

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

Mr. Jamie VanWart	Commission Counsel / Conseiller de la commission
Mr. Matthew MacLellan	Counsel / Conseiller
Ms. Jane Lenehan	Counsel / Conseillère
Ms. Patricia MacPhee	Counsel / Conseillère
Ms. Erin Breen	Counsel / Conseillère
Ms. Megan Stephens	Counsel / Conseillère
Ms. Jane Lenehan	Counsel / Conseillère
Ms. Jeanne Sarson	Counsel / Conseillère
Ms. Jessica Rose	Counsel / Conseillère

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Halifax, Nova Scotia

--- Upon commencing on Friday, July 22, 2022 at 9:34 a.m.

REGISTRAR DARLENE SUTHERLAND: Good morning. The proceedings of the Mass Casualty Commission are now in session with Commissioner Michael MacDonald, Commissioner Leanne Fitch, and Commissioner Kim Stanton presiding.

COMMISSIONER FITCH: Bonjour et 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.

(SHORT PAUSE)

COMMISSIONER FITCH: Yesterday we heard two more roundtables about gender-based and intimate partner violence, with a particular focus on personal and community responses. And earlier this week we learned more about the perpetrator's actions in the lead-up to the mass casualty, specifically related to his financial mis-dealings. These discussions will assist us in finding possible pathways for prevention, intervention, and lessons learned as we go forward.

Today we'll continue on this path as Drs. Kristy Martire and Tess Neal join us to discuss their Commissioned Report titled, "Rigorous Forensic Psychological Assessment Practices."

Following these witnesses, later today we will hear Participant submissions.

I will now ask Senior Commission Counsel Jamie VanWart to begin.

Jamie?

MR. JAMIE VanWART: Thank you, Commissioners, and good

1 morning.

2 As you've indicated, we're hearing from a witness panel this
3 morning, and it's Dr. Martire and Dr. Neal. I'd just indicate the report that Commissioner
4 Fitch referenced, the "Rigorous Forensic Psychological Assessment Practices Part 1
5 and Part 2," they've already been exhibited. Part 1 is Exhibit 3479; Part 2 is Exhibit
6 3480. Both reports are also currently available on the Mass Casualty Commission
7 website.

8 So at this point, I would invite Dr. Martire and Dr. Neal to come join
9 us.

10 (SHORT PAUSE)

11 **MR. JAMIE VanWART:** You may be seated.

12 So our first order of business, I'm just going to ask you to each say
13 your name, spell your last name, and then over in the corner we have Madam Registrar
14 who will be issuing -- asking you to affirm your evidence.

15 **DR. KRISTY MARTIRE:** My name is Kristy Martire, M-a-r-t-i-r-e.

16 **DR. TESS NEAL:** I'm Tess Neal, N-e-a-l.

17 **--- DR. KRISTY MARTIRE, Affirmed:**

18 **--- DR. TESS NEAL, Affirmed:**

19 **--- EXAMINATION ON QUALIFICATIONS BY MR. JAMIE VanWART:**

20 **MR. JAMIE VanWART:** Okay. Well, I'm going to start by asking
21 you a few questions, Dr. Neal, and just a little bit about your background and who you
22 are.

23 So you have provided the Mass Casualty Commission with a
24 current CV.

25 **DR. TESS NEAL:** Yes.

26 **MR. JAMIE VanWART:** And Madam Registrar, if I could have that
27 CV marked as an exhibit? It's COMM number 0059683.

28 **REGISTRAR DARLENE SUTHERLAND:** That's Exhibit 3712.

1 **--- EXHIBIT NO. 3712:**

2 (COMM0059683) CV of Dr. Tess Neal

3 **MR. JAMIE VanWART:** Thank you.

4 So Dr. Neal, your CV is 27 pages long; I'm not going to go through
5 that in any detail, but I'll just highlight a couple of things. So I understand you have a
6 PhD in Clinical Psychology, and that was from the University of Alabama?

7 **DR. TESS NEAL:** Yes.

8 **MR. JAMIE VanWART:** Okay. And you are currently employed as
9 an Associate Professor at the School of Social and Behavioural Sciences in Arizona
10 State University?

11 **DR. TESS NEAL:** Yes.

12 **MR. JAMIE VanWART:** Okay. And you have some professional
13 credentials as well; you're a licensed psychologist in the State of Arizona?

14 **DR. TESS NEAL:** Yes.

15 **MR. JAMIE VanWART:** And you are a designated forensic
16 professional in the State of Massachusetts?

17 **DR. TESS NEAL:** I'm trained as one, yes.

18 **MR. JAMIE VanWART:** Yeah, thank you. And I know sometimes
19 in psychology there's an emphasis on clinical work or research-based psychology. Do
20 you have an emphasis?

21 **DR. TESS NEAL:** Yes, I was trained clinically but I currently am
22 doing mostly research.

23 **MR. JAMIE VanWART:** Okay. And then the other question I
24 wanted to highlight, I noticed in your -- you've listed a number of articles but there was
25 one article, I believe it was published in 2022 in a peer-reviewed journal and it was with
26 your colleague on the stage today, and it was, "The Law Meets Psychological Expertise:
27 Eight Best Practices to Improve Psychological Assessments."

28 **DR. TESS NEAL:** Yes.

1 **MR. JAMIE VanWART:** If I could turn to you, Dr. Martire. Again,
2 you have provided the Mass Casualty Commission with a 16-page CV.

3 **DR. KRISTY MARTIRE:** M'hm.

4 **MR. JAMIE VanWART:** And Madam Registrar, I'm wondering if
5 we could have the CV marked as an exhibit. The COMM number is COMM0059682.

6 **REGISTRAR DARLENE SUTHERLAND:** That's Exhibit 3713.

7 **--- EXHIBIT NO. 3713:**

8 (COMM0059682) CV of Dr. Kristy Martire

9 **MR. JAMIE VanWART:** And again, Dr. Martire, I'm not going to go
10 through your CV in any detail, but I just wanted to emphasize, so you have a PhD in
11 psychology from the University of New South Wales.

12 **DR. KRISTY MARTIRE:** Yes.

13 **MR. JAMIE VanWART:** And that's in Sydney, Australia?

14 **DR. KRISTY MARTIRE:** Yes, it is.

15 **MR. JAMIE VanWART:** Okay. And you're currently employed as
16 an Associate Professor at the University of New South Wales?

17 **DR. KRISTY MARTIRE:** Yes.

18 **MR. JAMIE VanWART:** Okay. And, again, you have listed a
19 number of memberships. I'm just going to -- you're a member of the Australian
20 Academy of Forensic Sciences?

21 **DR. KRISTY MARTIRE:** I am.

22 **MR. JAMIE VanWART:** And you're also a member of the
23 Australian School -- or Psychological Society in the College of Forensic Psychology?

24 **DR. KRISTY MARTIRE:** Yes.

25 **MR. JAMIE VanWART:** And, again, the same question I asked Dr.
26 Neal; do you have an emphasis on the research or clinical side of psychology in your
27 work, or...?

28 **DR. KRISTY MARTIRE:** So I have both a research qualification

1 and a clinical qualification, but I do not do clinical work; I focus on research.

2 **MR. JAMIE VanWART:** Okay.

3 Commissioners, relying on the two exhibits, the CVs and some of
4 the highlighted information from these witnesses, I'm asking that they be qualified as
5 experts in forensic psychology, able to provide opinions on evidence-based techniques
6 and best practices in forensic psychology.

7 **COMMISSIONER MacDONALD:** Yes, thank you, they are so
8 qualified.

9 **COMMISSIONER STANTON:** And, sorry, Mr. VanWart, just for a
10 moment.

11 To the tech team, our monitors aren't playing the sound through
12 from their microphones, so if we could please have the audio monitors turned on for us
13 to be able to hear them better, that would be very helpful. Same with counsel.

14 Thank you.

15 **MR. JAMIE VanWART:** Okay. Is it myself you're having trouble
16 hearing or the witnesses, or all three of us?

17 I'm just looking at the technician; do you want us -- would you like
18 us to take a break, or...?

19 **(SHORT PAUSE)**

20 **MR. JAMIE VanWART:** Okay, okay.

21 I'm just advised maybe the best solution to the problem is if I could
22 ask you to project your voice a bit more as you answer the questions.

23 And perhaps, Commissioner Stanton, if we -- if we still have issues
24 you can indicate and we can pause and see if we can solve it.

25 **COMMISSIONER MacDONALD:** It seems when we first began
26 these two speakers were working and then they stopped working.

27 **MR. JAMIE VanWART:** Okay. Well, I might suggest, perhaps we
28 should take a short break and just sort out the issue now before ---

1 **COMMISSIONER MacDONALD:** Thank you.

2 **MR. JAMIE VanWART:** --- go any further. And if it's -- I don't know
3 if the witnesses would need to leave the stage, or...

4 **(SHORT PAUSE)**

5 **MR. JAMIE VanWART:** If we could continue.

6 **COMMISSIONER MacDONALD:** Thank you, that's much better.

7 **MR. JAMIE VanWART:** Is it? Oh, great. And I was told I was the
8 issue. I'm talking too loud as opposed to talking too softly. So...

9 **--- EXAMINATION IN-CHIEF BY MR. JAMIE VanWART:**

10 So I'm going to start with you, Dr. Martire. And if I could just ask
11 you, maybe generally, and if you can explain, you know, what is forensic science and a
12 bit about how psychology as a discipline fits within forensic science.

13 **DR. KRISTY MARTIRE:** Yes. So forensic science was defined as
14 a trans-disciplinary field of endeavour, where scientific knowledge is accrued or
15 gathered and applied to assist in resolving matters of war. And so forensic psychology
16 fits within that definition because it is also a scientific endeavour that involves the
17 generation of knowledge and the application of scientific techniques to assist in matters
18 of war.

19 **MR. JAMIE VanWART:** Okay. And Dr. Neal, if I could ask you a
20 similar, maybe an introductory question. I think this report that you've provided is about
21 psychological assessments. Are you able to give us an explanation of what a
22 psychological assessment is, and especially within the context of a forensic
23 psychological assessment?

24 **DR. TESS NEAL:** Yes. A psychological assessment is an
25 evaluation of a person to try and measure or describe or understand their functioning in
26 terms of their emotions, their cognition, their behaviours. Oftentimes, there are
27 psychometric tools that psychologists can use, these are typically scientifically derived,
28 they have mathematical functions that underpin them, they can be used to measure

1 some of these traits are characteristics in people.

2 Forensic psychological assessment is when these same
3 approaches are used to inform a legal decision of some sort, a legal, administrative, or
4 organisational decision that needs to be made if there's some question of a person's
5 psychological functioning, and it's used to help make that legal decision.

6 **MR. JAMIE VanWART:** Okay. And in your report, Dr. Neal, you
7 identify, or you both identify three broad approaches to psychological assessments. Are
8 you able to explain what those are?

9 **DR. TESS NEAL:** Yeah, there's three kind of major methods that
10 psychologists might use to conduct an evaluation. The first is the most scientific, and
11 it's called a structured actuarial approach. It does -- it's built on those psychometric
12 tools that I just mentioned, and it is a standardised, more formalised way to do an
13 assessment, where some of the ways that the data is collected, the way the data is
14 integrated, the way the data is interpreted is based on more scientific underpinnings.

15 In contrast, there is what's called an unstructured clinical approach,
16 and this is a more medical model, where there's much less science and more clinical
17 intuition and clinical judgement that's less scientific.

18 And then the third is in-between those two, it's called a structured
19 professional judgement approach, and it has some elements of unstructured clinical
20 judgement, but it also has some elements of more structure, things like checklists and
21 so forth, but it doesn't have the mathematical underpinnings that a structured actuarial
22 approach would have.

23 **MR. JAMIE VanWART:** Okay. And I think also in your report you
24 also -- you emphasise that is it the second approach, the unstructured clinical
25 judgement, that's probably the least commonly used approach?

26 **DR. TESS NEAL:** The unstructured clinical judgement is the least
27 commonly used approach, yes.

28 **MR. JAMIE VanWART:** Okay. And is there a reason for that?

1 **DR. TESS NEAL:** It probably -- it probably has to do with the
2 history of psychology. Psychology sort of attempts to be a scientific discipline, and in
3 some ways it is a scientific discipline, and because of that history, psychologists, many
4 of whom most of whom are trained in science, use a more scientific approach.

5 **MR. JAMIE VanWART:** Okay. And your report, and maybe I'll
6 direct this question at you, Dr. Martire. So your -- in your -- in your Part 1 of your report,
7 you come up with eight best practices. And I guess my first question is how did you
8 come up with these eight best practices?

9 **DR. KRISTY MARTIRE:** Yeah. So our eight best practices are
10 derived from well-documented concerns that have been raised about standard and
11 accepted forensic science and forensic psychological techniques. So these concerns
12 have been raised by organisations, such as the National Research Council in the United
13 States in 2009, also the President's Council of Advisors in Science and Technology in
14 2016, but they're also derived from years of scholarship from forensic scientists, from
15 legal scholars, and from forensic and mainstream psychologists who have written
16 critical scholarship on this topic.

17 **MR. JAMIE VanWART:** Okay. And Dr. Martire, your report has
18 been exhibited, it's before the Commissioners, so I'm not asking you to go into great
19 detail, but perhaps relevant for your evidence today, are you able to kind of give a
20 summary of the eight best practices?

21 **DR. KRISTY MARTIRE:** Yes, I can do that. Would I be able to
22 refer to my notes?

23 **MR. JAMIE VanWART:** Yes. This is not a test, but ---

24 **DR. KRISTY MARTIRE:** Thank you.

25 **MR. JAMIE VanWART:** --- perhaps you could just explain to the
26 Commissioners what you're wanting to look at.

27 **DR. KRISTY MARTIRE:** Yes. So I would just like to refer to the
28 eight best practices in order to make sure I get them in the correct order.

1 **COMMISSIONER MacDONALD:** Sure.

2 **DR. KRISTY MARTIRE:** Thank you.

3 So the first of the best practices is arguably the most important, and
4 it is foundational validity, and it was defined by the President's Council of Science --
5 Advisors in Science and Technology in 2016 as relating to the extent to which a method
6 or a tool or a -- any technique has been demonstrated through research to be accurate,
7 reproducible, and repeatable at a level that is appropriate for its intended purpose.

8 So those three components, accuracy, repeatability, and
9 reproducibility. Accuracy means, you know, the extent to which a psychological
10 assessment, method, or tool can be applied to reach an objectively true or correct
11 result. For repeatability, it's about whether or not an individual practitioner or an
12 examiner could consistently reach the same conclusion when applying the same
13 techniques to the same data, so could the practitioner do the same analysis again and
14 reach the same conclusion. And then reproducibility is about whether or not different
15 practitioners could use the same method or technique to reach the same conclusion, so
16 would they be in agreement with each other.

17 And importantly, this foundational validity is in relation to optimal
18 practice, it's about whether or not in principle these techniques, methods can be used to
19 generate accurate, repeatable, and reproducible results.

20 When you deviate from that, the next best practice is called validity
21 as applied, and that's about how a technique or a psychological assessment or a tool
22 actually functions in the real world under routine practice standards. So it's important to
23 note that the practice of forensic psychology can be limited in the real word by practical
24 considerations like financial resources or time resources or data quality concerns. And
25 so these things will effect the validity of an assessment.

26 So validity as applied relates to how a technique applies in the real
27 word, and you can think of two components in relation to that. Those are proficiency
28 and they are field-validity. So proficiency is about whether or not the practitioner in an

1 instant case, the person actually doing the analysis, so using the tool, is proficient in the
2 technique. So can they apply a foundationally-valid method to reach the expected
3 result. And if they can't apply the method to reach the expected result, then they're not
4 proficient in that technique.

5 And field validity is about whether or not the technique or method is
6 repeatable, reproducible and accurate when it is used in the real world, given the
7 limitations of real world administration. So that was the second of the best practices.

8 The third relates to bias and bias mitigation. And a bias is any
9 systematic factor that might affect the outcome of an assessment other than the truth.
10 So there are different types of bias and very many different types of bias, but some that
11 might be relevant here are – there are some explicit forms of bias. So if there are
12 vested interests, someone may act in ways that serve those vested interests. But there
13 are also a wide range of biases, things that – like cognitive decision-making styles that
14 can affect our judgment in unintended ways.

15 So it is possible that our judgment, our evaluation of evidence, our
16 decision-making, our reasoning can be affected by these unconscious or unintentional
17 factors; it's not a reflection of unprofessional conduct or poor training, it's just an artifact
18 of the way our minds work. And so we would expect that all human decision-making
19 can be affected by bias, but in terms of vigorous, psychological assessment, we would
20 want to see that that has been acknowledged and steps have been taken to try and
21 mitigate or manage those biasing factors.

22 The fourth of the best practices relates to quality assurance. So
23 quality assurance is a framework or a structure of procedural or administrative roles that
24 would help to minimize the likelihood of errors or mistakes in the provision of a service
25 or any goods, for example. So in the context of a forensic psychological assessment,
26 quality assurance components are things like licences, certifications, credentials,
27 regulations that restrict practice and establish a basic level of quality for service
28 delivery.

1 The fifth of these best practices is about opinion expression. So
2 generally-speaking when a forensic psychologist is providing some kind of assessment,
3 it is not because they have direct experience of the issues in question, it is because
4 they are opining about something outside of their first-hand experience. They're often
5 talking about something that may happen in the future or something that has happened
6 in the past. And as a consequence, they can never be certain about these things. They
7 cannot know with complete certainty what has happened in the past if they did not have
8 direct experience of it and they can't speak with certainty about what will happen in the
9 future because that is not possible.

10 So it's important that when a forensic psychologist is reporting and
11 making conclusions, that they express uncertainty around those conclusions and that
12 they do not overstate or exaggerate how sure they can be about what they're saying
13 because there is uncertainty involved.

14 Number six, is limitations and assumptions. So every psychological
15 assessment is going to involve some elements of limitation and assumption. I have
16 already mentioned there are some limitations associated with the routine practice of
17 forensic psychology. I mentioned financial or time or data quality restrictions. It's
18 important that these are explicitly disclosed in reports so that people reading those
19 reports can understand what factors might affect the quality of the conclusions or the
20 product being produced so that they can make an informed decision about how
21 trustworthy or reliable a particular document is.

22 There are also assumptions that people will make when they're
23 writing reports. These will be based on people's experience, their training, the
24 theoretical foundations of their knowledge and the lens that people approach their report
25 writing through can have an effect on how they form their conclusions. And so these
26 assumptions should also be disclosed so people know the perspective that this report is
27 being written from.

28 The seventh of our best practices, is considering alternative user

1 disagreements. Psychology is a very broad discipline. There are many diverse views
2 on most issues I would say in psychology. And we heard a little bit about three different
3 methods for doing psychological assessment and there are different schools of thought
4 on which of those forms is the better or the more appropriate form to use.

5 And so in a report it would be important for the practitioner to be
6 explicit about whether or not the procedure that they're using or the views that they
7 hold, are consistent with best practice. Whether they are consistent with mainstream
8 accepted positions, and if they are not, why they are not, how they have decided to
9 proceed in a different way and what the implications of that might be. They also need to
10 consider the possibility that others would disagree with them and acknowledge that
11 possibility and help the reader to work through making sense of those possible
12 disagreements. And then the last is, ethical obligations and codes of conduct.

13 So the practice of psychology in most jurisdictions is regulated by
14 licensure or credentialing requirements. It's also regulated by codes of conduct in legal
15 jurisdictions; rules of evidence it's forensic and before a court. So it's important that the
16 practitioner or the writer of a report clearly explains what their obligations are in terms of
17 adhering to licensure or credentialing, codes of conduct, ethical obligations so that
18 people can understand if a person is in good-standing in their profession and if they
19 have adhered to the rules and regulations that apply to that practice.

20 **MR. JAMIE VanWART:** Well, thank you for that answer, and if I
21 could ask as a follow-up, Dr. Martire, in your Part 1 of your report in the context of these
22 eight best practices, you've proposed a series of 108 questions. My question isn't for
23 you to summarize these 108 questions, but what was the intent of coming up with these
24 questions?

25 **DR. KRISTY MARTIRE:** Yes, So these are quite broad,
26 theoretical constructs that we have described and it might be difficult for people who
27 aren't familiar with these topics to understand exactly how they might play out in the real
28 world and in an actual forensic psychological report.

1 So in the 108 questions we were just trying to provide concrete
2 examples of questions the reader could ask themselves to help them make an
3 assessment of the quality of the report based on what is in front of them. They do
4 overlap, they're not exclusive, they are quite repetitive but it's just an attempt to help
5 people really get a sense of what they might be looking for to assess the report.

6 **MR. JAMIE VanWART:** Thank you. And, Dr. Neal, if I could ask
7 you; also in your report you discuss psychological autopsies. Are you able to talk about
8 what a psychological autopsy is?

9 **DR. TESS NEAL:** Yes. Is it acceptable for me to look at my
10 notes?

11 **MR. JAMIE VanWART:** And just maybe explain what you're
12 looking it.

13 **DR. TESS NEAL:** As a memory aid so I can make the points that
14 I'd like to make about these issues.

15 **MR. JAMIE VanWART:** Yes.

16 **DR. TESS NEAL:** Thank you.

17 A psychological autopsy is a type of psychological assessment that
18 is typically retrospective, meaning that it is backward looking and it is trying to clarify
19 information about a person's death, if there's some question that – some equivocal
20 nature, something unknown about the state of mind or the circumstances surrounding the
21 decision-making and the actions of a person who has died.

22 It is necessarily retrospective, meaning that it's backward looking
23 which complicates the validity meaning that it's backward looking, which complicates
24 the validity, possibly, of the data collected. It must be done by proxy, meaning that the
25 person who has died cannot -- is not available to correct errors of interpretation if the
26 evaluator has made some kind of mistake. And it's an -- by proxy also means that you
27 have to -- you have to interview other people who were around at the time, so family
28 members, friends, potentially survivors or witnesses to events that unfolded at some

1 previous point in time.

2 And those issues also raise questions about the validity of these
3 kinds of assessments because the interviews by proxy, all of these people might have
4 their own motivations or particular things they want to share or might not share. They
5 might not available. They might not cooperate with the interviews, and all of those
6 things can affect -- can materially affect the quality of the information that the
7 psychologist is able to collect. And so, because of those things, some scholars suggest
8 that psychological autopsies may not -- there may be no possible way to assess the
9 validity of a psychological autopsy.

10 **MR. JAMIE VanWART:** Okay. I just have a few follow up
11 questions. But -- so can you give me an example, like who would typically ask for a
12 psychological autopsy? Can you give an example of that?

13 **DR. TESS NEAL:** Yes. Psychological autopsies are -- I don't think
14 they are very common, or at least not in mainstream forensic psychology. They are
15 sometimes used, for example, by insurance companies, if somebody is claiming that
16 there was an accidental death in the family or something, and the company has to make
17 a decision about whether to administer benefits. If there's some question that maybe
18 the deceased actually committed suicide, which would make it so that the benefits
19 would not be given to the family, that kind of decision can be informed by a
20 psychological autopsy where the evaluator is trying to help the insurance company
21 determine whether or not the person died by suicide, or it was an accident or some
22 other form of death. That's probably the most common way that a psychological
23 autopsy is conducted.

24 There are other situations where a psychological autopsy might be
25 asked for, including situations like a mass casualty event, where there is a lot of need to
26 understand what happened and why things unfolded the way they did.

27 **MR. JAMIE VanWART:** Okay. And you say in your report that
28 psychological autopsies depart somewhat from typical forensic psychology, and I think

1 you've alluded to this in your earlier answer, but perhaps could I get you to explain why?

2 **DR. TESS NEAL:** Yes. Psychological autopsies, it's a rarer
3 referral question, and I'm -- so it's just not as common, at least among mainstream,
4 typical forensic psychology. And I'm sorry, I think I missed the question.

5 **MR. JAMIE VanWART:** So you explain in your report, and I'm
6 thinking of paragraph 5 in your report, where you discuss that psychological autopsies
7 depart somewhat from typical forensic psychology, and if you could just explain that?

8 **DR. TESS NEAL:** I don't remember what we said there. I'm going
9 to have a look. You said ---

10 **MR. JAMIE VanWART:** So at paragraph 5 you say:

11 "In forming this opinion we also note that
12 psychological autopsy and behavioural profiling
13 depart somewhat from typical forensic psychological
14 practice."

15 **DR. TESS NEAL:** Yeah.

16 **MR. JAMIE VanWART:** And I guess I'm asking in the context of
17 psychological autopsy. And you go on to outline a number of criticisms that -- of
18 psychological autopsies in a field, and just could you give us a sense of that -- those
19 discussions within psychology?

20 **DR. TESS NEAL:** Most of that paragraph is actually -- most of it is
21 about behavior profiling ---

22 **MR. JAMIE VanWART:** Okay.

23 **DR. TESS NEAL:** --- which is typically more outside of mainstream
24 psychology. I'm not -- yeah, I'm not sure how much of that applies to ---

25 **MR. JAMIE VanWART:** Okay.

26 **DR. TESS NEAL:** --- psychological autopsy.

27 **MR. JAMIE VanWART:** Well, can I ask you this then, is a
28 psychological autopsy -- is it appropriate to think of it as a psychological assessment?

1 **DR. TESS NEAL:** I think it is. Yes, I think it is appropriate to think
2 of it as a psychological assessment. It's ---

3 **MR. JAMIE NEAL:** Okay. Does it follow -- like, can a
4 psychological autopsy follow these, sort of, broad clinical approaches you talked about
5 earlier in your answer -- in my questions about the ---

6 **DR. TESS NEAL:** Yeah. So those three methods that we talked
7 about, the structured, actuarial; the unstructured; and then the in between kind of
8 structured professional, any of those could theoretically be used in any kind of
9 psychological evaluation, including a psychological autopsy. However, because of the
10 unique nature of psychological autopsies, you can't administer a psychological test to
11 someone who has died, so that complicates a structured actuarial approach, and even a
12 structured clinical approach. But in some cases, including the case here, some
13 measures can be administered retrospectively, which does raise questions about the
14 validity of the administration, but it is theoretically possible. That said, big picture, most
15 psychological autopsies probably are pretty unstructured in nature, given that there's no
16 tools that are developed specifically to help answer those kinds of questions.

17 **MR. JAMIE VanWART:** Okay. And if I can move on, and perhaps
18 I could have you explain another commonly referred to assessment in this report, about
19 behavioral profiling. Are you able to explain what behavioral profiling is?

20 **DR. TESS NEAL:** Yes. Behavioral profiling is another type of
21 psychological assessment, and a typically is done -- it's used as an investigative tool by
22 law enforcement and psychologists, typically. The key difference here is that the
23 offender is typically unknown. So the evaluator is using known information, for instance
24 about the circumstances of the offence, or the characteristics of the victims, to try and
25 predict the psychological profile of an unknown offender. Typically used, again in these,
26 kind of to generate investigatory leads.

27 **MR. JAMIE VanWART:** Okay. And so -- and how does the
28 behavioral profile compare or contrast to a risk assessment?

1 **DR. TESS NEAL:** The risk assessment is different than a
2 behavioral profile, because the person is known. So typically, a risk assessment is an
3 evaluation of a given individual, and their potential future risk. So whether they might go
4 on to engage in an act of violence, or an act of sexual aggression, or other things. But
5 the key difference is that in a behavioral profile the offender is not known, and the
6 prediction is made about who the person could possibly be, in terms of psychological
7 characteristics, or demographic characteristics, whereas in a risk assessment it's also
8 forward-looking but it's -- the person is known and they're trying to predict future
9 behavior.

10 **MR. JAMIE VanWART:** Okay. And I guess I'll ask you the same
11 question that I asked you with a psychological autopsy. You referenced in your report
12 that behavioral profiling is -- departs somewhat from typical forensic psychology. Can
13 you explain why?

14 **DR. TESS NEAL:** Yes. So behavioral profiling emerged from --
15 mostly from law enforcement, rather than in psychology. And so, because of that sort
16 of, historical root, it is definitely outside of the mainstream in terms of forensic
17 psychology. Most of the people who do behavior profiles are trained in law enforcement
18 or work in law -- excuse me -- or work in law enforcement. So for example, in the
19 United States we have the FBI, and they have a behavioral sciences unit where some of
20 the most well-known behavioral profilers work, but most of them are not -- they came up
21 through law enforcement instead of through psychology, so there's sort of a career
22 background and difference in who is doing that kind of work.

23 Sometimes this can be done by psychologists, but sometimes they
24 are done by non psychologists, including officers and so forth. And because of that,
25 that leads to some questions about whether a behavioral profile can be classified a
26 forensic psychological assessment. We would argue that it should be, and therefore
27 these eight best practices should apply, because it is an evaluation of psychological
28 characteristics and it relies on reputation of psychology, and sort of the mantle of

1 science. So if a person is claiming that they are using the methods of psychology and
2 using it to make some kind of -- inform some kind of legal judgment, then we would
3 argue that the definition of forensic psychology applies in that case.

4 **MR. JAMIE VanWART:** Okay. And is it typical, like is there
5 approaches to behavioral profiling, and do they follow the similar -- the structural
6 assessment, the unstructured clinical judgment -- and the -- the three approaches that
7 you outlined? Is that typical with assessing behavioral profiling as well?

8 **DR. TESS NEAL:** The answer here will be similar to the answer for
9 the psychological autopsy question in that, theoretically, any behavioral profile could
10 take on one of those three methods. It could be an unstructured approach, it could be
11 the in between structured clinical judgment, or it could be an actuarial approach -- an
12 actuarial approach. However, again, there are no good actuarial tools that have been
13 developed specifically for this purpose, so it's unlikely that in practice a practitioner
14 could use the most scientific kind of approach. That said, there are some scientific
15 underpinnings for particular ways that a behavioural profile might be done. So it's
16 possible to have some science underpinning a behavioural profile.

17 **MR. JAMIE VanWART:** Okay. Well, at this point, I'd like to kind of
18 move on to part 2 of your report, and in part 2 you do an assessment of a document that
19 was entitled the Psychological Autopsy that was prepared by the RCMP on June 3rd,
20 2020.

21 I'm going to ask Madam Registrar, the document is COMM Number
22 0021142, if that could be marked as the next exhibit?

23 **REGISTRAR DARLENE SUTHERLAND:** It's Exhibit 3714.

24 **--- EXHIBIT NO. 3714:**

25 (COMM0021142) Psychological Autopsy

26 **MR. JAMIE VanWART:** I guess first, before we get into part two,
27 Dr. Martire, could you -- why did you divide your reports into two parts? What was the
28 purpose of that?

1 **DR. KRISTY MARTIRE:** So both Dr. Neal and I are familiar with
2 literatures that speak to limitations of forensic scientific standard practice and to forensic
3 psychological standard practice, and one of the key concerns in that literature is
4 concerns relating to bias and bias mitigation. And that did become one of our eight best
5 practices. However, in foresight of the issues associated with bias, we wanted to make
6 sure that our evaluation or our discussion and summary of the literature about what best
7 practices are for regressed forensic psychological assessment were informed only by
8 the literature and were not informed by the specific psychological assessment in
9 question.

10 We were concerned here that we may respond positively or
11 negatively to the report that we saw and that might skew our perception or our synthesis
12 of the literature in ways that are undesirable. So in order to manage this potential for
13 bias, we made sure that we were not given information that might affect our judgments
14 other than truth. And so we did not look at the autopsy in advance, and then once we
15 had defined our eight best practices and we had set out those questions that we thought
16 would be helpful for assessing the quality, we then looked at the report using those best
17 practices and those questions.

18 **MR. JAMIE VanWART:** Oh, okay. So I guess you wrote part one
19 without ever having looked at the RCMP document and then ---

20 **DR. KRISTY MARTIRE:** Yes.

21 **MR. JAMIE VanWART:** --- wrote part two assessing. Okay.

22 **DR. TESS NEAL:** Also, just as a follow up to that, if I'm allowed.

23 **MR. JAMIE VanWART:** Okay.

24 **DR. TESS NEAL:** In addition to not seeing the evaluation, we
25 didn't -- we don't -- we still don't know many of the details about the case, so we refrain
26 from looking up details. We didn't Google this case. We don't know most of the
27 circumstances surrounding, and the only document that we've looked at that's relevant
28 to the case after we finished part one is the psychological assessment in question.

1 **MR. JAMIE VanWART:** Okay. Okay. So, well, Dr. Neal, could I
2 ask you, so the report that you reviewed that's now 3714 exhibited, it's called a
3 psychological autopsy. What is this report, in your view?

4 **DR. TESS NEAL:** We really struggled with trying to just figure out
5 exactly what this report was. The report didn't clearly -- typically, in a psychological
6 evaluation, kind of one of the cardinal rules of doing a psychological evaluation is that
7 you are clear about what's the question that you're trying to answer, and can the field
8 answer that kind of question, and then you answer the question. You develop a method
9 to answer the question that is at issue.

10 In this particular report, the question was not clearly defined. It is --
11 it does label -- it is labelled as a psychological autopsy and there are elements of
12 psychological autopsy in this report; however, there are also elements of behavioural
13 profiling, a retrospective behavioural profile, which is sort of an odd thing that we don't
14 quite understand, and then it also has elements of risk assessment. So it's kind of a mix
15 together of multiple different kinds of psychological evaluations.

16 **MR. JAMIE VanWART:** Okay. And when you read the report and
17 asked your 108 questions and assessed its compliance with your eight best practices,
18 you came up with a conclusion that it was somewhat consistent with the eight best
19 practices. Are you able to explain what you mean by that and I'm ---

20 **DR. TESS NEAL:** Yes.

21 **MR. JAMIE VanWART:** Dr. Martire, did you want to take ---

22 **DR. KRISTY MARTIRE:** I will answer that ---

23 **MR. JAMIE VanWART:** --- that one on?

24 **DR. KRISTY MARTIRE:** --- question. So the process that we used
25 to assess this report was for Dr. Neal and I to both independently read the report and
26 answer for ourselves those 108 questions. We gave ourselves predefined options for
27 answering those questions. We could classify our answer using one of three
28 responses. We could say that the psychological autopsy was either not at all showing

1 whatever best practice was being addressed in that question, it was somewhat or
2 partially showing compliance with that question or best practice, or it was definitely or
3 clearly showing compliance. And so we independently went and scored, addressed
4 each of those questions and scored our answers using those three answers, and then
5 we brought our answers together to see how much we agreed and disagreed with each
6 other and to come to a final decision.

7 When we did that, we found that there were some best practices
8 where the psychological autopsy was classified as being somewhat or partially
9 compliant with the best practice that was being discussed. And as a result, we couldn't
10 characterize the report overall as being not at all or definitely compliant with the best
11 practices. It had to fall somewhere in between because it was partially compliant. And
12 so that is why our conclusion was given that it was somewhat compliant and that was in
13 inverted commas because that is the classification code or terminology that we were
14 using in our coding.

15 **MR. JAMIE VanWART:** So I guess in -- when you break it down,
16 you say that 78.6 percent of the time, when you put the questions of your 8 best
17 practice against this report, it was coded as negative, so it wasn't compliant. So, I
18 mean, is it fair -- I mean, I guess if I did a math test and I got 78.6 percent of the
19 questions wrong, I would think I didn't do very good on the math test. Is that a fair
20 analysis, or is that not an appropriate way to kind of look at your assessment?

21 **DR. KRISTY MARTIRE:** We would not consider that to be the
22 appropriate interpretation.

23 **MR. JAMIE VanWART:** Okay.

24 **DR. KRISTY MARTIRE:** So it's important to know that the
25 questions overlap. So the same question is asked in multiple similar ways. So if you do
26 well on that item, it'll be multiple points in your favour, and if you do bad on those sort of
27 items, it'll be multiple points against you, so it's not a fair representation. You can't just
28 add them up. But this coding scheme was developed for a qualitative analysis, so it

1 was developed to give you a sense of whether and in what ways this report was
2 compliant, rather than how much or the amount of compliance it has.

3 **DR. TESS NEAL:** And so, in that way, I think the gist of that 78.6
4 percent, like, the -- sorry, the 78.6 percent itself, the quantitative number isn't
5 meaningful in the sense that Dr. Martire was just explaining, but qualitatively, the gist of
6 the interpretation, that this report didn't adhere very well to the best practices is a
7 correct interpretation.

8 **DR. KRISTY MARTIRE:** Yes.

9 **MR. JAMIE VanWART:** Okay.

10 **DR. KRISTY MARTIRE:** So I would just follow on from that, most
11 often, when we asked a question about whether or not the report was compliant, even
12 though those questions overlapped, our answer was that it was not compliant or
13 partially compliant.

14 **MR. JAMIE VanWART:** Okay. And would it be your expectation
15 that a report when assessed through your method be definitively compliant?

16 **DR. KRISTY MARTIRE:** We would never expect any report to
17 score 100 percent on this to get every single item to be compliant; however, we would
18 expect to see a report addressing, in some way, each of these eight best practices as
19 well as it could and as transparently as it could, so that the decision maker could work
20 out what to do with that information and assess the quality of the report using that
21 information.

22 **MR. JAMIE VanWART:** Okay. So I might just ask a couple more
23 questions, because what I hear from what you're saying is I think your answer -- is it fair
24 to say your answer to every report you assessed by this method would most likely fall
25 within the somewhat category; right? Because it's not going to be common, you're
26 saying, to have a definitively compliant report, it's probably not common you're going to
27 have a not at all compliant report, so most of the outcomes will be somewhat; right?

28 **DR. KRISTY MARTIRE:** Yes, I think in hindsight, we probably

1 would have chosen different categories, so we picked not at all, somewhat and
2 definitely without having seen the report and without having been through this exact
3 process before. And so I think if we were to do it again, we would give ourselves more
4 room in the middle to talk about relatively better reports and relatively worse reports, but
5 I think it's fair to say that most reports under this classification would come out at
6 somewhat.

7 **MR. JAMIE VanWART:** Okay. So -- well, let me ask you then, is
8 this report, is it a scientifically credible report?

9 **DR. KRISTY MARTIRE:** I think my response to that question
10 would be there is very little information that is provided in this report that would allow me
11 to say, with confidence, that it is scientifically credible.

12 **MR. JAMIE VanWART:** Okay. And do you think people could rely
13 on this report and rely on the information in it?

14 **DR. KRISTY MARTIRE:** So a lot of information is being provided
15 but not information in relation to those eight best practices that I would need to work out
16 whether or not I can rely on this report.

17 **MR. JAMIE VanWART:** And I think at this point I wouldn't mind
18 circling back to your eight best practices. And if I could ask you just to comment on this
19 report in the context of those eight best practices.

20 So maybe I'll start again with you, Dr. Martire, could you comment
21 on the first two of the best practices, which was foundational validity and validity as
22 applied.

23 **DR. KRISTY MARTIRE:** Just before we do this, I think it's
24 important to just flag that there's a lot of detail; there's 108 questions and we definitely
25 don't have the time or capacity...

26 **MR. JAMIE VanWART:** I want to emphasize, your report is before
27 the Commission.

28 **DR. KRISTY MARTIRE:** Yes.

1 **MR. JAMIE VanWART:** And it's on the website, anyone wanting
2 more detail can access your report.

3 **DR. KRISTY MARTIRE:** Yes. So my answer will be in quite
4 general terms.

5 **MR. JAMIE VanWART:** Thank you.

6 **DR. KRISTY MARTIRE:** And I would flag that there are – will be
7 some exceptions and they are noted in the report where perhaps the report is
8 somewhat compliant. But in relation to the first two, so this is in relation to whether it's a
9 foundationally valid approach and whether or not it is valid as it has been applied.
10 There was very little, if any, credible evidence presented in this report that in principle or
11 in practice, that this assessment was likely to be accurate, repeatable or reproducible.
12 And there was very little, if any, credible evidence presented about whether or not the
13 person or persons who authored this report are likely to produce accurate conclusions.
14 I think that summarizes broadly the first two.

15 **MR. JAMIE VanWART:** Okay. And perhaps, Dr. Neal, could you
16 comment on the next two, which is managing and mitigating bias and quality
17 assurance?

18 **DR. TESS NEAL:** Yeah, with regard to the bias question, I think
19 there's clear potential for bias in this specific report. So, for example, the practitioners
20 worked with or for a party who may have had a vested interest in a particular outcome
21 of the psychological evaluation. It wasn't clear to us whether all of the report authors
22 were employees of the RCMP, but it appears that at least some of them were. And that
23 is a – the relevance of that is, that it raises a potential red flag for a conflict of interest in
24 that the RCMP is also the agency that was involved in the critical incidents – critical
25 incident response to the mass casualty event, and so it's unusual or potentially
26 problematic to have the report authors to be employees or aligned maybe in some way
27 with the RCMP.

28 That also raises questions about the information that was available

1 to the evaluators. So the fact that they were part of the organization that had access to
2 information about the investigation, means that it could have raised issues with regard
3 to different types of cognitive bias. So there could have been adversarial allegiance
4 issues, and that's that alignment problem. There could have been hindsight bias issues
5 with regard to the evaluators knowing the outcome of the events and some of the
6 outcome of the investigation as it was proceeding, and a confirmation bias potentially
7 with regard to sort of expectations for how they – maybe how the Agency might have
8 wanted this report to come out and so forth.

9 There's also evidence of potential partisanship in the report in
10 terms of the report opening with a dedication to a member of the RCMP agency that the
11 authors might have worked for. That's unusual for a forensic psychological evaluation.
12 Also, there's very highly emotive language in this report that is unusual in a forensic
13 psychological evaluation that raises some questions of potential bias.

14 And then finally, one of the ways the bias can be managed or
15 mitigated is to use a structured approach, an approach – a method that is defined
16 before you start. In this case that does not appear to be how the evaluation unfolded.
17 This is largely an unstructured clinical approach which leaves room for some of these
18 potential biases. And there's no apparent, as far as we could tell, no apparent bias
19 management techniques, like blinding or case management or standard operating
20 procedures.

21 They did use one psychometric tool, the PCL-R, which is a
22 psychopathy checklist. It's used to measure psychopathic personality traits. However,
23 the way it was used in this case is unusual and the authors didn't provide any evidence
24 about whether it could be used in the way it was used in this particular case. So that's
25 with regard to bias.

26 And then with regard to the fourth best practice, which is "Quality
27 Assurance". Qualitatively almost all of the pieces of information that we considered
28 while we were trying to answer this question about how well the report in question

1 adhered to quality assurance, almost all of them were not all addressed. And
2 specifically, some of the examples were that there were no administrative or procedural
3 standards of practice that were followed in this evaluation, or at least they weren't
4 identified if they were followed. No authoritative practice guidelines were followed or
5 cited. No information about how the practitioners monitor or measure their own
6 performance as evaluators was provided. There's no evidence that they were
7 appropriately licenced credentials or in good standing in their profession. It was hard for
8 us to figure out, and we still don't know whether the psychologist, who was one of the
9 report authors, is licenced or has good standing in the profession.

10 And then, finally, there was no identification of the rules or Code of
11 Conduct or legal procedures that might have been in place that they needed to follow.
12 They may have followed them if they were in place, but they weren't identified. So it's
13 impossible for us to evaluate how well they might have done so.

14 **MR. JAMIE VanWART:** Okay. And, Dr. Martire, I think when we
15 get into the next couple of categories, the opinion expressed and limitations and
16 assumptions of the assessment, with the opinion expressed you kind of ran into a little
17 bit of a moment where you had to reshape your questions?

18 **DR. KRISTY MARTIRE:** Yes.

19 **MR. JAMIE VanWART:** Andy you added some questions?

20 **DR. KRISTY MARTIRE:** Yes, we did.

21 **MR. JAMIE VanWART:** And perhaps you could explain how that
22 came to fruition?

23 **DR. KRISTY MARTIRE:** Yes. So our two-part process was set up
24 purposefully – sorry – so that we weren't retrospectively shaping our expectations
25 based on what we saw in the final report. However, in planning this, we did anticipate
26 that things would come up in reading the report that we hadn't anticipated, and that
27 would be worth raising. And a number of those things did come up in relation to
28 opinion-expression.

1 So it wasn't that these issues weren't sort of broadly considered or
2 were entirely unexpected to us, but we didn't have specific questions proposed in our
3 108 questions that addressed some of these issues. And so in the second part of our
4 report there's a new issue section which includes a few additional questions that helped
5 to clarify extra elements of opinion that we thought were important.

6 And so when we consider the compliance of this report in terms of
7 the opinion expression element, there were some examples of some of the best
8 practices that we saw. There were examples of the practitioners using objective
9 language, of providing definitions, of separating out facts from opinions, of clearly citing
10 their sources and provided their reasoning behind their opinions, but on balance and
11 overall, there were also very many examples where those things weren't done.

12 So there was a lot of use of emotive language. There were many
13 things that were said that were not cited either to scholarly literature or to the source
14 and collateral materials from which they were derived. There were many statements
15 which appear to be opinions which were not clearly differentiated from either
16 established facts or from statements or testimony from other participants or
17 interviewees.

18 There was a lot of certain language used to express conclusions,
19 so there were definitive statements about what the evaluatee or perpetrator meant,
20 believed or did and these statements are beyond what is scientifically supportable
21 where you're making conclusions about a person who is deceased.

22 So overall, although there were some examples that would be
23 considered partially compliant with the best practice, there was also very many
24 examples where opinion expression did not comply with best practices.

25 I think I'm also asked to speak about the next, which is...

26 **MR. JAMIE VanWART:** Yes, if you could.

27 **DR. KRISTY MARTIRE:** Yes, which is the limitations. So, again,
28 speaking in general terms, there was one paragraph in this report which I think was

1 repeated twice. It appeared in two places int his report which did include some places
2 in this report which did include some statement of the potential for weakness associated
3 with this report. It mentioned that the psychological assessment was a subjective and
4 deductive process, and that it might lead to the overall underestimation of the potential
5 for violence. So in line with our best practices, that is a statement that does attempt to
6 provide some indication of the limitations; however, overall, the implication of these
7 limitations and how they should be understood by the reader of the report was not made
8 clear, and there are also a number of limitations in relation to the eight best practices
9 were not explicitly discussed in the report. So in general, this report fell short in terms of
10 its compliance with limitations and assumptions, or at least the transparent disclosure of
11 those so somebody reading the report could make a critical evaluation of its contents.

12 **MR. JAMIE VanWART:** And perhaps I could turn to you, Dr. Neal,
13 to address the last two best practices.

14 **DR. TESS NEAL:** Yeah. The seventh best practice is alternative
15 use or disagreements. And in this particular psychological evaluation, it was almost
16 entirely not at all on this -- on this criterion that were trying to consider. So for example,
17 the report did not refer to any critical scholarship or authoritative commentary about the
18 type of assessment conducted, and it's relevant in this case because there is a lot of
19 critical scholarship and critical commentary about psychological assessments, I'm sorry,
20 about psychological autopsies and behavioural profiles.

21 The report did not consider implications of that critical scholarship
22 for the validity and value of their own report; they did not explain why there might be
23 differences between practitioners completing an assessment like this based on the
24 same information, and what that might mean for anyone, like why there might be
25 disagreement; and they didn't offer any alternative hypothesis or counterfactuals about
26 their interpretations that could be relevant to the case. And what that meant was that, in
27 consequence, a lot of the report had these very kind of conclusory statements that were
28 too strong for what they -- they were presented too strongly.

1 And then the eighth best practice is ethical obligations and codes of
2 conduct, how well someone adhered to those kinds of guides for professional
3 behaviour. In this case, because the authors didn't -- they weren't clear about what their
4 background was, what their professions were, what their training was, what their areas
5 of expertise were, because that wasn't provided in the report, it's not possible for us to
6 determine whether they adhered to their -- their own ethical standards in their field,
7 whether they adhered to the codes of conduct that might have applied for their
8 behaviour.

9 In different jurisdictions, there are particular codes of conduct,
10 including, for example, here in Nova Scotia, there is a clear code of civil procedure or
11 something, I don't remember the language, but we were bound to it in this report today.
12 And we were very clear in our report or were trying to be about how we adhered to that
13 because it was relevant to our practice in this case, so we would hope and expect to
14 see disclosures like that in reports, and there was none of that in this report.

15 **MR. JAMIE VanWART:** Yeah, I want to ask this next question. I
16 want to kind of maybe step back from this specific report and just sort of ask this more
17 in a general sense. But now that we've -- you've outlined your best practices and best --
18 in Part 1, and talked about your assessment of this particular report, you know, if we
19 step back, and I think it's used in a different context, but I think in your report you have
20 this line about, you know, psychologists should rise above the opinion of a bartender,
21 for example, but you -- the practice of psychology should offer answers to questions that
22 are scientifically based.

23 What are -- like, would you have concerns about documents or
24 reports that hold them out -- themselves out as -- like a psychological or scientific report
25 that aren't? Like, what concerns would that raise for you?

26 **DR. TESS NEAL:** I would say that psychology is, as a discipline, is
27 an imperfect science, that there is plenty of room for error and bias in what we do.
28 Therefore, to best approximate a scientific approach we can use the scientific method,

1 we can use scientifically-derived tools, we can -- we can do our part as psychologists to
2 get as close as possible to a scientific approach.

3 And in this case -- I don't remember if you asked specifically about
4 this case.

5 **MR. JAMIE VanWART:** Please continue with the answer, yeah.

6 **DR. TESS NEAL:** In this case, they didn't appear to do that very
7 well, I would -- I would say. I would say psychologists could do this, many psychologists
8 try to do this, others don't try to. We -- part of our mission, I think in our research roles,
9 is that we're trying to improve the quality overall of psychological evaluations and
10 empower consumers and systems to hold psychologists accountable to the quality of
11 their -- of their work.

12 **DR. KRISTY MARTIRE:** And I think it -- maybe the question was
13 sort of couched in more general terms, and I think what I would say in response to that
14 is that Dr. Neal is right, all sciences are imperfect sciences, and psychological science
15 is no different, and we are constantly evolving and researching and trying to make our
16 scientific practice as rigorous and reliable as we possibly can. And we would argue that
17 these best practices, and other best practices, are part of that process of moving
18 towards a better, more reliable form of our science., and so you would -- I would argue,
19 we would argue that you want to see people grappling with these issues of best
20 practice. They might not always be able to satisfy them, but they should be
21 transparently engaging with and discussing these issues so that the consumers of our
22 science can critically evaluate what we're presenting and determine if it is fit for purpose
23 and then make an appropriate decision about that.

24 **MR. JAMIE VanWART:** Okay. And I'm just about done. I just
25 want to ask you one more question, because I've tried to ask you a series of questions
26 to sort of walk through the -- this report that you've provided to the Commission.

27 But I just wanted to give you an opportunity if you had anything you
28 feel like I haven't given you an opportunity to share with the Commissioners and the

1 public, within the context of our discussion today and your identified expertise, I just
2 wanted to give you an opportunity to respond to that.

3 **DR. KRISTY MARTIRE:** So I think in the process of providing this
4 report, and distilling these eight best practices, I think I would just like to emphasise how
5 many people and authoritative organisations and critical scholars have pointed out
6 these issues and have flagged their importance. And I think it's important for the
7 profession and practice of psychology that psychologists are mindful of and aware of
8 these best practices, but also that consumers of our report hold psychologists
9 accountable to these best practices, and that they have an expectation that
10 psychologists will be doing their best to present the best evidence, and that includes
11 considering these factors.

12 **DR. TESS NEAL:** I also think, as I mentioned, part of our goal, I
13 think, with our careers is to improve the quality overall, and part of that is to offer tools to
14 help psychologists improve their work, but also to help the public and so forth. Like,
15 how do you hold a psychologist accountable? Like, we're trying to, I think, aim at that
16 question, even with the documents that we've provided in this case, so those 108
17 questions that turned into 117 questions, it's aimed at this -- at this -- at this goal.

18 So we might hope that if the -- if the Commission, in its process,
19 like sort of a forward-looking what are you -- you know, what's the -- what's the outcome
20 of a commission like this, our contribution to that forward-looking approach would be to
21 think about how a system might hold a psychologist accountable. If there are -- you
22 know, if systems are -- don't have processes in place to hold psychologists accountable
23 to the quality of their work, maybe they could. There might be a better way to sort of
24 require some best practice elements as part of a psychological assessment.

25 **MR. JAMIE VanWART:** Well, thank you, and thank you,
26 Commissioners. Those are the questions that I had for these two witnesses.

27 **COMMISSIONER MacDONALD:** Thank you very much, Mr. Van
28 Wart, and thank you, Dr. Neal and Dr. Martire.

1 The process we will follow now is, and this is we have been
2 following all along, we have a number of Participants and -- represented by counsel,
3 and they will meet with Mr. Van Wart and our Commission Counsel to discuss what, if
4 any, further questions there may be and who will be asking those questions. So we're --
5 we estimate, it's hard to estimate or hard to be too accurate, but we will break for half an
6 hour and if you need more time, Mr. VanWart can simply let us know. Thank you.

7 **REGISTRAR DARLENE SUTHERLAND:** Thank you, the
8 proceedings are now on break and will resume in 30 minutes.

9 --- Upon recessing at 10:40 a.m.

10 --- Upon resuming at 11:40 a.m.

11 **REGISTRAR DARLENE SUTHERLAND:** Welcome back, the
12 proceedings are again in session.

13 **COMMISSIONER MacDONALD:** Thank you, Mr. VanWart?

14 **MR. JAMIE VanWART:** Thank you, Commissioners, and thank
15 you for your indulgence while we had a witness counsel caucus. Three participant
16 counsel will be asking questions starting with Mr. MacLellan. So I would suggest we
17 ask the witnesses to return and we continue. And I expect we'll be able to complete the
18 questioning before lunch.

19 **COMMISSIONER MacDONALD:** Thank you very much. Yes, Mr.
20 MacLellan, whenever you're ready. And as always, perhaps those asking questions
21 could be kind enough to describe their retainer to the witnesses. Thank you.

22 **MR. JAMIE VanWART:** Welcome back and thank you again.
23 Three counsel will be -- three different counsel will be asking you some questions and
24 they will tell you who they represent as they approach the podium. Thank you.

25 **--- CROSS-EXAMINATION BY MR. MATTHEW MacLELLAN:**

26 **MR. MATTHEW MacLELLAN:** Good morning, Dr. Martire, Dr.
27 Neal; my name is Matt MacLellan along with my colleagues at Patterson Law. We
28 represent the majority of the victims' families and those individuals most affected by the

1 mass casualty.

2 I'm going to ask a number of fairly open-ended questions that I'd
3 like to frame off the start, just to add some structure to this.

4 I took from your questioning earlier this morning, there seems to
5 almost be a hierarchy of reliable and valid assessment methods when doing
6 psychometrics or psychological assessments. So we're going to drill down into that a
7 little bit, and then I'd also like to talk a little bit more about this comparison between a
8 behavioural profile as a psychological assessment in itself. That's broadly the two
9 categories we're going to discuss.

10 In your earlier – in your report and in your earlier testimony you
11 discussed the concepts of reliability and validity as they applied to psychological
12 metrics. For those of us who may not understand, could you maybe briefly define the
13 concepts of reliability and validity as they apply to assessments.

14 **DR. KRISTY MARTIRE:** Yes. So – these words are sometimes
15 used by different people to mean different things. So there are different definitions of
16 these terms.

17 A commonly accepted version of the definition of reliability is that it
18 consistently produces the same outcome, but a more colloquial use of the term might be
19 that it's "trustworthiness" or that it is trustworthy. So those two things aren't unrelated
20 but they're not exactly the same thing.

21 And in terms of validity, it's about whether or not a thing does the
22 thing that it claims it can do. So if you have a tool and it can validly predict an outcome,
23 when it says that outcome's going to happen, the outcome does happen and when it
24 says that outcome is not going to happen, then it doesn't happen. So it's able to
25 accurately predict.

26 **MR. MATTHEW MacLELLAN:** Is it fair to say that it takes a lot of
27 work to get to the point where you have developed an assessment and a methodology
28 that is in itself both reliable and valid? So I think – let me bring it back a bit.

1 An example might be say, the mini-mental status exam, something
2 that is a well-used assessment tool. My understanding is, that it takes a long time to get
3 to the point where this tool, you know, this set of questions we can now say this is
4 reliable; this is valid. Is that fair to say? That it takes a long time to get there?

5 **DR. TESS NEAL:** I would say, yes, that it fair, but I would also say
6 that a measurement or a tool or anything is not valid on its face or reliable on this face; it
7 depends on the context in which it's used. So it can be validated for use in a particular
8 context or with a particular type of person. And if it's used outside of that context for
9 which it was validated, then it's – then it loses that validation. Those properties that
10 made it valid in that context may not apply outside of that context.

11 **MR. MATTHEW MacLELLAN:** Okay, that actually gets into my
12 next question, is that you have this assessment, this metric – again, we'll use the
13 example of a questionnaire – it's not just the metric, but it's how it's applied and that it's
14 applied in reproducible settings will impact its reliability and validity; is that fair to say?

15 **DR. TESS NEAL:** I think so, yes.

16 **MR. MATTHEW MacLELLAN:** Maybe I can distill that down a
17 little bit better.

18 That there is a specific way in which it is applied will effect its
19 reliability and validity; is that fair to say?

20 **DR. TESS NEAL:** Yes.

21 **DR. KRISTY MARTIRE:** Yes.

22 **MR. MATTHEW MacLELLAN:** You had discussed structured
23 actuarial assessment as – now, what I understood is that these are the more structured;
24 we're going to have an interview and we're going to go through – this is the measure
25 we're using and the environment and the circumstances that is applied are structured
26 and we'll say, predetermined or best practices; is that fair to say?

27 **DR. TESS NEAL:** Yes. I should have made this point a little
28 clearer earlier, so I'll say there's three types of assessment. The first one I talked about

1 we can call No. 1, and that's the structured actuarial, that's the one you're talking about
2 here. And the key difference, the key to identifying whether something is a structured
3 actuarial approach, is whether it has math, basically, underpinning. So in the structured
4 professional judgment, that's type 2, that one also could have an interview or a checklist
5 or some kind of structure around it. So how you've just described it, it could fit either of
6 those, No. 1 or No. 2 categories. But the difference between No. 1 and No. 2 is whether
7 there is math or rules that really underpin how – like what a score means; is there a
8 score, what that score means; how it's normatively different or the same as other people
9 who would have taken that same tool. Whereas the number 2, that structured
10 professional judgment, you might still have a structured interview where you're
11 gathering the same information, but there's no math or rules about what you do with the
12 information once you have collected it.

13 **MR. MATTHEW MacLELLAN:** So you had mentioned the math,
14 and potentially you could have a numerical scale that comes out of an assessment.
15 Whether or not that – say somebody gets a score – on a one out of five they got a four.
16 Whether or not that is a useful score depends again on whether or not the metric was
17 itself reliable and valid and determined to be so; is that correct?

18 **DR. TESS NEAL:** Yes.

19 **MR. MATTHEW MacLELLAN:** And that's determined by things
20 like – we'll say "P" values, so whether or not this has been applied over a number of
21 individuals and determined that, yes, you know, this can be used for these purposes.

22 **DR. KRISTY MARTIRE:** I wouldn't make a close connection to "P"
23 values, so "P" values do have a special place in psychology and they are an important
24 part of how we determine if something has scientific significance or statistical
25 significance. But I think your point is really about whether or not you could take a tool
26 from one context that had been validated in a particular context or to be administered in
27 a particular way and then shifted into a different context, use it with different people, at a
28 different time point and expect it to behave in the same way. And the answer to that

1 question is you would not necessarily expect that. It could – it might; it depends what's
2 the differences between those two situations are, but if, for example, a tool has been
3 designed to be administered 1:1, face to face with a living person and it is then used to
4 retrospectively assess, based on case file information, somebody who is no longer
5 living, that has the potential to change the psychometric validity and reliability of
6 properties of that tool.

7 **MR. MATTHEW MacLELLAN:** Thank you, because that was -
8 you understood the question without me framing it properly. That was very much what
9 I'm trying to get to, this idea of you need to have a controlled environment and -- that the
10 test is met. It needs to be used in the way that it was meant to be used; is that fair, a
11 fair way to say it? Otherwise, you're going to lose some validity and some reliability.

12 **DR. KRISTY MARTIRE:** I was going to say, if you are using a
13 psychometric test, then yes, you definitely do need to be aware of those things.

14 **DR. TESS NEAL:** Also, I think we would say that it is -- it's
15 unreasonable to expect every testing situation is going to have a perfect environment, in
16 fact, it's reasonable to assume that there will be deviations from the ideal in most testing
17 situations. And that's okay, but it needs to be documented and it needs to be described
18 of how those differences deviate from the ideal and what that might mean for how you
19 should -- the validity of the, sorry, the quality of the report itself, the author should be
20 clear about that.

21 **MR. MATTHEW MacLELLAN:** So you had said it's preferable that
22 you are having that interview or that assessment with an individual with the subject
23 interview -- individual if they're alive as opposed to collecting information from other
24 individuals after the fact; correct?

25 **DR. KRISTY MARTIRE:** I would say it depends on the question
26 you're trying to answer and the approach that you're taking. So in general, questions
27 that are looking at past mental states or future mental states, questions where you don't
28 have direct access to the subject of your inquiry, these things are more difficult and

1 they're more error prone. You may or may not have appropriate tools for those
2 particular tasks, so it really just does depend on what you're attempting to do and what
3 materials or approach you're taking as to whether or not it's a good fit for purpose.

4 **DR. TESS NEAL:** It also depends on the tool itself. So some
5 tools, most tools I think we can say, are designed to be used with a particular person in
6 a particular context, often that's current state at time. Like for example, if you're thinking
7 about somebody going through an assessment to measure their IQ, their intellectual
8 quotient, for whether they're, you know, eligible for special education services or
9 something, in that kind of situation the evaluation is a current moment in time.

10 Other types of evaluations are designed, the math behind it and so
11 forth are designed to be used for collateral sources, for the person, not themselves. So
12 for example, in -- even in these special education determinations, part of the
13 assessment is having the parents sometimes fill out a report about how the child
14 behaves at home, whether they can do certain tasks and so forth. So that kind of tool is
15 designed, not for the person of -- well, it's about the person of interest, designed to be
16 filled out by somebody else, and not a face-to-face thing. So it also depends on the tool
17 and how it was measured or designed.

18 **MR. MATTHEW MacLELLAN:** Okay. So could you -- could either
19 of you maybe explain what the Goldwater Rule is? The Goldwater Rule.

20 **DR. TESS NEAL:** The Goldwater Rule?

21 **MR. MATTHEW MacLELLAN:** Yes.

22 **DR. KRISTY MARTIRE:** I could not.

23 **DR. TESS NEAL:** I have a vague understanding, but I'm not
24 comfortable enough to go on record about it.

25 **MR. MATTHEW MacLELLAN:** So I guess what we're getting is
26 that it really depends on the quality of the data and the -- and the tool in terms of what
27 the -- the value of the results depends on the quality of the data and the tool being used;
28 is that fair to say?

1 **DR. KRISTY MARTIRE:** Also beyond the tool. So the procedure,
2 or the process that was used. So there's not always a tool available so you can't always
3 expect that a tool will be used if one hasn't been designed. And so around that there
4 are choices that a practitioner might make about what collateral sources to look at and
5 how to take those into account and who to speak to, so that entire process can affect
6 how a -- how a decision is made and how much reliability or trust you can put in the final
7 outcome.

8 **MR. MATTHEW MacLELLAN:** Okay. I actually think those are all
9 my questions. I do appreciate your time, and thank you very much.

10 **COMMISSIONER MICHAEL MacDONALD:** Thank you,
11 Mr. MacLellan.

12 **--- CROSS-EXAMINATION BY MS. JANE LENEHAN:**

13 **MS. JANE LENEHAN:** Good morning. My name is Jane Lenehan,
14 and along with my colleague, Dan White, I represent the family of Gina Goulet. So she
15 was the last victim in the series.

16 So I'll acknowledge first off that my clients understand and I think all
17 of the family members understand that this document might never really have come to
18 light but for the process of this Inquiry and that disclosure process. So in the context of
19 this mass casualty, can you help us understand the potential benefit of a psychological
20 autopsy? And I'd like you to specifically address two stakeholders: the law enforcement
21 investigators and the victims' families.

22 **DR. TESS NEAL:** I think there's a few ways we could answer this,
23 and Dr. Martire might have a different response than I do. My first response would be
24 that there is a difference in principle versus in practice in -- even in this context. So in
25 principle, the idea of a psychological evaluation has potential value for understanding a
26 series of events, like that unfolded in this mass casualty, especially if such a -- an
27 assessment had adhered to best practices, like those that we described in our report.

28 In the context of this specific case, that particular report was -- it

1 wasn't clear that it was a psychological autopsy, as we mentioned before it was sort of
2 unclear what its purpose was, who its audience was, how it was going to be used. We
3 don't know -- we don't know what it was for or why it was produced or how it was relied
4 upon, and those pieces of information are really quite critical to determine the
5 usefulness of a -- of a -- of a report. So in this -- in this particular circumstance, I would
6 say we have some criticisms of that particular report and how it might have been used,
7 and depending on what kind of decisions might have been made based on that report,
8 and that there was room for improvement.

9 **DR. KRISTY MARTIRE:** So I think your question, I just want to
10 make sure I still have it, was about how would law enforcement maybe use this report,
11 could they benefit from it, and how might victims benefit from it? Was that right?

12 **MS. JANE LENEHAN:** Correct.

13 **DR. KRISTY MARTIRE:** And I think my answer here is that the
14 extent to which benefit can be derived I think is related to the degree of or lack thereof
15 compliance with the eight best principles, best practice principles, so it's hard to know
16 how you could really take this report. It didn't have clear conclusions that we could
17 identify, it didn't have clear messages, and it's not clear how much you can rely on the
18 content of it. So given that we don't know very much about the foundational validity or
19 the validity as applied, we don't know how bias was managed, though we can see there
20 was room for potential bias, we're not sure if was compliant with quality assurance, et
21 cetera, et cetera. Given all of these things, it's very hard to know what benefit either
22 police or the families could derive from it.

23 **MS. JANE LENEHAN:** All right. I'm going to ask this question, but
24 I think you might have already answered it, but just in case you have anything else to
25 add, and that is did the RCMP psychological autopsy deliver the benefit, the potential
26 benefits to either stakeholder? Do you have anything to add to that?

27 **DR. KRISTY MARTIRE:** I think we don't know what they were
28 setting out to deliver, either to families or to the RCMP. There was nothing in the report

1 that made it clear to us what product they were hoping to offer. So in part, we are
2 unsure the success to which they were able to achieve that because we don't know
3 what they were trying to do. But then if you sort of zoom out a little bit further, even if
4 they had explicitly stated what they were trying to do, given that there was low levels of
5 compliance with the best practices, it would -- it would be hard to feel confident that that
6 had been achieved.

7 **MS. JANE LENEHAN:** All right, thank you. So certainly for my
8 clients' family members, I think that this psychological autopsy offered, you know, a
9 possible explanation for why their family member was targeted. So my question to you
10 is can I safely advise my clients to disregard the report?

11 **DR. TESS NEAL:** I -- I'm not sure. I think that we have struggled
12 with this report. We have struggled with the voracity of the information in the report, the
13 reason the information is presented in the report the way it is. There's a lot to struggle
14 with in this report. That said, there is still potential value in some areas of it. So with
15 regard to this particular report, my answer is I don't know. I think you might advise that
16 if people do consume or read this report, that it is through the lens of some of the
17 criticisms that we have identified, that there might be some value to it, but also that
18 there is plenty of reason to approach with skepticism and caution. I would also say as a
19 kind of supplementary answer to that that a report like this could, in principle, be of
20 benefit. It could serve the interest of stakeholders, be it law enforcement or the families,
21 but it probably should have taken a different form to do so.

22 **DR. KRISTY MARTIRE:** In thinking about my answer to this, so I'm
23 also just going to check the question again, I think it was can you safely advise that it
24 should be disregarded, the ---

25 **MS. JANE LENEHAN:** Yes.

26 **DR. KRISTY MARTIRE:** And I think I would want to say that we
27 cannot know the accuracy of the content of this report. We did not conduct a -- we did
28 not attempt to repeat this analysis, nor could we have successfully done it if we tried.

1 There's not enough information in this report for us to have conducted the same
2 examination, so we don't know about the accuracy. It is possible that things in this
3 report are accurate. What we can say is that there is no information, or very little
4 information in there that would help us divine if it is accurate or not, because we don't
5 know about the foundational validity, or the validity as applied and all the other things. If
6 we had that information, we could make better estimates of how much faith your clients
7 should put in the report. As it stands, we have very little information to go by.

8 **MS. JANE LENEHAN:** Okay. Thank you. I just have one more
9 question. You talked about the categories of fully compliant, somewhat compliant, and
10 not at all compliant, and your realization that the next time around you would give
11 yourself more room in the middle. Are you able to offer the Commission an opinion on
12 where in that spectrum you would place this report?

13 **DR. TESS NEAL:** So let's define a scale.

14 **DR. KRISTY MARTIRE:** So if we were to talk not at all low, high,
15 completely compliant, maybe a four-point scale, where, you know, completely compliant
16 is everything is definitely addressed, and not at all is none of the above, and then you
17 might have somewhat but could have been better, and the next point would be it was
18 highly compliant. It did a pretty good job. I think I would be putting it on it had fairly low
19 levels of compliance.

20 **MS. JANE LENEHAN:** Okay. Thank you.

21 **DR. TESS NEAL:** I would agree with that, yeah.

22 **MS. JANE LENEHAN:** Thank you. Those are my questions.

23 **COMMISSIONER MacDONALD:** Thank you, Ms. Lenehan.

24 **--- CROSS-EXAMINATION BY MS. PATRICIA MacPHEE:**

25 **MS. PATRICIA MacPHEE:** Hi, there. I'm Patricia MacPhee,
26 Counsel for the Attorney General of Canada, along with my colleague Heidi Collicutt.

27 I'm just going to ask you a couple big picture questions here. What
28 was your mandate here? I mean, after reading your reports, it would seem that your

1 task was to look at the methodology that was employed in the psychological autopsy; is
2 that fair?

3 **DR. KRISTY MARTIRE:** So I have it written down. Without
4 referring to the specific wording of our referral, I think we were asked to speak about the
5 scientific basis for psychological autopsies and behavioural analysis. I think we were
6 also asked to draw on literature from forensic science and medicine where it was
7 relevant and psychology to derive eight best practices -- to comment on best practices
8 for these types of assessment, and we derived eight from that process. And then I think
9 in the second part we were asked to try to apply those best practices to a particular
10 psychological autopsy.

11 **DR. TESS NEAL:** If I could add a little comment to that. That is
12 what we were tasked with, but there was a little bit of us asking for that structure for the
13 part one and part two. When we were asked to do this evaluation, it was initially pretty
14 similar to what you described, to evaluate the quality of the report in question of the
15 psychological autopsy in question, and we wanted to do this two-part process, where
16 we said, first, can we be blinded to the information about the case? Can we think about
17 and do this thorough search and discussion of what the best practices would be, and
18 then have a look at the report, and write a second? So we were not asked to do the
19 two-part report initially. We asked for that process.

20 **MS. PATRICIA MacPHEE:** Okay. And so when I read your
21 reports, I gather that you -- in order to do this kind of comparison or evaluation to
22 forensic psychological reports, you kind of bring a psychological autopsy into that realm;
23 is that fair to say? So if you're going to compare this psychological autopsy to best
24 practices for forensic psychological assessments, they have to be in the same category;
25 right? Otherwise, we're comparing apples and oranges.

26 **DR. KRISTY MARTIRE:** We did have to think through how the
27 psychological autopsy would fit within our conceptualization of best practices for
28 forensic psychological assessment. We had to satisfy ourselves that these forms of

1 assessment did fit definitions of forensic science and forensic psychological
2 assessment.

3 **DR. TESS NEAL:** I would agree with that.

4 **MS. PATRICIA MacPHEE:** Okay. And from your report, I think
5 you came up with 108 questions that you asked in assessing essentially the
6 methodology employed. Where did those 108 questions come from?

7 **DR. TESS NEAL:** We developed them. They came in part. They
8 were -- I don't know if derived from is the right word, but they were similar in some ways
9 to a previous project that Dr. Martire and other colleagues had done to evaluate the
10 quality of forensic science evidence and not forensic psychology evidence necessarily.
11 And so we adapted some of those questions that had been identified for forensic
12 science into forensic psychology, the consideration of the quality of forensic
13 psychological evidence.

14 **DR. KRISTY MARTIRE:** We were also thinking about what are the
15 concrete examples or indicators that we know from our profession, so what are quality
16 assurance methods, and what are biased mitigation strategies, and what are methods
17 for establishing foundation or validity, or validity as applied, and we thought about what
18 are those concrete things, and then we tried to establish a question that asked you to
19 look for those things. So it was a set of questions that were derived on -- were based
20 from our expectations and knowledge of the ways that a practitioner could show this
21 best practice.

22 **MS. PATRICIA MacPHEE:** Okay. So just if I'm getting that right, it
23 was a novel approach, essentially ---

24 **DR. KRISTY MARTIRE:** Yes.

25 **MS. PATRICIA MacPHEE:** --- right, based on your experience in
26 the area of forensic psychological assessments. Okay. So it's not a standard approach
27 to assessing a psychological autopsy by any means that you're aware of?

28 **DR. TESS NEAL:** It didn't come from nowhere, so it's not novel in

1 that ---

2 **MS. PATRICIA MacPHEE:** No.

3 **DR. TESS NEAL:** --- sense, but it is novel in the sense that, yes,
4 this particular way that we pieced it together is we pieced it together this way.

5 **MS. PATRICIA MacPHEE:** Okay.

6 **DR. KRISTY MARTIRE:** And it does have elements of
7 standardization. So we have explicitly described each of the items that we're assessing.
8 We have explicitly described our criteria for what each of our classifications are. And
9 we then went through a process of validating that set of criteria by independently
10 completing our assessments, by conducting analyses of our agreement in those
11 assessments, documenting where there were disagreements, documenting how those
12 disagreements were resolved. So all of that is standardization that another -- we could
13 use again a second time in order to look at the repeatability of our approach. It's also
14 something an independent set of examiners could follow to the best of their abilities,
15 and we would find out, if they were to do that, if it were reproduceable. So it's not a
16 psychometric tool in the sense that the PCLR or other things are psychometric tools, but
17 it is a standardized approach in that it has those features I've described.

18 **MS. PATRICIA MacPHEE:** Okay. And have either of you in your
19 experience ever engaged in a similar project, and that being providing and analysis or
20 an opinion on a psychological autopsy?

21 **DR. KRISTY MARTIRE:** I have not, in a context like this, ever
22 been asked to provide an opinion on a psychological autopsy before.

23 **DR. TESS NEAL:** I've not either.

24 **MS. PATRICIA MacPHEE:** Okay.

25 Do either of you have any previous experience performing
26 psychological autopsies?

27 **DR. KRISTY MARTIRE:** I've never conducted a psychological
28 autopsy.

1 **DR. TESS NEAL:** I've conducted other kinds of forensic
2 psychological evaluations, but not a psychological autopsy.

3 **MS. PATRICIA MacPHEE:** Okay. Do you know what kind of
4 training might go into someone who's going to perform a psychological autopsy? I
5 mean, you do talk a bit about it in your report, but maybe you could just summarize it for
6 us here. Essentially, who does psychological autopsies, based on your knowledge?

7 **DR. KRISTY MARTIRE:** So a lot of different groups of people do
8 psychological autopsies, and I think we mentioned some of those groups. So are we
9 talking about psychological autopsies rather than behavioral analysis, or are we talking
10 about this particular document?

11 **MS. PATRICIA MacPHEE:** Well, we can talk more about that as
12 we get on.

13 **DR. KRISTY MARTIRE:** Okay.

14 **MS. PATRICIA MacPHEE:** But we were talking about what's
15 termed and what's titled.

16 **DR. KRISTY MARTIRE:** Yeah.

17 **MS. PATRICIA MacPHEE:** And I'll use the title, a psychological
18 autopsy, in this case.

19 **DR. KRISTY MARTIRE:** Yeah. So if it were traditional
20 psychological autopsy, something that we wanted to clarify in earlier evidence as well is
21 a little bit about where those psychological autopsies historically have come from. And
22 they do have a background in, sort of, epidemiological research, where people are
23 taking large data sets and trying to derive general principles, or rules, or understandings
24 of some of the factors that might contribute to people dying by suicide. That's kind of
25 part of where it comes from. But then you will also have people who are trained in
26 psychology, so there are population health people and I'm not sure if you can think of
27 any others.

28 **DR. TESS NEAL:** Yeah, I think it's mostly psychologists. I know

1 psychologists and forensic psychologists who offer these services. I think it's a fairly
2 rare referral question, so there aren't that many people in any discipline who are doing
3 this as compared to other more common referral questions. But there are certainly
4 psychologists who have done these kinds of cases.

5 **MS. PATRICIA MacPHEE:** And I don't know if this is within your
6 area of expertise, but I'll just ask it. Are you aware of policing agencies doing
7 psychological autopsies in cases such as this where you have a deceased perpetrator
8 who may have committed other homicides before, you know, being killed or dying by
9 whatever means?

10 **DR. TESS NEAL:** I'm not aware of any. I can imagine that it would
11 be useful, so in principle it would be useful. So I can imagine that it might be done, but
12 I'm not aware of any specific cases.

13 **DR. KRISTY MARTIRE:** I can't think of an explicit example either,
14 but it doesn't strike me as something that would be unusual. I can imagine that it would
15 happen.

16 **MS. PATRICIA MacPHEE:** And just to clarify, because we're
17 talking about policing agencies who might be engaging in psychological autopsies, that
18 wouldn't really be within your sphere of expertise, would it? Knowing who's doing
19 psychological autopsies if they're being done by policing agencies?

20 **DR. TESS NEAL:** This is -- this is an issue that we grappled with in
21 the report. So we do address this specifically in the report, and that is that if a
22 professional, including a law enforcement officer, or somebody who is practicing the
23 techniques of a psychologist, it doesn't matter if they're working in a police agency, or if
24 they were working in more, you know, outside of a police agency. If they're doing the
25 work of a forensic psychologist, then the rules should apply. It shouldn't matter where
26 they work, the rules should apply is what I think we -- how we grappled with this and
27 where we ended up with the end of our report.

28 **DR. KRISTY MARTIRE:** So I think I would elaborate a little bit.

1 Where you are relying on the credibility of the science, or the norms, and values, and
2 esteem of science, as you might infer from being a member of a behavioral sciences
3 unit, or as you might infer from somebody calling themselves a psychologist, then you
4 would need to adhere to the scientific best practices that go with behavioral science and
5 psychology.

6 **MS. PATRICIA MacPHEE:** And if I am understanding here, when
7 we talk about a psychological autopsy, and again I'm talking about in the context of the
8 report that you asked to review, when we're looking back -- it's retrospective, on the
9 actions or motivators of someone who is now deceased; correct? And I think that
10 you've reviewed the report, so you know that it was based on a review of the
11 investigative file; correct?

12 **DR. KRISTY MARTIRE:** We know what was stated in the index of
13 the psychological autopsy document, it wasn't necessarily always clear to us how those
14 documents were accessed, where did they come from necessarily.

15 **MS. PATRICIA MacPHEE:** Okay.

16 **DR. KRISTY MARTIRE:** I think that was not always clear.

17 **MS. PATRICIA MacPHEE:** But you understand that, you know,
18 these were documents that they had access to in the investigative file; correct?

19 **DR. KRISTY MSRTIRE:** Yes.

20 **MS. PATRICIA MacPHEE:** Okay. So given that, would you say
21 that having investigative skills, given the very nature of doing a retrospective analysis,
22 would be significant?

23 **DR. TESS NEAL:** I didn't hear the last part of your original
24 question in this line, can you ask the first question again?

25 **MS. PATRICIA MacPHEE:** I don't know if I remember either.

26 **DR. TESS NEAL:** (laughter) Sorry.

27 **MS. PATRICIA MacPHEE:** I was asking -- I guess I'll skip to this
28 and maybe I'll remember it coming back. But I'm wondering if given the very nature of a

1 psychological autopsy, we are reviewing retrospective factors that may have motivated
2 or influenced someone to commit an act, or to commit suicide, as the case may be, and
3 so by its very nature we're looking, were doing an investigation; fair to say? Because
4 they are no longer here with us, so we can't meet with them and apply maybe the
5 psychological rigor that you would if you were doing a behavioral analysis?

6 **DR. TESS NEAL:** There -- there is investigation, I don't know that I
7 would say it's not psychological though. I would still say that it's ---

8 **MS. PATRICIA MacPHEE:** Would you say that it's both? Because
9 you have to investigate obviously because the person is no longer here, so you can ask
10 the question, so you have to do an investigation to determine these factors because you
11 can't ask the questions; is that fair?

12 **DR. TESS NEAL:** That is -- that is true. But also, there are
13 psychological evaluations, there are other well-established types of psychological
14 evaluations where you do a retrospective evaluation and sometimes you don't always
15 have good quality information from the person of interest. Like for example, insanity
16 types of evaluations, that's a very well-established kind of bread-and-butter type of
17 forensic psychological evaluation that is retrospective in nature, because you're doing
18 an assessment of the person's mental state at the time of an alleged offence, and
19 oftentimes the person is not well at the time of the evaluation and requires that -- the
20 same issues. It requires a retrospective, it requires interviews by proxy with other
21 people who were around, or witnesses to the person's behaviors and possible state of
22 mind at the time, requires archival information, and so these problems are not unique to
23 this particular type of evaluation.

24 **MS. PATRICIA MacPHEE:** Exactly. The point being that having
25 some investigative skills is significant when you're doing this type of retrospective
26 analysis; fair?

27 **DR. KRISTY MARTIRE:** I would say that that's a point that needs
28 to be established empirically, so that we did review some literature in relation to

1 psychological autopsies and behavioral profiling which was trying to explore the issue of
2 whether there were particular people with particular sets of skills who appeared to be
3 better at this particular task, and that did include law enforcement personnel who, I
4 would assume would have some investigative experience. And on the whole, it was
5 unclear that having had investigative experience was sufficient to equip someone to do
6 this in a way that was empirically, materially, or better in a documented sense. So it
7 may be useful.

8 **MS. PATRICIA MacPHEE:** Right.

9 **DR. KRISTY MARTIRE:** But we didn't find evidence to suggest
10 that it was.

11 **DR. TESS NEAL:** I have a follow up that I think is in the spirit I've
12 your question. I think the psychological autopsies are different than behavior profiles.
13 And behavioral profiles I think, maybe are -- an investigative background and a law
14 enforcement situation maybe more well suited for a behavioral profile, even more so
15 than a psychological autopsy, and that's because of the way those evaluations might be
16 used. They are used to generate investigative leads, to generate a subject pool of
17 possible -- of who the offenders might be, and that referral question, the reason why it's
18 asked in the first place, is a very law enforcement relevant question, and therefore it
19 makes sense that that kind of work might be done in the context of a law enforcement
20 agency or something like that. A psychological autopsy is a tougher one with regard to
21 these questions.

22 **MS. PATRICIA MacPHEE:** Okay. I know that you've noted in your
23 report that you only had the psychological autopsy in order to prepare your Part 2,
24 essentially; correct?

25 **DR. TESS NEAL:** Yes.

26 **MS. PATRICIA MacPHEE:** So you didn't have the file material or
27 access to the investigative file deliberately?

28 **DR. TESS NEAL:** Right.

1 **MS. PATRICIA MacPHEE:** Correct. I think you mentioned in your
2 report you had some other information about this file?

3 **DR. KRISTY MARTIRE:** We had brief conversations with
4 Members of the Commission to help us scope our report, and in those conversations,
5 we were clear that we did not want collateral information. I don't know what information
6 you think we might have had access to, but it was very limited brief conversations to
7 give us some sense of that an event had transpired, but until we saw this report, we did
8 not know how many perpetrators or victims were involved; we didn't know where it took
9 place; we had very little information.

10 **MS. PATRICIA MacPHEE:** So what information, that additional
11 information, did you obtain to scope out your report? What was helpful to you in that
12 regard?

13 **DR. KRISTY MARTIRE:** So we didn't seek any information about
14 this case to scope out our report; we were being – we were told that there was a
15 psychological autopsy of interest and we were being asked to comment on the scientific
16 basis of this psychological autopsy and to speak about best practices. And knowing
17 that that's what they were looking for from us, we said we don't want to know about that
18 psychological autopsy until we do part 1, we don't want to know anything about the
19 other facts of the case. So we knew very little.

20 **DR. TESS NEAL:** We also – I don't remember if we put this on the
21 open science framework , but we wanted to be clear about this process and who we
22 spoke to, when we spoke to them, what we knew when, and we had, I think, maybe two
23 or three conversations, fairly short conversations during the referral process when we
24 were being asked to do this evaluation. And we documented that and we can make it
25 available if it's not already on that website. But we do have that. And we had access to
26 no other documents and the conversations we had, we deliberately asked the person
27 who referred this case to is, not to tell us the specifics.

28 **MS. PATRICIA MacPHEE:** Okay. I know the document that we're

1 talking about here today is called – we talked about this earlier or you talked about it
2 earlier, a “psychological autopsy”, and you had raised some concerns. Was this a
3 psychological autopsy? Does it meet the definition?

4 What if it would have been called a “post mortem analysis”, for
5 example? Would that change your view of this?

6 **DR. TESS NEAL:** I don’t think it would have changed mine. And
7 part of the reason is that – and part of the difficulty we had with this assessment, is that
8 we don’t – you need to know what the question was and who the audience is supposed
9 to be and how it’s going to be used. Those are critical pieces of information to even
10 really be able to consume a report. And so I don’t think – the problem’s not that it was
11 called a “psychological autopsy.” I mean that is a problem but it’s not “the” problem.

12 And so I think the problem is that it wasn’t clear about what it is,
13 what it was for, how it was to be used, and that is the underlying – the bigger issue.

14 **MS. PATRICIA MacPHEE:** Okay.

15 **DR. KRISTY MARTIRE:** And I think I would agree, that the term
16 itself isn’t important. Post mortem analysis may be a term; there are many terms that
17 are used to describe things of this ilk; so it could reasonably have been called that, but
18 then when you look at the actual document and what it describes it’s trying to do, which
19 is quite diverse and it’s not precise. It includes descriptions of things that align with
20 psychological assessments. So we’re talking about past mental states; we’re talking
21 about future risk. We’re talking about helping people to understand how these events
22 transpired and what might have contributed to them based on inferences about the
23 perpetrator’s mental state and well-being. So all of these things are psychological
24 questions whether the term “psychology” appeared in the title or not.

25 **MS. PATRICIA MacPHEE:** Just because we’re talking about it;
26 you both mentioned this several times about the lack of clarity with respect to the
27 purpose of the report or what questions are answered. So you both had the benefit of
28 the psychological autopsy for the purposes of this. So I know this has not been – this

1 has been exhibited, I should say, but it's not going to be pulled up and it's not going to
2 be on the website. But when I look at the psychological autopsy at the very beginning
3 of that, at page four, can I read it from you – read it to you and do you have the
4 psychological autopsy before you?

5 **DR. KRISTY MARTIRE:** The complete autopsy?

6 **DR. TESS NEAL:** This has the summary.

7 **MS. PATRICIA MacPHEE:** It's not that, so I'll just explain it to you,
8 but I'm just relying on your memory here, and trust me that this is coming from the
9 psychological autopsy.

10 **DR. KRISTY MARTIRE:** Sure.

11 **MS. PATRICIA MacPHEE:** This is the beginning of it. And it says:
12 “In policing, the value of the psychological autopsy can be to assist
13 in the determination of the mode of death as well as the
14 contributing factors that determine the why, why now, why in this
15 manner. This diligent process includes interpersonal, effective and
16 behavioural characteristics and detection of patterns that are
17 consistent with personality disorder and/or mental illnesses.”
18 And I'm just going to skip to the bottom of that paragraph:
19 “By articulating the observable pre-attack behaviours in each case,
20 we hope to make these warning signs more easily identifiable. We
21 would advise caution in the context of this report. We in no way
22 want this document to draw attention to the perpetrator of this
23 violence. Finally, the assessment provides the reflective analysis
24 necessary to gain information in assessing and predicting future
25 violence.”

26 Does that tell you what the purpose of the report is?

27 **DR. TESS NEAL:** That tells us the purpose of the report, but it
28 does not – if a psychologist was the author of this report, then the psychologist – and

1 there was; on the front of the page of the report the first author claims to be a criminal
2 psychologist – which is – we could speak about that at some point if that's of interest.

3 But given that the first author claims the title of a psychologist, then
4 the author has an obligation to do psychology in the way that psychology can be done.
5 And so psychology has developed; some earlier questions were about, doesn't it take a
6 long time, a lot of effort to establish a methodology that can be useful and trustworthy to
7 answer a particular question? And there is truth in that. So psychology has developed
8 methods to answer particular questions but there are particular questions that
9 psychology can answer. And those questions, some of them could maybe be answered
10 but they are not phrased or framed in a way that is aligned well with what psychology
11 can do. And that's part of the problem.

12 And by that I mean...

13 **MS. PATRICIA MacPHEE:** I'm going to let you speak, sorry, but I
14 was just going to say, and by that do you mean, just before I lose the point, that it's not
15 aligned with best practices for forensic psychological assessments? Because that's
16 really the focus of this report, right? We're comparing, you know, the work done here
17 and achieving the – and trying to answer or provide information of the why, why now,
18 why in this manner?, that that approach is not aligned with the psychological approach
19 used for forensic psychological assessments.

20 **DR. TESS NEAL:** It is not aligned with best practices of
21 psychological assessments in general, nor psychological assessments, specifically in a
22 forensic context. Our report is largely targeted around rigorous best practices for
23 forensic psychological assessments, but those are – I don't think any of them are
24 unique to forensic. I don't want to necessarily say that specifically, but largely those
25 best practices are consistent with psychology as a discipline, and the author here is a
26 psychologist. So the framing of whether this, you know, is definitely a forensic
27 psychological assessment or not, I think is, in my opinion, is a little – it's a psychologist
28 writing the report and there are best practices in psychology. Our report speaks to

1 those definitely within the context of forensic psychology, but also they're relevant to
2 psychology more broadly.

3 **DR. KRISTY MARTIRE:** So I think what you might be getting at in
4 your question is, that there are these statements that seem to be clearly saying, you
5 know, what they've tried to do in this report. And I think when you look carefully at the
6 wording that is used in that statement, it doesn't say that this psychological autopsy is
7 attempting to do those things; it says that psychological autopsies intend to do those
8 things.

9 So on one level, there's a level of abstraction that makes it hard to
10 work out if what they are trying to say is that their psychological autopsy is trying to do
11 these things or if psychological autopsies in general. So it says "the psychological
12 autopsy". And when police do these things, that is the purpose that they serve. And so
13 it's unclear if that should be understood as psychological autopsies in general or this
14 one, in particular.

15 And then when you drill further, it describes a lot of desperate aims.
16 So it's talking about looking backwards and understanding or describing what might
17 have led to the critical incident. It talks about identifying lessons or signs or observable
18 behaviours that could help avoid or predict future possible issues. And part of what we
19 are saying, is that these are a co-mingling of different types of assessment, and that if
20 you were to be attempting to do any one of those things, they might have different
21 audiences; you might have different approaches for dealing with them, you might have
22 different standardised tools and things that you would use. And so we -- our confusion
23 and our struggle comes because this -- what is described is multiple purposes, and the
24 approach that is taken doesn't seem fit for any one of them necessarily, the audience
25 doesn't seem clear. It's a -- it's a mix, and that -- that's what makes it hard, I think, for
26 us.

27 **MS. PATRICIA MacPHEE:** Right. And can I ask you a question
28 about that, because I can understand how that would be hard because you only had the

1 psychological autopsy. And I gather from what you're telling me that you didn't ask or
2 you were provided with the information. Like do you know what the purpose or who the
3 intended audience was of the psychological autopsy?

4 **DR. KRISTY MARTIRE:** It remains unclear to us exactly what the
5 psychological autopsy was intended for; however, we would expect from any rigorous
6 psychological assessment that there would be some clear declaration who the intended
7 audience is and what the purpose would be, and when there are multiple stated
8 purposes that would be appropriate for multiple intended audiences, on the face of it we
9 can't describe ---

10 **MS. PATRICIA MacPHEE:** Okay.

11 **DR. KRISTY MARTIRE:** --- we can't derive what they meant.

12 **DR. TESS NEAL:** That rule, that expectation that it should be
13 clear, is a very fundamental rule, an ethics guideline as well in psychology that you have
14 to make clear in your report, in the report, what its purpose was, what's the question
15 you're trying to answer. That should be in the report. Whether it's a forensic report or a
16 psychological autopsy, or whatever it is, if it's a psychological evaluation, that should be
17 in the report.

18 **MS. PATRICIA MacPHEE:** And the part that I just read from the
19 forward of this report doesn't give you any further guidance on that. That it was to
20 answer the why?, why now?, why in this manner?, and that the purpose of it is a
21 reflective analysis to gain information in assessing and predicting future violence?

22 **DR. KRISTY MARTIRE:** I think, as we have already answered it in
23 some ways, that these are two different things and that the material that ensues is not
24 clearly attached necessarily to those multiple different aims, so it's unclear how the
25 information might relate to each of those different purposes, and it's unclear how that
26 would then lead to conclusions and recommendations that serve those aims and then
27 how we would assess the success of those things. So because we're not entirely
28 certain which pieces of information relate to which of these questions, it's very difficult

1 for us to get a sense of how successfully it was done because the logic is difficult to
2 follow, so it just flows through from the beginning.

3 Though there -- I think that there is a version where that statement
4 could have translated into a very clear set of -- a clear report and a clear set of
5 conclusions and a description of a clear methodology, but this one doesn't.

6 **MS. PATRICIA MacPHEE:** And just to make this point: Wouldn't
7 that depend on who your audience was? I mean, let me just point -- let me make this
8 clear, because obviously you were unaware of, you know, who the audience, intended
9 audience of this report was, would it -- would it impact that to know that -- what if this
10 was an internal report, just for information purposes for the police? They requested or
11 were offered, who knows, let me just -- let's take the hypothetical, a psychological
12 autopsy for information purposes. Would that ---

13 **DR. KRISTY MARTIRE:** So if ---

14 **MS. PATRICIA MacPHEE:** --- impact your analysis?

15 **DR. KRISTY MARTIRE:** If I were asked as a psychologist to
16 create a document that was a psychological assessment, whatever form it was -- it was
17 called, if I was being asked to complete a psychological assessment I would want to do
18 that psychological assessment in line with best practice, and it would be tailored to my
19 audience, but it would still comply with best practice.

20 **MS. PATRICIA MacPHEE:** Okay.

21 **DR. TESS NEAL:** I would agree with that. I do think it does matter
22 who the audience is. And so if this were an internal document and it was designed to
23 make some kind of internal decision, then, yeah, that probably would -- it would matter
24 what form the report took. That said, a psychologist has an ethical obligation to do at
25 least the bare minimum that psychologists are required to do. And this is a psychologist
26 authoring this report, and that psychologist had an obligation to follow the ethical rules
27 that a psychologist would follow.

28 I also wanted to note that, with regard to the referral question and

1 the language on that first page, it -- I think the report does attempt to provide some
2 structure and answer for what it tried to do, and that language that you highlighted I
3 think is the clearest part in this report that tries to outline that. But then the report
4 doesn't necessarily do even what that says it does. So there's -- there is a part in there
5 that's a behavioural profile, it's labelled as a behavioural profile, there's a lot of content
6 in this report that is consistent with what a behavioural profile would look like. And so
7 even though that's not mentioned at all in the -- a retrospective behavioural profile,
8 which is another sort of mixing of different types of things. So there is -- yeah.

9 **MS. PATRICIA MacPHEE:** And I think this ---

10 **DR. KRISTY MARTIRE:** Can I ---

11 **MS. PATRICIA MacPHEE:** Oh, go ahead.

12 **DR. KRISTY MARTIRE:** I just wanted to add one other thing. So
13 I'm just trying to put myself in the position of somebody who might be preparing an
14 internal document. I think the best practices that we're describing are fundamental to
15 understanding the value of the types of content that's in this report. So I don't think it
16 would matter to me whether I was communicating with my colleague, Dr. Neal, whether
17 I was communicating with police officers or whomever, it is my opinion, and that's the
18 opinion that's in our report that you can't understand what I'm saying and you can't
19 make sense of what I'm saying unless I try to give you information about validity,
20 reliability, and the other best practices that are described. And so while I agree that the
21 audience does matter, and I might have approached it in a different way, I think these
22 are fundamental requirements for helping someone to make sense of that, whoever that
23 person is.

24 **MS. PATRICIA MacPHEE:** Okay, and I think that brings us back to
25 the foundation of this report, and it's the premise that the psychological autopsy should
26 be subject to the type of rigour that applies to a forensic psychological assessment;
27 correct? That's what we've concluded.

28 **DR. TESS NEAL:** That's our opinion, correct.

1 **MS. PATRICIA MacPHEE:** Yes, fair enough. And you've
2 determined, for the purposes of this report, that a psychological autopsy is in fact a type
3 of forensic psychological assessment; correct?

4 **DR. TESS NEAL:** Yes.

5 **MS. PATRICIA MacPHEE:** Okay. And you base this conclusion
6 on your opinion, and I'm quoting now from your -- Part 1 of your report.

7 **DR. TESS NEAL:** Sorry, can I go back and clarify that last answer
8 about the psychological autopsy necessarily being a forensic psychological evaluation?
9 It is not -- so there could be a psychological autopsy conducted that's not a forensic.
10 Forensic is specifically that it -- a psychological evaluation is done to answer or help
11 resolve some legal question, but there are instances where a psychological autopsy
12 might be done that's not relevant to a legal issue, in which case it would be a
13 psychological evaluation, but not a forensic one.

14 In this case, depending on -- it probably was a forensic
15 psychological evaluation in this case.

16 **MS. PATRICIA MacPHEE:** Thank you. And it's good that you
17 make that point because in, I think it's Part 1 of your report, which is COMM003479, at
18 paragraph 3, it's page 8 of your report, you make the conclusion that a psychological
19 autopsy is a forensic psychological assessment on the basis that it meets the definition,
20 and this is in paragraph 3, page 8, it meets the definition because it aims:

21 "...to retrospectively assess the role of psychological
22 factors in the equivocal death of an individual that is
23 of legal interest. "

24 That's how you define it; correct? Okay.

25 **DR. TESS NEAL:** Yeah, in retrospect.

26 **MS. PATRICIA MacPHEE:** Well, let me ask you, because I'm
27 curious about this, what does a "legal interest" mean, that the person is of legal
28 interest?

1 **DR. KRISTY MARTIRE:** I think it's quite a broad use of language,
2 and we talk about what forensic means in the terms of a forensic psychological
3 assessment, and we give various examples, including administrative context, civil and
4 criminal context, inquiries, tribunals, and various things. So I think that that language
5 we were trying to capture, where people have a matter of legal interest to resolve, some
6 legal party is interested in the outcome of this particular ---

7 **MS. PATRICIA MacPHEE:** Right. And so if I'm reading your
8 rationale here, that condition, that be "of legal interest", we have acknowledged that it's
9 a big vague, you need that, though, to bring it into the realm of a forensic psychological
10 assessment, correct, given the definition of a forensic psychological assessment?

11 **DR. KRISTY MARTIRE:** Yes, and I think something that's been
12 done by law enforcement in the context of a law enforcement inquiry would fit within our
13 broad definition of legal interest.

14 **DR. TESS NEAL:** Yeah, and this paragraph, this paragraph 3 that
15 we're looking at, follows on from a paragraph right before it, that it builds on the
16 paragraph before that does say in this context.

17 **MS. PATRICIA MacPHEE:** Right. And since we're in -- and we go
18 -- you've defined some of these terms in your glossary as well. In the glossary, at
19 page 4, you define, and you've told us about it today, what a forensic psychological
20 assessment is. It's:

21 "A form of Psychological assessment undertaken in a
22 legal context to address legal, contractual, or
23 administrative matters."

24 And I think you've defined that at page 4 of Part 1 of your report.

25 And if I track through your report, that definition comes from the
26 American Psychological Association is that correct? Is that what EPA stands for?

27 **DR. TESS NEAL:** Yes.

28 **MS. PATRICIA MacPHEE:** And I think you've referenced that at

1 paragraph 21, page 19, footnote 32. So that's where that glossary term, so that legal
2 context is significant?

3 **DR. TESS NEAL:** Yes.

4 **MS. PATRICIA MacPHEE:** Okay. And then at page 5 of your
5 glossary, you define a psychological autopsy as,

6 "A method used to clarify mode of death in equivocal
7 cases by investigating psychological factors
8 surrounding the death [of] the deceased."

9 That's how it's defined in your glossary. And it seems that that
10 definition comes from the literature as well, and I'm not going to try and read out the
11 entire site, but it is at paragraph 29, at page 24 of your report, footnote 59. So again,
12 that definition is not something you've come up with individually. You've researched
13 and that's the definition of psychological autopsy.

14 Let me -- I'm going to bring you back to paragraph 3 of your report
15 then, because then you define a psychological autopsy differently by adding that the
16 person is of legal interest. Why would you add that condition?

17 **DR. TESS NEAL:** My answer would be that, in retrospect, that
18 shouldn't be there. That a psychological autopsy is not necessarily in -- like any
19 psychological evaluation is not necessarily a forensic evaluation. It becomes forensic
20 when it is relevant to answer some kind of legally motivated question.

21 **MS. PATRICIA MacPHEE:** Right. And that's ---

22 **DR. TESS NEAL:** Same thing ---

23 **MS. PATRICIA MacPHEE:** Sorry.

24 **DR. TESS NEAL:** --- same thing with psychological autopsies. In
25 this case, and as we were writing about it in our opinion, I guess we were -- that
26 sentence is coloured by us knowing that this is a forensic context, but it's not specific to
27 forensic necessarily.

28 **MS. PATRICIA MacPHEE:** And that's an interesting point that you

1 just hit on there; right? Because you've added that portion to the definition that the
2 person is of legal interest because of your belief, and I'm going to throw out one of your
3 terms, a bias that this psychological autopsy was done for a legal purpose, for this
4 Commission perhaps; is that fair?

5 **MS. KRISTY MARTIRE:** So we didn't know if the psychological
6 autopsy was going to be admitted in a legal context. We -- my scholarship is largely
7 surrounding expert evidence in legal context, so that's where my -- a lot of my expertise
8 lies. But we did explicitly declare in a few places in the report, and I'm sorry, I can't
9 point you to those exactly, but we said something along the lines of we are not sure if
10 this particular report is forming a basis of evidence in a legal context. And we said that
11 to the extent that it's not, different adjustments may need to be made. So we -- I think
12 you have pointed out that we came to this with experience and knowledge about expert
13 opinions and psychological opinions in specific resolution of legal matters, but we did
14 explicitly disclose that we -- we're not sure and we weren't sure about this particular
15 one.

16 **MS. PATRICIA MacPHEE:** Yeah. And that's fair.

17 **MS. KRISTY MARTIRE:** Yeah.

18 **MS. PATRICIA MacPHEE:** Because I'm getting at is that your
19 definition -- well, it's not really your definition. It's the AP's definition of a forensic
20 psychological assessment, it really focusses on the purpose of the assessment. And
21 you've talked about, you know, the purpose of that is when people are drawing
22 administrative decisions, legal decisions, those types, that it's really important that that
23 be reliable if we're asking someone else to rely on this to make a decision; fair? So
24 that's where the rigour comes in. If we're going to ask a -- if we were going to ask these
25 Commissioners to make a decision, a finding of fact based on, let's say, a psychological
26 assessment, psychological autopsy, we would expect it to meet the standards that
27 you've set forth; fair?

28 **DR. TESS NEAL:** I think -- that is true in the context of this

1 situation as you've outlined it, yes, but it is not exclusive to this situation. So any
2 psychological evaluation, validity and these best practices that we've outlined would
3 matter for any psychological evaluation, whether it was for a legal decision, to inform a
4 legal decision or not. It has particular gravity when it does inform a legal decision. But
5 even if it's not a legal decision, it still is important that a psychological evaluation pays
6 attention to its foundational validity, its applied validity, and all these other issues that
7 we've raised.

8 **MS. PATRICIA MacPHEE:** Okay.

9 **DR. KRISTY MARTIRE:** Yeah, so I would just like to reiterate that
10 in -- so some of the eight best practices are quite particular to a forensic context. So we
11 mentioned a code of conduct, for example. Those are very particular to legal context
12 and I think we mentioned rules of evidence, which are clearly very relevant, but not all of
13 our best practices are only for legal context. So foundational validity, validity as applied,
14 these are fundamentals of science.

15 **MS. PATRICIA MacPHEE:** Right.

16 **DR. KRISTY MARTIRE:** And so it doesn't matter if it's forensic
17 psychological assessment, psychological assessment, any form of psychology, any
18 form of science should have foundational validity and validity ---

19 **MS. PATRICIA MacPHEE:** Right.

20 **DR. KRISTY MARTIRE:** --- as applied.

21 **MS. PATRICIA MacPHEE:** But I have to go back to this. If you're
22 going to apply the standards that are accepted ---

23 **DR. KRISTY MARTIRE:** M'hm.

24 **MS. PATRICIA MacPHEE:** --- for forensic psychological
25 assessments, and use those to evaluate the methodology in the psychological autopsy,
26 don't they have to be the same? Don't you have to have a -- they have to -- you know, if
27 you're going to draw a comparison, then they both have to fall within the category of
28 forensic psychological assessments. I would imagine that's why you, you know, you

1 define them in that way in this. Like you said, psychological autopsies are a form of
2 forensic psychological assessments; hence, our analysis applies. Like, we can assess
3 the -- I don't even -- the validity, the usefulness of this based on this methodology?

4 **DR. TESS NEAL:** There is some truth in that, but also, the other
5 piece of this that we also wrote about in the report is that it matters -- the profession
6 matters. It matters who wrote the report. So a psychologist wrote this report, which is
7 highly relevant to our discussion today. If a psychologist hadn't written this report, if it
8 had been a different profession, then a different set of -- some of the rules would apply.
9 So, for example, a psychologist, if -- it depends on where they're licensed and where
10 they're credentialed. So if they're licensed in Canada versus if they're licensed in the
11 United States versus in Australia, there are slightly different ethics rules. There are
12 slightly different -- other rules, depending on what organizations they're part of. So if
13 this person -- sorry, I'm a member of the American Psychological Association, and as
14 such, I am ethically obligated to follow the ethics of that organization. If I don't, I can be
15 kicked out of the organization, and I could lose my license in my jurisdiction. Those
16 rules matter based on who you are as a professional; right? And so it follows that the
17 person who authored this report, it doesn't matter whether they call it a psychological
18 autopsy. It doesn't matter if they called it forensic. It doesn't matter if they -- it doesn't
19 matter what they called it. If they're a psychologist, then the rules that govern
20 psychological assessment apply to them. And some of these rules that we've outlined
21 as best practices for psychological assessment apply, whether it's called a
22 psychological assessment or not. That's the framing of our report, but some of those
23 rules are independent of how our report is framed.

24 **MS. PATRICIA MacPHEE:** I'm going to pick you up there because
25 it seems like you're suggesting that there's some kind of ethical breach in the creation of
26 this psychological autopsy, which, from my understanding of your report, there's no best
27 practices for the -- or established or rules about creating a psychological autopsy. And
28 it's my understanding that neither of you have a particular expertise in preparing

1 psychological autopsies; is that fair?

2 **DR. KRISTY MARTIRE:** I don't think we've said that there was any
3 ethical breach in this report.

4 **MS. PATRICIA MacPHEE:** No, no, and I'm just -- just your partner
5 there has made reference to ethics, so I'd like her to elaborate on that because ---

6 **DR. TESS NEAL:** Yeah.

7 **MS. PATRICIA MacPHEE:** --- it is a bit of a -- it's a big statement.

8 **DR. TESS NEAL:** I think the response to that is that the ethics
9 obligation follow the person; right? And so the psychologist here has a particular set of
10 ethics obligations and the other people who co-authored this report, it looks to me like
11 they're in different professions, and so whatever the rules are in those professions
12 would follow them, independently of whatever this assessment or this report was.

13 We don't know, given that the psychologist in this case did not say
14 where he's licensed, if he's licensed, what jurisdiction he might be licensed in, what
15 memberships he might hold. We don't know if he's part of the Canadian Psychological
16 Association. If he is, then some of these ethical rules attach. We don't even know if
17 he's part of them, and so we have no way of evaluating whether any ethics breaches
18 occurred because we don't know which ones apply to guide his behaviour.

19 **MS. PATRICIA MacPHEE:** Right. Or you don't know what the
20 standards would be for creating a psychological autopsy because you have no
21 particular expertise in the creation of psychological autopsies; fair?

22 **DR. KRISTY MARTIRE:** Ethical obligations don't necessarily
23 adhere to the type of assessment. So we're not speaking to ethical obligations that rely
24 or attach to a psychological assessment versus a behavioural profile, they attach to the
25 profession, and they're much broader, so it's things like acting in the best interests of
26 society and various other broad things. So we're not -- none of what we have just said
27 is saying whether or not this psychological autopsy violates ethical codes. It's about
28 whether or not this person in providing this service is compliant with their ethical codes,

1 which is a slightly different point, I think.

2 **MS. PATRICIA MacPHEE:** Slightly.

3 **DR. KRISTY MARTIRE:** Yeah, so we don't know what ethics
4 codes apply to this person ---

5 **MS. PATRICIA MacPHEE:** M'hm.

6 **DR. KRISTY MARTIRE:** --- and we don't know the extent of their
7 compliance with those, and we make no comment on it except to say that we can't infer
8 because there isn't enough information to make that inference.

9 **MS. PATRICIA MacPHEE:** I think if I read your report, like, these
10 rules that you talk about that guide forensic psychological assessments don't apply or
11 haven't been applied or determined to apply to psychological assessments, because
12 there's a lot of variation in what a psychological autopsy, I should say, means, right?

13 I mean, you said yourself that you're not sure if psychological
14 autopsy is a term of art here and whether it could be even a *post-mortem* analysis.

15 **DR. TESS NEAL:** Related to this point that some of the rules apply
16 to the profession and to the professional and not to the task, it's related to the answer
17 here. So if a psychologist undertakes a psychological autopsy, they have ethical
18 obligations, and practice obligations, that are standard for psychological assessment. If
19 -- and there was a psychologist in this case so presumably some of those attach, and
20 that's a slightly different problem than the issue of what is the particular referral
21 question.

22 **MS. PATRICIA MacPHEE:** Right. And, again, it's founded on your
23 statement that the psychological autopsy here is a type of forensic psychological
24 assessment.

25 **DR. KRISTY MARTIRE:** Yes, and I think I would like to come back
26 to that because I think I am struggling to see the distinction that you're trying to present
27 to me -- us about whether or not this psychological autopsy fits within our definition.

28 I'm getting the sense, and please correct me if I'm wrong, but your

1 -- you feel that we have brought something within that definition that perhaps doesn't fit,
2 and that part of that might be because the word, "Forensic" was in that paragraph 3 but
3 it wasn't in the definition. Is that ---

4 **MS. PATRICIA MacPHEE:** I think you're asking the questions but
5 happy to be cross-examined.

6 **DR. KRISTY MARTIRE:** No, I'm just trying to make sure I
7 understand.

8 **MS. PATRICIA MacPHEE:** I mean, I totally agree with you, that ---

9 **COMMISSIONER MacDONALD:** She's simply asking ---

10 **MS. PATRICIA MacPHEE:** I'm kidding. I'm fine. And I totally
11 agree with what she's putting forward, actually.

12 **DR. KRISTY MARTIRE:** I'm trying to understand ---

13 **MS. PATRICIA MacPHEE:** No, and I agree with you, because
14 that's where I'm going to is, when you define it, when we look at the premise of this,
15 when I read this, it was a finding that the psychological autopsy, you defined it in
16 paragraph 3 of your report, and you added on that it's of legal interest, and then you say
17 specifically in paragraph 2 that a psychological autopsy is a type of forensic
18 psychological assessment.

19 **DR. KRISTY MARTIRE:** Yes.

20 **MS. PATRICIA MacPHEE:** That's really what I'm referring to.

21 **DR. KRISTY MARTIRE:** Yes, so I wanted to understand that that's
22 what you were trying to put to us.

23 **MS. PATRICIA MacPHEE:** Yes.

24 **DR. KRISTY MARTIRE:** And I'm afraid I don't think I see the
25 difficulty here, in that I think what we said was that when an assessment is used for
26 forensic purposes, and it is a psychological form of assessment, and we have said that
27 the psychological autopsy is a form of psychological assessment, then it's a forensic
28 psychological assessment and it fits within our definition.

1 **MS. PATRICIA MacPHEE:** Right. And just -- I know we're getting
2 caught up in terminology here because what I understood you to say is the forensic part
3 of that means that it's being used in the legal context to answer a legal question,
4 administrative question, et cetera. Fair?

5 **DR. KRISTY MARTIRE:** I think we didn't say exclusively that, and
6 so I think if you're asking do we -- did we consider the use by police or in a police
7 investigation to fit our definition of legally relevant or forensic, then our answer would be
8 yes, it does.

9 **DR. TESS NEAL:** And my supplemental answer to that would be it
10 doesn't matter.

11 We did say that. In retrospect, I think that sentence was not a great
12 sentence, that particular sentence in paragraph 3. I would also say that it doesn't
13 matter in the sense that these ethical obligations that we've talked about, they attach to
14 the person, so it doesn't matter, technically, whether this particular thing was used in a
15 forensic context; whether there was some -- whatever the circumstances of the referral
16 were, if it were used administratively to make a decision within the agency or not, that
17 distinction doesn't matter for whether these best practices apply to the psychological
18 assessment in question.

19 **MS. PATRICIA MacPHEE:** Can you do a forensic psychological
20 assessment on a deceased person?

21 **DR. KRISTY MARTIRE:** You can. So there has been, in this case,
22 a forensic psychological assessment of a deceased person. The extent to which it is
23 reliable depends on the extent to which it complies with best practices, so what you can
24 take from that assessment.

25 **MS. PATRICIA MacPHEE:** Your answer is significant because you
26 said that there was a forensic psychological assessment done in this case.

27 **DR. KRISTY MARTIRE:** There are discussions of mental
28 diagnoses, of future risk, of personality disorders or not. There was the use of

1 psychometric -- psychological psychometric tools reported in this report, so...

2 **DR. TESS NEAL:** Those things make it a psychological
3 assessment, whether it's forensic we don't know. We have described it as such. I think
4 we implicitly assume it is such, but we don't know if it actually is. It is a psychological
5 assessment.

6 **MS. PATRICIA MacPHEE:** Okay. So your answer is that you can
7 do psychological assessments on people who are deceased?

8 **DR. KRISTY MARTIRE:** Is the question is it possible to do it, or is
9 the question is it possible to do it well?

10 **MS. PATRICIA MacPHEE:** Well, fair enough. You can answer
11 either way. And I'll just give you why I'm asking that question, because at paragraph 21
12 and 22 of Part 1 of your report, page 19, you talk about a forensic psychological
13 assessment. And when I read those paragraphs, it seems to depend on the subject of
14 that assessment, him being alive, frankly. Is that fair, when you read those paragraphs?

15 **DR. TESS NEAL:** I think typically that's the case, that the person is
16 alive. When the person is deceased, that raises a lot of questions about the validity; the
17 foundational validity, the implied validity.

18 So with regard to your earlier question about can these be done, I
19 think it's insightful; can they be done, or can they be done well? But the answer is that
20 they can try to be done, and then a good report should describe the limitations inherent
21 in what it means to try and do a psychological evaluation when the person of interest is
22 deceased. There are clearly limitations to that. It doesn't mean it can't be done but it
23 does mean that there are clear limitations that need to be made explicit.

24 **DR. KRISTY MARTIRE:** So I might be able to provide an example.
25 If the person of interest who is deceased has had longstanding involvement with mental
26 health professionals, for example, over many time points in their past, and those
27 interactions have been documented and can be accessed by the person doing this
28 assessment, you could imagine that you might be able to get a very rich picture of

1 someone's psychological functioning, at least as it was documented. It would still have
2 limitations because it was not done firsthand; you are relying on collateral information
3 and the professionalism of the people who did those assessments, but you could see
4 that under those circumstances, it would be possible to gather quite a lot of information
5 about the past psychological functioning of a person who is now deceased.

6 That's not what happened here. There was not pre-existing
7 psychological documentation that had been contemporaneously collected, and that has
8 implications for the extent to which you can rely on or accurately approximate
9 somebody's past mental states.

10 **MS. PATRICIA MacPHEE:** Okay. And I think what I'm getting
11 from this, too, is that it's substantially different, obviously, if you're, you know, taking a
12 retrospective look at someone's who's deceased, as opposed to doing an assessment
13 of someone who's live.

14 **DR. KRISTY MARTIRE:** Yes.

15 **MS. PATRICIA MacPHEE:** Right?

16 **DR. KRISTY MARTIRE:** Yes.

17 **MS. PATRICIA MacPHEE:** So they're substantively different.

18 **DR. KRISTY MARTIRE:** I would say that you would probably use
19 different approaches. Your procedure would likely have to be quite different if only
20 because a contemporaneous psychological assessment is going to involve some kind of
21 contemporaneous contact with the person of interest in the vast majority of cases;
22 whereas, a retrospective assessment of somebody who is now deceased cannot.

23 **MS. PATRICIA MacPHEE:** Okay, fair.

24 **DR. TESS NEAL:** I agree.

25 **MS. PATRICIA MacPHEE:** And you devote a portion of your
26 report, and you spoke about it a bit this morning, to behavioural profiling. And why was
27 that?

28 By that I mean -- sorry; to give you some more context, is it your --

1 were you under the understanding that the psychological autopsy was a behavioural
2 profiling?

3 **DR. KRISTY MARTIRE:** So it was not 100 percent clear to what
4 the document was that was going to be of interest to us when we began our analysis.
5 The Commission used a range of words to describe the report that we were going to
6 look at. And some of those words were, "Behavioural analysis, behavioural profile," I
7 believe, "Psychological autopsy". We tried to clarify this when we were -- at the outset,
8 we were trying to find out what is this document, but I think the challenge in
9 understanding the document was evident in the Commission's ability to describe that
10 document to us, and so they weren't able to give us a precise description of what,
11 exactly, the report contained.

12 And so our scope of consideration from the outset included
13 psychological autopsy, behavioural profile, and risk assessment, because I think it was
14 the -- I'm inferring here, that it was the Commission's view that it had elements of all of
15 these things, and they weren't quite sure which of those things it was. And so until we
16 saw it, we also didn't know which of those things it was.

17 **MS. PATRICIA MacPHEE:** After you studied it do you think this a
18 behavioural profile – does it look like a behavioural profile from your experience?

19 **DR. TESS NEAL:** It had elements of all three of those things. It
20 has elements of a psychological autopsy; it has elements of a behavioural profile; it is a
21 section titled "Behavioural Profile" – behavioural profile or something similar to those
22 words. And it also certainly has some risk assessment elements in it.

23 **MS. PATRICIA MacPHEE:** Okay, do you think – and I'm going to
24 use the term, a "psychological autopsy" that we're talking about here, do you think it can
25 be helpful to inform police or to assist police or other agencies in trying to just
26 understand the factors that might have led a person to commit a violent act or suicide,
27 homicide; do you think there's some value in that?

28 **DR. KRISTY MARTIRE:** I think there's the question of in principle

1 and in practice again. So if there is a valid and reliable method for looking
2 retrospectively at a person and estimating their past mental states, then I think that
3 information can be very useful. So if something is, you know, expressed clearly and
4 appropriately, in line with the best practices and if it is foundationally valid, then I think it
5 can have value. If the question is more specific, it depends on the instant case as to
6 whether or not a particular psychological autopsy is fit for purpose, is it foundationally
7 valid enough? Has it been validly applied enough for the purpose?

8 If it has, then it can be useful, I would say.

9 **MS. PATRICIA MacPHEE:** Let me ask you this, because I know
10 that we're obviously going to have a problem with validity, reliability or reproducibility
11 because you've got someone who's deceased. So we can't see, you know, what's
12 going to happen; we're not predicting in that sense; right? So we're probably never
13 going to be able to meet those standards with respect to a retrospective analysis; are
14 we? Is that fair?

15 **DR. TESS NEAL:** That is fair. And to build on that and to kind of
16 clarify on things earlier, the problem with a report having multiple pieces like this is that
17 a psychological autopsy is a retrospective evaluation that is about a known person. A
18 behavioural profile typically or – yeah, a behavioural profile typically doesn't know who
19 the person is and is trying to predict a future state. Those, on the face, are very
20 different things. And then a risk assessment is trying to predict into the future from a
21 known offender on the basis of behaviours from the past.

22 So we're talking about different points in time that are trying to be
23 analyzed here; we're talking about different – like very different questions, all that are
24 trying to be done in the context of this one report. That's what makes this difficult. It
25 could all be done, all of those things could be useful in principle to an agency and an
26 internal document; it could be useful for public as stakeholders; it could be useful for
27 legal decisions, if there were some legal questions of relevance for these answers. But
28 having them all in one report can – and mingled together so that they're not separated,

1 so you can tell what methods are for what part and how do we evaluate them is the
2 issue.

3 **MS. PATRICIA MacPHEE:** Right. And I take your point – sorry,
4 you had another...

5 **DR. KRISTY MARTIRE:** I was just going to come back to the
6 question; so I think you're asking can a psychological autopsy, and correct me if I'm
7 wrong, can a psychological autopsy ever be valid because the person is deceased? So
8 you never – you will never know. And I think critical scholars in the area have really
9 raised questions about whether or not you will ever be able to establish the foundational
10 validity or the validity as applied of the psychological autopsy. That doesn't mean
11 necessarily that they shouldn't be done. I think what it means is, that it needs to be very
12 clear to the audience that there is a fundamental uncertainty here, and that there is a
13 certain amount of speculation that has gone into this process. That's not true for all of
14 the elements of that report; the same thing is not true for a risk assessment; and the
15 same thing is not necessarily true for a behavioural analysis. But for that particular
16 piece, the person is not there to ask. There is no way to ever establish the accuracy of
17 those elements. So it really does depend what you're using it for, and you must say, I
18 think to whom ever the audience is, you know, please be aware that I can never be
19 certain about this; there is no way to know if I have made the correct judgment or
20 characterization in this case, and you need to bear that in mind when using this
21 document.

22 **MS. PATRICIA MacPHEE:** That's fair; and I take your point on
23 that, because I think what you're saying, you know, if you plan on using the
24 psychological – or we'll call it a retrospective – is that right? The retrospective analysis
25 of, in this case, the perpetrator. It's probably never going to meet the rigor of a forensic
26 psychological assessment. You know, it has inherent problems because the person's
27 deceased and you can't look at those factors that you discussed this morning. So I take
28 your point on that.

1 But I go back to this though; but if its goal is just to provide some
2 information, some insight to, in this case, the policing agencies, about the whys, to the
3 extent they can be determined from some of the circumstances that they glean from a
4 review of the investigative file and those people who were around this particular
5 individual; does that have some utility for the police, just to provide some insight, some
6 information?

7 **DR. KRISTY MARTIRE:** I really struggled with this, because when
8 you're asking me that question, on one level I'm like – there's part of me that thinks the
9 answer is "yes, there's some use to be taken", but my mind says "What if everything
10 that they have inferred is wrong? What if it seems sensible on the surface; what if it
11 made sense to them but what if it's wrong? And if that is true, if the contents of the
12 report in some small part, in some large part, in some significant part is wrong, and it
13 doesn't accurately capture the true narrative, then I wonder what do we do with this
14 document?

15 **MS. PATRICIA MacPHEE:** Right. And I guess that's going to be
16 a problem with any psychological assessment, right, because we've just said there's no
17 way at the end of the day to actually say how reliable it is based on the inherent, you
18 know...

19 **DR. KRISTY MARTIRE:** Psychological autopsy and not
20 psychological assessment.

21 **MS. PATRICIA MacPHEE:** Oh, I apologize for that, and I take
22 your point.

23 **DR. KRISTY MARTIRE:** Yes.

24 **MS. PATRICIA MacPHEE:** There is an important distinction of
25 this...

26 **DR. KRISTY MARTIRE:** Yes, very much.

27 **MS. PATRICIA MacPHEE:** ...based on that very point that you're
28 making; right?

1 **DR. KRISTY MARTIRE:** Yes. Psychological autopsy is where this
2 person is now deceased.

3 **MS. PATRICIA MacPHEE:** Right.

4 **DR. KRISTY MARTIRE:** It closes off particular opportunities and
5 avenues for validation and so that makes this a particular type of thing that shouldn't be
6 generalized to all psychological assessments, and it does have an inherently
7 speculative nature. And my concern continues to be if everything that is in that report is
8 true, or close to being true, then of course it would have value, but we don't know how
9 accurate it is and it's hard to establish if it's likely to be accurate.

10 **DR. TESS NEAL:** I have two additions. One is that no
11 psychological assessment is going to get away from inherent flaws. Any science, any
12 piece of anything will have flaws. The point we are trying to make, is that those flaws
13 should be as transparent as possible so the consumer of whatever the product of
14 science, or psychology, whatever it is, so that the consumer can evaluate the credibility
15 of the claims and the basis upon which those claims are made.

16 In the context of a psychological autopsy, as you've noted they're
17 inherent limitations that are unique – or partially unique to a psychological autopsy.
18 That is true. If they're transparently documented and the implications of those –
19 inherent limitations are made clear, that's not a problem; that's a strength of the report
20 that could do that and help the reader understand how to evaluate the claims that are
21 made in the report. That's point one.

22 Point two, is that your question – I was going to answer – do you
23 remember the question? Because my answer was slightly different.

24 **DR. TESS NEAL:** Gosh, no.

25 **MS. PATRICIA MacPHEE:** Sorry, if you think of it, please, you
26 know, pipe up.

27 **DR. TESS NEAL:** No worries.

28 **MS. PATRICIA MacPHEE:** I'm just going to touch on a little bit

1 because it goes to, you know, the use, the audience and some of the concerns you've
2 raised, because I think we've kind of established that the rigor and those standards for
3 forensic psychological assessment – or psychological assessment – may not be
4 applicable to a psychological autopsy, it just can't be.

5 **DR. TESS NEAL:** Did I say...

6 **MS. PATRICIA MacPHEE:** No, but was that what you were
7 saying though, because we've just acknowledged that we can't...

8 **DR. KRISTY MARTIRE:** Or you're saying, could it necessarily
9 apply – comply fully?

10 **MS. PATRICIA MacPHEE:** Yes.

11 **DR. KRISTY MARTIRE:** So in terms of being able to show that a
12 psychological autopsy is foundationally valid at a level that is acceptable for the
13 purpose, I think it would be very hard to establish that because you can't check the
14 ground truth, but that doesn't mean that somebody writing a psychological autopsy
15 couldn't address foundational validity and say explicitly that I have not been able to or it
16 is not possible to establish the foundational validity for this and so the reader needs to
17 bear this in mind. So you can still comply for this and so the reader needs to bear this
18 in mind. So you can still comply with the best practice even if your accuracy is not
19 necessarily very high, or you can't prove that it is accurate.

20 **MS. PATRICIA MacPHEE:** And that would be particularly
21 important if you are putting forward this document for someone else to rely on, if you
22 were putting it forward to the Commission to ask them to make some findings of fact, or
23 draw conclusions of it, like, those type of caveats would be really significant; fair?

24 **DR. KRISTY MARTIRE:** I think it's significant for any circumstance
25 where you have somebody who has a lot of knowledge who's communicating in a
26 particular area or is communicating to somebody else who might not share that
27 knowledge. I think to I understand this document, and to make sense of it, and
28 understand what it really means and how it can be used, you should communicate this

1 information to any person who does not share your knowledge.

2 **MS. PATRICIA MacPHEE:** Okay. Thanks. I just want to ask you
3 one other thing here, and it's about -- so one other thing, getting there. I just want to
4 ask you about bias. You did talk about bias, and in your Part 2 of your report you talked
5 about some of the issues with bias that you identified here, which I was a little confused
6 about, you know, given the autopsy that we're talking about here. And maybe just for
7 reference, it's page 11 of Part 2, paragraph 21. And just for refence that's
8 COMM003480.

9 **DR. KRISTY MARTIRE:** Sorry, what was the paragraph number?

10 **MS. PATRICIA MacPHEE:** Twenty-nine (29).

11 **DR. KRISTY MARTIRE:** Twenty-nine (29)?

12 **MS. PATRICIA MacPHEE:** Yes. I think that's page 11.

13 **DR. KRISTY MARTIRE:** It is, yes.

14 **MS. PATRICIA MacPHEE:** And you took issue, you found that in
15 this report there were some issues with respect to bias in the psychological autopsy,
16 and I think you've, you know, in this section. Is that fair?

17 **DR. TESS NEAL:** We said -- yes. I think the inference that we
18 drew is that there's potential for bias. That there are circumstances here that raised the
19 question of potential bias.

20 **MS. PATRICIA MacPHEE:** And I want to ask you about that,
21 because you say in the second bullet that the practitioners had a conflict of interest and
22 I'm wondering how you could have a conflict of interest in the context of the
23 psychological autopsy? Like, how does bias -- and I'm not trying -- because I
24 understand that you didn't know the purpose of the psychological autopsy, so fair
25 enough. You had a limited knowledge base going, fair. But I'm just wondering, what
26 does -- how did they have a conflict of interest in this case?

27 **DR. KRISTY MARTIRE:** So first, I think it's important for us to
28 clarify that we didn't say that they had a conflict of interest, we said that there is a

1 potential for conflict of interest, and we also said that there is -- we said there are two
2 potentials for conflict of interest. And in the section on bias, I am fairly certain that we
3 said that we do not know if there was any bias, just merely that there was a potential for
4 there to have been bias. So I don't know if that addresses the question.

5 **MS. PATRICIA MacPHEE:** Maybe, I'm just -- because I noted in
6 the first bullet you said:

7 "The practitioners knowingly worked [for or] with...a
8 party who may have a vested interest in a particular
9 psychological assessment outcome."

10 I'm curious as to that, understanding that you, you know, you may
11 have been drawing -- you may have been stating that on the basis that you didn't know
12 what the psychological autopsy was for.

13 **DR. KRISTY MARTIRE:** So is the question about whether or not
14 the party may have a vested interest?

15 **DR. TESS NEAL:** Oh, I see. I see here. So the -- in the first
16 answer, we say, "potential conflict of interest", in the second answer we say they had a
17 conflict of interest. I think that's what you're pointing to. But then the follow up sentence
18 says we rated -- we rated this item as definitely, because the phrase that we rated said
19 it could lead them to. So it's the item that had the potential wording in it.

20 **MS. PATRICIA MacPHEE:** Right. And now, in the context of this
21 psychological autopsy, how would bias play in here? For example, I could see how bias
22 would be a factor if we were presenting your report to a court or presenting the report to
23 the Commission. But if it was an internal document to try and look at the what -- oh
24 sorry, the why, why now, and why them, in this manner, where does bias fit into that?
25 What do they stand to gain by coming to a particular conclusion?

26 **DR. TESS NEAL:** That's a good point. So if it was an internal
27 document, then they -- then this issue of conflict of interest is perhaps less significant
28 than if it were -- then if it were used in a different way. That said, there's always --

1 there's always the potential that inside information, all the same effects that we are
2 potentially worried about could still impact somebody's processing of information if
3 they're on the inside of a process. So had the agency hired from the outside and hand
4 somebody do an independent evaluation, then just by the very nature of how that would
5 have unfolded it would have mitigated some of these potential conflicts. This may not
6 have been a problem at all, we don't know if it was. But had they done an outside
7 contract with somebody who wasn't affiliated with them, it could -- it could have just
8 addressed some of those issues and the perception of those issues.

9 **MS. PATRICIA MacPHEE:** Okay. Then the other bullet that I was
10 looking at was on the next page, it's a fourth bullet, and I think it's the fifth as well, which
11 I also thought was if a curious feeding into bias, because it talks about the authors of
12 this report may have been biased because they knew the outcome. And by the
13 outcome, I think we meant like, the outcome of the perpetrator's violent acts, right?

14 **DR. KRISTY MARTIRE:** I think in part, what you're asking us to do
15 is to describe some mechanisms by which bias might have happened? No, okay.

16 **MS. PATRICIA MacPHEE:** No, just -- it seemed to me in reading
17 this, I may have misinterpreted what you're saying:

18 "The report authors completed their psychological
19 analysis knowing the eventual outcome of the events
20 in question -- a situation that increases the risk of
21 hindsight bias, confirmation effects, and other
22 potential psychological biases. This report was
23 written retrospectively, after the events in question
24 unfolded. The report explicitly considered the events
25 themselves and how they unfolded along with their
26 outcomes while simultaneously completing the
27 psychological analysis. There appears to have been
28 no attempt to reduce the potential effects of hindsight

1 bias, such as blinding to some of the details of the
2 outcomes or having the evaluation completed by
3 someone who did not know the details..."

4 **DR. KRISTY MARTIRE:** So could we have the question again?

5 **MS. PATRICIA MacPHEE:** Yeah, I'm just wondering how, like how
6 that works in a situation like this if you're doing a psychological autopsy? I mean, I can
7 see if you're trying to validate -- I don't -- actually I don't even know how having
8 someone outside the situation would improve, or affect, or impact on bias. Like, how
9 does bias feed into that?

10 **DR. KRISTY MARTIRE:** So I think you are asking us to
11 hypothesize how particular bias might play out, or how some form of bias could come
12 into this particular analysis. it seems like you can't imagine how that might work, is that
13 right?

14 **MS. PATRICIA MacPHEE:** Well, maybe. Because it seems that
15 you're saying that the type of bias is present in this report because the authors knew the
16 outcome, like, they were privy to the investigative file, they knew who was killed in the
17 course of this mass casualty and that somehow that knowledge would have impacted
18 maybe biased their findings.

19 **DR. KRISTY MARTIRE:** Yes. So we have said potential effects
20 again, of these things.

21 **MS. PATRICIA MacPHEE:** Yeah.

22 **DR. KRISTY MARTIRE:** So at no point did we say that there was a
23 bias, we have just said that there is a potential for these things. And it is a
24 consequence of the fact that once you know how something turns out, once you know
25 the final state of affairs, that knowledge can colour your interpretation of information that
26 you're given, it can affect how you combine pieces of information together, it can
27 change the inferences that you were going to draw from the information. So there are
28 various types of decision making biases that are affected just by the mere fact of

1 knowing and outcome. And so, there are procedures you can put in place, perhaps not
2 easily in this particular assessment.

3 **DR. TESS NEAL:** Even in this assessment though, I can imagine
4 how it could have unfolded. So with regard to this hindsight bias question, there is
5 potential that it influenced this assessment, but again, we can't know that for sure.
6 However, had the assessment process been done by an outside agency, or outside
7 contractor who didn't have access to all the information and the investigative documents
8 and whatnot, it would have made for a less rich in some ways, but more protected
9 against some of these biases.

10 And in terms of the hindsight bias, there's experimental work on this
11 that when a clinician knows that, for instance, they know that a person is presenting with
12 X symptoms, and then if they know -- and they have to decide if the person should get
13 admitted to a hospital for a civil commitment. If they know, if they have outcome
14 information and there retrospectively looking back about what decision should have
15 been made at that point, they make different decisions than if they have to make the
16 decision at the moment of. And that's relevant in this case, because here if there were
17 some bias mitigation plan in place, there could have been an outside person who is
18 provided with some of the information, or information about perpetrator's mental state,
19 or some pieces of the puzzle without all of the information. They didn't have to be local
20 to the area, so they wouldn't have had the media saturation, right? There could have
21 been ways around on some of what could have coloured the assessment in this case.

22 **MS. PATRICIA MacPHEE:** Right. And this is really my last
23 question to you, it's just -- and we're still on the bias thing.

24 I'm just wondering; the whole purpose of this, as we've kind of --
25 I've brought you to. or my interpretation of psychological autopsy is to look at the why:
26 Why him? Why in this manner? So it seems that if you're not privy to what the
27 perpetrator actually did, that you can't answer that question; you're just doing -- you're
28 just assessing yourself and your ability to predict future risk. So if you gave someone a

1 profile of this individual with everything leading up to the date of the mass casualty, then
2 you could get someone, an expert, to perhaps opine on the potential that this person
3 may commit a violent act. But that's the best we could do. We couldn't then look at,
4 well, why? Why did he do it in this way? Why these people? Why now?

5 **DR. KRISTY MARTIRE:** So I think that's -- I think I don't agree,
6 necessarily, with that.

7 So if you were to imagine a situation where the person doing the
8 psychological assessment knows that there was a mass casualty event and they know
9 very little about the person, for example, right? They just have some basic facts that
10 describe what is accepted and known as a process of events; a timeline, for example.

11 If you only had that information, you might look at, for example,
12 your decisions about why particular people were chosen or why things happened in the
13 order that they happened in a different way than you would once you know more
14 information about that individual who committed the crime, right?

15 So, ultimately, I accept that you would want to know everything
16 about this person to get to your final conclusion, and that you would want to have rich
17 information to make that decision, but the fact that you might describe things or
18 anticipate things differently when you have a different set of knowledge about -- or less
19 information, tells us how much of your characterization of those earlier things is based
20 on knowledge that you've gained later. So I don't want to get into too many of the
21 specifics but some -- some of the people whose lives were taken were described as
22 being victimized for particular reasons, and those characterizations could have been
23 different if you were to just look at the bare facts of that situation. It's only by learning
24 more and more about the person of interest, the perpetrator of those things, that you
25 then start to see the victim choices in that way, and if there is that discrepancy, if that
26 person whose life was taken could have been characterized in a different way, then that
27 gives us some sense of how much ambiguity there is around that characterization and
28 might help us to understand, you know, is there only one explanation or one description

1 that could have been offered, or is that description being provided based on other
2 collateral information that I have, and is all of that information relevant and necessary.

3 And so it's not that we would say you should never have that
4 information, but the fact that you could have a -- this is called a sequential unmasking
5 procedure where you -- you sort of say, well, what can see on the face of it, and then
6 how does additional information change my understanding of this situation? That helps
7 other people outside of the process understand why you came to that final conclusion.
8 And if there's something wrong in that process, if there's missing information, if there's
9 incorrect information, then you can start to see where that logic might break down and it
10 gives you a sense of how much of that information you can then go on to rely on in
11 some ways.

12 So bias is given a negative connotation, that's because that's what
13 is what's attached to that word. We don't mean it in that way; we don't intend it to
14 communicate unprofessionalism or poor training. It just means that certain pieces of
15 information can skew the interpretation of information that otherwise might be
16 ambiguous in a particular direction, and you don't always want that skewed
17 interpretation. Sometimes you need to sit with the ambiguity and know that actually this
18 could have gone one of two ways.

19 So I think I am -- I mean, that's quite a long answer but it's to say
20 that I appreciate your point that they would -- you want them to know about the
21 outcome, but they don't necessarily need to know it all; they don't necessarily need to
22 know it all, all at once. They can take us through a process of revealing that
23 information, and that is informative to people consuming that report.

24 **MS. PATRICIA MacPHEE:** Okay. So we're not saying that this
25 was -- they approached this in a biased way; just that there are more than one way to
26 approach it and you could do it in this unmasking way, in a sense, in your view -- you're
27 looking for some form of reliability; whether that would make it reliable is, you know,
28 questionable as well. But in other words, there's other ways -- there's different ways to

1 approach it, ---

2 **DR. KRISTY MARTIRE:** Yes. I think that's ---

3 **MS. PATRICIA MacPHEE:** --- depending on the ---

4 **DR. KRISTY MARTIRE:** It's a good summary.

5 **MS. PATRICIA MacPHEE:** And is it fair, depending on the
6 questions ---

7 **DR. KRISTY MARTIRE:** Yes.

8 **MS. PATRICIA MacPHEE:** --- you're trying to address?

9 **DR. KRISTY MARTIRE:** Yeah. There is potential for bias and
10 there are strategies you can use to minimize that bias, and just because there is
11 potential for bias, doesn't mean that there was bias, but that also doesn't mean you
12 can't take steps to try to keep it to an absolute minimum.

13 **MS. PATRICIA MacPHEE:** Okay, thank you very much.

14 Do you have something to add?

15 **DR. KRISTY MARTIRE:** Thank you.

16 **MS. PATRICIA MacPHEE:** Thanks a lot for your answers. It's
17 really helpful.

18 **COMMISSIONER MacDONALD:** Thank you so much.

19 Commissioner Fitch?

20 **COMMISSIONER FITCH:** Thank you. I have no further questions.

21 **COMMISSIONER MacDONALD:** Commissioner Stanton?

22 **COMMISSIONER STANTON:** Thank you.

23 Dr. Neal, I believe you said that the -- one of the authors claims to
24 be, I think that was the word you said, a criminal psychologist and that we could speak
25 more about that. Could you please speak more about that?

26 Thank you.

27 **DR. TESS NEAL:** Yes. Also, maybe Dr. Martire will speak on this.

28 I'm not entirely sure what a criminal psychologist is. I know what

1 the words mean; I know what it could mean together. I don't know, professionally; I'm
2 not sure that it has an exact definition. There could be and I just might not be aware of
3 it.

4 I guess my assumption is that this is probably a person who does
5 forensic evaluations, but maybe given that -- given the type of evaluation that this was, it
6 might be a psychologist who works with -- kind of earlier on in the investigative legal
7 process. So if we think about the legal process as a continuum where there's the
8 investigative portion at the beginning, the adjudicative portion in the middle where legal
9 decisions are made about a case, and then the kind of corrective, post-adjudication
10 phase at the end, psychologists are involved all along that continuum, and it looks like
11 maybe this criminal psychologist might be on that beginning portion to kind of aid in the
12 investigative part of a legal -- a legal process. But I'm not entirely sure.

13 **DR. KRISTY MARTIRE:** I think the only thing I would say further to
14 that is that it's important to know that in many jurisdictions the term, "psychologist" is a
15 protected term. I believe that the term psychologist in Canada is a protected term. And
16 so what that means is you can't just call yourself a psychologist without having
17 appropriate licence, insurance, certifications.

18 And so I think when it comes to assessing the particular document
19 that we were given, that one of the relevant questions to ask would be is this person an
20 appropriately licensed, credentialed psychologist who's in good standing with their
21 regulatory bodies. We couldn't answer that because we weren't -- we were not inclined
22 to go and do external research to find out if this person is actually certified or licensed.
23 But if we weren't trying to protect ourselves from external information, one of the things
24 we would do would be go to and check a registry to make sure that that person is in
25 good standing because they are using a protected title and they are participating in
26 diagnostic activities, to some extent; they're using psychometric tools, they're referring
27 to using the DSM-V, and they are talking about people having hallmarks of particular
28 mental health diagnoses.

1 So these are psychological activities and they're calling themselves
2 a psychologist, so if we had complete liberty, we would check just to make sure that
3 they were licensed appropriately.

4 **COMMISSIONER STANTON:** Thank you. That's my only
5 question.

6 **COMMISSIONER MacDONALD:** Thank you, Dr. Neal and Dr.
7 Martire, not just for preparing the report for us to assist us in our challenging work, but
8 also to elaborate upon it and speak to it in significant detail here today. It's greatly
9 appreciated.

10 Thank you so much.

11 **DR. TESS NEAL:** Thank you.

12 **DR. KRISTY MARTIRE:** Thank you for the opportunity.

13 **COMMISSIONER MacDONALD:** And we will break now until 2:30.
14 Thank you. At which time we will be hearing submissions from various counsel.

15 Thank you.

16 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

17 The proceedings are now on break and will resume at 2:30.

18 --- Upon breaking at 1:28 p.m.

19 --- Upon resuming at 2:33 p.m.

20 **REGISTRAR DARLENE SUTHERLAND:** Welcome back. The
21 proceedings are again in session.

22 **COMMISSIONER MacDONALD:** Good afternoon, everyone.

23 Mr. VanWart?

24 **MR. JAMIE VanWART:** Thank you, Commissioners. Before we
25 move into submissions this afternoon, I just want to take a moment to tend to some
26 documents that need to be marked as exhibits, and I would just say at the outset that
27 these documents have been shared with Participants as well as Madam Registrar.

28 So there are 124 documents that relate to Police Paraphernalia, if

1 they could be marked as exhibits?

2 **REGISTRAR DARLENE SUTHERLAND:** So exhibited.

3 **--- EXHIBITS**

4 124 documents relating to Police Paraphernalia

5 **MR. JAMIE VanWART:** And four additional documents related to
6 Alerting, if they could be marked as exhibits?

7 **REGISTRAR DARLENE SUTHERLAND:** So exhibited.

8 **--- EXHIBITS**

9 4 additional documents related to Alerting

10 **MR. JAMIE VanWART:** And two additional correspondence
11 documents, if they could be exhibited?

12 **REGISTRAR DARLENE SUTHERLAND:** So exhibited.

13 **--- EXHIBITS**

14 2 additional correspondence documents

15 **MR. JAMIE VanWART:** And then 33 documents, including the
16 Commission interview of Superintendent Archie Thompson and associated materials, if
17 they could be exhibited?

18 **REGISTRAR DARLENE SUTHERLAND:** So exhibited.

19 **--- EXHIBITS**

20 33 documents, including the Commission interview of
21 Superintendent Archi Thompson and associated materials

22 **MR. JAMIE VanWART:** And finally, we ask that seven documents
23 be marked as exhibits, and this is documents that are being exhibited on the -- at the
24 request of the National Police Federation.

25 **REGISTRAR DARLENE SUTHERLAND:** So exhibited.

26 **--- EXHIBITS**

27 7 documents marked as exhibits requested by the National
28 Police Federation

1 **MR. JAMIE VanWART:** Thank you.

2 So now we are going to move on to hearing submissions, and the
3 subject area for submissions this afternoon are Participant submissions on mass
4 casualties, psychologies, psychiatric and sociology, as well as Participant submissions
5 on mass casualties, intimate partner violence, gender-based violence and family
6 violence, policing institutional understanding and responses. We have four confirmed
7 Participants that will be making submissions, and one maybe Participant -- or one
8 Participant that remains a maybe.

9 Before we begin, I would on behalf of -- we will be hearing from Ms.
10 MacDonald and Ms. Sarson who are with a coalition that includes feminist fighting
11 femicide and persons against non-state torture. And they have asked that three
12 documents be exhibited, that they'll be using to aid their submissions. And I'll do that --
13 and I'll assist them by entering those exhibits on their behalf.

14 The first is an excerpt from a book entitled "Women Unsilencing
15 *[sic]*: Our Refusal to Let Torturer-Traffick *[sic]* Win." And it's by Ms. Sarson and Ms.
16 MacDonald, if that could be exhibited?

17 **REGISTRAR DARLENE SUTHERLAND:** That's Exhibit 3715.

18 **--- EXHIBIT NO. 3715:**

19 Excerpt from "Women Unsilenced: Our Refusal to Let
20 Torture – Traffickers Win" by Ms. Sarson and Ms.
21 MacDonald

22 **MR. JAMIE VanWART:** And the second is an article in Canadian
23 Women Studies. It's entitled "Having Non-State Torture Recognized by the UN and
24 Member States as an Infringement of Women's Human Rights Is Imperative." And it's --
25 again, it's by Ms. Sarson and Ms. MacDonald.

26 **REGISTRAR DARLENE SUTHERLAND:** That's Exhibit 3716.

27 **--- EXHIBIT NO. 3716:**

28 Article in Canadian Women Studies entitled "Having Non-

1 State Torture Recognized by the UN and Member States as
2 an Infringement of Women's Human Rights Is Imperative" by
3 Ms. Sarson and Ms. MacDonald

4 **MR. JAMIE VanWART:** And thank you. The last is an article in
5 the International Journal of Advanced Nursing Education and Research and it's entitled
6 "Difficult Client": Lynn's Story of Capacity [*sic*], Non-State Torture, and Human
7 Trafficking by Her Husband", and again, by Ms. Sarson and Ms. MacDonald.

8 **REGISTRAR DARLENE SUTHERLAND:** 3717.

9 **--- EXHIBIT NO. 3717:**

10 Article from the International Journal of Advanced Nursing
11 Education and Research entitled "Difficult Client": Lynn's
12 Story of Captivity, Non-State Torture, and Human Trafficking
13 by Her Husband", by Ms. Sarson and Ms. MacDonald

14 **MR. JAMIE VanWART:** Thank you. And now I will turn the
15 podium over to Participants and we will first be hearing from Ms. Breen.

16 **COMMISSIONER MacDONALD:** Thank you, Mr. VanWart.
17 Ms. Breen?

18 **--- SUBMISSIONS BY MS. ERIN BREEN:**

19 **MS. ERIN BREEN:** Thank you. Good afternoon, Commissioners.
20 Erin Breen on behalf of the Participant Coalition Avalon LEAF and Wellness Within.
21 And as it is our first appearance doing submissions before the Commission, we first
22 wish to start by offering our condolences to the families. Our thoughts are always of
23 those most affected.

24 I would like to first talk a little bit about the members of our coalition.
25 Two are frontline, local organizations. Avalon Sexual Assault Centre works to eliminate
26 sexual assault and to change current culture that fosters sexism, social injustice, and
27 other forms of oppression. Wellness Within advocates for decarceration and access to
28 housing, income, resources, and healthcare for women, trans and non-binary people

1 who have experienced criminalization. LEAF is a national, charitable organization that
2 works toward ensuring the law guarantees substantive equality for all women, girls,
3 trans and non-binary people.

4 So today, we wish to comment on the evidence that we've heard in
5 the last two weeks and the Foundational Documents that have been presented and note
6 important emerging themes from our perspective.

7 So we start with the perpetrator, who we all know was a white,
8 educated male of professional status, a business owner, a multiple real property an
9 vehicle owner, and a wealthy man. We heard last week from Lisa Banfield, his
10 common-law spouse of 19 years, who was his employee. He controlled her completely
11 and exploited and abused her in every possible way. Her life was threatened, her
12 family's life was threatened, firearms were used throughout the relationship. Lisa
13 Banfield never went to the police. She never called for the police. She never went to a
14 shelter. She was simply too afraid, and she believed that nothing could keep her safe.
15 So she stayed in that relationship.

16 Her family was aware, his family was aware, and the community
17 was aware. Everybody knew that she was at risk. But this was treated as a private
18 matter by everybody, and there was simply no awareness of the risk that the private
19 violence could become public. Bystander intervention was either non-existent or
20 completely ineffective. And when Brenda Forbes, a community member, did take it
21 upon herself to intervene in July of 2013, nothing resulted. Police involvement was
22 ineffective. And that wasn't the first time. There are clear examples in the record before
23 you to show that even when police had specific information about the violence of the
24 perpetrator, the response was completely ineffective.

25 So if we start first by looking at the threat investigation in 2010,
26 despite very specific and reliable information about his threat to kill his parents, and
27 then Paul Wortman's information about the firearms, there is no real action taken. The
28 matter is referred ultimately to the perpetrator's friend, Constable Wiley, to determine if

1 the perpetrator has access to firearms. The file is closed after the police speak to the
2 perpetrator and he denies that he has firearms. However, and this is important, a CPIC
3 appendix entry is made by Halifax Regional Police flagging the perpetrator as firearms'
4 interest, which should have been visible on that system until 2015. So this is the first
5 time I will call this, that police in 2010 have this kind of information.

6 Then we move on to the second time in 2011. An anonymous tip
7 we are told, a tip – a very specific tip is given and passed on ultimately to Sergeant
8 Poirier, who was also involved in the 2010 incident. It's a threat to kill police, again,
9 very specific information about firearms, where to find firearms, and information that the
10 perpetrator's mental health was deteriorating.

11 Sergeant Poirier passes this information on to Constable McMinn at
12 Bible Hill Detachment. The action from there is non-action. No officer meaningfully
13 investigates. No officer seeks a Section 117.04 warrant to search and seize firearms.
14 Importantly, there is no investigation to build the grounds towards that warrant. Rather,
15 the matter is referred again to a police friend of the perpetrator, Constable Wiley. This
16 is the second time. And what does he do? Perhaps nothing, but if he did do anything,
17 he went to the perpetrator again and asked him "Do you have any firearms?" The
18 perpetrator says "No", and the matter again is closed. No action is taken.

19 How is this possible? There's only one answer. Privilege. I ask
20 you, Commissioners, if the perpetrator was poor or black or indigenous, what would
21 police have done? To go and ask him, "Do you have firerams?", accept the denial and
22 then close the matter? This, we submit, is a disturbing missed opportunity of
23 intervention. A concrete example of how the perpetrator's privilege got him a pass. The
24 call – what Dr. Rachel Zellars said to you yesterday repeatedly. Biases cannot be
25 turned away.

26 We then move forward to 2013. We have Brenda Forbes making
27 her police report. By that time Brenda Forbes had much information about the
28 perpetrator's violence, access to and use of firearms as well as her own safety

1 concerns.

2 In her April 2020 police statement she said that she told police
3 about the choking of Lisa Banfield, the fact that she was not a direct witness and that
4 the officer who attended, was aware that the two witnesses she did name, Richard
5 Ellison and Glen Wortman, would not cooperate with police.

6 Richard Ellison and Glen Wortman and the name Lisa, are in
7 Constable Maxwell's notebook. Richard Ellison and Glen Wortman later gave
8 statements to authorities describing their knowledge of this assault. This corroborates
9 what Brenda Forbes said.

10 Now Constable Maxwell tells us now, that he does not remember,
11 that if this happened, if he was told that information, it would have been in his electronic
12 notes that have not been purged.

13 One has to ask, if this was solely a driving complaint, how in the
14 world did it get categorized by the OCC as causing a disturbance? To my knowledge,
15 the Commission at this point does not yet have the categorizations of the OCC as they
16 existed in 2013 or any explanation as to how this is done. But it's important to know.
17 Causing a disturbance is its own *Criminal Code* section, s. 175, with very specific
18 criteria, none of which explicitly relate to driving.

19 Most importantly, subsection 4 relates to discharging of firearms
20 which disturb the peace, which is something that Brenda Forbes had witnessed the
21 perpetrator do.

22 Both Ms. Forbes and Constable Maxwell suffer from PTSD. This
23 incident happened nine years ago. Files have been purged. People are reconstructing
24 these events from paper that still exists. Memories as we know, are faulty at the best of
25 times, but it is essentially that the Commission turn over every stone in this area.

26 We submit that what likely occurred, when you listen to the two
27 versions of the events, is that Constable Maxwell was given the information in July 2013
28 that Ms. Forbes said she did give him about Lisa Banfield, but realizing that he did not

1 have a convictable offence. As he had uncooperative witnesses, he wrote it off.

2 And this is something that Constable Wiley indicated in his
3 statement, was the direction of the Sergeant in the Bible Hill Detachment to do in the
4 interest of efficiency.

5 We are submitting to you, that this is one of the obvious
6 consequences of the pro-arrest, pro-charge, pro-conviction policy currently in place in
7 this province. The emphasis is on police action for convictable violence and not on
8 protection from violence.

9 The foundational documents and Constable Maxwell's evidence
10 also raise serious concerns about police information, sharing, continuity, and purging
11 policies. According to Constable Maxwell, he does not recall knowing anything about
12 the CPIC attachment for firearms' interest entered by the Halifax Police in 2010, which
13 should have been visible. It was not set to expire until 2015. He said had he known of
14 any red flags, he would have handled things differently. That's in his statement to the
15 Commission.

16 This CPIC appendix is important. It should have displayed. There
17 was no reason why OCC, had they seen it, not pass that on to Constable Maxwell. It is
18 a live and unanswered question that I have asked the Commission to look into further. I
19 am hopeful the Commission will get the information directly from CPIC.

20 And I note also, the Commission is still awaiting an RCMP
21 response to a subpoena issued in March 2022 requesting the complete remark sections
22 for the CPIC checks conducted by Troy Maxwell on 2013-07-06 and John McMinn on
23 2011-05-03.

24 According to Constable Maxwell, he did not know anything about
25 the 2010 or the 2011 incidents. We can only assume that the information was not
26 accessible to him in the database searches that were conduct, either due to a purging of
27 the information or different databases used for different police agencies that were
28 involved. But there was clearly a serious problem in the way that the police forces were

1 preserving and sharing the information, including the CIS-NS bulletin.

2 So in this very short timeframe, 2010 to 2013, we have very
3 detailed, disturbing, documented information in the hands of police about the
4 perpetrator's continuum of violence, intimate partner violence and access to firearms,
5 yet no effective action results.

6 This, we submit, is cause for serious concern for public safety. If
7 documentation of violence is purged, you cannot see a continuum of violence, let alone
8 effectively respond to it. In addition to these specific issues, over 20 years the
9 perpetrator abused Lisa Banfield knowingly to the public. He sexually assaulted and
10 exploited vulnerable people. He bragged about, or openly displayed his criminal
11 activities. He showed people illegal firearms. He shot them off.

12 Now whether there is proof that he was actually the criminal
13 operator he boasted to be, is not the issue, although the indicators are present. The
14 fact is, he told people he was and he showed them illegal firearms while living a lifestyle
15 well beyond legitimate means. Yet, we are told the Commission has looked into it, there
16 is no confidential human source intelligence about him. No confidential informant ever
17 provided information about him. This is very surprising and it's a problem because
18 effective policing we are told must be intelligence-lead, and if there is no intelligence
19 about such an individual over this lengthy period of time, then there is something wrong.
20 The policing is ineffective and public safety is compromised. And this point is very well
21 made in Exhibit P003320, which is a transcript of the Commission interview of former
22 RCMP Officer Dale Bogle, and I would ask you to refer to that where he talks about
23 intelligent steps being a key concern.

24 So in this record before you, Commissioners, we are submitting
25 that the police response was repeatedly ineffective. In that critical timeframe of 2010 to
26 2013 there were multiple missed opportunities for intervention and public safety was
27 compromised.

28 You have heard from the experts and the round table members.

1 Up to 70 per cent of women experiencing violence do not call the police. Of those that
2 do call, we have tragic examples of the criminal justice system's failure to protect them,
3 like Susan Butland in Bayhead Colchester County who was shot and killed by her
4 neighbour in 2017 after she made a complaint to Colchester RCMP that he sexually
5 assaulted her and her complaint was dismissed.

6 As was so brilliantly explained during this week's round tables, this
7 is of particular concern for black racialized, indigenous, LGBTQ, plus women living in
8 poverty and with disabilities who we know are at an increased risk of experiencing
9 violence.

10 Our carceral system does not assist them, it causes them further
11 harm, which is called "secondary wounding". As a result, people have opted out as they
12 have no other choice in order to protect themselves. It is clear that pouring endless
13 dollars into a default police response with a pro-arrest, pro-charge, pro-prosecution
14 policy is senseless and it excludes those most at risk. And making additions to this
15 carceral system through *Criminal Code* additions, will continue to add to the harm of
16 those most at risk.

17 Gender-based violence is an epidemic; we have known that for a
18 long time. Public trust in policing has been gutted. We urgently need the addition of
19 non-carceral alternative options and we look forward to the discussion of practical
20 recommendations after hearing the voices of lived experience in phase 3. Thank you.

21 **COMMISSIONER MacDONALD:** Thank you so much. Ms.
22 Stephens, I believe you're next.

23 **--- SUBMISSIONS BY MS. MEGAN STEPHENS:**

24 **MS. MEGAN STEPHENS:** Good afternoon, Commissioners. I am
25 here today on behalf of my client "Women Shelters Canada" but also making
26 submissions on behalf of our entire coalition, which also includes the Transition Houses
27 Association of Nova Scotia and the "Be the Peace Institute". So thank you for giving us
28 the opportunity to make submissions to day in relation to really the past two weeks of

1 the Commission's hearings.

2 I want to begin by really thanking you for putting together hearings
3 focussed on understanding the connections between mass casualties and gender-
4 based and intimate partner violence, as well as police, institutional and community
5 responses to those issues. I'm having an issue with getting my screen to scroll here,
6 sorry.

7 It's not lost on us that this took a lot of work. We thank you and the
8 Commission staff for all the work pulling together those two very engaging weeks of
9 hearings on these issues. The content was difficult and challenging but it's been
10 important information for I think all of us to hear and for you, Commissioners, to
11 process.

12 So during our submissions today I really want to address three
13 points. But first I want to begin by exploring how the evidence we heard in the last two
14 weeks underscores a concern we have with how the RCMP conducted its investigation
15 into the events of April 2020 and explain specifically why the police responses to the
16 investigation of Ms. Banfield is a gap in this inquiry's work that we think really warrants
17 further scrutiny.

18 I then want to briefly address a similar concern we have about how
19 the Commission has structured the consideration of the issues of gender-based and
20 intimate partner violence in relation to the public violence that followed and propose
21 some suggestions for dealing with that going forward. And then I'm going to conclude
22 by turning to phase 3 and highlighting what we see as some of the key points that we
23 think will warrant exploration by you as you look to craft your recommendations.

24 So starting with our concerns with the RCMP investigation. While
25 there have been many important takeaways from the past two weeks of hearings, one
26 of the central ones concerns the importance of recognizing the connections between
27 gender-based violence and mass casualties. As Professors McCulloch and Maher
28 emphasize both in the report prepared for the Commission and in their testimony before

1 this inquiry, there are clear links between mass casualty events and gender-based
2 violence, but those links are often overlooked, and in part, because of the long accepted
3 divisions between private and public violence.

4 As they explained, private violence, like intimate partner or other
5 forms of gender-based violence, they tend to happen between people who know each
6 other, they take place behind closed doors. They're typically seen as separate and
7 distinct from the more public forms of violence like mass casualty attacks, gang violence
8 or random attacks by strangers that happen in public spaces.

9 As they emphasize, that public, private dichotomy has become a
10 very powerful lens that trains our eye to public violence more often than private
11 violence. That dichotomy influences how mass casualty events are studied by
12 academics, how they are portrayed in the media and indeed in our submission, how this
13 particular mass casualty was investigated by the RCMP and by this Commission.

14 Despite that persistent dichotomy, McCulloch and Maher's research
15 has found important connections between gender-based violence and mass casualty
16 events, including in cases where the perpetrator targets specific women, has a history
17 of gender-based or intimate partner violence or in those cases where a perpetrator has
18 an explicitly misogynistic motive.

19 That first category where a particular woman is the target and often
20 times the first victim, they told us is quite common, likely making up as many as 50 per
21 cent of mass shootings. But as they noted, that's often excluded from the investigations
22 of such events. And in fact that part of the event, that private act of violence, is often
23 quickly excluded from media reports as the focus shines to the more public violence
24 with victims who are the strangers, not those who are targeted.

25 They also importantly pointed out that initial targets are sometimes
26 depicted as the trigger for the mass casualty that follows. And they cautioned us
27 against using language of that sort, of a trigger, as it somehow suggests that the
28 targeted women was the cause for the attack or is somehow to blame and how that

1 language of trigger really obscure that individual's status as a victim.

2 That arguably follows from the different conceptions of victims in
3 the context of public and private violence as well that we've heard about over the course
4 of the last two weeks. Victims of public violence are seen as true victims. Victims of
5 intimate partner violence and gender-based violence, that privilege violence, are often
6 less so. And indeed we often see language that shifts responsibility to the victims of
7 that intimate partner and gender-based violence for the violence they've suffered.

8 As we've heard in the context of domestic homicides, we will often
9 hear the question about why she didn't leave, why didn't she call the police?, shifting
10 responsible to victims to prevent their partner's violence.

11 Conversely we also see a diminished level of responsibility
12 imposed on perpetrators in this kind of context, talking about crimes of passion,
13 defences like provocation, stories about how this person was such a nice family man.

14 When public and private violence are treated as separate and
15 distinct, particularly in the context of investigating mass casualty events, important
16 connections get lost. It serves as – Dr. McCulloch pointed out, it serves to mask exactly
17 the violence that has occurred. It diverts attention away from gender-based violence as
18 a pressing public problem with real consequences. She emphasized that it's absolutely
19 critical that investigators be alive to the connections between mass casualty events and
20 gender-based violence from the outset of their investigation. In our submission, the
21 RCMP investigation was never alive to these connections.

22 Although the RCMP knew early on in their investigation that the
23 mass casualty began with violence targeted at the perpetrator's common-law spouse,
24 Lisa Banfield, their investigation of that violence was treated differently from the
25 violence that followed. In our submission, Ms. Banfield was never really treated as a
26 victim of the mass casualty, one who was lucky enough to survive, but at least to begin
27 with, she was, for the police, primarily a source of information. Of course, that's not --
28 it's not surprising, given the longstanding relationship she had with the perpetrator. But

1 it's nevertheless troubling that the police failed to really document her injuries when she
2 spent five days in hospital, no photographs taken about the injuries she had suffered,
3 and they returned to her for regular interviews without seemingly thinking about the
4 types of supports she might need in the aftermath of such a traumatic event.

5 We know very little about the supports that Lisa Banfield and her
6 family received in the aftermath of April 2020. There's a Foundational Document, as
7 you will know, documenting the support services that were available for survivors,
8 families and communities, and they're really just two references to support in there for
9 the Banfield family.

10 **COMMISSIONER STANTON:** There's also the ---

11 **MS. MEGAN STEPHENS:** The RCMP ---

12 **COMMISSIONER STANTON:** --- there's also the interviews that
13 she gave to the Commission, Ms. Stephens, that contain quite a bit of information with
14 respect to that. She was asked a number of questions on that front.

15 **MS. MEGAN STEPHENS:** Yes, and she did testify a bit about that
16 here last week as well. But in my submission, although the RCMP may have made
17 Victim Services referrals, when the RCMP asked her to return to the scene of
18 Portapique in late October 2020 to re-enact the events from April 18th, there was no
19 victim support person that was present there by her side. We saw no emotional support
20 dog of any sort, and neither of her sisters were allowed to accompany her as she was
21 asked to relive what she survived that night. And in one of those interviews with the
22 Commission, Ms. Banfield has said that she was -- she felt a bit ambushed and a bit
23 surprised to see the videos there and that she would be going through that re-
24 enactment. She certainly suggested she hadn't been prepared for that or forewarned
25 about it. So nothing about that re-enactment video felt like the RCMP understood that
26 Lisa Banfield was also a victim of this mass casualty.

27 Moreover, even if the police had at one point understood that Ms.
28 Banfield was a surviving victim of this mass casualty, that obviously changed at some

1 point, whether before or after that re-enactment, when she became a suspect in their
2 investigation. Just over a month after that re-enactment, the RCMP charged Ms.
3 Banfield with a criminal offence. When they laid that charge against Ms. Banfield, this
4 underscored, in our submission, that the RCMP had never understood the violence she
5 suffered as part of this mass casualty. Their investigation served to perpetuate that
6 dichotomy between private and public violence, and between those who are true victims
7 and those who are not. Instead of shining a light on the intimate partner violence she
8 had suffered, the police charged her with supplying the perpetrator with ammunition,
9 helping to vilify Ms. Banfield, laying blame at her feet for the actions of a man who had
10 subjected her to years of coercive control and physical and psychological abuse. We
11 know from Ms. Banfield's testimony last week that once those charges were laid, the
12 supports she had been getting after those April 2020 events dried up.

13 We also heard from her pretty emotional testimony about the
14 impacts that she and her family have experienced as a result of the stories in the media
15 and rumours that have circulated about her and her family and their role in the events of
16 April 2020. She said she understood why people were angry, but she also said, "In so
17 many ways, it has impacted myself and my family. The fact that people would think we
18 had anything to do with this, it's angering because he did this, and I didn't, and I would
19 never contribute to anything like that."

20 In our submission, the RCMP's approach to investigating Ms.
21 Banfield and their decision to charge her with a criminal offence is not just concerning in
22 that it reflects that siloed approach to public and private violence, but it's an important
23 gap in the work of this inquiry that we think warrants further investigation. As you'll
24 know, your mandate includes the police response to the events of April 2020, as well as
25 the steps taken to inform, support and engage those most affected, which includes Ms.
26 Banfield. The police response includes its investigation as it relates to her. In our
27 submission, how the police approached their investigation warrants further scrutiny,
28 including why and how they came to shift from seeing her as at least a source of

1 information to a suspect in their investigation.

2 As we've heard from many experts this week, the victimization,
3 criminalization continuum is an important issue for consideration in the context of
4 gender-based and intimate partner violence and police responses thereto. The pro-
5 arrest, pro-charge, pro-prosecution policies are often seen as a barrier to reporting
6 abuse, particularly for women from indigenous, African Nova Scotian and other
7 vulnerable communities. In our submission, it's important to understand how Ms.
8 Banfield moved along that continuum in the aftermath of this mass casualty and how
9 doing so helped to perpetuate the public, private violence dichotomy that remains so
10 persistent.

11 So I want to turn very briefly to the concerns about how this siloed
12 approach has been built into this inquiry as well. You've heard my submissions a bit on
13 this a couple weeks ago now, so I'm not going to spend a lot of time on it, but in the
14 phase one proceedings, which you explain in your interim report is concerned with
15 establishing the foundation of what happened, there was really very little, almost no
16 consideration of the violence targeting the perpetrator's common-law partner on April
17 18th, 2020. When that Portapique Foundational Document was tendered into evidence,
18 there's really just one short paragraph sketching what happened to Ms. Banfield. We
19 recognize that the criminal charges that were outstanding against Ms. Banfield at that
20 time was likely a significant obstacle to incorporating her experiences into the hearings
21 in phase one. However, we're concerned that there's been messaging from the inquiry
22 that has served to perpetuate the dichotomy of public and private violence in ways that
23 weren't related to those outstanding charges. I previously flagged the troubling
24 comments that senior Commission Counsel made when presenting that Portapique
25 Foundational Document about where the violence against, as he put it, the innocent
26 parties truly began after the attack on Ms. Banfield. This is just one way in which the
27 Commission's processes have helped to perpetuate that view that public violence and
28 the deaths of innocent parties was a separate and distinct issue from the private

1 violence that the perpetrator inflicted on so many, and even that act of violence directed
2 at Lisa Banfield on April 18th.

3 In shelving all the discussions about the perpetrator's use of
4 violence against others, including that assault on that evening to the end of the phase
5 two hearings, the Commission's processes have helped to maintain those silos. And
6 doing so does, as we know from Drs. McCulloch and Maher, risk masking important
7 connections. It has also, unfortunately, helped to fuel some troubling stereotypes about
8 who are the real victims and who's not. It has allowed those who've been skeptical that
9 there's any connection between gender-based and intimate partner violence and the
10 mass casualty to really avoid this part of the hearing by staying away or tuning out
11 during the last two weeks of this important evidence.

12 While it's too late to go back and reframe the proceedings in phase
13 one and widen that lens to incorporate the full continuum of violence, in our submission,
14 it's important you recognize that the evidence heard during these past two weeks,
15 particularly the specifics in relation to the violence against Ms. Banfield, are not just
16 relevant to phase two. That evidence is really relevant to all three phases of your work.

17 Of course, the work of phase two, as well as that of phase three,
18 looking to the forward-looking aspect of your mandate and recommendations, but as
19 you draft your final report, we urge you to recognize that it's also relevant and essential
20 in terms of making sense of what happened, that work of phase 1.

21 Recognizing this explicitly in your report, that the intimate partner
22 violence that Ms. Banfield experienced is part of what happened in this mass casualty
23 would, in our submission, help to break down that longstanding dichotomy of public and
24 private violence, and perhaps help the public understand the gender-based violence
25 and intimate partner violence are not really qualitatively different than violence that
26 happens in public spaces.

27 **COMMISSIONER STANTON:** Perhaps I can just clear something
28 up. We have been quite clear through our work that we've had to blend the phases 1

1 and 2 proceedings because the work is, as you know, being done in a very short space
2 of time and it's a very complex mandate and a very broad mandate. And if it assists
3 people to be reminded, we have been clear that we've had to blend our phase 1 and
4 phase 2 proceedings and so, also, when we presented some of our work in phase 1 and
5 actually all the way through with our foundational documents, we've tried to be very
6 clear that it's our current understanding of the facts and we're engaged in ongoing
7 investigation throughout.

8 So I just want to be sure that everyone understands, because it
9 sounds like there is some misapprehension of that, that although we may not have been
10 in a position to present everything factually in phase 1, it did not mean that we had
11 concluded our factual foundation in phase 1 in terms of the time period in which most of
12 the phase 1 documents were presented. So just in terms of this last couple of weeks,
13 the foundational documents that have been presented did include additional factual
14 material with respect to what happened that was not in a state of readiness in February
15 or March.

16 So I just want to assure people that we are continuing to assemble
17 the facts as we continue our investigation. So I just don't want people to be under a
18 misapprehension about that sort of phase 1 is over and done and phase 2 is the only
19 thing we're doing. It unfortunately had to be a blended approach because that's the
20 nature of the mandate that we have in the time space that we have.

21 **MS. MEGAN STEPHENS:** Absolutely, and I think it's clear, even
22 just as we look at some of the witnesses coming up, we can see that the work of phase
23 1 and phase 2 continues. But I do think there was a clear message that was sent out in
24 terms of, here are the foundational documents dealing with phase 1 and these will be
25 ones that deal with phase 2. And I understand part of that is just in relation to the broad
26 scope of the materials you have.

27 What I am suggesting, is going forward when you turn to writing the
28 report, that it be – the divide between phase 1 and phase 2 is probably less helpful as

1 you get into that fact-finding stage because I do think that it is all part of – all of this
2 leads into what happened. So I certainly appreciate that processes need to be set up in
3 a certain way, but want to think about – just emphasizing, that we see this evidence as
4 relevant to all aspects of those three phases.

5 Okay, so moving on; I do want to just briefly touch on what we see
6 as some of the key issues that warrant exploration by the Commission in phase 3. As a
7 starting point we recognize the problems you are tasked with addressing are complex,
8 immensely so. They involve multiple system failures that, as we've heard throughout the
9 past couple of weeks, are linked to the history of this country and its legacy of
10 colonialism and slavery.

11 As Rachel Zellars emphasized yesterday, that history reveals itself
12 in our present day reality, which means as counsel Erin Breen just hopefully pointed
13 out, those system failures impact certain groups disproportionately.

14 Any recommendations targeting these problems need to be
15 nuanced and complex with an eye to how the most vulnerable will be affected by any
16 proposed solutions.

17 With this in mind, we do want to encourage you to explore some of
18 these issues during phase 3. First, thinking about the types of early intervention
19 programs that have been proven successful in addressing adverse childhood
20 experiences, given the fact that so many perpetrators, gender-based violence and mass
21 casualties, have themselves experienced significant violence in their families.

22 Looking to examine the types of interventions that have been
23 proven successful in addressing the culture of masculinity, given what we have heard
24 about the connections between masculinity, gendered violence and gun cultural.
25 Exploring how bystander intervention might be a possible community response to
26 gender-based and intimate partner violence, with an eye to how that could be martialled
27 in rural communities, in particular.

28 Fourth, given the unique challenges faced by those who experience

1 intimate partner and gender-based violence in rural communities that we've heard so
2 much about in the past two weeks, further explore some of the recommendations from
3 the Renfrew Inquest into the triple homicide that has just recently come out.

4 Fifth, given the concerns we've heard about both systems failures
5 and reports and recommendations ending up on shelves without getting implemented,
6 really examine closely the issue of accountability and oversight mechanisms.

7 Finally, I want to end our submissions today by calling on you to
8 work to set out the voices of those with lived experiences in phase 3.

9 The voices of academics and advocates have been extremely
10 helpful, but their voices simply cannot replace those with lived experience. The voices
11 of those who have lived through these issues need to really be at the heart of the
12 search for solutions to help make our community safer. Thank you very much.

13 **COMMISSIONER MacDONALD:** Thank you so much. Ms.
14 McDonald and Ms. Sarson?

15 **--- SUBMISSIONS BY MS. LINDA MacDONALD:**

16 **MS. LINDA MacDONALD:** Thank you, I'm Linda McDonald and
17 Jeanne Sarson will follow; we'll share. We're representing Nova Scotia Feminists
18 Fighting Femicide and Persons Against Non-State Torture.

19 So we come to you today as grassroots feminists. We were part of
20 pushing for a feminist analysis in this inquiry and are thrilled to be able to speak about it.
21 And I just wanted to show you, we're not the only ones. This was the petition that got
22 over 9 – almost 9000 people we coordinated with in May of 2020 to have a feminist
23 analysis.

24 We're also – I'd better look at my time here. We're also going to be
25 sharing a bit of our feminist grassroots science and we are Nova Scotians. Jeanne and
26 I were – both grew up in Nova Scotia. We have a lived experience of family violence.

27 We have a lived experience of family violence. Both of our fathers
28 were very violent misogynistic men and so we bring an activist and lived experience

1 voice to the table today.

2 We started as little girls fighting against male violence against
3 women and we're still here today as adult women, still fighting to end male violence
4 against women. As retired public health nurses and Masters in Education, we had a
5 long practice and we started in 1993 with an independent nursing practice. Six months
6 into our practice one woman came to us who identified as being tortured and trafficked
7 by her father and her other family and neighbours and friends.

8 So that changed our world view and we had to learn what torture
9 and trafficking was in Nova Scotia. So we put out word of mouth and we met with four
10 other women in Nova Scotia who were also tortured and trafficked from little girls in this
11 province.

12 We expanded to a global framework and we have spoken to
13 thousands of woman all around the world who have the same – the exact same story.

14 So what is “Non-state Torture”, because that’s the phrase that we
15 coined. State torture we know happens in police, embassies and military. Non-state
16 happens in the home; it happens by every – it happens to every-day families; it happens
17 because families want to torture and traffic their children. There are human traffickers
18 that torture children and women. It happens in prostitutions, in the buying of -- and the
19 pimping, and it also happens in pornography.

20 We learned that many of the perpetrators are men, often mostly
21 men of privilege. They have power in society. They can be doctors, lawyers, judges,
22 politicians, nurses, educators, but they wield their power of prestige to keep themselves
23 protected.

24 And what is non-state torture? Well, it's the torture, the same as
25 state torture in that it happens to children and women in their home, the same exact
26 tactics of water torture, again, raping, electric shocking, deprivations, many different
27 forms of sexualized torture, bestiality, the list goes on and on. And it can end up in
28 femicide.

1 So we started advocating globally, not just nationally, but globally,
2 to raise awareness about what non-state torture was, and we've spoken at the UN many
3 times. And in speaking at the UN, we've spoke to UN experts who were involved in
4 former special rapporteurs on violence against women, and also, a man who was
5 instrumental in helping frame the Committee Against Torture and the Convention
6 Against Torture. And we asked all of them if they'd ever thought of women and girls
7 enduring torture, and they said, no, it had never crossed any of their minds.

8 So it shows that the women who are tortured, or girls who are
9 tortured as well, they're still invisible in society. They're marginalized in the patriarchy.
10 There's the misogyny of thinking that there's a lesser crime. And so we've worked very
11 hard to make their lives visible, and we're involved in the United Nations committee
12 now, trying to have a UN declaration of non-state torture come into play.

13 So the reason why we're here is to show that gap in the continuum
14 of violence against women from neglect, to abuse and assault, and then there's this
15 whole category of torture that's invisibilized, and then femicide. And I want to end by
16 sharing with you a story of one woman in Nova Scotia that I met in my career as a
17 nurse. I was a homecare coordinator, and she was identified to me as a difficult client,
18 that the VON did not want to serve because she was too angry. So I went and I said to
19 her, "Lynn, whatever happened to you in your life that made you so angry?" And she
20 started to unfold that she had married a man, and after six months, he held her captive
21 in a windowless room, handcuffed to a radiator, naked on a bed on the floor with a light,
22 and tortured and prostituted and trafficked her for four-and-a-half years until she
23 escaped. She came back to her family after escaping, not telling them what happened.
24 She went to the priest in the community of Truro. He told her to go back, that she'd
25 broken the Catholic commandments, that it was her fault. It couldn't have been that
26 bad. And that since she gave her body to other men, she was a prostitute. So for 25
27 years, she was silent until she met me.

28 Jeanne and I were able to help her to clarify her whole story. I was

1 able to help her get the care that she needed. The VON started to care about her
2 instead of thinking that she was a difficult person. And she died with respect and
3 dignity. So there's the gap. There's the people that nurses and frontlines, police,
4 military, the law, everyone, we misunderstand their responses, and we don't -- and in
5 the honour of leaving no one behind, we ask that you remember the women and girls
6 who endure non-state torture. Thank you.

7 **COMMISSIONER MacDONALD:** Thank you so much.

8 Ms. Sarson?

9 **--- SUBMISSIONS BY MS. JEANNE SARSON:**

10 **MS. JEANNE SARSON:** Hello, Commissioners. I'm Jeanne
11 Sarson. What I would like to do is expand how we have to understand non-state
12 torture, because back in 1993, when the woman came, she was a Nova Scotian
13 woman, and we looked at the literature, how do we help a woman that we had no
14 experience with. And we looked for resources in our community and there were none
15 because it's still not recognized as a crime in Canada under the *Criminal Code*. Only
16 state actor torture under 269.1 is recognized. So there's a large gap there when we're
17 looking at gender-based violence, intimate partner violence and family violence.

18 So we knew we had to find a definition, so where did we go. We
19 went to the UN and said, okay, the special rapporteurs, what do you call acts of torture?
20 So we made a list from them and also looked at the literature, like, Amnesty
21 International, and how they defined the acts of torture. Once we had that list, we
22 listened to the women, and this woman that started it and other women, and we really
23 found out it was a mirror image. The same thing that state tortures did, so did the non-
24 state actors do.

25 So from there, we said, okay, what is the Committee Against
26 Torture, what are they saying? And it took them 15 years before they came out in 2008
27 with their general comment number 2 in paragraph 18, where they said that torture
28 indeed happens to -- in domestic violence, in gender-based violence, in human

1 trafficking. So we had already been operating 15 years before we had that validation.

2 And also, looking, like Linda said, women and girls were not
3 thought about at all when it comes to torture. So we looked at the Convention Against
4 Torture, and they say it's intentional, it -- for severe pain and suffering, and for a
5 purpose, including discrimination, and, of course, that's what happened. Women and
6 girls in the private sphere, if you want to call it that, we were invisibilized and all the
7 women so harmed.

8 So for us, the gap, being here to talk to you about how important
9 your mandate around gender-based violence is, is to put this reality out there, what
10 happens in Nova Scotia in our culture, in our families, in our communities, and in
11 Canada generally.

12 So the other point that I want to quickly address is the issue of the
13 word human evil. We understand, at least our recollection, three times the word evil
14 has been used to define the mass casualty violence as evil. And because torture is
15 often considered an evil act, it was one that we -- over the 29 years, we've heard many,
16 many times, the women talk about. And what we've learned is that you have to
17 concretize that word, because it can be emotional. It can be vague. And we knew with
18 helping the women that we had to concretize it and say those are MOs, those are the
19 acts of the perpetrators. You have to know those acts if you're going to understand the
20 crime that's being committed and women's responses to the crime. So that's why the
21 definition too was so important, to know the acts that the perpetrators inflict and how
22 that helped the women, because perpetrators, as we've heard, regardless of the type of
23 violence, whether it's intimate partner, whether it's gender-based, perpetrators often
24 have their -- those that are victimized thinking it's their fault. So once we could
25 concretize when they thought what was evil as actions, they could start to see that it
26 was not their fault. They were not to blame. And that helped build their resilience to
27 start healing and recovery. So that was really important.

28 And along the way, we were able to also validate the women from

1 Nova Scotia and around the world that we were hearing with other research. For
2 example, Amnesty International did research on 100 Mexican women who said they
3 were tortured by various state actors. In the UK, they did research on 100 women who
4 were from Asia and from Africa who said that they had been tortured by both state and
5 non-state actors. And then we compared what the women were telling us here in Nova
6 Scotia and elsewhere, how that compared. And like Linda mentioned, electric shock is
7 considered one classic form of state torture. And what we -- when we compared here
8 again, we found the same thing being said by women everywhere.

9 In Mexico, the women said, "Okay, I was electric shocked in my
10 genitalia and in my legs." In Africa, they said, "On my breasts." In Nova Scotia, they
11 said, "On my head, on my -- in my vagina and in my mouth." So it didn't matter where
12 we go, the issues were always talked about in the same way.

13 And then another way to validate the importance of MO, the acts of
14 victimization, in 2014, this is 21 years after we started the work, we became engaged
15 with the work of forensic scientist Welner, who was looking at acts of violence that
16 people use the word like evil or atrocity, how do you go to court and validate that? So
17 they developed what they call the depravatory *[sic]* standard. And what that standard is,
18 they made a list of 25 issues of behaviour, if you will, and attitudes, and the choice of
19 victims, and said, "How does that show the cruelty that is being inflicted?" And we
20 found that very important because when we looked at the 25 issues and we looked at
21 the women who were telling us in this province and elsewhere what they had suffered,
22 we could put the whole 25 issues that they had -- they fit under the standard that Welner
23 had developed and his colleagues.

24 So when the mass casualty came and we saw these gaps that
25 were coming, we thought, well, how will we understand red flags if we have these gaps,
26 about the seriousness of intimate partner violence, domestic violence and family
27 violence if we don't understand the full range of what perpetrators can do.

28 So what we did, we looked at the depravatory *[sic]* standard and

1 said, okay, what we know from the news, will the mass casualty fit under this? And,
2 yes, they did. Yes, you did. And 23 out of the 25. It helped us understand what was
3 happening. And the reason we use it, it was, like, a debriefing tool, because often what
4 we've heard is that people didn't have language for what they were emotionally feeling,
5 what was going on with the mass casualty. So when you have a tool that you can work
6 through, sometimes this helps in debriefing, so we're just sharing it because it was very
7 important to us.

8 In closing, I would like to say that we are submitting a final report in
9 September, and in that, we are asking for the gaps of torture to be recognized, and
10 we're also asking for the issues of femicide. And I just want to bring up Lynn again, that
11 Linda mentioned to you. One of the ways that she was tortured was water torturing.
12 Her husband and the three male colleagues, if you will, criminal colleagues, they used
13 to put her in the tub, hold her under water, count to 10, pull her up by the hair, say,
14 "Bitch, you're doing it again," and hold her under water again. So she survived. That's
15 called non-fatal drowning in the torture literature. But what can happen, from a nursing
16 or a medical perspective, is that a woman could take in, breath the water or the liquid
17 that she's being dumped in, and maybe two months later, die of pneumonia. So if we
18 don't understand the complexity of how women are killed and what femicide really
19 means, then we're going to miss the red flags. So I'm offering that as the gap that we
20 ask you to hear what we're sharing with you and thank you very much for listening.

21 **COMMISSIONER MacDONALD:** Thank you so much.

22 Ms. Rose?

23 **--- SUBMISSIONS BY MS. JESSICA ROSE:**

24 **MS. JESSICA ROSE:** Good afternoon, Commissioners Fitch,
25 MacDonald and Stanton, fellow Participants and members of the public.

26 Thank you for inviting Elizabeth Fry Society of mainland Nova
27 Scotia to participate in this important inquiry. My name is Jessica Rose, and I am a staff
28 lawyer and Counsel for Elizabeth Fry.

1 I'd like to begin my presentation today by identifying a population of
2 our community whose voices have not yet been heard throughout these proceedings,
3 notwithstanding their many linkages to the mandate of the Commission. I'm speaking
4 about the individuals incarcerated at NOVA Institution for Women in Truro, Nova Scotia
5 in Colchester County.

6 We have learned that the Commissioners intend to engage with
7 NOVA during phase three. We are so pleased to hear of the Commission's intention
8 and wish to set out here the reasons why Elizabeth Fry believes this engagement to be
9 essential to the work of the Commission.

10 First, NOVA is located squarely in the community that was ravaged
11 by the perpetrator's violence. The prisoners at NOVA are members of that community
12 and were deeply affected by the mass casualty, as all community members were.

13 Second, one of the women murdered by the perpetrator, Alana
14 Jenkins, was a highly regarded staff member at NOVA, who maintained longstanding
15 and caring relationships with many prisoners.

16 Third, the vast majority of women prisoners are victims of intimate
17 partner violence, and therefore, are likely to have been particularly impacted by the
18 mass casualty, which leads me to the fourth reason that NOVA ought to be engaged by
19 the Commission.

20 While the rest of the public has had the benefit of access to the
21 proceedings, as well as supports and resources through the Commission's webcast and
22 website, telephone and of course attending the proceedings in person, prisoners at
23 NOVA have not had any of those opportunities for access. The people incarcerated at
24 NOVA have been left to grieve on their own. The Commission has not had the
25 advantage of hearing their opinions or contributions, nor has it extended any resources
26 to assist those persons to heal and recover from the mass casualty event and the loss
27 of a valued staff member.

28 We thank the Commission for its efforts to engage the prisoners at

1 NOVA during phase three and urge it to do so in collaboration with Elizabeth Fry as a
2 trusted community partner.

3 By way of an introduction to our organization, the Elizabeth Fry
4 Society of mainland Nova Scotia works with and on behalf of incarcerated and
5 otherwise criminalized women and gender-diverse persons to advocate for systemic
6 changes within our justice system that promote equality, safety and security for the most
7 marginalized members of our community.

8 To provide a roadmap of my submissions today, I will
9 predominantly be discussing two issues. The first is the perpetrator's targeted
10 victimization of sex workers and other especially vulnerable women in the years
11 preceding the mass casualty. The second issue is the pipeline from victimization at the
12 hands of an abusive intimate partner to criminalization flowing from that abusive
13 relationship. My presentation will close by providing a preview of the recommendations
14 we will put forward in written submissions later in the proceedings.

15 Speaking to the first issue, the Commission has rightfully invested a
16 great deal of time into investigating the perpetrator's abuse of and crimes against Lisa
17 Banfield, his common-law spouse. In the course of its investigation, the Commission
18 has learned something of the perpetrator's victimization of other especially vulnerable
19 women. Certain interviews and Foundational Documents have referenced the
20 perpetrator's disturbing interactions with sex workers, individuals in so-called crack
21 houses, and low-income denture patients. To our knowledge, and we certainly stand to
22 be corrected, the Commission's investigation has not yet thoroughly probed the
23 perpetrator's violence against and exploitation of these vulnerable individuals.

24 Many of our clients at E Fry are people who live in poverty, who
25 have severe addictions, who engage in sex work. These are all populations we know
26 from the research are particularly vulnerable to the types of abuses the perpetrator is
27 believed to have visited on them.

28 There's an exponential effect to their vulnerability. For example,

1 where a sex worker is also a drug user, her risk of experiencing violence is that much
2 greater than a sex worker who does not use drugs.

3 Sex workers who are gender-queer or have precarious immigration
4 status, are that much more likely to be targeted and less likely to report that violence to
5 police. The takeaway from the limited evidence we have is that the perpetrator likely
6 honed his violent tendencies using the most vulnerable members of society for target
7 practice.

8 He knew that he could do so with impunity because those
9 individuals would be exceedingly unlikely to report the violence to police, and even if
10 they did, the likelihood of a police investigation leading to a criminal charge would be
11 almost nil. We submit that the Commission ought not replicate the erasure of these
12 victims by failing to thoroughly investigate violence committed against them by the
13 perpetrator.

14 Turning now to the second issue. During the round tables
15 facilitated by the Commission over the last two weeks, the Commissioners heard from
16 various experts about the challenges faced by victims of intimate partner violence and
17 reporting harms and the largely inadequate institutional and personal responses
18 experienced by those victims.

19 The Commission heard directly from Lisa Banfield about the
20 manipulation, violence and coercion she was subjected to during her lengthy
21 relationship with the perpetrator. The round table discussions on Wednesday and
22 Thursday of this week shone a spotlight on the heinous, but evasive nature of coercive
23 control whereby a person, typically male, displays a pattern of intimidation, isolation and
24 control toward their typically female partner, making them feel increasingly worthless and
25 upending their sense of reality.

26 The Commissioners heard and read at length how and why victims
27 of intimate partner violence and coercive control faced tremendous physical,
28 psychological and financial barriers to removing themselves from their abusive

1 relationships.

2 In our work at Elizabeth Fry, we bear witness to one of the many
3 tragic outcomes of this abusive dynamic, and that is, the criminalization of the abused
4 person.

5 While Lisa Banfield's charges remain outstanding, we cannot and
6 should not know the details of those charges as it may prejudice the resolution of her
7 matter.

8 Without speculating about those details, I can say that her story is
9 entirely consistent with the narrative that we hear from approximately 60 per cent of the
10 hundreds of clients that we support in any given year.

11 That narrative, is that once the abusive dynamic is established, the
12 woman who is subject to coercive control is commissioned by her partner to participate
13 in criminal activity devised by him. By this time, the woman is under her partner's
14 thumb, unable to escape.

15 As described by Doctors Gill and Aspinall in their paper,
16 "Understanding Violence in Relationships". The woman is: "Completely dominated, has
17 lost all autonomy, self-esteem and ability to make her own decisions." She therefore
18 participates in the criminal activity to keep herself and her loved ones safe, eventually is
19 charged with an offence and the domino effect of criminalization ensues." And I'll speak
20 to that domino effect in just a moment.

21 When a woman commits a crime simply because the risks of
22 refusing to participate are more dangerous than the risks in participating, our justice
23 system treats her as 100 per cent culpable for her actions.

24 As we know from the round table discussion of the case of *R. vs.*
25 *Ryan*, duress and self-defence are only available in very narrow circumstances when a
26 person harms her abuser in an attempt to stay safe.

27 But the evidence presented to the Commission makes clear that
28 when a woman commits any crime that flows from her involvement with a coercive

1 partner, the goal is typically also her safety and her security and the safety and security
2 of her loved ones. Because if she refuses to participate, he might very well come for
3 her or her children or her sister instead.

4 Our justice system has no mechanisms in place that acknowledge
5 this reality for victims or that balance the inequity in the court system that flows from
6 their victimization.

7 I believe that all of us who were in the room on Wednesday when
8 the Commission heard Dr. Chambers recount the story of Nicole Doucet. He felt that
9 the law was really impoverished and lacking the tools to fairly and equity address this
10 terrible circumstance.

11 We also learned in Ms. Doucet's case, but have also seen
12 ourselves in the case of Lisa Banfield, the cruelty and division directed at victims by the
13 public and the media. The underlying meaning of that division is that the woman victim
14 should take responsibility for the crimes committed against her and others. And she
15 should have found a way to escape the violence perpetrated against her so as to avoid
16 being corrupted into the abuser's antisocial and criminal behaviour.

17 This hyper-responsibilization of women is so engrained in our
18 collective psyche that even victims are likely to blame themselves for not only their
19 crimes, but those of their abusers.

20 Lisa Banfield stated throughout her interviews with the
21 Commission, that she might have been able to stop the mass casualty if she had acted
22 differently, that she should have hidden the perpetrator's guns and so on.

23 Incarceration perpetuates the violence exacted against these
24 victims. The State steps into the place of the abuser to survey and control the
25 behaviour of the abused woman, isolate her further from her community and deny her
26 the supports she may have had access to prior to incarceration.

27 Whether incarcerated or not, the stigma of criminalization touches
28 on every aspect of her life. Access to her children is at risk, employment and housing

1 opportunities are restricted, mental and physical health deteriorate. She becomes a
2 social pariah.

3 As Lisa Banfield described in her testimony, she was offered all
4 manner of institutional and personal supports following the mass casualty, that is until
5 she was charged with a crime, then it all disappeared.

6 Ms. Banfield also emphasized that without her family she never
7 would have survived this experience. In our work at Elizabeth Fry, Ms. Banfield does
8 not typify our client base. Ms. Banfield is middleclass, white, has good family support.
9 Most E. Fry clients do not have these protective factors and are not only that much
10 more vulnerable to the influence of coercive partners, but are that much more alone
11 when they find themselves charged with a crime.

12 As a result, the last bastion of support for these women is Elizabeth
13 Fry, which is how we have developed these insights into the dangerous pipeline from
14 victimization to criminalization.

15 Notwithstanding the strong criminological evidence of this pipeline
16 and the tragic outcomes for those trapped in that pattern, our justice system has not yet
17 developed the tools to address criminal charges against victims of intimate partner
18 violence and coercive control. In part, due to this failure of our justice system, women
19 constitute the fastest growing prison population in Canada, particularly indigenous
20 women who in 2021 represented approximately 5 per cent of the general population and
21 48.5 per cent of incarcerated women.

22 Women who are experiencing coercive control and intimate partner
23 violence in our province and across the country are not receiving adequate protection
24 from the Canadian legal system. We heard repeatedly from the expert panels that
25 preventive strategies that promote gender equality are paramount for reducing the
26 incidents of coercive control and abuse and, therefore, the criminalization of victims of
27 intimate partner violence.

28 And while we agree wholeheartedly with that recommendation, we

1 submit that there must be interventions further downstream for the victims who exist
2 now, the victims for whom primary prevention has failed or will fail.

3 I would like to close my submissions by describing in brief several
4 recommendations. These will be expanded upon in our written submissions.

5 One, the realities of gender-based violence and its impacts need to
6 be meaningfully considered at every stage of the criminal justice system, from police
7 investigation through to sentencing, through to reintegration.

8 Two, there must be sustained and adequate resourcing for
9 community organizations and family networks that have demonstrated success at
10 advocating for individuals in this systems.

11 As my colleague Emma Halpern said yesterday during a round
12 table, let's fund the things that colleague and a helper, and said yesterday during a
13 roundtable, "Let's fund the things that work."

14 Grassroots organizations understand the unique nature of the
15 communities they work with and for, and are best positioned to deliver support services
16 and inform policy that is needed to protect vulnerable persons.

17 And three; we echo the comments of Dr. Amanda Dale who said
18 that the judiciary needs robust education about the realities of intimate partner violence.
19 But we would say it also needs the tools to respond to intimate partner violence and
20 stand up for victimized women in our criminal justice system.

21 There's been some discussion about legislating a new offence of
22 coercive control in the *Criminal Code*, but we would urge the Commission to consider a
23 new legislated defence of coercive control so that victims can have the benefit of a
24 shield against their abuser and the state. This defence would show a victim-centred
25 approach that focuses on her experience and her protection, rather than the state taking
26 a punitive approach towards the abuser, which excludes the victim from the process yet
27 again.

28 We are asking the Commission to seriously consider bold and

1 tenacious changes to our legal system that are driven by the expertise of survivors
2 rather than merely making recommendations that tinker at the margins.

3 Thank you.

4 **COMMISSIONER MacDONALD:** Thank you so much.

5 (SHORT PAUSE)

6 **COMMISSIONER MacDONALD:** Mr. VanWart?

7 **MR. VanWART:** Yes, thank you. I just wanted to advise that does
8 conclude our submissions.

9 **COMMISSIONER MacDONALD:** Thank you.

10 **COMMISSIONER STANTON:** Okay. Well, thank you again to the
11 expert witnesses today, and to counsel for your questions, and to the Participants for
12 your submissions which we will, of course, consider carefully.

13 Next week we will hear from more senior RCMP officers; Supt.
14 Darren Campbell and C/Supt. Chris Leather will join us with respect to their roles and
15 recollections regarding the mass casualty.

16 A reminder, too, that Assistant Commissioner Lee Bergerman and
17 Commissioner Brenda Lucki will be -- are scheduled to join us as witnesses later in
18 August.

19 Thank you to everyone who's taken part in or supported
20 proceedings this week. It's been another very full week and we appreciate your
21 continuing engagement. We hope you get some time to rest over the weekend, and
22 encourage anyone who needs help to reach out to the support services available on our
23 website.

24 Thanks, everyone, and we'll see you back here on Monday.

25 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

26 The proceedings are adjourned until July 25th, 2022 at 9:30 a.m.

27 --- Upon adjourning at 3:55 p.m.

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CERTIFICATION

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I, Sandrine Marineau-Lupien, a certified court reporter, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sandrine Marineau-Lupien, une sténographe officiel, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sandrine Marineau-Lupien