1990, you're probably going to find
3 that those issues are similar to the issues that we identify today. So we're talking about
4 the prison for women is not adequate; it's overly secure; that programming is poor; that
5 women are being isolated from their families; that the needs of Francophone women
6 were not being met; that the needs of indigenous women, at the time referred to as
7 aboriginal women, were not being met; that responsibility for federally sentenced women
8 must be broadened; that women need to be better integrated into the community; and
9 finally, and most importantly and something that we always bring up is that incarceration
10 does not promote rehabilitation.

11 And so in order to address those issues, the report identified and
12 recommended a blueprint for how to move forward, and it was a community centred,
13 nonpunitive, responsive to the needs of criminalized people model. And it was intended
14 to resolve the violence, harm, and the unlawful treatment that women and gender
15 diverse people had long been subjected to in prisons designated for women and
16 continue to be to this day.

17 Some of the examples of the reforms that were suggested were, for
18 example, you wouldn't have correctional officers, you would have primary workers. And
19 to this day we have primary workers, and those primary workers would be in clothing
20 that you and I and everybody else would be wearing. They wouldn't be wearing
21 uniforms. That there would be no fences around the prisons, that the gymnasiums that
22 were built would be utilized by the communities as well as the people in prison, and that
23 there would be a back and forth between community members and people who were in
24 prison.

25 Within two years of the Creating Choices Report being released,
26 already Correctional Service Canada was starting to implement more securitization
27 within the prisons, and it was then in 1996 that the incident happened at the Prison for
28 Women in Kingston, where 9 -- I believe it was 9 women who were violently assaulted

1 by Correctional Service of Canada staff, and that led to this inquiry by Madam Justice
2 Louise Arbour. And she made recommendations as well. Many of those
3 recommendations in 1996 also have not been implemented. The Missing and Murdered
4 Indigenous Women and Girls Report makes recommendations around criminality.
5 Those have not been implemented.

6 And so there are -- you know, I could probably come up with other
7 reports that had recommendations that have not been implemented. And the key
8 learning here is that -- well, actually, the Office of the Correctional Investigator, which is
9 the ombudsperson for the prisons, as I mentioned earlier, does make recommendations
10 frequently in their annual reports. But those recommendations are often met by
11 Correctional Service Canada Commissioners with platitudes and promises of ensuring
12 that they'll do better, if they admit at all that they've made some errors.

13 When we brought forward the issue of sexual violence and coercion
14 to Correctional Service of Canada, the response was we have a zero-tolerance policy.
15 What does a zero-tolerance policy mean when in practice people are continuing to be
16 harmed.

17 And so we have to make sure that if there is an oversight
18 mechanism, that that oversight mechanism and any recommendations that are made,
19 are recommendations that will actually have teeth, will be practical, and that there will
20 be accountability; that state actors cannot act with impunity, which is why people don't
21 trust them. And I think that certainly if we're going to have -- you know, the Office of the
22 Correctional Investigator themselves are frustrated by the fact that year over year over
23 year they bring up the same issues; you know, aging population issues.

24 The fact that people in prison are going to die 20 years earlier than
25 the rest of the population because of the way that they're treated in the prisons should
26 be cause for alarm for all of us, and yet we allow them to continue to operate as if prison
27 systems are not a system that we just created ourselves. And why aren't we examining
28 that prison system the way we examine all of the underfunded frontline service

1 providers who have to, year over year, ask and beg for scraps of funding, when next
2 year, the Correctional Service of Canada is going to get \$3 billion to continue to harm
3 people who are in their care?

4 So I ask that any recommendations and oversight body that we
5 implement when it comes to any of these commissions of inquiry definitely have the
6 teeth to hold people accountable and to hold systems accountable.

7 **DR. EMMA CUNLIFFE:** Thank you very much indeed, Emilie.

8 Deepa, I'm going to turn to you because I know that you too have
9 experience making policy recommendations and experiencing some of the risks and
10 some of the possibilities of engaging in that work. I wonder if you can speak to your
11 experience in that regard.

12 **MS. DEEPA MATTOO:** Sure. So the experience that I'm going to
13 speak to is around the issue of the forced marriages, which, for benefit of everyone
14 here, includes all different forms of violence when a forced marriage happens, and most
15 likely almost all cases it follows with sexual violence and includes various other forms of
16 violence, including coercion and control.

17 So many feminist organizations and so much literature on the issue
18 of the forced marriage actually had one strong recommendation that was given to the --
19 in many policy briefs, which was around the multisectoral approach to the issue of the
20 forced marriage, coupled with the intersectional education strategy.

21 A lot of knowledge and experts kept on asking that the racialized
22 survivors should be at the forefront of any measures that are taken to address this form
23 of violence. There was a lot of emphasis in the recommendations put together by the
24 South Asian Legal Clinic of Ontario to make sure that there was an accurate risk
25 assessment of these cases and that racialized women actually were located with the
26 services which were suitable for them instead of putting them back into the structures
27 which sometimes we see as the White saviour complex towards the racialized women,
28 and undermining their rights and dignity.

1 Unfortunately, the reports that were put together by the feminists
2 and the scholars was -- were quoted as the reasons for a bill that was introduced and
3 passed into 2014 by the Federal Government, titled as Bill S-7, *Zero Tolerance for*
4 *Barbaric Cultural Practices Act*. And this Act criminalized many practices, including
5 forced marriage, polygamous marriage, so-called honour-based violence. And as the
6 outcome of that bill, there has been a complete stance taken that we have done what
7 we needed to do, and the issue was put under the rug. And that was the fear of many
8 racialized feminists and intersectional feminists in this country, that that would be the
9 outcome. Unfortunately, it did become a section on the Code that will never be utilized.
10 I actually sometimes in my sarcasm say, "Why don't we interview any RCMP officer,
11 any police officer in this country and ask them, 'What is the section on the Criminal
12 Code under which you can charge someone under forced marriage?'" And I think I can
13 almost guarantee no-one knows.

14 So that's the state of the affair of this section. So, unfortunately, I
15 think when Emilie was talking about the criminalization piece, I feel that the
16 criminalization sometimes is used as a tick mark strategy of we have done something
17 about it, rather than doing something about it. And it actually puts the communities in
18 the harm's way rather than supporting them.

19 Emilie also mentioned about MMIWG, and I really want to give one
20 example of that kind of -- in the context of Ontario, it's really important to remember the
21 MMIWG recommendations came out in April 2019. One of the recommendations was
22 that the provincial government should establish a healing fund for families of missing
23 and murdered women. These funds should be accessed through an application
24 process pursuant to established guidelines.

25 In June 2019, in the same year, the Ontario government actually
26 purged a three-decade long Criminal Injuries Compensation Board, the only board
27 which actually had a compensatory scheme through which people could access funds
28 for healing. Instead, they replaced it with Victim Quick Response Program, which only

1 offers supports for immediate needs, and none of the sexual assault survivors can
2 actually get any healing funds from that program.

3 So these two examples I wanted to share with you to just
4 demonstrate that how many times the recommendations made or how many times the
5 very well-taught labour of the feminist communities is -- either becomes part of the
6 material on the shelves or it results in outcomes which are completely unrelated.

7 And a lot of these issues are treated as if they're happening in
8 siloes, as if they're unrelated, as if they don't have -- one thing has nothing to do with
9 another which is a complete smokescreen, if I may say call it. And I believe that an
10 accountability mechanism and implementation is really important, as Emilie was saying.

11 But I also want to say something that probably is important for all of
12 us to reflect on. Most of the discussions that we are going to -- are doing today or going
13 to do, is the knowledge that we already have, it's the knowledge that we already know.
14 Most of us in the room probably did not hear anything new. Most of us in the room are
15 probably not shocked. And to me, that speaks to itself, that speaks to what is lacking,
16 that speaks to what we are not doing.

17 Thank you.

18 **DR. EMMA CUNLIFFE:** Thank you very much, Deepa.

19 I see that we're just a little past our normal break time. I've got one
20 more question before we take the break.

21 Sunny, I wanted to turn to you and ask you, Deepa's just spoken to
22 the frustration, and I think we heard the same frustration from Pam. Two questions that
23 I wanted to draw two strands out from some of what Pam shared with us. The first is,
24 Justice Bastarache in his report, spoke to the courage showed by the RCMP women
25 who came forward and described the sexual violence that they've encountered. I
26 wonder if you can speak a little bit to that.

27 **MS. SUNNY MARRINER:** Thank you, yes.

28 In my frontline support work, it happened somewhat organically that

1 people started bringing female police officers for support to me over a period of time,
2 about 10 years, and I'd like to draw from that experience as well.

3 What I will say is that in the -- you know, in 25 years in frontline
4 sexual assault centres that are fully anonymous, fully confidential, often we have
5 slogans like, "No records no time for no reason" for the protection of our clients or our
6 service users. Female police officers do not reach out and come forward to frontline
7 services very regularly. I can certainly say that I didn't see it for many, many years.

8 The code of the "blue wall" is often stronger than the need and
9 desire to seek support when a person is in significant personal crisis or experiencing
10 trauma. So even if a police officer -- a female police officer who's experienced sexual
11 violence is, for example, contemplating suicide or sitting at home considering, you
12 know, other injurious responses, that person still is so deeply conditioned, frequently,
13 against picking up that phone and telling someone what happened inside their
14 experience with policing. That's considered a huge betrayal of everything that is kind of
15 built into the integrity of a policing service and that idea of a, quote/unquote, and I use
16 this word deliberately, "fraternity" of police.

17 And so that particular barrier further isolates survivors, like policing
18 survivors of sexual violence, and further puts them in a position where not only can they
19 object to the lack of institutional accountability of the workplace that very often they
20 have gone to because they believed that it held honour, integrity, professionalism, a lot
21 of those core values, they can't speak out about that, but then they also can't get some
22 of the elements that are needed for healing.

23 One of the ways that any of us heal from traumatic experiences is
24 through a shared experience with others. So even studies, for example, of folks who
25 have gone through mass tragedy events is that the connection to other people who can
26 understand what you've experienced is very often what helps you feel more resilient and
27 helps normalise your own reactions.

28 So those officers who spoke out, just in that way, just in breaking

1 that fundamental code had to breakdown something internal about what they felt they
2 were able to speak to, and also, interestingly, also grapple with a feeling of betrayal of a
3 service that for many of them loved. But then above and beyond that, survivors of
4 sexual violence, who are within -- and this also extends to military, this extends to a lot
5 of sort of paramilitary institutions, they also deeply risk their own health safety and lives.
6 So it is not infrequent at all to hear survivors of sexual violence, or officers who
7 transgress in any way, internally threatened with not receiving backup or being left to
8 deal with calls on their own. This is particularly a weighty threat for officers who work in
9 isolated detachments and detachments where there is very little or very little backup to
10 begin with, and so that's a very real threat of the potential of loss of life or injury if you
11 breach those informal codes.

12 So what we learn, and I think Pamela alluded to this, what we learn
13 is that even if you have one officer who is committing crimes, you have nine officers
14 who will not identify publicly or outwardly that that officer is committing crimes because
15 of a whole -- all of those factors that we have just talked about.

16 **DR. EMMA CUNLIFFE:** Thank you, Sunny. My second question
17 on the same topic is how -- one -- another of the threads that Pam spoke to that's been
18 documented in the reports is this turn to protect the institution rather than try to
19 understand what's happened and grapple with it. And I'm wondering if you heard
20 parallels in that to your experience with respect to your work on unfounded reports and
21 how police have responded to, for example, the Globe & Mail series about unfounded?

22 **MS. SUNNY MARRINER:** Yeah. I would say that for many
23 decades of frontline work and feminists work and systemic change work in trying to
24 address issues within policing, one of the first barriers that you hit is a denial that it's
25 occurring at all, and so that is the starting point of anybody who wants to do active work
26 is you are placed in a position of having to prove that the problem exists. And when we
27 do an analysis, particularly of police reform work, but with violence against women,
28 specifically, and we look back over, you know, 50 years, just, you know, taking that one

1 During the break, Lana, you mentioned that there is something
2 you'd like to add to the answer you previously gave to my question about what state
3 institutions and service providers get wrong about African Nova Scotian communities. I
4 wonder if you want to take the opportunity now?

5 **MS. LANA MacLEAN:** I appreciate that, thank you very much.

6 What I failed to identify was that within the African Nova Scotian
7 community there are certain ways in which service delivery, the conventional service
8 delivery agents for women-serving organisations although meaningful and well
9 intended, may hire someone who looks like me; however, putting that level of
10 accountability and capacity and responsiveness to the African Nova Scotian black
11 women's lives with one person sets that person up for race-based trauma themselves.
12 So what they tend to get wrong is, like, siloing or just, you know, finding small amounts
13 of funding to provide a service delivery to a large group of women who have different
14 experiences. So what they get wrong is based on their lack of core funding to provide
15 responsive care to culturally diverse communities, specifically, the African Nova Scotian
16 community.

17 What other things that I don't think are intentional is that we lean
18 into this whole idea of trauma-informed care without critically understanding the
19 intersectionality lens that I think Deepa spoke to, but specifically to the African Nova
20 Scotian community how race and trauma, not just impact on the individual, but also on
21 the community. Again, needing to have that wider situational awareness. And that, you
22 know, when black women do take the courageous step to engage with policing forces to
23 talk -- or even speak to the issues of gender-based violence, that once again, that they
24 are not believed. People assume in 2022 that black women's voices will be heard. And
25 it goes back to what was spoken to again about the implicit and unconscious bias that
26 black women are disproportionately still are being impacted by.

27 And the last thing I think that service providers certainly need to
28 have an awareness of is that, again, program designs don't always take into

1 consideration a cultural lens. When we look at how housing or shelters are designed,
2 for many black women who may leave, going to a shelter can actually be putting
3 themselves in psychological harm to engage in racism in a shelter environment,
4 whether it's by other women in those shelters who may not have ever cohabited with
5 other black folks, that there's a higher level of, you know, critique that women find and
6 vulnerability to collaborative or co-sharing, even though we intergenerationally
7 cohabit in our communities. To have a lens as a black woman in a sheltered
8 environment doesn't always mean that they're safe from the impacts of micro-racial
9 aggressions. So I think those are really important elements that service providers need
10 to take into account.

11 And in terms of policing, there's a prevalence for police to look or
12 seek to leadership in the African Nova Scotian community by informed men. They look
13 towards male leadership. And that becomes problematic when, as I said earlier, women
14 are the keepers of culture. And leaning it to men to be the leaders or the
15 spokespersons from our community can put women more in jeopardy because now
16 these men are elevated by police, and similar to what Pamela was speaking to, some of
17 these men are perpetrators of violence as well. So those are very nuanced pieces that I
18 think it's important to take into consideration that the -- you know, connecting or creating
19 partnerships with the African Nova Scotian community that are not gendered, equity-
20 based places women at risk in a different nuanced way.

21 So I caution when RCMP or police agents say that they are
22 partnering with the African Nova Scotian community. Who are those people that they're
23 partnering with? And I think it's, again, based on gender, how people perceive
24 leadership when that is not necessarily culturally reflective and it can, again, put women
25 and children at risk and in harm.

26 So I just wanted to just to circle back to those particular things that
27 from an African Nova Scotia lens are really I think important for the Commissioners to
28 know. But whatever funding's available, I think there needs to be targeted funding,

1 whether it's to the conventional women's servicing organizations, to ensure that the
2 service delivery models are making adaptations that are culturally responsive to black
3 women, and that the funding models would not just be about hiring one woman to
4 service a large demographic, but a team of black women, or people who support black
5 women's liberty and protection around domestic violence or intimate partner violence
6 and sexualized violence, and that some of that work from an African Nova Scotian lens
7 is intergenerational, so young women and older, mature women as part of the teams
8 that lead some of the work.

9 **DR. EMMA CUNLIFFE:** Lana, thank you very much for addressing
10 those dynamics.

11 So I'm now going to shift gears again a little. So far, our discussion
12 has addressed some of the general patterns of police and institutional responses to
13 sexual violence and other forms of gender-based violence. We've heard about some
14 individual cases along the way, but we're now going to turn to a longer discussion of a
15 particular case, that involving Ms. Susan Butlin. Ms. Butlin was murdered in September
16 2017 at the age of 58 by her neighbour. They lived near Tatamagouche, Nova Scotia.
17 A summary of an internal RCMP report about the events leading up to the events of Ms.
18 Butlin's murder has been exhibited as Exhibit P-003678. And a more complete version
19 of that -- a complete version of that report, subject to redactions, has also been
20 tendered.

21 Isabel, if I can turn first to you, at the outset of our discussion, you
22 kindly explained the definition of consent in Canadian law, and we'll come back to that in
23 a moment. But first, can I please ask you to describe what happened to Ms. Butlin, both
24 the actions of her neighbour and what you know of how the police and judicial system
25 responded to her experience.

26 **PROFESSOR ISABEL GRANT:** Yes, thank you. Well, as you've
27 described, Ms. Butlin called the police in August of 2017, and told them that she had
28 been sexually assaulted the month before by her neighbour. She described aggressive

1 conduct on his part. She described him as intoxicated, and that she was afraid. She
2 told him she wasn't interested but he persisted. And she then made the decision, for
3 her own safety, to acquiesce to his sexual advances. And then he -- as -- when she
4 finally got him to leave, he told her that he would be back, which she took as a threat.

5 When she called the police a couple of weeks later, they told her
6 that no crime had taken place, that that -- what she had described was a consensual
7 sexual encounter. So a few days later, she went and she tried to get a peace bond.
8 The notice was served on the perpetrator and there was a delay, an inevitable delay.
9 The judge who was hearing that application for a peace bond thought there's more here
10 than a peace bond, that there's evidence of a crime. And so he asked the Crown
11 counsel there to get back to the RCMP, and the RCMP repeated their position that there
12 had been no crime that had taken place.

13 In the meantime, the perpetrator's wife had contacted the RCMP
14 and told them that she was afraid her husband was going to kill Ms. Butlin, that he was
15 drunk, and then she called them back and said that he had a gun. The RCMP briefly
16 arrested him for impaired driving, but my understanding, and I'm not entirely clear on
17 this detail, was that he was released.

18 So she continued to try to communicate with police her discomfort
19 at how this was being handled, but received the same response. Said that she -- the
20 police told her she hadn't said no, she hadn't told him that she wasn't welcoming his
21 advances and she wanted them to stop. At one point, he even threatened her, trying to
22 get her to withdraw the application for a peace bond.

23 All this happened, and then a few days before the peace bond was
24 to be adjudicated, the perpetrator shot her in her home and killed her. My
25 understanding is that he has since been convicted of second-degree murder and that --
26 it's just -- if I can just add, anyone reading this description, it's a very upsetting
27 description because she did everything she could to use the systems in place to get her
28 some help. She talked to a friend to get support. She called the police. She repeated

1 those concerns. And reading that description, you can also see several potential crimes
2 in addition to sexual assault that the police could have used to at least try to intervene in
3 this situation, but they didn't.

4 **DR. EMMA CUNLIFFE:** Thank you. And, Isabel, if I can just take
5 you back to one of those potential crimes, you carefully explained Ms. Butlin's statement
6 that she decided for the sake of her safety to acquiesce to the sexual activity. Does that
7 meet the criteria for consent in Canadian law in your view?

8 **MS. ISABEL GRANT:** Absolutely not. There is nothing in that
9 description. And, again, I'm limited to that description, that there's nothing in that
10 description that suggests either that she wanted the sexual activity to take place, which
11 is the "act" part of the crime, nor that she communicated her consent or agreement to
12 the perpetrator. She said that she was afraid. She said that he was stronger than her
13 and that he was very intoxicated. And women are constantly in the position of having to
14 make those split-second assessments about their own safety and what is the best way
15 to prevent this from escalating even further. And she made that split second
16 assessment.

17 But I sort of understand where the problem came from when I saw
18 that RCMP Best Practices document, because as you read earlier, it describes the
19 different ways she can say "no", which is not accurate.

20 The other thing about that document, if I can just add one more
21 detail, is it leaves out a number of other circumstances in which no consent is obtained.
22 They cite a bunch of examples from one section of the *Criminal Code* that is specific to
23 sexual assault, but there's another section of the *Criminal*
24 *Code* that deals with all assaults, including sexual assault. And it specifically talks
25 about no consent is obtained where there is violence or a threat of violence. And that's
26 not in that RCMP document which was a pretty glaring omission, particularly in the
27 context of this case.

28 **DR. EMMA CUNLIFFE:** Thank you, Isabel. In an article titled

1 “The Sexual Assault of Older Women” with your co-author Janine Benedet –
2 Commissioners, this article has not yet been tendered but participants, it’s
3 COMM0059877 for your reference.

4 You write about the cases and patents that are discernable in the
5 law with respect to the sexual assault of older women which you define as being women
6 over the age of 50. And my first question is, is why did you choose this age?

7 **MS. ISABEL GRANT:** Yeah, no, and I know many of us in the
8 room probably don’t want to think that 50 is an older woman. We did that quite
9 deliberately after reviewing the literature that looks at ways of thinking about age that
10 are context-specific. And for women, in the context of sexual violence, 50 is older
11 because we see the typical expected, if you will, victim of sexual assault as either being
12 a girl or a woman in midlife and, you know, we link it to sexual attractiveness. There
13 may be subtle links to a woman’s, you know, ability to procreate, all kinds of things. But
14 we wanted to have an inclusive definition because we were struggling, frankly, to find
15 these cases in the case law. There were so few cases. So we decided to go with a
16 lower age recognizing that these women are not necessarily old, but they are older than
17 the more paradigmatic sexual assault complainant.

18 **DR. EMMA CUNLIFFE:** Thank you. So “older” is carefully
19 chosen?

20 **MS. ISABEL GRANT:** Yes.

21 **DR. EMMA CUNLIFFE:** And my next question is really about the
22 conclusions that you and Professor Benedet drew. What did you observe about the
23 experiences of the women in this group, to the extent that you could find cases?

24 **MS. ISABEL GRANT:** Well, I think what was really striking to us,
25 was what we didn’t observe more than what we did observe. We looked at 20 years of
26 reported case law. That’s a long time. And we compared that to the social science
27 evidence. And what we saw in the social science evidence was that, like with younger
28 women, older women tend to be sexually assaulted by people they know, their spouse,

1 loved ones or very old women, often caregivers. Those cases are not what we saw. In
2 fact what we saw looked like what we saw with sexual assault for all women in the case
3 law three or four decades ago. Those cases of intimate partner sexual assault, sexual
4 assault by a neighbour or friend or a date or any of those kinds of sexual assault were
5 completely absent. The cases we saw involved older women whose homes were
6 broken into in the middle of the night by a stranger and they were beaten and raped.
7 They were very, very violent, very disturbing cases, but much more kind of the
8 stereotypical, if you will, sexual assault. There was violence, there was resistance,
9 there were often weapons, there were often very grievous injuries to the women
10 involved. But completely absent in the case law were intimate partner sexual assaults
11 for this group of women.

12 And what we concluded, is that there are two things probably, and
13 again, describing what you don't see is harder than describing what you do see, but we
14 concluded that there were reporting barriers for this group of women, but that there are
15 also likely barriers around how police were responding to these women. Because
16 police do not see older woman as sexual in a lot of the same ways that police may see
17 younger women as sexual. And they falsely link sexual attractiveness to sexual assault
18 as if you choose your victim based on how attractive she is and stereotypes about older
19 woman makes them largely invisible in terms of attractiveness.

20 Whereas if you saw sexual assault as about power disparities, you
21 would choose a very – you would choose a very different – you would have a very
22 different understanding of how people choose their victims. But we hypothesize that
23 these cases just haven't been brought to light, and I think frankly the feminist movement
24 hasn't done a great job of highlighting the experiences of older women either. So we
25 were just trying to sort of shed light on that and to draw more attention to this as an
26 important research area.

27 **DR. EMMA CUNLIFFE:** Thank you, Isabel. Deepa, if I may turn
28 to you now. Returning to the Susan Butlin case, is the police response set out in the

1 summary that you received of this incident, unusual in your experience, recognizing of
2 course that you work in a different jurisdiction?

3 **MS. DEEPA MATTOO:** No, I think that the police response is not
4 unusual and in fact what I would like to say, is that what really lacks in the system is a
5 standardized requirement of some level of risk assessment when a call like that comes.
6 The police officer did not do any assessment of that, did not try to even understand who
7 this perpetrator is, what potential access to arms or weapons or resources this person
8 has. And the mistakes were made repeatedly. So it's very well documented, and I
9 know Professor Grant can direct u to those research reports that have repeatedly told
10 us that when a woman chooses to report or take an action against a perpetrator, that's
11 when she's at a more heightened risk of violence. And that's exactly what we see in
12 this case. If she chooses to do something about it, he loses complete control and now
13 is going to kill er and then kills her.

14 And those are the very risk assessment points that an assessment
15 needs to happen, it just needs to be understood and then mitigated, which we see
16 repeatedly a complete missed points of intervention by the system, especially by the
17 police officers, but then by extension, also by the Crown in the later stages. Because
18 something that I want to say about the assessment of the risk in particular is, that there
19 is a lack of this understanding in the system that the risk doesn't stop after a case starts.
20 The risk actually starts when the case stops. So that's another really – the thing that
21 was really as a red flag jumping at me as I was reading the summary of the report.

22 Some of the other important pieces that I would say that repeat
23 themselves, is, again,, I would go back to that whole concept of the intersectional
24 factors that are in that – in this case, in this particular instance, where we – there is no
25 lens of what is happening to the trauma, to the isolation. There is no – no one is
26 actually flinching on the mistrust of the system when she says that this is why I want to
27 talk to a female police officer. Like no one flinches, no one gets worried that – because
28 if you think about it, police officers and police service is a service being given to the

1 public.

2 In any other setting when a complaint of that kind, a mistrust of that
3 kind would be conveyed, someone would be thinking about it and be uncomfortable in
4 their seat and say "Oh, let me try to, you know, understand and unpack why she's
5 saying that". Maybe there is something that I'm not understanding, and there is no
6 response to it.

7 So she's escalating it in our introduction as you service users, she
8 was escalating. She was saying, "That's why I want a police officer" and there was no
9 one taking any note of that as if it was not to be taken seriously. And that trivialization is
10 consistently the experience that we see at the clinic by women.

11 So absolutely, as Sunny said earlier, it's coast to coast-to-coast
12 same experience that we see repeatedly happen, and the only time the system actually
13 reacts is when that risk assessment has completely failed. And most of these survivors
14 actually are very well resources themselves and they actually take care of their
15 situations themselves. That's why we don't see as many of them killed because they
16 are actually doing their own risk assessment and safety planning. The system is failing
17 them repeatedly.

18 **DR. EMMA CUNLIFFE:** Thank you.

19 **MS. ISABEL GRANT:** Emma, can I just interject on that with the
20 whole safety planning notion? And is that -- just for one minute?

21 **DR. EMMA CUNLIFFE:** Yes. Go ahead, Isabel.

22 **MS. ISABEL GRANT:** It just strikes me that we do -- we see a lot
23 of that in criminal harassment, that we -- the police and others expect women to be
24 taking steps, changing their lives, changing the way they get to work, changing the locks
25 on their house, changing all of those things to deal with threats from violent men and
26 without recognizing that that's kind of a -- that is a state responsibility.

27 We've individualized responsibility for keeping women safe, and
28 that's particularly true in criminal harassment, but also in sexual assault.

1 **DR. EMMA CUNLIFFE:** Thank you, Isabel.

2 And I believe we'll have a bit of a conversation about hyper-
3 responsibilization [sic] of women tomorrow morning, but Emilie, I'm conscious that this
4 particularly something that's important to CAEF, so I wonder if you'd like to comment on
5 that.

6 **MS. EMILIE COYLE:** Yeah, I do. Just as you were saying that,
7 Isabel, I was thinking that I failed to mention some of the reasons that women and
8 gender diverse folks that we deal with end up in prison is because of the ways that they
9 respond to violence in their lives and then they are then punished for the way that
10 they've responded because we have really gendered notions around how women
11 should be responding and when they don't fit within that gendered response box, which
12 is, you know -- I think you were mentioning it, Lana, around how black women are
13 supposed to be behaving and if they behave a certain way, particularly if they're angry
14 or, you know -- then they become criminalized and then what happens is, as they go
15 through the prisons -- through the justice system, through the legal system, they're then
16 overly punished for their responses.

17 So I've -- I spoke, in fact, with a woman that I worked with who was
18 in prison in Joliet, a black woman, who was a co-accused of someone who she didn't
19 commit the crime. She was there at the time, and she received a lengthier sentence
20 than the person who actually did the stabbing in this case.

21 And so that's just one example. There are many, many examples
22 that demonstrate how, if a woman doesn't behave in a demure, you know, sort of
23 motherly fashion, that she's going to be punished for it and then that is exacerbated
24 when that person is a person who is a person is black, is a person who is indigenous,
25 who is a person who is trans, gay, doesn't present in a particularly feminine way the
26 way we expect people to.

27 So thank you for letting me explain that a little further.

28 **DR. EMMA CUNLIFFE:** Thank you, Emilie.

1 And also, just again, for the benefit of the record, this is something
2 that Professor Patrina Duhaney spoke to in this morning's roundtable specific to the
3 responses of black women in particular.

4 And Deepa, I wonder, then, if I can turn back to you. You alluded
5 to processes of risk assessment in your answer and with Isabel's important caveat, of
6 course, about who bears the responsibility for risk assessment.

7 My understanding is that the Barbra Schlifer Clinic has been
8 working on developing risk assessment processes for women who've experienced
9 gender-based violence.

10 I wonder if you can describe the process that you've been using to
11 develop your risk assessment tools.

12 **MS. DEEPA MATTOO:** Thank you for the opportunity to talk about
13 the project of the Clinic.

14 So the Clinic's current project, which is titled as "Guiding Systemic
15 Response to Survivors of Gender-Based Violence Through Risk Assessment: A
16 Survivor-centric Approach", is a project which is funded by WAGE, the federal
17 government, and the project is focused on building a blueprint for risk assessment and
18 safety framework.

19 And our focus is to analyze what is already available. There are
20 lots of risk assessment models that are available, but after reviewing over 40 tools by
21 now, what we have understood is that most of these tools are not rooted in trauma-
22 informed approach. They do not consider intersecting identity factors and they definitely
23 are not survivor-centric and do not consult with survivors in creation of those tools. And
24 those are the things that we're trying to curate through our process.

25 We are engaging with survivors, survivors from various identities
26 and locations and trying to understand from them where -- where does the risk
27 assessment go wrong and exactly -- observation made by Professor Grant is exactly on
28 point, that how a system actually, instead of making an assessment and doing the

1 planning with them, actually tells them to do certain things to just keep themselves safe.

2 And in my experience, I have also heard, “Why don’t you just
3 change your phone number?” as if that’s the only thing that’s required from the
4 harassment to continue.

5 We also are very much aware that service providers and people
6 who work with survivors are also experts in their own right and they have also a lot of
7 information of understanding why current tools are not working, so we’re also consulting
8 with them as part of the process.

9 And by no means our expectation is that there is one size fits all
10 would happen after the tool is ready or the blueprint is ready. What we believe is that
11 there needs to be a standardized framework, an agreement on language, an agreement
12 on understanding, an agreement on intersectionality, an agreement on understanding
13 that women from specific cultural identities need services which are rooted in their
14 cultural reality. Black women, racialized women, indigenous women need services and
15 supports which are rooted in their distinct and unique experiences. And that language
16 plays a big role in the way women describe their violence.

17 And we feel repeatedly what we encounter is how she talked about
18 it and how she described it, even if she is speaking English and French, another thing
19 about -- another layer of challenge that a lot of women who we work with do not speak
20 English. We provide interpretation in order 200 languages, and that really is where the
21 credibility actually goes into play when -- are questions when the case goes to the court.
22 But at the onset when they are seeking support, that is where that bias starts playing a
23 huge role in understanding what will they need, what kind of safety do they need and
24 what kind of effective management of that risk that they need. So that’s what the
25 process is.

26 We have reviewed a lot of literature. We have reviewed -- so
27 there’s a lot of research work. There is an advisory committee of experts and service
28 providers and researchers, and there are several advisory committees at the community

1 level from -- based in the communities from survivors.

2 So that's what the project looks like, and our hope is that this will
3 actually inform a much broader blueprint that WAGE is planning to put together.

4 Meanwhile, as a resource, the clinic had started and completed a
5 project for risk assessment in the family court system. That was our previous project
6 that was done between 2018 and 2020, and we created a tool which has three parts,
7 Rea 1, Rea 2 and Rea 3. That's what those three parts. They're available -- publicly
8 available for anyone to use and adapt on our website and they start with some basic 13
9 questions that can help any stakeholder who works with the survivors and the family
10 courts to identify red flags or high-risk situation and then, based on their assessment,
11 they can choose to go through the next two parts of the assessment or make a referral.
12 So that's where I would end.

13 I'm sorry I took a bit longer.

14 **DR. EMMA CUNLIFFE:** No, that's fabulous, Deepa, and I've got a
15 follow-up, but I think that Pam wants to jump in on a point about risk assessment first.

16 **DR. PAMELA PALMATER:** Yeah. Just very quickly, I think this is
17 a really good example of a disproportionate focus on a charge. So the issue isn't how
18 do we prevent violence? How do we keep this woman safe? What can we do with all of
19 the tools available to us? It's my sole job is to see if there is a charge, that's what my
20 focus is. If there isn't, that's it. But their legal obligation, under international human
21 rights, it to prevent the violence, investigate fully the violence, and prosecution comes
22 later. Like that's a secondary step. The first one is how do you keep the woman safe,
23 which you have a legal obligation to do? It's a state obligation. Police are a state
24 institution, whether it's federal or provincial.

25 And so she was in fear of her life, she felt under threat. They could
26 have, at a minimum, started from the beginning, okay, how can we prevent harm from
27 her? Is she at risk? This is a neighbour, there's proximity. Have we investigated him
28 for guns or weapons? All of those things. Have they done wellness checks? Did they

1 show a constant presence to maybe act as a deterrent to him? All of those things
2 around safety, your legal obligation to prevent violence. Regardless of the charge she
3 experienced violence. Whether it's -- your job isn't just to prevent convictable violence,
4 it's all violence. And I think that's what really missed in this. It was no concern for her,
5 just whether or not they would get the charge.

6 **DR. EMMA CUNLIFFE:** Thank you very much, Pam.

7 Deepa, if I can look back to you and to Ms. Butlin, I wanted to ask
8 you, actually, based on the work you have been doing around risk assessment, are
9 there specific risk factors that would have increased your concern in a scenario such as
10 this if it came to you? I'm sorry, Deepa.

11 **MS. DEEPA MATTOO:** Yeah. I will -- I will definitely speak to that.
12 I just wanted to very quickly say that what Pam said is exactly one of the biggest
13 problems in the existing risk assessment systems, and -- or the tools that we have
14 studied. There is a lot of focus on the prosecution. There is a lot of -- given -- given the
15 ones that are used when they do identify a high-risk situation, they -- there is a lot of
16 focus on the prosecution, there is a lot of focus on how would we make this into a good
17 case that will be prosecuted, instead of paying attention to can we actually prevent
18 violence from happening, that might happen in future to her or to her family members or
19 to people in the community at large.

20 Because once someone comes forward with a disclosure about a
21 perpetrator or a potential perpetrator, I would say what Pam is saying, is it's totally on
22 point. But I will actually go even further and say that as your duty to actually prevent
23 violence from happening in the community, the responsibility on the cops is to take
24 every call seriously so that they can actually prevent. I mean -- and it kind of is a bit
25 mindboggling to some extent that you would want people to give you tips, you know, like
26 anonymously, but when that phone call comes to you, yourself, you would not take it
27 seriously. So it's -- the system definitely is broken in many, many places.

28 Going back to the case of Susan Butlin's case, and things that

1 could have easily been seen as red flags, I think the biggest red flag, as Pam just
2 mentioned in her example, is that a woman is calling and she's asking for a woman. For
3 me, that itself is one of -- in my assessment, that would be an important factor for me to
4 take it seriously and be like there is -- there is -- there is a situation of sexual assault
5 here. Someone's asking for a woman. To me there is more to the story that I have
6 understood. I need to -- and that's why I said that how come no one's name is on that
7 ask? How come no one was saying there needs to be an emphatic response to it which
8 is just more than kind words?

9 The other really important red flag that I noticed was completely
10 missed was the proximity of the person, where the person lived. The missed red flag is
11 about the fact that the person is saying that "I was consistently trying to say no", and
12 that person kept on going, and the fact that they were -- they were talking about alcohol
13 in the -- in the -- in the mix of the experience, no one looked at that either. Then they go
14 -- they go back and say that, "you should go ahead and apply for a peace bond without
15 any resources."

16 So that's another missed piece within the assessment of a risk that
17 you are -- you're looking at it as something serious enough that you're offering the
18 woman to go and apply for a peace-bond, but you're not offering any services to her to
19 go with it. Like if you are going to apply for a peace-bond you should also go to this XY,
20 call this place, here is a -- here is a line that you can call and get support. There is no
21 offer of any support, so that's another, I think, a missed flag or a missed opportunity of
22 intervention.

23 And then, finally, of course, when the call comes and you know, the
24 call of the -- the distress call comes and then there is a -- there is a weapon reported, all
25 of those are things which are completely missed because no one had asked those
26 questions. No one had taken in trust in this perpetrator actually at any point before that
27 happened.

28 So all in all, I think there were lots of times when there could have

1 been an intervention and there could have been lots of times where there would have
2 been -- if someone had sat down with those top 13 questions at the clinic, all of those
3 things would have come up. Someone would have said, "Okay. Do you know if this
4 person has any weapon? Do you know what this person actually does? Do you know if
5 they have had any history? What is your history with this person?" No one asked
6 those questions because people were just focussed on what she said and what they
7 needed to do get the call off their books.

8 **MS. EMILIE COYLE:** Emma, can I -- can I add something? Is that
9 okay?

10 **DR. EMMA CUNLIFFE:** Yes, go ahead, Emilie.

11 **MS. EMILIE COYLE:** It strikes me when we're having this
12 conversation, and something that Pam also mentioned, is that we're focussing a lot on
13 the individual risk, when if we are really wanting to create a community of care that
14 prevents victims from becoming victims or even having to become a survivor, then we
15 need to also be thinking about what the needs are. So when we're already at this place
16 where somebody is indicating that they're going to be perpetrating potentially some
17 harm on someone, we're already pretty far down the road.

18 And so, you know, if we're creating communities of care, we need
19 to be working way upstream and asking ourselves, "What is it that people need? What
20 is it that women need? What is it that we have a deficit of in our community that could
21 be filled in order to prevent them from becoming victims in the first place?"

22 So I caution us because we tend to focus specifically on individual
23 incidents, obviously because they arise and we have to, but also, we have a general
24 lack of understanding of the cumulative effect of all of the ongoing trauma that is
25 continuing to happen in our communities. So how can we ensure that this, you know,
26 understanding can point us towards filling some of those gaps?

27 **DR. EMMA CUNLIFFE:** Thank you, Emilie. And that is a perfect
28 segue to my next question.

1 Which I'm going to start with Lana. What is it that women need?
2 Where is it that we should be making investments in women's safety? How should we
3 be approaching things? Do you agree with Emilie, first off, and if you do, where do we
4 put the attention, the resources, the money?

5 **MS. LANA MacLEAN:** Yes, I agree with Emilie. And my first
6 thought is the resources must be placed in the communities or the communities of care
7 in which women are located in, and whether that's women-serving organisations, for
8 me, I think of the African Nova Scotian community.

9 And some of the leading best practices, and I know we're getting to
10 that later, but just the idea of providing resources and supports to a clustering of
11 community organisations, such as the African United Baptist Association, who in 1999
12 did a two-part documentary series with Sylvia Hamilton called No More Secrets, where
13 they interrogated in a very gentle but culturally responsive way the impacts of intimate
14 partner violence in the lives of Black women intergenerationally. And that has never
15 been taken up.

16 So I think the resources need to be for -- shouldn't be carte
17 blanche. Every community has some cultural nuances that need to be taken into
18 consideration. So I -- for me, the resources and the supports needed must be
19 connected to the community of care in which the women live in and be culturally
20 responsive.

21 I think resources need to be given in terms of training and supports
22 for people in the child welfare system to ensure that when children are taken into care
23 from the African Nova Scotian community and that those women have a cultural impact
24 assessment, similar to what we do in criminal justice system, but with a family focus and
25 model that is reflective of the cultural responses that women -- that put women at risk. I
26 think we need to upstream as well -- or downstream -- upstream, in terms of making
27 sure that there's program designs and development -- and resourcing, for not just youth
28 -- not just for young women but for young men as well.

1 I think there needs to be a collaborative approach around gender-
2 based violence that we also attend to ensuring that young men have good literacy and
3 good knowledge around how they are -- how male socialization can be toxic and how
4 they can be colluded into that. So I think some of the resources need to be within male-
5 serving organizations as well.

6 And for me specifically, I lean into, in this province we have the
7 African Nova Scotia Justice Institute, and I believe they are the best positioned in terms
8 of meeting some of the unique needs of gender-based violence for women in terms of
9 how they can -- and I throw this out as an opportunity -- develop a culturally responsive,
10 restorative justice approach to meeting the needs of the African Nova Scotian women.

11 So I think there's some resourcing there that we can leverage that
12 we can build, not just financially into, but culturally responsive care.

13 So I think there's multiple pathways. I also think that the funding
14 supports that organizations, the policing organizations like the RCMP already have in
15 place around their diversity and inclusion. Initiatives, they do take a trauma-informed
16 lens. I don't know if that trauma-informed lens also has a cultural nuance to it. So
17 having more rigour around some of those culturally responsive programs embedded
18 within the RCMP to ensure that there's some rigour and accountability to ensuring that
19 the needs of our diverse communities are addressed.

20 **DR. EMMA CUNLIFFE:** Thank you very much, Lana.

21 Sunny, it's been some times since we heard from you, so I'll turn to
22 you next, if I can. If investments are to be made in women's safety, where should they
23 be made?

24 **MS. SUNNY MARRINER:** Thank you for that question.

25 If I can very briefly, though, note one missed opportunity with the
26 *Butlin* case -- I know we're running short on time, but I think it's really important to point
27 out.

28 We do note throughout the *Butlin* case that there were multiple

1 opportunities where multiple officers reviewed and re-reviewed and re-reviewed, and I
2 think that one thing that's important for Commissioners to know and for people to think
3 about and unpack is the culture or reluctance to second-guess another officer or
4 another officer's decision. And so even when we have opportunities to try to address
5 perhaps missed opportunities or failure to properly assess risk, if we have that culture
6 where we will not second-guess or potentially be seen to be undermining another
7 officer's decision, we will both lose accountability for acknowledging what goes wrong,
8 and then, second, any opportunity for a survivor who's consistently attempting to seek
9 support to be assisted because each subsequent officer will just concur with the
10 individual's officer's approach.

11 So I just wanted to kind of bring that piece out as a really important
12 cultural element that really needs to be addressed.

13 In terms of funding, we could have a whole day, I'm sure, on that,
14 as we could on many other areas. And I imagine this has probably been said before in
15 prior roundtables, but I think, you know, before anything else, we have to be thinking
16 about safe, secure, and affordable housing, for women and children, particularly, but for
17 all members of our community. When people are not adequately housed or have no
18 ability to be housed, they're placed in proximity to far greater vulnerability to violence on
19 a regular basis, or they're further unable to escape violence.

20 So I think that's -- people often don't connect housing and
21 homelessness to these issues. I think they absolutely have to in the discussion of any
22 commitment to actually reduce vulnerability to violence. So that's one really important
23 area.

24 I think also that we need to be looking at real needs for real
25 survivors on the ground. So I was pleased that Deepa got an opportunity to talk about
26 the legal advocacy work done at the Schlifer Clinic.

27 In my 25 years of talking to survivors, they are constantly,
28 constantly, constantly seeking advocacy and support for basic needs, things that they

1 need to do in order to reduce their exposure to violence or be able to decrease their
2 vulnerability. That might be things that go so far as, you know, attending housing
3 tribunal meetings with survivors, which we do, or going to doctor's appointments, or
4 seeking legal advocacy.

5 So we talk about legal advice, and actually the Province of Nova
6 Scotia currently is talking about legal advice mechanisms, but survivors really need
7 advocates who are going to participate in these processes if they choose to engage
8 these systems. They need to have informed advocates that know what's going to
9 happen when they encounter those systems. And I don't just mean policing here. I
10 mean all institutionally based systems, so again housing, basic assistance supports.
11 Like, all that kind of stuff.

12 And we do all those things with survivors, and frontline centres
13 used to do a lot more of that work with survivors; like, on-the-ground work with survivors
14 but as demand as increased and as funding has stayed stagnant, more and more of
15 that ability to walk beside a survivor as they try to navigate what they need to help keep
16 themselves safe, that ability has been removed more and more and more.

17 And so I think I would land at the kind of a survivor centre place, my
18 last comment on that which is that I've been in frontline sexual assault centres for 25
19 years. There are unbelievable waiting lists for survivors who are experiencing violence,
20 whether they experienced it yesterday, they experienced it 25 years ago, so risk isn't
21 even coming into the equation, and these spaces, very often, are the only non-
22 institutional spaces who work particularly for the survivors and the survivor's interest.
23 So they're not employed by any other interest than that interest of the survivor.

24 If survivors can't access that when they're seeking support, then it's
25 very, very difficult for them to be able to leave a situation where they're potentially at
26 risk, or even make decisions or talk through decisions about whether or not they want to
27 engage systems. We know 95 percent of survivors never report to police to begin with,
28 or the criminal justice system.

1 So we have to be talking about what are survivors telling us they
2 need, and the number one thing I think that survivors have been telling us they need is
3 people to walk beside them as they navigate these issues and trusted supports that
4 they can invest in, and we need to be putting funding on that level because when you
5 empower that survivor to be able to make those choices through those mechanisms,
6 then all of these other types of risk that we can't necessarily get out of the system, and
7 we've proven repeatedly that we're failing to remove from the system, all of those things
8 can be, in some ways, mitigated for those survivors as they move forward.

9 So those are some of the things that I would put forward as things
10 to consider.

11 **DR. EMMA CUNLIFFE:** Thank you, Sunny.

12 Pam, if we're to invest women's safety, where should we spend the
13 money?

14 **DR. PAMELA PALMATER:** So everything everyone said;
15 #whatshesaid. But in addition to that, taking into account very specific considerations
16 for Indigenous women and girls, for example, the RCMP spare no amount of money on
17 public relations, settling class action lawsuits. They will create new units to suppress
18 Indigenous rights against women land defenders, but when it comes to investigating
19 murdered and missing Indigenous women and girls, or preventing violence in the first
20 place, you don't see them expending the same amount of money. So it's where we're
21 putting the money, and for what purpose.

22 We continue to fund racism and misogyny in the RCMP; we fund
23 their impunity; we fund their PR, but we're not funding safety for Indigenous women and
24 girls, which obviously includes the support but it's also the basics of life like clean water,
25 food, access to real healthcare where they're not also going to be sexually assaulted by
26 the hospitals or denied healthcare.

27 So it's the way these units work together, how the RCMP work with
28 hospital to take away children. So it's really extracting the RCMP from this and putting

1 all of the money on all of these people, all of the women, to maintain just the basics;
2 child support. What are they going to do for child support when they have to go to
3 school? What are they going to do for housing, not just the shelter but there's the
4 transitional housing, there's education for their kids; it's all of that stuff. And the
5 navigators are absolutely essential. Even a doctor's appointment can be traumatizing,
6 especially for Indigenous women and girls, when we know that they can experience
7 sexual violence from the doctor themselves.

8 So navigators are a check on that, and they're also a check on
9 RCMP, which are in their schools, which are in the hospitals, which are in the social
10 workers' offices.

11 So you can see how we need to do not just the money for all of this,
12 but to extract the RCMP and to make sure that money is going to the support people on
13 the ground, even if they're grassroots, and it's so important that they be detached from
14 the police. So not victims services at the police force, for example.

15 **DR. EMMA CUNLIFFE:** Thank you, Pam.

16 Emilie, if I can turn to you next.

17 **MS. EMILIE COYLE:** Everything that everyone else has said, yes,
18 I agree. The frontline community organisations are where we see beautiful
19 transformative innovative creative models that we should be continuing to sustain
20 through adequate funding year, over year, over year, over year, without requiring
21 frontline organisations to continue to beg for -- for every tiny penny that they get.

22 And I think what you will do with that is you will start to model, and I
23 think this is really important, some of the values that are -- that we say are very
24 important to us in this country. The values of effective public health, the value of care,
25 decolonisation, equality, fair treatment, all of these remain unattainable with the systems
26 that we currently have because we've flipped how we are using our public dollars. And
27 so if we were to reverse that and to start really investing in the places where people are
28 necessarily, because they work one-on-one with the people that are affected by these

1 systems, they -- and are -- and are learning from them daily, what is it that they need,
2 then that's the place where you're going to see the real change.

3 I just wanted to go back super quickly to that example of the
4 woman that got more time than the person who had actually done the harm, the
5 stabbing. She -- and the reason we know that it was as systemic racism that happened
6 throughout her time was the judge said to her, "you are a single mother, you should
7 have known better" in his decision. So we knew that in his decision. And then in her
8 correctional plan, her primary worker had written that she came from a community
9 where violence as a method of parenting was common.

10 And when I received that correctional plan that was going before
11 the parole board, I wrote a scathing letter saying, "This is full of racism, and it should be
12 completely written. And if it's not, you should take no account or put any weight on what
13 is being said in this correctional plan." Which brings us to the point of how many people
14 go before decision-makers without advocates and navigators, like everyone else here is
15 saying? So that's another really important piece.

16 **DR. EMMA CUNLIFFE:** Thank you, Emilie.

17 Deepa, if I can turn to you. Where should we invest in women's
18 safety?

19 **MS. DEEPA MATTOOO:** So I would go back to what Lana started
20 as by saying put the money back into the communities and let the communities actually
21 come together to find the solutions that the communities need. I, for first 10 years of my
22 life here in Canada, I worked for South Asian Legal Clinic of Ontario, and I started with
23 them, and it was not a legal clinic, it was a project. And I know the huge impact that
24 clinic has made on the voices of the South Asian community in the Greater Toronto
25 Area and Ontario and Canada. So from that perspective, I do see the value of putting
26 the money back into the communities when it -- when it comes to the cultural needs,
27 when it comes to the voice of the community. So there is definitely need for that.

28 But along with that, I think what is really needed is to support the

1 service providers and the navigators who are existing doing this work. So help the new
2 groups come up, support the existing groups, and educate.

3 I think the education and training and capacity-building of police
4 officers, prosecutors, judges, all the justice professionals, for them to understand why
5 they are inherently wrong in the way they are operating and why they need a
6 transformation because at the end of the day, they are part of the society. And what
7 hurts me to -- like to really understand and unpack for myself is that they are
8 themselves all living in trauma. These institutions are breeding, breathing, and
9 perpetuating trauma every day, and it isn't until they actually get that opportunity to
10 educate and train themselves in a new way this cannot stop.

11 So while we can provide supports and services, we need to
12 understand that there is something inherently wrong with the system, and that system
13 needs help. So I'm coming from a very compassionate side of me today, and that's why
14 I'm saying it.

15 But it's also going the Pam's point originally, this is also part of
16 international standardised mechanisms that a lot of UN mechanisms have been giving.
17 So it's really very well written in some of those, as they call them, model books, or
18 health books, or playbooks, whatever the knowledge that they use.

19 And then Canada is really falling behind a national framework of
20 addressing gender-based violence. We are really falling behind. We don't have that
21 national action plan that we really desperately have been talking about and wanting,
22 and we don't have it. And unless and until we have it, this pandemic of gender-based
23 violence won't be behind us. We haven't invested in this pandemic as we should have,
24 and we are really behind and very late. Thank you.

25 **DR. EMMA CUNLIFFE:** Thank you, Deepa.

26 Isabel, where should we invest in women's safety?

27 **MS. ISABEL GRANT:** I guess the simple answer is everywhere,
28 but you know, just to reiterate what some of my colleagues have said, I think housing is

1 really, really central. I did a study of the child protection system in British Columbia,
2 women are losing their children because they cannot afford to leave violent men. So
3 economic self-sufficiency for women is really important.

4 The point about communities, I just want to stress that we need to
5 make sure that there's a basic standard of supports that isn't just in, you know,
6 Vancouver, Toronto, Halifax, but is also in rural and remote communities because of the
7 unique challenges there. Facilities that, you know support pets that -- for women in
8 farm communities we need to think about, you know, they're leaving their livestock,
9 their, you know, their livelihoods, their communities. But we need to make sure that all
10 of those services are widely available in those rural and remote communities where we
11 don't have access to the same supports that we do in big cities.

12 The other thing I just wanted to say briefly is that we have done a
13 pretty good job with judicial education, and I think we need to extend that to police
14 services more directly. I think -- you know, Deepa was focussing on how Ms. Butlin
15 really wanted to speak to a female officer. That needs to be an option for everyone.
16 Every woman complaining about sexual assault needs to automatically have access to
17 a female officer, they shouldn't have to wait until the next shift. Those officers should
18 have special training in both the law regarding sexual assault, but also all the kinds of
19 barriers that we have been -- that we have been talking about today.

20 But I think economic self-sufficiency for every woman in this country
21 is a really big part of facilitating women's abilities to escape both physical and sexual
22 violence.

23 **DR. EMMA CUNLIFFE:** Isabel, many thanks.

24 Commissioners, I have some closing remarks today, but I'd like to
25 give you the opportunity to ask questions, and if you wouldn't mind coming back to me
26 to give me the opportunity to do that I'd be grateful.

27 **COMMISSIONER MICHAEL MacDONALD:** Commissioner Fitch?

28 **COMMISSIONER FITCH:** I don't have any questions. I've very

1 much appreciated contributions of everybody. But I know that Emilie did want to get
2 one more point in, so I will give my time to her today, if that's okay.

3 **MS. EMILIE COYLE:** It pays to be sitting beside you, I guess.
4 Thank you.

5 I guess what I want to say is the larger systems that are at play, the
6 larger oppressive systems that are at play, like patriarchy, like classism, like
7 transphobia, like racism, I realise that they're not going to be effectively eradicated
8 through any recommendations, perhaps, that will come out of this Commission.
9 However, I think it's important that any recommendations that are made by any
10 commissions have to weave those themes throughout because every time we
11 individualise patriarchy and racism and transphobia, et cetera, we won't get at the root
12 of it.

13 **COMMISSIONER MICHAEL MacDONALD:**
14 Commissioner Stanton?

15 **COMMISSIONER STANTON:** Yeah, thanks. I too just want to
16 express my gratitude to all of you for what you've shared with us today. The previous
17 roundtables in the last week-and-a-half have made the connection gender-based
18 violence, intimate partner violence, and mass casualties very clear and one of the things
19 that this panel is doing, is assisting us with seeing how do we then address gender-
20 based violence and intimate partner violence as a root cause. And, of course, you've
21 just named and weighing some of the root causes of that. Emilie and Deepa and others
22 have also talked about the aspect of all of this that I have been voicing as well in
23 previous discussions of the last few days about the litany of repeated recommendations
24 over the years and the need to consider and identify and then address the barriers to
25 implementation of what we know to do. Because we continue to see what we need to
26 do, but yet we don't do it, and so what is the barrier preventing us there and we may
27 look to some of the root causes again in terms of those structures, but it's – it's helpful
28 to surface that, I think. I'll leave it there though. Thank you.

1 **COMMISSIONER MacDONALD:** Dr. Cunliffe?

2 **DR. EMMA CUNLIFFE:** Thank you, Commissioners. I would like
3 to begin by thanking our round table members today and for that matter this morning for
4 a very rich, and at times, a very difficult conversation about gender-based violence and
5 the ways in which institutions respond to that phenomenon.

6 This is the last round table that I will facilitate before September,
7 although my colleague Krista Smith will facilitate another round table tomorrow
8 focussing on personal and community responses to gender-based violence, including
9 intimate partner violence.

10 But in light of the fact that this is my last opportunity to say
11 something on the record, Commissioners, I hope that you'll permit me to express my
12 sincere thanks to those team members we don't see on the live stream but whose work
13 is indispensable to the running of public proceedings and who, in particular, make these
14 proceedings accessible to as wide an audience as possible.

15 Our accessibility partners, AV and IT techs, security personnel, Jen
16 Cotteral and her team, Victim Support and Mental Health workers. The public
17 engagement team, work tremendously hard to ensure that we can do our work. And
18 over the last three months that's included supporting these round tables. And so I would
19 like to take the opportunity to place on the record my appreciation for their contribution
20 to our work.

21 **COMMISSIONER MacDONALD:** Thank you so much, Emma,
22 and I would hastily echo that thanks and add you to the thank you list. Thank you,
23 Emma, for putting together another wonderful panel for us and to Sirois, who is here
24 with us as well behind the scenes working so hard putting together a panel. You know,
25 these just don't happen. I'm sure it will come as no surprise and a lot of work goes into
26 it and we greatly appreciate it.

27 On behalf of my fellow Commissioners, I want to personally thank
28 our panellists, Ms. McLean, it's so nice to see you again and thank you so much and

1 Ms. Coyle, Ms. Palmater, Ms. Mattoo, Ms. Marriner and Professor Grant, thank you all
2 so very much for assisting us today with our important work. You know, we have a very
3 challenging mandate, it's a difficult mandate. Our work and our mandate was born of
4 suffering and sadness and it permeates our work by necessity and we have to have
5 difficult conversations as you have identified Emma, and today was no exception. But
6 they are so important to have and we are so appreciative of you four, for bringing your
7 wealth of experience, your wealth of expertise – and I can only imagine how busy you
8 all are – for broadening my perspective at least significantly, and for that, I am very
9 grateful.

10 And especially thank you for your practical forward-thinking
11 recommendations, that's very helpful for us. Having the benefit of your collective
12 experience and expertise to land some practical, but very important recommendations
13 is, as we move into phase 3 of our work, is so important and we're greatly appreciative
14 of that, so thank you so much for your contributions and thank you for your time and
15 thank you to everyone.

16 **COMMISSIONER STANTON:** Thanks, Commissioner
17 MacDonald, and just a few final words. The Orders in Council ask us to make – to
18 account for lessons learned and to make recommendations to help keep our community
19 safer and today, of course, your recommendations are particularly related to police and
20 institutional responses, to gender-based intimate partners and what kinds of violence.

21 Just as the Orders in Council ask us to look at public alerting, and
22 so we gathered together experts to tell us about the complexities of public alerting
23 systems so that we can make pragmatic recommendations on that. We have gathered
24 together experts who deeply have studied gender-based violence and intimate partner
25 violence and, of course, sexual violence being a significant form of those forms of
26 violence, to assist us in making recommendations that will be pragmatic.

27 The Orders in Council specifically require us to examine issues,
28 including contributing and contextual factors such as the role of gender-based violence,

1 intimate partner violence. Also we're required to look at police policies, procedures and
2 training with respect to a gender-based violence, intimate partner violence. And so we
3 need to make recommendations that directly address the issues that arise from this
4 mass casualty, but we must also be alive to the fact that our recommendations must be
5 implemented within structures that historically, disproportionately affect various groups
6 in our society. And so it's important to hear from people who are well aware of these
7 dynamics to avoid compounding the structural inequalities that exist in our society.

8 Tomorrow we'll hear another round table discussion focused on
9 personal and community responses to these forms of violence. And as we continue,
10 please do remember that there are many support services available to help you if you
11 have experienced violence or abuse in your life and some of them are available through
12 our website.

13 So we'll see you again tomorrow and thank you so much everyone.

14 --- Upon adjourning at 4:49 p.m

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16 **C E R T I F I C A T I O N**

17

18 I, Sandrine Marineau-Lupien, a certified court reporter, hereby certify the foregoing
19 pages to be an accurate transcription of my notes/records to the best of my skill and
20 ability, and I so swear.

21

22 Je, Sandrine Marineau-Lupien, une sténographe officiel, certifie que les pages ci-hauts
23 sont une transcription conforme de mes notes/enregistrements au meilleur de mes
24 capacités, et je le jure.

25

26



27 Sandrine Marineau-Lupien

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