Standing Committee on Oversight of Government Operations and Public Accounts Review of the 2016-17 Annual Report of the Legal Services Board of Nunavut Iqaluit, Nunavut October 2, 2018

Members Present:

Tony Akoak
Joelie Kaernerk
Mila Kamingoak
Adam Lightstone
John Main, Chair
Simeon Mikkungwak
Margaret Nakashuk
Patterk Netser
Emiliano Qirngnuq
Paul Quassa
Allan Rumbolt
Cathy Towtongie, Co-Chair

Staff Members:

Alex Baldwin Stephen Innuksuk

Interpreters:

Andrew Dialla Mary Nashook Philip Paneak Blandina Tulugarjuk

Witnesses:

Jonathan Ellsworth, Chief Operating Officer of the Legal Services Board Madeleine Redfern, Chairperson of the Legal Services Board

Tara Tootoo-Fotheringham, Member of the Executive Committee of the Board of Directors of the Legal Services Board

>>Committee commenced at 9:07

Chairman (Mr. Main)(interpretation): Good morning. (interpretation ends) Welcome

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back, Committee Members and witnesses. (interpretation) Welcome and good morning. (interpretation ends) Welcome back to the Standing Committee on Oversight of Government Operations and Public Accounts' televised hearing with the Legal Services Board.

(interpretation) Mr. Qirngnuq, can you say the opening prayer, please. Thank you.

>>Prayer

Chairman (interpretation): Thank you, Mr. Qirngnuq. Our meeting will continue from yesterday. We had set up the meeting thematically. At five o'clock yesterday we were still under the Legal Services Board.

(interpretation ends) Before we start off with our questioning, the witnesses were kind enough to provide us with some additional documents. I wonder if you would mind briefly summarizing what we have in front of us in terms of the documentation here. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Good morning to all the Members of the Standing Committee.

What we have distributed upon request you should have in front of you is a list of all the court workers by community, including by positions which are full time versus part time. Mr. Chairman, do you want me to read that or just table it? Thank you.

You should also have in front of you a copy of the Legal Services Board executive travel as per audited statements. I just would like to highlight that this travel is for four staff persons: our chief executive officer, our chief operating officer, our comptroller, and formerly when we had the position, executive assistant and for more recently it's the

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comptroller trainee. These are trips that our senior management do for board meetings, executive meetings, executive management meetings, the staff meeting, as well as to sometimes our CEO travels to Iqaluit for meetings with the Minister or the Deputy Minister.

We also have participation on three national bodies. One is called the Association of Legal Aid Plans. Usually one to two representatives will travel down. The meetings are usually held in the south. There are also two federal-provincial-territorial bodies. One is called tri-part working group which focuses on legal aid across the country. The other one is a permanent working group which is with respect to aboriginal court workers.

You can see the amounts are listed there for the Members. In addition, you should have received a copy of the list of regional board members by region under each of our regional clinic societies. You should also have a copy of the business case and a copy of the Inuit Employment Plan. Mr. Chairman, I believe those were all the requested documents. Our apologies if anything was not in Inuktitut. Some of these we just produced yesterday. Similarly some are internal working documents. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Before we move on, just to clarify on this executive travel; these figures you've provided us, do these figures include commuting for staff who live outside of Nunavut? Ms. Redfern.

Ms. Redfern: It does, Mr. Chairman, and usually that cost is around \$500 when you hit the regional hub to travel. It's actually cheaper for our comptroller to travel up to Gjoa Haven from Winnipeg than it is from

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Iqaluit. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. According to the list of names I have from yesterday, Mr. Quassa.

Mr. Quassa (interpretation): Thank you, Mr. Chairman. Good morning to everyone. (interpretation ends) You just mentioned and we heard a bit about the comptroller trainee, which is impressive.

My question just on that first, is: are you thinking of doing any of the trainees aside from comptroller, and I know that you're trying to focus on the management level, and I think this is superb. The only question: are you thinking of any other trainees in the future? Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Thank you to the Member for the question. I also wanted to add an additional point from the same Member's question yesterday. The funding program that is managed by both the NTI and GN actually has been developed to support programs versus individual training and that has been a part of our problem in accessing those funds.

The comptroller trainee, as explained, we're trying to support to designation of our certified provincial accounting designation. The three regional directors, we recognize need both individual training and also where there may be overlap or need between the three or two of the clinic directors, but this requires additional funding besides just their salaries.

We would also like to provide our court workers more training. We generally are able to offer group training once a year, but the Δ °/ペ**▷**C°°: 'd৮° Δ Γ'ь. Δ ′<H Δ ° σ C▷L Δ Δ ° Δ 0° HDC C° α bOL $\dot{\alpha}$ 5° Δ 0C $\dot{\alpha}$ 7° Δ 0C D+ Δ L'LC. HDC $\dot{\alpha}$ 7° Δ 7° Δ 9° Δ

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reality is that the needs of the 23 to 24 court workers vary. Some are relatively new and some have been in the position for ten years or plus. Again, it requires more funding. Our Inuit Employment Plan speaks to providing those people training.

We also have clinic staff that we would like to provide training for, but this again requires individual needs assessments. Because some of the training that's available is required...what's on offer requires people either to leave the territory for an extended period of time whereas most of our staff would prefer on-the-job training and support and small, distinct training courses. That's what we found has worked best, especially with our court workers. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Quassa.

Mr. Quassa (interpretation): Thank you, Mr. Chairman. I want to go back to what was stated yesterday regarding Gjoa Haven. First of all, I'm sure that you are aware or the GN has informed you that the Gjoa Haven office is in a decentralized community. How many of the Legal Services Board's positions are decentralized? Did the government inform you on that? That's my first question, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Yes, we're well aware that Gjoa Haven is a decentralized community and that we have an office. It's our head office and we have Government of Nunavut employees who are seconded to the Legal Services Board, although no formal contract or secondment agreement exists.

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I appreciate that the Member, Tony Akoak, who formally worked at the LSB, says that at one point there were six. We're just trying to ascertain what that real number is. There are different organizational charts that are in existence. There are missing job descriptions as well as trying to ensure and assess the proper HR process of the GN, documentation supports, and state exactly what those positions are.

We can't manage or manufacture positions on behalf of the Government of Nunavut. We can't create new GN positions. We can't eliminate GN positions. As a result, we can't even amend a job description without GN approval nor fill the job positions either. It's very incumbent on the GN to provide that level of support so that we know exactly how many positions are in the GN and what they are, and then we can proceed from there. Thank you, Mr. Speaker.

Chairman (interpretation): Thank you. (interpretation ends) I think my colleague, Mr. Enook, would be insulted if I didn't point out that I'm not the Speaker; I'm the Chair. Joe, if you're watching, that's your chair behind me. Mr. Quassa.

>>laughter

Mr. Quassa (interpretation): Thank you, Mr.

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Chairman. I understand that the LSB does not exactly know how many decentralized positions they have. I believe that the LSB should be fully aware as to how many decentralized positions there should be. As Member Akoak stated, there were six positions in that office in Gjoa Haven. Therefore I would like to find out and perhaps ask a question on how many decentralized positions are geared for Gjoa Haven. We know that when you take a position out of a decentralized community, you have to replace it. They have to follow the decentralization policy. Thank you for allowing me to understand fully on that. Thank you very much, Ms. Redfern. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. I didn't hear a question. Thank you. Mr. Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you very much, Mr. Chairman. Good morning to the viewing audience and all Nunavummiut. Good morning also to the individuals at the witness table.

I would like to know if you can explain how much money the LSB spends in defending clients. I know there are many clients who have to face the court and some of them are in higher security matters and some are in less security matters. How much money do you actually spend in defending these clients? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I presume the Member's question is specifically to criminal law in the sense of defending clients. I can tell you that in 2017, out of an approximately \$11 million budget, we spent \$5,252,751. In 2018 it was just a

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Mr. Chairman, I was speaking from page 10 of our annual audit from March 31, 2018 for the most current information. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. Maybe I'll rephrase my question here. The Legal Services Board spends money to defend people who are prosecuted for indictable offences and/or summary convictions. Is the total that you indicated, \$5,252,751, combined with the indictable and summary convictions or is it all combined? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. It's for all offences under the criminal code. We do also provide, as required under our contribution agreement, statistical information as to the number and type of cases or charges and that's a completely separate document. Thank you, Mr. Chairman.

Chairman: Thank you. Moving on, Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman. Good morning. Yesterday my colleague Mr. Qirngnuq was asking this

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question about court workers in the communities. In Coral Harbour, Chesterfield Inlet, Whale Cove, Grise Fiord, and Resolute Bay, apparently there are no court workers in those communities. Why don't those communities have court workers? That's my first question. Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Resolute Bay does have a court worker. The other communities that the Member mentioned, Whale Cove, Coral Harbour, Grise Fiord, and Chesterfield Inlet, are served by a neighboring community and their court worker. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman. Why don't those communities have their own court worker? (interpretation ends) Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Mostly because of the small number of times that the court actually travels into the smaller communities, the costs associated with having a court worker there, the lack of office space, as well as the lack of work. Nonetheless, we try to be efficient with the use of resources.

I've also forgot to mention that we did actually provide the Members the court worker report. It was just included in your other materials, so we didn't reprint and distribute them. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

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Mr. Netser (interpretation): Thank you, Mr. Chairman. I was looking at the documents that were just handed to us. A worker from Rankin Inlet goes to a neighboring community. Why is Naujaat not on the list of the communities that don't have court workers? In the handout, it looks like Naujaat is one of those communities that don't have court workers. Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: I have just been told that that information was updated two weeks ago. Thank you, Mr. Speaker.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser (interpretation): Thank you. Naujaat does not a have a court worker in the community. That's what it seems to say, that it gets served by the court worker from Rankin Inlet. Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Yes, I have been informed that it was an oversight yesterday, so my apologies. Thank you, Mr. Speaker.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser (interpretation): Thank you for explaining that. Once those communities have their own court worker, young people coming out of correctional centres.... They have to work with parole officers. Sometimes they get out on parole and some of them go on probation for a certain number of months and if you commit another crime, you will be put back into prison within those months.

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Once we have workers in the community that can administer to people like that, this should help with recidivism, if we have proper workers in the communities. I think some people that come out of correctional centres don't have anywhere to go to talk to or turn to and they end up recommitting crimes. I think the recidivism rates would be lessened or there would be fewer. That's my question. Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Thank you to the Member. In part of why we would like to have an access to justice director is we recognize that there absolutely could be more efficiencies and partnerships with our organization, including with the community justice coordinators as well as parole officers, both territorial and federal, the wellness coordinators.

There sometimes is a lack of working relationship or that there could be shared office space, there could be shared training, but it does require quite a bit of work to implement our Court Worker Enhancement Program, not only to improve internal efficiencies but to also improve our internal relationships and partnerships and better serve our communities. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser: Thank you, Mr. Chairman. A quite of bit of work should not be an impediment to move forward. The government is required to do work for its people, to serve its people. I encourage the Legal Services Board to look into that avenue of having parole officers and court workers in all communities.

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Mr. Chairman, I think, if we had really strong justice committee workers in our communities, we would see these recidivism rates reduced. It's really high at the moment and our prisons are busting through the seams. Just going back and forth to the prison, it's a real problem and we must face it. (interpretation) Thank you, Mr. Chairman. That's my final comment.

Chairman (interpretation): It's not an actual question; it's a comment. (interpretation ends) Maybe while we're on the topic of court workers, could you explain what the relationship is between a court worker when the community has one and a community justice outreach worker? CJOW is the acronym that is used. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'll let Jonathan Ellsworth, our Chief Operating Officer, speak to that and if need be, supplement. Thank you, Mr. Chairman.

Chairman (interpretation) Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman, and good morning. The relationship between court workers and community justice outreach workers isn't what it could be, in all honesty. Again, and if you will refer to our court worker report, we need to be able to train our court workers to be able to harness the necessary skills to be able to be a part of those processes.

One of the challenges with the current model of the community justice outreach workers is that it's very victim focused, and that is good. Victims need to be supported. Victims' rights need to be advanced. It's our view that court workers should have a role when it comes to the person who is the offender or the party who is accused, perhaps. You will

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see in our court worker report and some of our other documents before you today that it's our intention to fully implement our program enhancements to be able to see a very community level response to some of the concerns that the Hon. Member raised earlier. We see that community justice is significantly important in terms of being able to heal those who have been a party to very serious incidents.

One of the things that I would like to raise with regard to the recidivism rate, if I could and this is a little bit outside of the scope of this question but I think it's important to note, is that we need to resource our community justice outreach workers, our court workers, we need to find resources to have treatment facilities, to have community-based healing. It's my view, Hon. Members, that we don't as a territory put enough resources and effort into making sure that there is local treatment, local treatment that includes values that are important to our territory, that incorporates *Inuit Oaujimajatuqangit*.

It's my view, sir, that there are not adequate resources put for those purposes. While the LSB is committed to ensuring that our court workers are prepared to be a part of those processes, it falls back to our main comment yesterday. We need resources to be able to do these things. We want to be able to do these things. We're not afraid of the work that is required, but the work that is required requires funding to be able to do that work. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Thank you for elaborating on that topic. My next name, Ms. Towtongie.

Ms. Towtongie (interpretation): Thank you, Mr. Chairman. The Canadian government

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has an agreement with the three territorial governments of the NWT, Yukon, and Nunavut on how they can efficiently run the courts in the north with indigenous court services and to help Inuit know what's happening within the court. Some of us are quite aware that Inuit don't understand what's happening during court and because they have to wait a long time, many of them end up committing suicide. That's quite obvious. Canada gave \$2,457,350 for the year 2016-17 through an agreement.

The court workers are basically administrators or secretaries. They tell the community, "This is when the court is coming in and these are the people who are going to court." I expect to see the paralegals. The paralegals are sort of in between the court worker and the lawyer. I don't see anything in the agreement on how the paralegals would be trained as court staff so that they can be in the middle.

Within the documents that were just handed out, I read that court worker training has \$500,000, or half a million dollars. My question is: how much funding was the Government of Nunavut given in the 2017-18 fiscal year? There was \$2,457,000 for indigenous court services, but what I see on the other hand is \$500,000. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Just for clarification, the paralegal reference, and I'll take that as a comment, and the question is regarding this access to justice service agreement. Ms. Towtongie, okay, I see you nodding. Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I believe the Member is referring to the information in our business case. It's a court worker additional funding. It's not all for

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training *per se*. I can speak to the fact in our business case summary that the additional funding that we identified was to increase payroll as well as office costs and training, as well as the new position for the access to justice director to provide support for them and to enhance those partnerships that we spoke about earlier. That is what that line item is. Thank you, Mr. Chairman. I hope that answers the question. If not, I'm happy for a supplemental. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) I'll just add to her question. In 2017-18 when the GN received funds, did any of that get handed over to the Legal Services Board? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We requested \$1.8 million and we received the \$500,000 flowed through from the federal government to the territorial government and then onto us. There was also an additional \$170,000 from the federal government to increase support for legal aid. Those funds were not transferred to the Legal Services Board. I believe the rationale behind that is that the territorial government has already provided significant funding for us, so they kept that \$170,000. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) I'll let you continue, Ms. Towtongie.

Ms. Towtongie: Thank you, Mr. Chairman. Thank you for that response, Madam Chair. Is any of that fund related to court workers' additional training so they can prepare to become paralegals? That's my final question. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

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Ms. Redfern: Thank you, Mr. Chairman. There are currently no paralegals in this territory and when we did the review of the court workers' duties and actually interviewed every single court worker as to what type of training they would want and also working with the lawyers and other administrative staff, as well as partners were interviewed, at this point in time we wanted to ensure that they received all the training they needed and skill sets to perform their current duties. We could look into the future, once they have acquired that level of skill set, whether or not additional training for paralegal designation would be beneficial for them and for the court system or the judicial system and our communities. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Rumbolt.

Mr. Rumbolt: Thank you, Mr. Chairman. Good morning. I just want to ask a couple of questions regarding the documents that were provided to us today on the budget briefing for the department's submission for the Legal Services Board. When you put forward budget requests, is there a cut-off date...? What is the latest cut-off date that you have in order to present your budget to the Department of Justice? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Usually it's late August. We have sought and requested a number of times to ensure that we have the adequate dates and notice so that we can prepare all the required information to the Department of Justice so that they can incorporate it in their budgets and in their plans. Thank you, Mr. Chairman.

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Chairman (interpretation): Thank you. Mr. Rumbolt.

Mr. Rumbolt: Thank you, Mr. Chairman. The document you provided us was signed by Tara Hartman June 22, 2018. Is this the date it was submitted to Justice or is that the date you completed it and, if it is the date completed, when was this one submitted to the Department of Justice? Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. The date that it was signed would be likely the date that it went in to the Department of Justice. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Rumbolt.

Mr. Rumbolt: Thank you, Mr. Chairman. In your opening comments on page 4 at the bottom, you stated that in November of 2016 the board submitted its business case to the Department of Justice. You go on to say that the Legal Services Board was told by the GN Justice that the business case was not approved by the FMB and was therefore not presented to the Legislative Assembly. You just stated your cut-off date was August and you're saying that you submitted in November 2016. Was one of the reasons that your budgets were denied is because you were three months late submitting your request? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. There's a difference between submitting a budget and submitting a business case. The budget, we have been told, to submit is based on what we currently receive. The business

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Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. I just wanted to return to my questions yesterday on summer students. I was curious: is the Legal Services Board eligible to take advantage of the GN's Summer Student Employment Equity Program funds? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We don't know. We have not been informed whether or not we're able to. I know that the conversations we've had with the person formally holding the position for developing the Inuit employment plans, we had different information of whether or not we would be able to access GN separate funding for summer students or Inuit employment plans. We're still trying to get clarification and support for those plans and implementation. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Kaernerk.

Mr. Kaernerk (interpretation): Thank you, Mr. Chairman. Good morning. Thank you for providing the documentation. On page 20 *Sivumut Abluqta* was introduced by the previous government and at the bottom you stated that you want to increase the number of court worker positions. As my colleague from Rankin Inlet said, when I say

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"paralegal," are you planning to increase the duties as paralegals for the court workers? That's my first question. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you, Mr. Kaernerk. It seems like the same question that Ms. Towtongie asked, but if you would like to respond, Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'll let Jonathan Ellsworth, our Chief Operating Officer, answer that question. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. Just to provide some background information for the Members present, court workers are similar to paralegals. They do a lot of things that paralegals do. The difference, however, is that court workers are enshrined in statute, so to speak. By an order in council pursuant to, I believe...there's a section in the criminal code, 810 or 811, around that area that says that a lieutenant governor in council can appoint a service delivery agency to provide indigenous court worker services. Our court worker program has that designation.

What's important to recognize is that every individual court worker has different aspirations, different skill sets, and different desires. Court workers can appear in court. Court workers can run bail hearings. Court workers can conduct sentencing hearings unlike paralegals. Paralegals are not authorized in any way to operate in a court without a lawyer.

Our plan with regard to the court workers is to get them to a place where that is a functional program delivery module. What **Δ•/ペኦርጭ**: L'a Γ'C 'bΔ'σ^ና•. Γ' Cኦጋጐዮኦ< ላለጭሰበቦ∟ኦሁጐ ላንት'b<ጏጐL^c PHΔላσ Γ' ናናጵት የኦ•bትσንላ'σንልና.

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that requires at the community level to be able to conduct those services in our communities would not only be a functioning court worker program, but would also require a functioning Justice of the Peace program. It would also require functioning prosecutorial programs.

Recently, just for your information,
Members, the law society took a position
with respect to the RCMP members
conducting show cause hearings as
prosecutors. Their position is that they're not
lawyers. They're not authorized to practise
law or prosecute even in bail hearings.
Historically RCMP officers did all of that.
Historically court workers would be doing all
of the bail hearings in the communities at the
community level.

Because people's liberty is at stake during a bail hearing, it is very important that the plan that is prepared to see their release realized is a plan that is meaningful and is something that is attainable. Sometimes people who are in bail hearings need sureties, they need people to stand up and say, "Yes, I'll make sure this individual goes to court," or what have you. My point being is that, again, we want to see our court workers realize their full potential. It is incumbent on us as well as incumbent on the government to see that happen.

I'll fall back again to one our overarching narratives and throughout all these proceedings, and that is we need funding. We are quite prepared and capable. We have court workers that do go to court, we have court workers that do sentencing, and we have court workers that do bail hearings. They attend all proceedings of the court. Court workers are our backbone. If it weren't for the court workers, we would fail. We would not be able to provide services that are meaningful to Nunavummiut, which is why

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Δ•/<>>(ጋጎ/Uሃባር): ‹٩/-۵፫_•. L_/C ‹₽/-۵፫_•. it's one of our fundamental sub-plans of our other plans to ensure that we can do that so that Nunavummiut can have a meaningful experience traversing the justice system. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Kaernerk.

Mr. Kaernerk (interpretation): Thank you, Mr. Chairman. The reason why I stated this is yesterday I said was proud of you, that under your Inuit Employment Plan, that's why I just stated what I said, that the court workers provide essential services.

As I stated yesterday, some smaller communities get confused and reach to the point of suicide. That's why I tried to say that maybe the court workers can provide training or education. What are the procedures? What is our goal? When young people are charged, they automatically think that they will go to prison and this is worrying to them. You worry about it especially as the date becomes closer. They get more frustrated because they have no idea that they can have defence lawyers who can assist them. That's why I tried to say perhaps they can provide assistance to defence. Can they give assistance to Inuit in that route? Looking at your plan, yes, it's good. I wish that you will carry that forward.

As you stated earlier, the community justice outreach workers provide more assistance to the victims and they don't concentrate so much on the offender. With that being the case, when a Justice of the Peace has hearings, maybe the court workers can provide defense during the hearing. For example, for the *Family Abuse Intervention Act*, perhaps they can provide defence through training. Is that a part of your plans? Thank you, Mr. Chairman.

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CALIBA CALA APN J ΔIBA CALA APN J ΔIBA CALA APN J ΔIBA CALIB ΔIBA CALIB ΔIBA CALA APN J ΔΙΕΘΕΝ ΔΙΕ **Chairman** (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Thank you for the questions and comments, Member. We know ultimately that our court workers need more support and training. This includes providing them the ASIST, which is the applied suicide intervention training. There's an opportunity for shared training with the community justice outreach workers or the community justice restorative coordinators. We also know that the clients are at risk, but also that in some cases our own court workers, because of the difficulty and the stress of providing services and the explanation about the court system, we need to ensure that they also have wellness support.

Ultimately, when we provide them all that training and support, then yes, they will have the skill sets to fulfill their full job responsibilities. Yes, we absolutely would love to then be able to proceed with the fact that they could, as Jonathan Ellsworth, be in court and provide defence support, but we can't leapfrog without building these other supports in place and skill sets. If we try to put them too quickly into positions or duties without those skills and confidence, they would fail. They have told us very clearly that they want and need that incremental development individually and together as a group. That's why we have a robust court worker enhancement program plan that we would love to implement. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Kaernerk.

Mr. Kaernerk (interpretation): Thank you, Mr. Chairman. I also thank you for clarifying that. Also, Inuit are very capable of going to law school. Also, we set up the *Turaaqtavut*

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mandate where they include Inuit traditional knowledge. The government wanted to use traditional knowledge more at that time during the development of the mandate.

In your plans of using Inuit traditional knowledge, if I smile like you, I'm receptive to you and I'm welcoming. Perhaps in your workplace, we have to be receptive. Is your office friendly to the offenders as well? I believe I can keep saying that for those of us living in the smaller communities, we don't know the justice system and we don't know the details. No wonder we get scared if we get charged and have to go to court. We get really scared.

As I have stated before, the court workers have to be friendly and to make sure that the client is supported, to make sure that the client is not scared, and these are three things that the court worker could use. I believe that the funding you're requesting can be used and I hope that this program comes up very shortly using our traditional ways.

This is not a comment. This is just a suggestion to help you move forward. I just wanted to urge you and express my support with your plans. Thank you for allowing me to speak. That's all.

Chairman (interpretation): Thank you. Part of it seems like a question. I now give you the floor, Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Thank you for the Member's support. We hope, we desire to hire an Inuk lawyer to be the access to justice director so that they have that knowledge both of the legal system but also of our culture, our values, and to provide that really necessary support for the court workers, but also that important relationship that exists between the court workers and our staff and private lawyers that go into the

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I can tell you also the change from having non-Inuit lawyers manage the clinics and having Inuit clinic directors who work closely with the court workers has been extremely beneficial, but they too need training and support. It's very new. They're learning the area of law. They're learning the much-needed management skills also required to run those clinic offices, but to try to provide that outreach support to the court workers who live in our communities. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) This is my opportunity to throw in a couple of questions of my own here. Right in your annual report here on the tenth page it says that your organizational structure is a mess, basically. That's my interpretation of what it says in here. It also says that because that it's not set up in the best way, it says on the tenth page, "There are many unnecessary redundancies in respect of payroll, accounts payable and HR practices." You're running all of these separate systems because it's set up in this way. It says, "...the structure is not as efficient as it could or should be and leads to many operational inefficiencies..."

At the same time as we're hearing that you need additional funding, it says right here in your annual report that this is costing you money. Do you have an estimate or an idea of how much money you could save if changes were made to make your structure more sensible, I'll say, or better? How much money do you stand to save under a better structure? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Some of those savings we could calculate ourselves quite easily. Having one audit instead of four would be an immediate

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savings. Approximately \$25,000 per clinic audit and approximately \$40,000 for the LSB audit, so there could be efficiencies there.

Similarly having financial systems, that we have five because we've got our own LSB financial systems, the three regional clinics have financial systems, and then there are the GN financial systems, it would be more efficient if the LSB had one financial system for ourselves and our three regional clinics under our umbrella. We wouldn't be able to speak to the savings that the Government of Nunavut might save.

I can tell you, for the recruitment and replacement of the Member Tony Akoak in Gjoa Haven, the two and a half years was filled with...there were hours on a weekly basis trying to liaise with Government of Nunavut HR process to recruit. I can tell you, thank god, we don't have to do that for the LSB, our own employees. Our HR processes are more streamlined and faster. There are many savings that could be had internally just between the LSB and our three clinics, but there are also savings to be had between the LSB and the GN based on that.

I just got an estimate that even just for folding in the territorial audit with the three regional audits from the clinics would be instantly \$40,000 in savings. We would love to have those savings to put into programs and services. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) If we see a problem here and we have an idea on how to fix it, what is holding us or what is the timeline to fix this? What is the soonest that the Legal Services Board could see this issue being fixed in terms of your organizational structure? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman.

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The priority would have to be to amend the Legal Services Act. We have identified some key areas that would allow us some operational efficiency. Because the Legal Services Board doesn't even have its own bank account, we have to flow everything through a GN Justice and then Finance process. Having more autonomy, we would still be a public agency, we would still be fully accountable, we would still fall under many aspects of the Public Administration Act, but we are confident that we have the financial systems in place and management in place that could transform us to be much more effective and much more efficient with resources. I would suspect, to ensure we did it well and properly, it would probably take up to five years, but the only thing holding us back immediately from being able to undertake the most effective changes would be the *Legal Services Act*. It's the structure itself. Thank you, Mr. Chairman.

Chairman: Thank you. In terms of amending the legislation, that's where we come in and maybe as MLAs we can be useful.

>>Laughter

That wasn't a joke. Has the board made any specific recommendation to the Minister for amendments to the Act? In terms of when those recommendations were put in and whatnot, if you could elaborate. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would say that we began in earnest over five years ago with our structural organizational review to ascertain what our actual structure was and how and why we were operating the way we were, and made as many of the possible adjustments to make us more efficient.

The legislation, the *Legal Services Act*, was

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Interestingly enough, we identified before the Northwest Territories legal aid plan. They've amended their Act in the interim and we still wait to get our legislation put on the list or prioritized higher up. Thank you, Mr. Chairman.

Chairman: Thank you. It's sad to hear that things have dragged out for so long and hopefully we can make some changes and fix at least some of the issues that you're facing.

In terms of your opening comments, and keeping on the topic of money here, page 5, around the middle of the page it says "The uncertainty of funding while trying to cut other resources to cover uncontrollable growth has stretched already critically short resources and jeopardized LSBs operational stability for the last two years."

Later on you say "LSB remains underfunded and may have to cut services in the near future to avoid deficits." In the unfortunate event that you do have to cut services, what will you cut first? Has that discussion taken place at the board level? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We try extremely hard to come in on budget every year. We have our finance staff and senior management monitor it very, very closely. Maybe I would just like to point out that, as I said yesterday in my opening comments, in 2016-17, there were 269 court weeks. In 2017-18 it jumped up to 345.

That is a significant increase. That means more staff and private lawyers who have to

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CALC LFdath, CALta AxYPANY abAnadtbcth<C PY abthbfythAY? Chdd PtbPYaYL&YP bALXP5aY? Ft Gright also travel, and yet we find ourselves having to figure out how and where do we save money to be able to cover those costs. We have only been able to do so because we have not had all the staff positions filled, but if we had all staff positions filled, we would face a deficit.

We would have to decide to release or terminate the clinic directors. That is not set funding. We made that commitment because it was operationally efficient to do so, but we know that we literally would lose clinic stability. We would lose the much-needed support that those administrative staff need. We would be forced to look at having to go back to using lawyers as administrators, which is even more expensive and they come and go too quickly. We would see long periods of time without actually management in those clinics. We would be very worried.

The last time we faced this situation, we went to the Minister at that point, to the Deputy Minister of Justice as well and said, "Tell us where to cut because we don't know where to cut. Do we cut the eligibility amount so that there are people who have been charged with crimes who have to self-represent in court?" I can tell you that would actually result in more court time and more court cost. If you cut in one area, it's going to result in a higher crease somewhere else.

Do we decide to cut services in human rights violations? Do we cut services in tenancy issues where people are being evicted wrongfully? Do we cut police force where people have been subjected to excessive police force and provide them no support? Do we cut in providing support to families or individuals in the inquest process? It's almost like saying in health care, "Well, we're not going to treat people with stage 1 cancer; we will wait until you have stage 4 cancer." We don't know where to cut.

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Mr. Chairman, it's something that we would really rather not face. We don't know where to cut. We would seek the political direction of the Minister of Justice and this House to tell us where to not provide services. Thank you, Mr. Chairman.

Chairman: Thank you. I think the Committee can appreciate the difficulty of that discussion given that, as you mentioned, it is an essential service that you're providing, similar to health care or any other essential service for Nunavummiut.

I don't have any further questions under this heading. I have two more names and then we will move on in terms of our thematic discussion. Mr. Quassa.

Mr. Quassa (interpretation): Thank you, Mr. Chairman. I just have one question. (interpretation ends) I think we mentioned this earlier, the federal government signed the access to justice services agreements with each of the three territories. My question here is: when does Nunavut's current access to justice services agreement with the federal government expire and to what extent is the Legal Services Board involved in its negotiations? (interpretation) Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

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Ms. Redfern: Thank you, Mr. Chairman. I can tell you that it expires in 2022, but I'll let Jonathan Ellsworth speak to the negotiations. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. Ms. Redfern earlier referred to our participation in the permanent working group for court workers *ammalu* the tripartite working group on legal aid.

As a part of the access to justice agreement that you mentioned, sir, it dictates that we, the Legal Services Board, being the delivery agency and an agent of the government, the Department of Justice participate in these negotiations. The extent to which we are involved with the negotiation of these agreements is simply that we are an informant of sorts for the Government of Nunavut. Basically the Government of Nunavut is the authority that negotiates on behalf of the government with regard to this agreement, but we are there to provide support and to provide information that would assist in negotiating a higher amount of funding for Nunavummiut. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Are you done? Okay. Ms. Towtongie.

Ms. Towtongie (interpretation): Thank you, Mr. Chairman, for permitting me to ask another question. When Jonathan Ellsworth was talking about the court workers, he spoke about what powers they have with criminal law. However Inuit know that there are other laws, like civil law that have to do with property and also family law. They don't get represented. If a person dies and if they owned their own house, if they didn't

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have a will stating who inherits the house, buildings end up just being left behind. It's not under the responsibility of the court worker program.

Those court workers generally deal with criminal law, but the paralegals can do that work for civil law, family law, and property law. They are taught how to deal with those things. It's a different kind of court, so what I am saying is I support more training of those workers because they have an agreement between Canada and Nunavut. The fact that indigenous people have to be served in the court and to teach the public about legal education....

My question is, and I'll keep it short, and I want a response, right now, the way it's run by finances, how is it set up for Nunavut? Nunavut can get more funding from the federal government under agreements with the federal government. (interpretation ends) My question is: what is the current formula for determining Nunavut's funding under its Access to Justice Service Agreement with the federal government? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would like to first of all just speak to the Member's first comment.

Our court workers do provide support in civil matters in the areas that we cover. However, legislatively we are prevented from providing support in the areas of matters respecting estates of living or deceased persons. We're prevented from providing assistance in real property transactions, the dissolution or formation of companies or corporations, societies or partnerships, anything related to real estate, arbitrations and conciliations in

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respect to any matter, also proceedings related to elections, and then any other prescribed matter under the regulations. Therefore there is no access to justice for people who have an issue with wills or estates or issues with property. They would have to self-fund or in most cases where they cannot, they have no access to justice.

With respect to the negotiations on the access to justice agreement between the territory and the federal government, as explained earlier, we can assist in informing those negotiations, but we do them ourselves. We do not have access immediately to the formula. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Are you done? (interpretation ends) Just when I think I'm at the end of my list, questions make more questions, as I'm sure you're familiar with the legal area. Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman, for recognizing me again. I'm asking about the court workers and the response. I represent Coral Harbour and Naujaat and they don't have a court worker and I asked why they don't have a court worker in those communities that I represent. The response was that the communities are too small and they get administered by the court worker from Rankin Inlet.

I would like to ask this question, Mr. Chairman. We are the voice of the people that we represent in our communities and they are very small communities like Kimmirut, Sanikiluaq, Hall Beach...not Sanikiluaq, sorry. Sanikiluaq is quite big now. Hall Beach, Kimmirut, Clyde River, Resolute Bay, Arctic Bay, and Kugaaruk are smaller than my two communities. Why aren't we treated the same? Thank you, Mr. Chairman.

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Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would like to ensure that my answer really was understood. It wasn't just because the community was small; it was also based on the number of times the court goes into the communities. In those communities the court usually only goes once, if most twice, a year. It's actually in some ways a good problem to have because you're not having as many criminal problems or family problems.

We do see value in having an assessment with the Community Justice Program and that coordinator to see whether or not there could be some shared duties, but currently because there's only once or twice a year the court goes into those communities, it makes it a challenge to fund or resource a court worker. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) I would like to echo my colleague's concerns on behalf of the residents of Whale Cove. Unfortunately Whale Cove just also lost its community justice outreach worker. I know that's not under your jurisdiction.

Just before the break, I have a very short question. What is the salary range for your CEO? Understanding that it's a very specialized position, they have to be a lawyer and then they have to have all the management skills underneath that, what's the salary range on that position? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We recently did a salary review. It has been, since my term as chair, from \$125,000 up to \$175,000. I currently believe that it's in the \$150,000 to \$175,000 range plus benefits because, as you said, they have to be a

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lawyer. They have to also have the additional management skill sets, not all lawyers do, and ideally senior enough that the lawyers, especially the staff and private lawyers, feel enough ability to respect and take direction from a senior, well-skilled manager, lawyer. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. We will now take a 10-minute break and when we return, we will get on to our next agenda item. (interpretation ends) When we come back, we will be talking about access to justice and public education. Ten-minute break. (interpretation) Thank you.

>>Committee recessed at 10:25 and resumed at 10:44

Chairman (interpretation): Thank you. (interpretation ends) Welcome back, everyone, as we continue our hearing with the Legal Services Board of Nunavut. Following our themes, our next theme for our hearing is access to justice and public education. The first name on my list is Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Before I begin my line of questioning, I would like to make a comment. First of all, I would like to say that I am extremely grateful for the role that the Royal Canadian Mounted Police play in keeping our communities safe. I also recognized how difficult it must be for the RCMP with our high rates of poverty and substance abuse, as well as the rates of violence that may be associated with it. I'll do what I can to encourage our youth to consider a career in law enforcement and corrections in their futures.

With that being said, I have some concerns given the high rates of stress on our officers, the numerous references in the Legal Services Board's annual report to excessive **Δ৽/«ኦር።**: L'a. CΔL Δ⁶b⁶υς δ⁶άσσςς 10 Γσ¹γΓ⁶. Þ⁶ς Παρ ÞΠρ¹ς ΔL⁶α Þ¹6bγλη Γα¹σας Πυ βημ¹γης Δς⁶υ. (Ͻ¹γληυ) Ϸηρς Φ¹6bγ¹6σα¹⁶Ͻυς Lσυσα¹1ς Πρνημ¹α¹σα α¹υ C¹⁶b¹6σα Ρ¹6σ¹ας Δσ¹σαης Πσ¹⁶. ¹6μ¹αΓ⁶. 10 Γσ¹γΓ⁶ Δ¹⁶δ¹υβΔ¹α¹⁶Συς.

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use of force and police misconduct, as well as a number of news articles on RCMP use of excessive force in Nunavut.

With that being said, I have here a letter. A constituent of mine accessed this letter through an access to information request and the letter is written by the Legal Services Board to the Minister of Justice regarding concerns relating to RCMP instances of excessive use of force. I have distributed copies of this letter to the Members today as well as the witnesses.

I ask that the Legal Services Board read the letter and explain paragraph by paragraph the intent of what exactly the LSB is doing and requesting. As well, if possible, I would like the Legal Services Board to provide us with more background that led up to this letter and what has happened since the letter was submitted on March 23, 2015. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Lightstone. The letter is three pages long, so I would request that the witness not read the letter, but if you would summarize it, lead us through it, and along the lines of his question, give us some background in terms of what led to this matter. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. The letter is quite clear insomuch as it began to come to our attention as a board through our staff lawyers that some of our clients were showing visible injuries, allegedly by the client's assertion, that the injuries were resulting from RCMP use of force and in some cases excessive use of force. The letter outlines that we were monitoring these issues, that we have our criminal law lawyers in the case of if the client had been charged, assessing together with our client, the best approach in which the client would like to proceed.

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In those instances where excessive use of force may be used, it will be brought up in court proceedings. In some cases the RCMP may decide to drop the charges or the Crown withdraw the charges. We explained to the Minister of Justice that because of solicitor-client privilege, we were not in a position to share with them specific clients' names or cases. Only by the time it goes to court can that information be made public.

We extended our Civil Poverty Policy to allow clients to be able to seek a civil remedy. Civil remedies either in the way of "I am making a complaint" to the Commission for Public Complaints against the RCMP or seek redress and compensation. Pretty much what the letter states is that we decide or we support that the client and their lawyer are best situated to ensure that the rights and interests of the individual are protected but that the individual has the options and we support those options to the best of our ability.

Primarily we were not in a position as the Minister requested to be able to share the clients information because that would be a breach that we are not allowed by law to ever break without a court order or without the client's express permission. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. In the letter the Legal Services Board has identified a trend or an increase in such instances of police misconduct or use excessive force. Can the LSB please provide us some background on the statistics showing that trend up to March 2015, and has that trend continued to this date? Thank you, Mr. Chairman.

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Ms. Redfern: Thank you, Mr. Chairman. I'll let Jonathan Ellsworth speak to it because we do keep some statistics as it relates to the civil matter, but also to incorporate in some of the criminal matters. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. The LSB operates its criminal portfolio very carefully. Communications strategies are implemented so that information is shared with regard to the frequency within which we see issues such as this and others trending in our operations.

In addition to that we also keep statistics with regard to the actual number of applications received by legal aid to pursue the civil remedies that Ms. Redfern just described. The information that led to our letter was such that the lawyers in the criminal portfolio advised, and we saw a trend with regard to the number of litigation matters where we've advised the Crown that we intend to bring the charter application for rights violation because of the behaviour that is alleged on the part of the RCMP.

At such times there are a number of avenues that the Crown may or may not take. Following the review of the evidence, they may choose to stay the charges; they may choose to not prosecute the matters. In that regard, this is how we started to see a trend. We started to see a rise in the number of charter applications with regard to excessive use of force.

This is problematic in many ways. One way that I find is particularly problematic is that

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when there are situations where police officers perhaps use excessive force during their conduct, and it results in a stay of proceedings, then where there was a real victim during the course of the incident that brought the RCMP to come to address, that victim does not get justice because those charges are stayed because of the behaviour of the enforcement department.

Those are some of the things that brought us to recognize the trend that there were a number of stay applications brought by our lawyers, we're starting to see requests for assistance with regard to complaints against the commission, or complaints against the RCMP, sorry, and so as a responsible public agency we felt it important to advise the appropriate department at the time that we saw this trend and that we wanted to see some changes occurring because this affects justice as a whole.

As a stakeholder in these situations, it creates additional resource needs. Lawyers need to work more to get a good outcome for their client, where had the police not behaved in such a fashion that would not necessarily be the case.

Victims don't get justice when police behave this way because they never get their day in court. If you can think of the police being the face of justice in many communities, and the fact that our communities must be able to trust the police and to rely on them, and to feel safe to go to them when there are issues. Don't get me wrong. I know the police have a very challenging job to do, but it jeopardizes the whole face of justice when, for example, brothers, sisters, aunts, or uncles are being potentially victimized by them.

All of that cumulatively were the reasons for our letter and bringing it to the attention of Δδς¹⁶CD
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the Minister's office so that a cultural change could be affected within the ranks of the RCMP to know that this behaviour is not to be tolerated. It's not to be swept under the carpet, so to speak. Even though those accused may have done something inappropriate or a criminal act, it doesn't negate from the fact that the police must use reasonable force when apprehending an individual. I'm no expert on the use of force. I do know there is a use of force continuum. I do know that there are policies within the RCMP that dictate when and how force is used, but I'm also aware that the Minister is responsible for the policing contract. In our view, as the contracting authority with regard to the police, we felt that if there was any change to the affected, that change would or could be directed by the Minister.

I'm just going to speak really briefly on one more topic, sir, if I may. The resultant effect of excessive use of force of course creates additional resource needs not only for legal aid because we have to invest more into a file, but also for courts because those applications do take court time that may not necessarily be required had those behaviours not been present. If our client chooses to sue the RCMP or the Government of Nunavut is named as a party, generally speaking, if that is the case, which of course requires additional resources on the part of the government to defend those matters, we wanted to avoid all of that because we know how scarce our resources are as a justice department.

Of course, as you have heard, we need more resources, but we see opportunities for other divisions to create efficiencies within their ranks to avoid situations such as the one mentioned in our letter. Those are my comments, Mr. Chairman. Thank you.

Chairman: Thank you. You have something

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you would like to add, Ms. Redfern?

Ms. Redfern: Thank you, Mr. Chairman. In our statistical report we have for police misconduct, there's no information at 2013-14 or prior. In 2014-15, when we began to offer civil remedy for police misconduct, there were nine. In 2015-16 there were seven. In 2016-17 there were nine. In 2017-18 there were 11. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. You have mentioned the statistics for the last four fiscal years with regard to police misconduct. Would you be able to explain to us what police misconduct means? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Police misconduct is where the police have potentially acted out, acted beyond their legal authority. As Jonathan Ellsworth explained, the police are allowed to use force in certain circumstances. As he explained, there's actually a continuum of what is permissible to the point at what is impermissible and possibly even to the point of what is criminal.

Where an individual who has allegedly committed a crime is being arrested and they resist arrest, and depending on how forcefully they resist arrest, injuries can occur. In some instances it was justified. In circumstances where the injuries were very significant, where bones may have been broken, then it may be excessive use of force and police misconduct.

The facts vary from case to case. They have to be carefully assessed. In some cases where a complaint has been made, usually you will **᠘᠂᠈᠆᠈** (ϽʹͱϒϽͿ·): ʹͼͿϧ·Ϫ΅Ϸͺ ΔͼͰʹϘϹ·ͼ. ϷʹϧϷϒʹϧͼϧʹͰͺͰϭϛͺͺͼͺʹͰϷʹͿϲ ͶʹͰͺϷϛʹϲʹͼʹϽϼϛͺͺϒʹϽͿͺͺʹϲʹϧϥϲ ϪϭͺʹϽʹͼϭϧʹϹͼϲͺͺϷͺϷϷϹͿϥͼͺͼϧϒϹͿͼϧͼ ʹͺϲͱͼϲͺϒϴͺʹϽϧʹϘϧϹͺͼ. ʹͼͿϧͺͼϹͺͼͺͺϪϧϒͺϭϷϹͼͱ

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have the force internally review it first. If it's deemed that it's questionable or potentially excessive use of force, sometimes an outside police agency will come in and do an investigation and make a determination. Sometimes the evidence comes before the court in the criminal matter and then the judge makes the determination. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. My next question is on page 2 of the letter from the Minister of Justice and under the heading "Current Approach." The LSB indicates that "For every client that is prepared to proceed with formal civil action seeking damages for the harm suffered during an excessive use of force incident, it is our experience that there are five clients who advised that they have no interest in pursuing civil relief due to fear of possible recrimination."

There is currently one out of every six instances of police misconduct that is only being reported. As you have identified, in 2017-18, there were 11 instances. Are those 11 the only individuals that wanted to proceed, so you can actually times that amount by five to get the true figure? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We very much take the view that the clients have to choose. The individuals have to choose whether or not they wish to proceed.

The lawyers will advise them based on their facts whether or not they potentially have an excessive use of force application that they could choose to apply for, and also whether ĊԽd
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or not they would likely be successful. I would caution the Member immediately "timesing" 11 to mean that there were 55 excessive use of force.

Eleven made the application. Again, there are those individuals that choose not to apply. I wouldn't say it would be necessarily fair that in 2017 there were 55. We're not required to track that number and report that number. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. In your last sentence that I read in the letter, it indicates that only a small amount of clients choose to pursue civil relief and that is due to fear of possible recrimination. What exactly do they fear? Thank you, Mr. Chairman.

Chairman: Thank you. And I guess, what is your understanding without speaking for those individuals? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Yes, I can only speak in general terms. What we have heard is that clients are fearful that they may be targeted by police in the future for charging them with other criminal behaviours, that their family may be put at risk as well because they have made that complaint. They fear if they do any further wrong, that the police might hurt them again. I think these are quite legitimate fears in some cases because of that individual's repeat experience possibly with the police.

Again, the choices of the individual whether to proceed with a civil remedy or not, I can assure you in more cases that it will be brought up in criminal proceedings unless the proceedings have been dropped by the RCMP or the Crown on the basis that there was excessive use of force and chose not to

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actually proceed with the other criminal charges that the individual faced. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. My next question is also related to page 2 of the letter. It states in the second paragraph that "The LSB has filed complaints with the Commission for Public Complaints against the RCMP on behalf of the clients. The complaint process has proven frustrating due to the amount of time it takes to receive a determination and the most recent decision from a complaint to the commission arrived in writing last week after the complaint was filed in the fall of 2013." At that time it would have been a year and a half later.

I have two questions about that and the first is: to date, how many times has the LSB filed complaints with this commission and is that year and a half process time about average or has it increased or decreased? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We would have to take that question into advisement to know exactly how many complaints went to the commission versus any other civil remedy. I would say that a year, a year and a half, two years is probably the time frame in which a response is usually received once a complaint has been submitted. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. My next question about the letter is also on

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page 2, the second paragraph under the current approach. It states, "To address excessive use of force in the criminal law context, staff lawyers are now requesting that cell footage be disclosed as soon as possible once our staff become aware of an allegation of excessive use of force after detention. When required, it is our intention to admit this footage at bail hearings of detained individuals to ensure the court is aware of defence concerns about the amount of force used on the detained individuals in the cell."

My question there would be: is the LSB finding it difficult, are the staff lawyers finding it difficult to access this footage and do they receive it in a timely manner? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. The disclosure rules apply, but I can also speak that there is value in having cameras in all detachments and we have had staff lawyers who have, in some instances, found it difficult to obtain that video footage. The letter speaks to the need of being able to access it immediately because some of the detachments have a process in which the video footage was cleared. In our experience and from our research, having those video cameras on the vehicles, on the police themselves does often change the behaviour of the police but also sometimes changes the behaviour of the accused. It's important that that type of technology be considered and be made available in this territory. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. I completely agree with the fact that an

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individual is being recorded would influence their behaviour. My next question is: do all RCMP detachments have surveillance equipment installed and do they have audio capabilities? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) It's my understanding that they don't have video in all detachments across the territory, but if you would care to, do you have any feeling of the numbers of detachments, do you have any understanding of how many detachments across Nunavut have video capability? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. That should be verified. It is our understanding that not all the video footage has the audio as well. Even in the detachments where there is video, it's not in all areas. Often it's just in the cells. Instances can happen outside of the cells and so we would support video and audio equipment be in all detachments and preferably in all the public areas. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. My next question is going to be regarding page 3 of the letter. In the first paragraph, the final sentence states "The Legal Services Board also captures the names of individual members which appear on files where allegations of excessive use of force have been raised to identify instances where the same officers appear in more than one file.

My question is: in the LSB's view, are there some officers that are exhibiting a pattern of being involved in allegations of police misconduct or excessive use of force? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms.

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Redfern.

Ms. Redfern: Thank you, Mr. Chairman. There have been instances where an officer may have been involved in more than one allegation of excessive use of force. I would like to remind the Members that many of our RCMP officers are only stationed here for a few years, so by the time.... We're now 2000 and even '18. A number of those officers and actually a majority of the police officers may have actually already left the territory.

It's important to ensure that the RCMP that come to work in our communities get good orientation, not just about our culture and our way of life, the history of the RCMP in our communities, but also that excessive use of force is something that management will not tolerate and accept. That is I think a directive that management must have to their members and I believe it's something that the Department of Justice, through the contract with the RCMP could make a clearer and stronger message in that respect. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) In the interest of moving things along, Mr. Lightstone, I'll allow you one more question on this, and then we're going to move to the next Member. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman, for allowing me one further question. I do find it a bit concerning that once.... It sounds like once RCMP officers are rotated out of the territory, they're beyond the Nunavut court's authority to proceed with such allegations, but that's not my final question.

My final question that I would like to pose: there has been discussion in the Legislative ᠘᠘᠘᠙᠘ᠳ᠘᠘᠙᠘᠘᠙᠘᠘᠙᠘᠘᠙᠘᠘᠙᠘ ᠘᠙᠘᠙᠘᠙᠘᠙᠘᠙᠘

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Assembly concerning the issue of what model to use in Nunavut with respect to investigating serious incidents or deaths that result from interactions with the Royal Canadian Mounted Police. A number of provinces established a number of independent civilian oversight bodies to conduct reviews after such incidences.

Also, the Yukon government has an agreement with another jurisdiction, with Alberta's Serious Incident Response Team to conduct investigations attending any serious incidences involving the Royal Canadian Mounted Police.

My question is: what recommendations does the Board of Directors of the Legal Services Board have with respect to this issue? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would also like to remind the Member that several inquests have had the RCMP reviewed for incidences especially where there was a death in custody or a death during an arrest.

It is important that those recommendations for those inquests be reviewed and implemented. I believe that there is no process currently to ensure that those recommendations are fulfilled. That is something that we would recommend to this Standing Committee with respect to making that recommendation to the Department of Justice, especially with the RCMP.

The specific question about what our recommendation is with respect to what is the preferred model approach, we actually haven't had that conversation. I'm going to speak from more of a personal perspective.

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There is value in researching the various models, ascertaining what works best and what is possibly more appropriate for our region.

Generally speaking, if a body has done wrong investigating oneself, it can be problematic. Having a similar outside agency with similar attitudes and mindset can also be problematic. Ideally independence with civilian inclusion, which ideally would include members of our public, would participate in such a potential review of what model we would like to see in Nunavut. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Just to get a better understanding of what the Department of Justice has done on this issue, this letter was written in 2015. What was the response at the time from the then Minister of Justice? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'm just seeing if we can pull up what the response was, but going from recollection, the then Deputy Minister recognized that the requirement of the Legal Services Board not to disclose the names of the clients or the cases, despite the fact of their position, it would be a serious breach. It's not one that we would be permitted to do. I recollect that there was a desire or a request to start providing some statistical reporting on it. We began to do that as it relates to just numbers versus client information. As it relates to the criminal matters, those are before the courts and that information is available to the Department of Justice if they so choose to monitor what is happening in the courts. Thank you, Mr. Chairman.

Chairman: Thank you. Thank you for trying to summarize. I know it's complicated and it's hard to speak on behalf of your boss, I

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Mr. Mikkungwak: Thank you, Mr. Chairman. My line of questions will be a follow-up to my colleague's last question here. Page 1 of the 2016-17 Annual Report of the Legal Services Board indicates that it "assisted three families in different type of inquests, including death within police custody and suicide inquest...The organization has become increasing involved in a number of inquests, which has posed some challenges, especially inquests that may or may not fall within the organization's mandate." What specific challenges have been identified and how are they being addressed? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Our organization was approached when there was a first death here in Iqaluit, a woman who was intoxicated who fell down the stairs and was taken by the police into custody. There she suffered injuries. She was not taken to the hospital and as a result, she died in police custody. That was the first inquest we had participated in. As a result of the parties involved in the inquest from the coroners and the community, there was a further request for our participation to assist. In the end we developed our own policy about when, where, and why we would provide legal resources.

A lawyer is often only assigned if an application has been made and is now limited to inquest support if it relates to our mandate. If it is outside of our mandate insomuch as it's not a person who died in police custody or under the state care, such as a child who may have died in foster care, we don't participate in inquests where the person has

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died as a result of medical malpractice because the doctor didn't perform the surgery well. We simply don't have the resources to do that. We don't have the expertise and that would be a tremendous cost to the organization. That's why we also felt it important to limit it to our mandate.

The families in the communities do see value in our participation, but we also recognize that the coroner's office could and should do more to help the communities understand what an inquest is, what the process is about, and that there can and should be better follow-up about the coroner's recommendations to ensure that they are implemented. I hope that answers your question, Member. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. I understand that some inquests fall within the mandate of the Legal Services Board, as indicated, and a policy has been created by the Legal Services Board. One of the things that you indicated that you guys do not provide or do an inquest on is medical malpractice. For the viewing audience so that they could understand more what legal services provides regarding inquests, what other types of inquests do not meet the Legal Services Board? I understand it's application based, but what types of inquests are not approved? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. That list would be exhaustive. Let's say someone died riding an ATV, someone died out hunting and the search and rescue party didn't come soon enough, the plane crash in

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Resolute Bay, the list is so exhaustive that manner and types of deaths where it's deemed that the coroner or on an application to the coroner, who then approves it, let's learn why and how this accident happened and how someone or people died, and how do we ensure that future deaths of a similar kind do not occur?

It's actually easier to answer the question more in the affirmative of what we would provide, inquest support. As it relates to our mandate, if someone died in the custody of state care or such as in police custody or when they are being arrested, or where a child died in the care of the state rather than the death of a child that happened in family circumstances where we simply don't have the resources neither do I think most provinces or territories could extend it to that level because, as I said, it would be quite costly. The list is exhaustive. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you very much for clarifying that. It makes a lot more sense now. You stated previously that this involves the coroner's office. As the LSB, what sort of encouragement did you put out there or suggestions for improvement of the way the government has laws about inquests or changing the laws of inquests? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. When our staff lawyer has been assigned to an inquest, they're there to support usually the individual or the family and the community through that process and it includes possibly developing questions that

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they would like to have answered and a development of recommendations that they would like to have seen.

With respect to the Member's question, if I understand him correctly, the model or the role of the coroner is dictated by the Government of Nunavut. Their powers and authorities are clearly stated. We play a support role and as a result, it's not often or really in our place to provide recommendations except, as I said, to help the families and the communities better understand the process.

We recognize we could have a better relationship with the coroners and to clearly define our respective roles. We identified that at the board of directors and directed our staff so that when the coroners represent the fact that we exist to the communities, they don't set up wrongful expectations that they can and will get legal aid support for all inquests. That's important messaging because we have had applications which were denied and it upsets people, but as I said, we do have to stay within our mandate. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) On behalf of my colleague, I believe he was trying to ask regarding specific recommendations that you might have for amendments to the *Coroners Act*. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We have not specifically looked at the *Coroners Act* for the purpose of developing recommendations. As I explained, we recognize we need to be clear about what inquests we might provide support and which ones we won't. I don't know if that needs to be stated within the Act itself but rather more of an awareness of what our policy is and a proper sharing of that information of our

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Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you very much, Mr. Chairman. This will be my final question. Each community has a coroner and I believe each community is supposed to have their own coroner. Coroners do an investigation whenever someone dies. They try to find out what happened so that the family can be notified properly. That's the situation. Do you work with the coroner's office in terms of training and informing the people of Nunavut if a person dies in police custody or somewhere else and an inquest is necessary? How do you promote this information to the public? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Having any opinion or let alone making recommendations on what coroner training should be would be outside of our mandate, except to say that ensuring that the chief coroner has the information about what our inquest policy is and ensure that that information is disseminated to the coroners in the communities. We do have our inquest policy, I believe, on our website and it is available. Excuse me.

Thank you. I've just had a correction that we do have a policy, but the new amended policy needs to be ratified by the full board. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) I don't have any more

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Ms. Redfern: Thank you, Mr. Chairman. It varies. The knowledge or awareness varies by individuals or even by communities. It is important that Nunavummiut understand what their rights are, especially with respect to when their rights are violated and what are the legal options or remedies might be available if they found themselves being wrongfully evicted or wrongfully terminated from their employment or excessive use of force by police.

We do our best. We would love to see our court workers be trained and skilled up to be able to deliver public legal education in the communities. What we've done is often had our staff lawyers, when they're travelling in for court, add on time to actually do a public session about rights.

Sometimes it's on a specific topic. Sometimes it advertises if you have any questions regarding the law, a lawyer is available to answer your questions and inform them whether it falls within our services or it would be under some other entity, whether it's the Human Rights Tribunal, or that there is a list of lawyers available through the law society.

If you don't know what those rights are and your rights are violated, then those abuses not only has done harm to that individual, but

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Chairman (interpretation): Thank you. (interpretation ends) If we try to get a bit more specific, what specific initiatives do you have planned or are underway in terms of this public legal education initiative heading because, as you mentioned, it is important for people to have a better understanding of the system. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. As I said, since many of the court workers live in the majority of our communities, they would be really well situated to deliver public legal education, especially in Inuktitut, in a manner that people can understand. I will let Jonathan speak to some additional initiatives that we've identified that we would like to undertake. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. PLE is something that we've wanted to enhance for a number of years. Of course... My apologies; public legal education and information is something that we wanted to enhance over a number of years, and of course, as the capacity of our organization to actually provide our court services enhances, so does our capacity to assess how we can do things better.

Over the course of the last year we have developed a *Public Legal Education Strategy* document which determined what exists already, where there are gaps in themes. For example, we have looked at all public legal education material that is out, not only from the Legal Services Board but the law society, the Department of Justice, and other

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divisions of the government. We have identified themes with regard to where those different informational packets fit within one another. We have discussed and conducted a gap analysis to determine where there are gaps. We have made findings with regard to which media seems to suit our stakeholders best.

Right now we're at a place where we want to look at ways to develop public legal education that is built from the ground up. Rather than the LSB board as a territorial organization saying, "Here, this is the public legal education we're going to provide today," we don't think that's an appropriate approach. The approach that we intend to undertake in the near future is to work with the court workers, to work with their justice committees, to work with their hamlet councils, to work with the public to define what information do they want and then to see that information come up, to work with our colleagues at the law society and other stakeholder institutions to develop meaningful public legal education. It's one thing for government to throw information at individuals. It's quite a different thing when individuals say, "This is what we need," and this is what the government provides or the Legal Services Board provides.

There are a number of options with respect to how we can deliver public legal education. Ms. Redfern mentioned earlier that there are opportunities for clinics when the court travels to communities. There are opportunities for radio pieces. There are opportunities for community feasts. All of these have been really meaningful. We have brochures. We have all kinds of different things.

You will note in the annual report that we put on approximately 22 different public legal education and information sessions over the J\PL^LL[®]ŪC.

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course of that reporting period. Indeed we intend to enhance that under the model I just previously discussed. We hope that in working with the stakeholders, like I said, it's a meaningful deployment of public legal education and information. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) When it comes to access to justice, one of the biggest issues is the people who have to wait for justice. I saw in one of your documents here, it says that justice favours the swift. That might have been in that letter regarding the RCMP. You mentioned that court weeks have gone up. I would imagine that that is a good thing in terms of dealing with the caseload. Given that there are more court weeks or that's the trend, is that increase just keeping pace with forced growth because we have more people and more cases or has it reduced wait times in terms of the average time it takes to deal with a case or deal with a file? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'll let Jonathan Ellsworth answer the question. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. I don't know that I could anecdotally speak to the case processing time for matters before the Nunavut Court of Justice. I can say with some confidence based on research and reports that are out there that Nunavut does have one of the most expedient case processing times in Canada's justice system.

I believe that the result of more court weeks is that people are getting through the system and that is a good thing and certainly it enhances their access to justice to be able to do so. However, I will say that it is

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challenging for our clients to sometimes have to wait three to six months to have their matter go to court. As one of the Members of this House mentioned earlier, it causes unnecessary anxiety and frustration among other things.

To answer your question directly, I would like to believe that yes, we are processing things faster, but I don't have any authority today with me to say confidently that that is the case. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) This question might be better for the Department of Justice, but is there a number that they can track and compare year to year, "Here's our average time to deal with a case"? Are there indicators that they follow to see if things are getting better, staying the same, or getting worse? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'll pass that answer onto Jonathan Ellsworth. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Ellsworth.

Mr. Ellsworth: Thank you, Mr. Chairman. I understand that the annual report of the Nunavut Court of Justice used to track such information. However, I am not aware whether or not a) that annual report is actually necessary under any statute or otherwise and/or b) the publication of said report is ongoing under the new administration at the court. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Thank you. Mr. Kaernerk.

Mr. Kaernerk (interpretation): Thank you,

ናናቃ (ጋጎትበJና): 'dታ_° ሲቮ_°, Δ⁶ተረቀኦር^ና6. ር⁶ ሲ ጋσσረና⁶d ትሲር⁶ ΔΡ⁵⁄9ና የΡ⁵/d⁶ <mark>-</mark> JJ. 'dታ_° ሲቮ_°, Δ⁶ተረቀኦር^{ና6}.

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ጋºነና▷በኦሩ P°dሎሌ ጐጐቦ ው፡; Cue

Lc-Uc-n, Ptd ንবልռ বৢ৽b, የጐኒሮ

ነይውን ጋ CL-a የbPትኒናታ bধነ-ታ፤ ነር.

Mr. Chairman. (interpretation ends) Earlier you mentioned that you have assisted three families and your 2017 report, you mentioned that you assisted three families in different types of inquests. In which communities did these inquests occur, and if you can describe what types of supports that you provide? That is one of my questions. (interpretation) Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I'll speak to the second part of your question while Jonathan ascertains what communities we provided support in.

The type of support is that a lawyer, once assigned, and unfortunately often is assigned late because the application comes in late, so our lawyer has to scramble to understand why and how this inquest has happened to get the documentation to adequately prepare and then travels usually into the community to meet with the applicant and usually their family because it's one person has applied but it's a family interest of course for usually the person who is deceased, who wants support, information explaining about what an inquest is, why an inquest has been ordered in this particular case, who's going to participate, how long an inquest may take, how the proceedings in the inquest actually happen with a coroner and the lawyers, and what type of evidence comes before the court.

To correct often the presumption that it is a court, it functions like a court, but it's not a court. No one is going to be found guilty, and what the outcome of that inquest is. They can help the family or the applicant develop questions that they would like to be asked, especially if they're not asked by any of the other parties, and help the family or the

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applicant develop recommendations for the coroner jury to consider and to incorporate. They don't in many ways act in the same way that they would in court to be a lawyer because they are not the applicant's lawyer. The applicant or the family has not been charged and no one will, as a result of participating in an inquest, be found "guilty." The recommendations are focused on ensuring that where there were identified problems or actions that should not have happened to prevent similar types of death in the future. That is what our lawyer will do.

With respect to the inquests that the LSB has participated in, it's not broken down by year, but we did participate in a suicide inquest in Iqaluit, Ujarasuk inquest in Igloolik, the Angulianuk inquest in Hall Beach, the death of a baby in Cape Dorset, the Taqqaugak inquest in Igloolik...we didn't do that one? Okay. Kaludjak inquest in Rankin Inlet and another baby death here in Iqaluit, those are the inquests that we have participated in. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Are you finished? Mr. Kaernerk.

Mr. Kaernerk (interpretation): Thank you, Mr. Chairman. Thank you for your clear response. Just to supplement my question, it seems like every application is all in English. When they're applying for a hearing, like the elders for example, who are unilingual Inuktitut-speaking people, and I'm very pleased that you guys provide assistance to the elders and you show them which procedures to go by.

Do you provide the same assistance to the smaller communities? If you're going to have that kind of hearing, could you involve the elders? There are quite a few communities as well. Can you make sure that you involve Inuit to educate them more? When you want

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to have education clinics in the communities, can you inform the elders in the smaller communities so that you can hold those kinds of training clinics in the smaller communities? That's my last question. Thank you.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We have the court workers in the majority of the communities. They're all Inuit. They speak Inuktitut. The processing for application can be done in English or Inuktitut. When the lawyer comes into the community for an inquest, one of the first people they will be meeting with and having the support of is actually the court worker.

With respect to the elders regarding an inquest, it's usually the family, which includes extended family and elders, grandparents often participate. The recommendation with respect to having elders participate in the more broader coroner process is a very good one and one that we would recommend be brought to the Department of Justice and directly to the chief coroner. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Kaernerk.

Mr. Kaernerk (interpretation): I'm happy that you indicated that. Thank you, Mr. Chairman. Hall Beach and Igloolik are both smaller communities. If the elders could be utilized if there's going to be an inquest application.... For example, prior to Nunavut being a territory, how far can you go back to request for an inquiry? Can you go back to all the way to the 1960s or before the creation of the Nunavut territory? Thank you. Hopefully I'm making sense, Mr. Chairman.

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Ms. Redfern: Yes, I believe I understand the Member's question. Thank you, Mr. Chairman. I'm not aware of whether or not there's a statute of limitation. I would presume it would be in the *Coroners Act* and the coroner is probably best situated to answering that question.

With respect to our applications, it's only once a coroner has initiated an inquest, when someone has applied and seeks legal aid, then we can participate. We're a responsive agency, but I do welcome the Member's question about the length of time. It would be interesting to know. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Kaernerk, are you done? Okay. Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman. We do lose our family members and parents or someone dies suddenly. What about the estate of the deceased? Usually the Public Trustee takes the estate, which is totally different of our tradition and heritage of the Inuit way of life. When a family member passes away, the estate is taken on. In the past the eldest child would distribute the estate and we would listen to the elders. We do have a very good tradition that we have been using. Once the Nunavut territory was created, it would be more Inuit-friendly regarding traditions and culture.

Family members get totally confused sometimes when the Public Trustee takes over the estate of the deceased. How can you provide more support? The Public Trustee is not very visible to the public. How can we provide more assistance to individuals who have lost a loved one? Thank you, Mr. Chairman.

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Ms. Redfern: Thank you, Mr. Chairman. We are prohibited by the *Legal Services Act* to provide any legal aid assistance in respect to wills or estates. If this legislature so chose to amend the *Legal Services Act* to provide that through the Legal Aid Program, we would be mandated and we would step up and be happy to do so.

I know that in some of our clinics this question comes up quite regularly. Our lawyers, to the best of their ability, will try to help and direct them where information maybe exists, but it is a gap in access to justice in this territory. You're absolutely right, a lot of people know little about that process and that process often is not in line with our culture and our values. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman. I will be able to ask this question to the Minister of Justice during this upcoming session, and I believe that it would be a good question to make sure we amend the legislation because we can probably amend and improve it. That's why we've been elected.

One of the things I would like to ask is: when hunters go out hunting and their life ends accidentally, the spouse gets totally confused as to what to do, and if the deceased has a job, they have insurance, how can you provide assistance to the widow or widower who needs support? Perhaps you can give us a step-by-step description on what they're supposed to do when they are requesting for support. Thank you.

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Ms. Redfern: Thank you, Mr. Chairman. Unfortunately we simply are legislatively prohibited from providing any legal assistance for any matter related to estates. It's a specialized area of law. If this legislature chose to amend the Act and require us to provide that service, we would and we would actually have to probably have lawyers who are familiar with this area of law, or become familiar with this area of law to provide that service. It is very specialized, but we would also want to ensure that those lawyers who would be providing that service really also understand what Inuit cultural laws are with respect to working with the families to ensure that the appropriate outcome is sought and agreed to. There is more support needed, but unfortunately we cannot provide it. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser (interpretation): Thank you, Mr. Chairman. It's almost lunchtime and I can hear my stomach growling.

When I was working for the federal government I used to help elders with their pensions and the elders would come to us and we would make them sign a permission form so that I could represent the elder or individual. Would it be possible for the government to use such a procedure? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. There are other areas of service that we identify over time where there is need and

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where we're not legislatively prohibited from providing support. A problem that we have faced, especially more recently, is any time that we want to develop a new area of legal support like public guardianship, when we put it in our business case, we have been told that we're not allowed to develop any new programs or enhance any existing programs and that we can only respond to forced growth. In that case where there is that type of need, we as a board could look at being able to provide it.

Again, I think the one that you spoke of, I know that we're not allowed to deal with tax. It would be a question of interpretation whether or not we're not doing tax law but support or we would try to identify: is there a different entity that's out there that could provide that support like the accountants or bookkeepers? We have not provided support in that area and we suspect that if we try to, our business case for new and enhanced programs would not meet the test or requirement of Justice or the Financial Management Board. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Netser.

Mr. Netser: Thank you, Mr. Chairman. It was just an example that I put forth on the table. When we had to deal with constituency issues when I worked for the federal government, we made them sign a waiver that gave us the authority to act on his or her behalf to a certain file. If the Government of Nunavut would follow down that path, I think we would remove a lot of obstacles in terms of serving our constituencies. That's my comment. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you for that comment. Just moving along, we have time for a

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question or two before lunch. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Given the amount of time and work that the LSB has put into the issue of police misconduct, I'm a bit surprised that the board hasn't formally discussed or looked into other models. I would like to request that the Legal Services Board conduct a thorough review of the models that are currently in place in other jurisdictions and provide recommendations to this Committee once it's completed. Would the LSB commit to that? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would suggest that the Member make that recommendation to the Department of Justice. It really would fall potentially outside of our mandate to dictate how an oversight body of the police should be modelled upon. We would be happy to provide input in that process, but it would be, I think, quite outside of our mandate to be the lead department or organization making that recommendation. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Mr. Lightstone, you have time for one brief question. Go ahead.

Mr. Lightstone: Thank you, Mr. Chairman. I will be putting forward a similar recommendation or request to the Department of Justice, but I do think it is important that an outside body also provide their input and recommendations. I understand that it's not really in your jurisdiction to dictate to the Department of Justice, but I believe that it would be in your mandate to provide recommendations to this House and this Committee. Thank you, Mr. Chairman.

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>>b∩L\G`c` _%b^\b\D^a\G`\D` 11:59-\ \L\D \N^\d\b^a\G^\D\D\b 13:31-\G

Chairman: Thank you. I'll just take that as a comment. With that, we will break for lunch. (interpretation) We will return after lunch. See you later.

>>Committee recessed at 11:59 and resumed at 13:31

Chairperson (Ms. Towtongie) (interpretation): Good afternoon. Welcome. To the people watching the televised proceedings, I am the Co-Chair. Our Chair, John Main, who is the Member for Arviat and Whale Cove, is called "Aarluk" by his fellow residents.

Let's get back to the business at hand on access to justice and public education initiatives. The first one will be MLA John Main.

Mr. Main (interpretation): Thank you, Madam Chairperson. Good day. (interpretation ends) I'm interested in the topic of recidivism in terms of we know anecdotally that we tend to see a lot of the same faces in the criminal justice system. Does the Legal Services Board have any way to track recidivism or is there a trend that the Legal Services Board has noticed? (interpretation) Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Member John Main. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. The Legal Services Board doesn't track recidivism. We don't have a mechanism or a system, but we agree that it's important data that probably should be tracked. Not all charges that the police lay at one level sometimes get dropped. You would want to look at a particular individual, how often they have been charged, what kind of Δ DCLC CODEN IN THE CONTROL OF LCC PEON IN LAG.

 $\mathbf{L}\Delta^{\mathbf{q}}$: L'a.. Δ የ/ペኦር%. ኦ< Δ ና/ላ%. (ጋኒት/በሀና) ጋኒት/ሀሀ የዕኦት/ላንሀሀ, በሀታኦሮጭየቴርጐጋው Δ የቴሪጐጋጭርኦሮጭያቴርጐጋው, ጋኒኦ/ሀናር ርጭኔጐሀና ርዕታህሀናርታው ርቴሪጐህኒኒልጐልጭ Δ የቴሪጐጋልልሮላጭጋውና.

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crimes, is there an increase in crime and severity in their life.

I can speak to one of the reasons we believe that recidivism happens is because of the lack of programs and services. I've had meetings with Corrections Services Canada and offenders who have committed crimes where the sentences are two years plus a day end up in federal institutions and that some of the institutions have programming, some of them don't, some of them the programming is not deemed appropriate because it either is western based or is First Nations based but not Inuit based.

Also, there are six opportunities often for early release and often some of our people are not afforded that opportunity because we don't have the programs and services in our home communities or even in the territory for them to be able to return. It has been proven time and time again that providing persons with those supports even in the institution can be extremely beneficial, but also providing an incentive to behave well in the institution and to take those programs that then allows them early release with programming in the territory would be greatly supportive.

One of our community organizations, Uquutaq Men's Society, is working on getting a new facility and they have worked with Corrections Services Canada to incorporate beds and programming. That is a model that we greatly support. It's the start of something that we think which will be better and good, but the main thing is that we can and should be reducing recidivism if we had the programs and supports in place. The data is not there, unfortunately, or we don't have that data. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern.

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(interpretation) Member John Main.

Mr. Main (interpretation): Thank you, Madam Chairperson. (interpretation ends) Thank you for that information. It's disappointing that you don't have a measure of recidivism because that's the same question that is put to the Department of Justice and they don't have a measure of recidivism. Anyways it's an interesting area.

You mentioned how important it is to have programming. When people come from jail or come from a correctional facility, they come home. I'll use Whale Cove for example, where there's no justice, there's no court worker, there's no community justice outreach worker. If you just returned from serving time, where are the supports? I wonder if you could talk about specifically, and you don't have to answer this if this is beyond your responsibilities, but when it comes particularly to sex offenders, I wonder if you could talk about how important it is to have that support network once they are released back into the community to make sure that they get the programming to hopefully lead a better life. (interpretation) Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Even if the Legal Services Board tried to track recidivism, I just want to remind the Members that not all persons who have been charged with a crime would actually come to our attention. Some of those individuals might be referred to the community and restorative justice committee and therefore actually be dealt with a different process. The RCMP is probably the best area to track recidivism numbers rather than anyone else.

With respect to sex offender programming,

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absolutely it's important that persons who struggle with that type of behaviour get the support that they need to ensure that they do not repeat those types of offences. The sheer type of harm that an individual, a victim has as a result of that act or activity done on them is something that they carry with them for life and is extremely damaging and reduces the full potential of what that individual could have done in their life and results often in addictions and suicide.

You've both got to help the victims but you also have to help the offender and some offenders, they're both. It's complicated and we really want to ensure that our communities are safe. We need to have the right amount of support services. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member John Main.

Mr. Main: Thank you. I guess it's my last question for now. It was in the letter that on the RCMP excessive use of force, you mentioned that it is something that is underreported. Like you said, there's a number in there or an estimate that for every one person that takes it through the civil route, there are another five or there are other people there in the shadows who were victims but choose not to press charges or do anything. What other types of crimes in Nunavut are underreported? Any estimations that you might have on how underreported they are, I would be interested. (interpretation) Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, John Main, Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Even though I would say that that question probably falls outside of our

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mandate, as an Inuk woman leader, I can speak to the fact that sexual-based offences on women, especially children, are underreported. The research done by Pauktuutit and other national women organizations, including indigenous organizations, have indicated that it can be as high as 90 percent of sexual assault victims do not go to the police. The process is very scary. In some cases the backlash of family members on both sides prevents the victim from speaking out.

I remember when I worked at the Crown's office, even when someone did go forward with a sexual assault and had charges pressed, the Crown's office at that point in time would often reduce from an indictable offence, which is where the sentence could be two years plus a day more, to a summary offence on the basis that when it's an indictable offence, the offender can choose to have a jury by trial or be judged alone. The Crown's experience is that a lot of those indictable offences would actually not result in a conviction and so they went for a lesser charge.

Sexual-based offences are severely underreported, especially where the victims are so vulnerable because of the family situation, the community situation, and the lack of support services for them. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Patterk, Member for Aivilik, Patterk Netser.

Mr. Netser (interpretation): Thank you, Madam Chairperson. (interpretation ends) Good afternoon. On page 14 of the Legal Services Board of Nunavut's annual report for 2016-17 (interpretation) states, (interpretation ends) "Regional clinics situated in Iqaluit, Rankin Inlet and $\begin{array}{lll} & \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text{CFP} - \text$

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Chairperson (interpretation): Thank you. Madeleine Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Yes, we provide the funding to the regional clinics. The responsibilities of those regional clinics are to hire clinic staff that provide administrative support services both for the court workers and the staff lawyers who work out of their offices and the visiting private lawyers. As explained earlier, the structure is convoluted and complex, more so than it need be, but we provide the funding to them for that purpose. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Ms. Redfern. Patterk, Member.

Mr. Netser (interpretation): Thank you, Madam Chairperson. If I understood correctly, the societies are able to request for funding from anywhere. Is that the case? Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Yes and sometimes they have. They have sometimes applied for funding for training. They have sometimes received funds directly from the federal government for the court worker training. The challenge is, like many smaller societies, having the staff who can write the proposals and do all the additional reporting. They tend to be so busy doing the work supporting our lawyers and our communities and clients that it has posed a challenge or an issue. For the most part, they will provide us business cases and

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we incorporate, where we feel prudent, their request for additional funding as part of our business case and bring it forward to the Government of Nunavut. Thank you, Madam Chairperson.

Chairperson: Mr. Netser.

Mr. Netser (interpretation): Thank you, Madam Chairperson. The government has no trouble paying money for consultant funds and they seem to have a deep pocket for consultants. Does the Legal Services Board ask the GN for money for consultants? It sounds like the government does a lot of work with consultants. Have you ever thought of doing that? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Mr. Netser. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. We do incorporate where we've identified particular activities that we'd like additional funding for in our budget or in our business case. For the strategic planning, that was a consultant that was hired to facilitate that. The structural organizational review was another one where we outsourced support for that. It was an independent review with our participation and with our partners, but we also sometimes do it ourselves.

The Inuit Employment Plan was written by me with the help of the staff. The Court Worker Enhancement Program was written by a former board member and the business cases we produced as a team, people from our board and our senior management, so we only tend to go to the outside source when we know that it is a specialty or where an independent assessment would be worthwhile facilitating.

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Chairperson (interpretation): Thank you, Ms. Redfern. Member Netser.

Mr. Netser (interpretation): Thank you, Madam Chairperson. (interpretation ends) What entities from the federal government have the regional clinics requested money for their operations? Thank you, Madam Chairperson. (interpretation) That is my last question.

Chairperson (interpretation): Thank you, Member. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. The operational costs are covered by the Legal Services Board. The distinct funding that they have sometimes applied for or received is usually around court worker training. Especially if the Department of Justice at the federal level has identified that they are going to surplus, they will sometimes contact the regions as they have done with us and said, "Could you use this money?"

It's faster sometimes to flow to the regional clinics than to have it flow through to the Government of Nunavut, through to the Legal Services Board, then to the regional clinics. In those cases, to expedite those funds, they'll go directly to the clinic because they are able to receive them. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member Qirngnuq.

Mr. Qirngnuq (interpretation): Thank you, Madam Chairperson. I would like to ask first of all, what is being discussed about the RCMP and the excessive use of force? With

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young offenders, do you ever get information from social services on the reasons why Inuit commit crimes, or young people? That is my question. Thank you.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. When an individual applies for legal aid and is approved and is assigned a lawyer, at that point in time the lawyer will begin to discuss the charge and the reasons, privately, a solicitor-client privilege, why and how the crime may have been committed.

Often these reasons, especially in law they're called "mitigating factors" things that the court should consider possibly as to make the judge and the court understand that they may have had personal factors like poverty, being abused as a child, dealing with addictions. That is how it's dealt with on a case-by-case basis in front of the courts, but I think if I understood the Member's question, is that everyone I think, appreciates and understands that if you live in poverty, if you live in overcrowded housing, if you have dropped out of school....

There are quite a number of social factors that reduce someone's life opportunities and put them in potential risk of behaviours or choices that can get them into trouble with the law. What we would like to see is way more investment made in preventing these crimes where individuals not only hurt themselves or their families, but lead a much healthier lifestyle that is beneficial for everyone. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Qirngnuq.

Mr. Qirngnuq (interpretation): Thank you, Madam Chairperson. I also thank you for your proper response. If they can provide

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more assistance in the Inuit community on this matter or issue, the older people can provide good counsel. My second question is, the Member for Arviat and Whale Cove... . It was responded to earlier by Ms. Redfern regarding underreported crimes. Why are they underreported? Are there reasons why they're underreported? The question will probably come up. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Mr. Qirngnuq. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Again, speaking mostly not with my Legal Services Board chair hat on but as someone who cares deeply about what's happening in our communities and having worked closely with either Pauktuutit or the Qulliit Status of Women, when a person is vulnerable because of either age or their status within the family or in the community, they may be subjected to abuse and because of their already vulnerable situation, they find it hard to report that abuse.

If it is your father who is sexually abusing you, it is extremely hard to face that, let alone share it with possibly your mother or others and to bring in the police and bring in the whole court system. We see that even as an adult woman, you may find that if the person who has abused you is in a position of power and can influence whether you lose your job and if your housing is associated with your work, then that makes it very hard to report because all of a sudden you have lost everything that your family needs.

Another area of vulnerability is persons who are subjected to public guardianship applications. What a public guardianship means is that the public guardian, who is a state official, has determined or decided to

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proceed that someone is a risk, cannot function, cannot make decisions for themselves, may harm themselves or may harm others. In some cases those are legitimate applications because the person clearly is not functioning.

In our view and from our initial assessment, we're concerned that there may be individuals who are just simply low-functioning or homeless and Inuk that applications are being brought forward and may not meet the legal test and they're going to court with no legal aid lawyer or no lawyer assistance, and the state is presenting all this evidence. To give people an idea of what happens, if the court then decides to grant the guardianship, then that public official gets to decide where that person lives.

It has come to my attention at least twice recently, even in my own community, that people who were living at the shelter posed no risk to themselves, posed no risk to others, simply low-functioning but able to go and from into the shelter now all of a sudden is being flown to a group home in the south and has no choice where they live. One person did so voluntarily and said, "Well, now I want to go home," and they said, "No. Now we're applying the public guardianship. You're going to stay here." They're supposed to be reviewed every five years and it's coming to our attention that the review every five years is not even happening.

If someone has a mental health issue, we know that sometimes that that state can fluctuate or can be greatly assisted with medication or counselling. We're really concerned. And my forgiveness to Madam Chairperson. There are also times when the court orders a particular type of counselling or service that is not available in our community, and then the individual can't comply with the court order or the judges

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think it's incumbent on the legal aid lawyer to make it happen. Well, if no such service exists, we can't make it happen on behalf of our clients.

I think I may have forgotten your question or gone off on tangent. My apologies and if I didn't answer your question, I'll try to make sure I am much more succinct and stay on point. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member for Aggu, Paul Quassa. Emiliano Qirngnuq, you have another question? My apologies. I'll get back to you. First of all, the people just coming in, welcome to the House. We are asking questions to the board members and the chair. Member Emiliano Qirngnuq for Netsilik.

Mr. Qirngnuq (interpretation): Thank you for recognizing me, Madam Chairperson. I think we are dealing with (interpretation ends) policies and legislation. (interpretation) Madam Chairperson, are we in that theme area now? I will have questions when we get to that that area. That's it for now, Madam Chairperson. Thank you.

Chairperson (interpretation): Thank you. We're not there yet. Member Tony Akoak for Gjoa Haven.

Mr. Akoak: Thank you, Madam Chairperson. Good afternoon, guests.

I might just have one question here on your opening statement on page 3. They talked about this already, 345 circuit weeks as opposed to the 2016-17. I'm just curious. I know not all of the people going to court get seen. The whole list will never be used up. Do they have the numbers where it shows how many people have to wait until the next circuit? If you understand where I'm going

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at. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Member Tony Akoak. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. I would recommend to the Members of the Standing Committee that it's probably court would be best to answer that question, but I agree with you that it does happen. It's unfortunate that the full docket, as developed, doesn't always get through, which means individuals have to wait until the next time the court comes back and that can be many months later. As I think Member Main said, ideally justice is swift because these delays cost so much stress and additional cost to the court. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Ms. Redfern. Member Tony Akoak.

Mr. Akoak: Thank you, Madam Chairperson. Thank you for the response. Yes, I do agree. It does cost stress when you have to wait another two to three months for that person. It usually causes mental instability and that's when everything else happens and we don't want to see that, but I do agree it's not good.

Going to the annual report on page 16 which says, "A Board approved eligibility scale defines the criteria for accessing legal aid...." What happens in a case when the person is charged and he has a lot of people living in there but they're couch-surfing? Do you or people consider that situation? Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. The reason we have a scale in our eligibility chart is to ensure that we

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Chairperson: Thank you, Ms. Redfern. (interpretation) Member Tony Akoak.

Mr. Akoak: Thank you, Madam Chairperson. My last question is I just want an explanation of what an excessive use of force is. I know that you talked about it earlier on where a force as being able to break limbs or stuff like that, but what I'm thinking about is when people use those pepper sprays. Is that an excessive use of force? If they used that electronic gun or whatever they call it, is that also considered an excessive use of force? Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Excessive use of force really is determined by the facts of a situation and that each case has to be carefully reviewed insomuch as the police are allowed to use force and in some case quite significant force and, as I explained earlier, especially in the case of resisting arrest. If the person is particularly large and strong and powerful, intoxicated, they themselves may actually be causing injury and harm to the officers or other members of the public and family.

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It's not our place to be able to say that in some cases a Taser has been deemed to be justified. In some cases pepper spray or mace, which are part of the police tools, the reason why they have them is they know that in some cases they are needed and necessary. However, if the accused is very compliant, causing no threat to the police officers, but the police officers choose to exert unnecessary force and based on those facts, then it would be deemed excessive. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member for Pangnirtung, Margaret Nakashuk.

Ms. Nakashuk (interpretation): Thank you, Madam Chairperson. (interpretation ends) In your report you had stated in the public guardianship, I'll just read this paragraph. It states, "It has been brought to the LSB's attention that there are Nunavummiut being subjected to guardianship application with no legal representation and assistance." I know you had already stated this earlier. "This includes individuals who do not appear to be a threat to themselves or anyone else. Some are merely low-functioning and/or homeless and may not have met the legal test of public guardianship. This may very well be a charter infraction regarding the right to legal representation and the government wishes to restrict or remove a person's freedom to make their own decision, including where they live and what they do and for how long."

My question regarding this is: can the LSB clarify the extent in which it is involved with public guardianship matters? (interpretation) Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam

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Chairperson. It's something that has only recently come to our attention insomuch as that there have been very few individuals who were being subjected to these applications who made an application to the Legal Services Board for legal aid representation. In fact the first time it came to the board's attention was because of an appeal. An individual who had voluntarily left the territory on the recommendations of social services to get programming and support, they did so and then decided they wanted to come back home. Because at that point in time our Civil Poverty Policy did not extend to public guardianships, the board felt that we now need to examine this.

It is also having had our staff meet with the public guardian's office that there are over 200 individuals who have had these orders since before Nunavut. It has also come to our attention that there are individuals whose cases, despite the fact legislation requires that they must be reviewed every five years, these orders are not being reviewed. We are spending hundreds of thousands, if not millions, of dollars for over 200 individuals being separated from their communities, separated from their families, possibly and often without any legal aid representation or lawyer support because we haven't provided it. We know we haven't provided it. We weren't asked to.

We're really concerned about these individuals, not only the new ones that come before the court but actually all the ones that have been subjected to public guardianship. We would like to see a complete review of that program and ensure that only those who absolutely meet the test because they cannot function without a public guardian making those decisions, but just because you're low functioning or you're homeless really doesn't, as far as we're concerned, meet the test of having the state decide where you live,

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including being out of territory, living in a group home with no access to family or your community, your language, your culture, to the activities and freedoms that we all enjoy. They have no right to make their choices.

It's a section 7 Charter Right, is the right to security, liberty, and freedom. It has to be extreme when the state and the court has decided and determined that the state will make those decisions. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member Margaret Nakashuk.

Ms. Nakashuk (interpretation): With regard to your comment, it's true. That is exactly what is occurring and I know that individuals are sent out of the territory and I feel that number is increasing. That's why I was asking that question. There was a concern that was brought to me by one of my constituents that there was an elder who was sent out of the territory. The elder was under public guardianship. It is very concerning for the family members. I don't want to go into the details, but I do have a question. Can the LSB support Nunavut residents or a family member if they have been providing support through public guardianship issues? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. I can tell you that as a result of that appeal, we did approve it, which meant that the individual is granted a legal aid lawyer to represent them in court proceedings.

The board feels that this is so serious that we're working with the staff to look at amending our Civil Poverty Policy to Ċ°교 \%P<<C</br>

Δ৬/ペレርና: ቫሪታ°ሲ፫ኑ. Γጎር ናናቃ°.

Δ°ΛΙΖ°6°C CΔL°α Δ647Lα7L°Δ° ΔΖΈΔΠΓυςΠυς Ε΄ Δ΄ ΥςβΕΡος ΓαςΠυς Ζ΄ Σ°75ΡΠςΠ°σ.

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expressly include it and to also assess what the resource implications, how many more resources we might need to meet that particular need and demand, not just for the new applications but also, once we make it aware and publish it, someone can apply for legal guardianship because they're in that kind of state or a family member who says, "You know, that happened to my brother. I want to make sure that my brother actually has his case reviewed or the order reviewed." We know it comes at a cost and we feel that we need to provide that support.

Our concern is that we have yet to put it in a business case. This might be considered by the Department of Justice and Finance as a new or enhanced program and decide on that basis that it should be struck out. We feel quite passionate and compelling that we should actually be providing services in this area. Nothing in the legislation precludes it, but it absolutely would be a new area of service. Thank you, Madam Chairperson.

Chairperson (interpretation): Member Margaret Nakashuk.

Ms. Nakashuk (interpretation): Thank you. This is very interesting to hear about the increasing number of people who are requesting for support and I know that it's going to need some resources. All of these services are not provided in Nunavut and we don't usually have that opportunity.

My last question is on page 7 of the 2016-17 Annual Report of the Nunavut Human Rights Tribunal indicates that.... Perhaps I'll say it in English. (interpretation ends) "the mandate of the Tribunal does not include public education, nor should it. Public education and outreach is the responsibility of the Legal Services Board. Education is the backbone of any human rights code." To what extent does the Legal Services Board

ᲡペĽჼď°ഛና <ჼჼ₽⊁Þጚഛና Ċ°₠勐 ഛĊჀᲡᲮጢ°勐Ժ ᲮĽՐ⊁Þጚჼჼ, ჼďታ°ഫՐჼ, ለჼჄぺÞĊჼჼ

 $\Delta^{6}/\mathcal{C}^{6}$: LCUCD46 LJ50 abd6.

αb/**b**: 'db^αΓ'⁶. C'⁶α D\PΓα⁶D'⁶C D\D\C'665c CL⁶α. dΓ\P⁶C<Cd\CDC CΔΓ⁶ 'PΔ\Δ\CDC\CDC PαD\6000 Δ\CDC\CDC PαD\6000 Δ\CDC\CDC D\CDC\CDC D\CDC\CDC D\CDC D\

▷ሲ፫ ◁Λჼᠯዕ∩ՐՎLንና ዮኒቨር LºΛႱჼ 7, 2016-17 ◁ˤĠIJĊĹჼჼ┦▷∩ჼՐჼႫ ▷ႫჼႦႠ◁ӶႫჼჼ
ውሲ⇒Ր Human Rights Tribunal-Ქჼውና
ሲጋሲ∆ჼነ┦LԿር ፕᲮՐጋሲ▷ታ∿ႱჼጋЈჼҌ∆.

(Ͻʹ៶ͰͶͿʹ) ͶϹͰϷͰͿͰͰϤϺ·Γʹ ϷʹϲͰϭϤʹ϶ʹʹ ϧͶͿͰϧʹϔͼϧ Ϲʹͽϧϧϥϭʹϧ Δϲʹ϶ϭϥʹͽͶϹϷʹϧϲϹʹϧϔͰϹ ΔϲʹϭϤʹͽͶϹϷʹϧϲϲͺϤʹϧʹͰϹ ϹͿϧϥϥ ͿϲϹϧϭϥͽʹϳϲ ϧͶͿͰϧʹϔͺϼϲ ϧͿͺϔͺͿͺ

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work with the Human Rights Tribunal on public education initiatives related to human rights? (interpretation) Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. We do have the express mandate to provide public legal education in this territory, but we are not the only entity. The Department of Justice can do it. The Human Rights Tribunal can and should do it in their area. The Law Society of Nunavut also does it. Jonathan Ellsworth spoke earlier about the need to coordinate public legal education.

When an individual comes to the Legal Services Board and applies under the civil poverty policy for a human rights application, they would first of all need to meet the financial eligibility requirement. If the issue is deemed to have merit, then a legal aid lawyer will be assigned to them. Once that legal aid lawyer meets and discusses the case or the infraction with the client, they may together decide different courses of action.

Sometimes an application or the lawyer, on their client's behalf, will make an application to the Human Rights Tribunal to be represented and the person or the entity that may have violated their rights will be named. Other times the lawyer may decide to work directly with the entity that has been named in the violation and sometimes they're able to negotiate an outcome without having to go through the tribunal where it has been acknowledged, "Yes, we did wrong. Yes, we're prepared to correct that."

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years and that of course is not what most individuals want. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Just be conscious of the interpreters and slow down. Thank you. On this topic of access and public education, I have one last speaker. (interpretation) Member for Aivilik, Patterk Netser.

Mr. Netser (interpretation): Thank you, Madam Chairperson, for recognizing me again. Sometimes public servants are wrongfully dismissed and they have to go through a human rights tribunal. Sometimes they get scared to go through that tribunal because they fear there will be repercussions. Does the Legal Services Board provide assistance to individuals in these situations?

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. That is why Legal Services Board includes human rights as an area that people can apply for. An individual can make an application directly to the Human Rights Tribunal by themselves and try to selfrepresent, but you're right, it's a daunting and scary process.

Having the assistance of a lawyer definitely helps those individuals. That is why we do provide that support, but sometimes also it is possible to maybe get the right kind of outcomes, not necessarily through the tribunal because it can take so long. Those are discussed and decided by the individual with their legal aid lawyer. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Netser.

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Mr. Netser: Thank you, Madam Chairperson. I was just wondering if the Legal Services Board has any numbers on how many people have applied for help in terms of being excused from their positions or wrongful dismissal. (interpretation) Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. We do capture in general terms statistics with respect to employment. In 2014-15, when we began to track it, we had 16 applications and clients. In 2015-16 it was 22. It 2016-17 it was 47. In 2017-18 it was 17. I don't have it broken down for wrongful dismissal. Those employment matters could be everything from that to not receiving the benefits as per the contract. They may not have been paid their overtime, or they may not have been given vacation time, or maternity or paternity leave, so it's all captured under that.

We also do have statistics as it relates to human rights. Some cases, the rights violation may be in more than one area, so it could be an employment rights violation, but it could also be a human rights violation. Sometimes the lawyer will pursue with their clients, or advice or direction, both remedies against the violator. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Netser.

Mr. Netser (interpretation): Thank you, Madam Chairperson. (interpretation ends) I just have one final question relating to the Human Rights Tribunal office and perhaps the Legal Services Board. Do these entities cover employees from the federal government? Thank you.

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Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. It could. I don't believe anything that precludes it except that if the federal government employee is part of a collective bargaining agreement, you have to look to that to see what is required or dictated as a potential process or remedy.

For the most part, the courts have said that you have to go through those processes first and try to get a just remedy, and if you're not satisfied at that point in time, you may be able to go to the Human Rights Tribunal. If you're not satisfied at that level, you may be able to go to court.

You have to carefully assess what type of employee and whether they are in management or they're in a collective bargaining agreement before you can decide which route that you go. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member for Arviat and Whale Cove, John Main.

Mr. Main (interpretation): Thank you, Madam Chairperson, for recognizing me again. I have just one more question on this. There was a (interpretation ends) business case (interpretation) handed to me about languages. It states that one of the members of the board, your elder, was concerned about language in court, looking at the language used in court. He says there is no terminology for court. What I would like to find out is: who deals with the terminology? Is this the Inuit Language Authority or is it the courts? I would like to know who deals with that. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you.

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Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. A few years back the Legal Services Board participated in a workshop around legal terminology. It was organized by the Inuit Language Authority. We brought it to their attention that this area of language is so specialized. The previously published Inuit language terminology book was very problematic insomuch as that even in English, a legal term explained in English was wrong. If an English term is defined or explained incorrectly and then you have it provided to an interpreter/translator, you're just compounding the error.

To give you an idea, we still know that certain terms like "not guilty" are not properly defined. In English "not guilty" means that I am not prepared to state whether or not I have committed the crime that I am accused of and it is up to the state to prove beyond a reasonable doubt that I committed the crime. That's what not guilty is in English. The Inuktitut word for not guilty in most of the dialects is "I did not do it." That's not the same.

We would highly recommend that the Inuktitut legal terminology be more than just a half day of a language workshop. A significant amount of work needs to be done to ensure that proper Inuktitut terminology is used in court because people's rights and their freedoms are at stake. Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern. Just a comment as Chair, I think the terminology itself is separate, but an understanding of the concept has to be worked at. I'll give you an example. An elder was asked to swear on a bible, "Do you swear to tell the whole truth and nothing but the truth?" And that elder said, "No. I can only tell you what I know."

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I no longer have any names for questions under this heading. We will now move on to the next theme, which is policies and legislation. (interpretation) There are no more names on the list from the previous theme. Mr. Qirngnuq is the first one for this theme on policies and legislation. Member Qirngnuq for Netsilik.

Mr. Qirngnuq (interpretation): Thank you, Madam Chairperson, for recognizing me to ask a question. I'll ask it in English. (interpretation ends) There are currently a total of eight formal board-approved policies that are publicly available on the Legal Services Board's website: the Poverty and Civil Law Coverage and Eligibility Policy, the Appealing Your Denial of Legal Aid Policy, the Family Law Coverage and Eligibility Policy, the Resident Counsel Policy, the Policy for Nunavut Panel Application, the Criminal Choice of Counsel *Policy*, the *Criminal Law Coverage and* Eligibility Policy, and the Policy on Funded Criminal Appeals. These policies were approved or updated in September of 2014. What other formal policies has the board of directors approved and when will these policies be made publicly available? (interpretation) Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Thank you for the question. We are undergoing a policy review of many of our existing policies. When I started on this board, I can tell you that there were no policies in place.

Through the application of such policies as even financial eligibility through a number of CAL PUCA JC/A (JC/4C/C) 60L206 4000CD7L46 4040Q6. 4005000 Cbd4 LCL644416 PUL764C ΔΡϤʹጢል∿Ⴑσ: *ĊၑdϤ ϤϞʹ*ၑʹ៶*ጔϤʹ*ၑϽ*ጔ*ϲʹ*Ϥ*ၬ PbdDDaaror AbdrbCDdaDAr QLLCCD Papyhyadarnoor Abtacouradic del ᡏᢣ᠒ᢐᡆᡳᡏᠫᡤ᠙ Δb<

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appeals, it has come to our attention that these need to be amended. The chart for the financial eligibility is useful, but in some cases it has come to our attention that if someone is living in private accommodation, they have no money left over for a lawyer.

The additional current policies that are under development are a funded inquest policy, which I spoke to earlier, which is expected final ratification this year; a Nunavut private panel lawyer policy is also under review and reassessment; and a workplace harassment policy. When these have been ratified by the board, they then go out for translation and then we put them on our website and we distribute them to our clinics and our court workers. We also want to now do a public campaign so that people are aware of it.

I would also like to add, even though it's not on this list, the public guardianship component to our Civil Poverty Policy will almost certainly be added. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Qirngnuq.

Mr. Qirngnuq (interpretation): Thank you, Madam Chairperson. Thank you, Ms. Redfern, for the very clear answer. The reason why I'm asking that is so that I can understand the Legal Services Board. What Act does the Legal Services Board fall under? Do you fall under the federal government legislation or the Nunavut government legislation? I just want that really clear and that's why I'm asking that question, Madam Chairperson.

Chairperson (interpretation): Thank you, Member Qirngnuq. These are just policies that we're talking about and the board can change them at any time. However, legislation cannot be changed by the LSB, ΔΡ
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Ms. Redfern: Thank you, Madam Chairperson. We fall under a territorial legislation that's called the *Legal Services Act*. It creates our board and allows the existence of regional entities. It clearly defines what services we can and cannot offer. It speaks to the board composition, how we're appointed, our length of terms, our requirements as determined by this Legislative Assembly. Thank you, Madam Chairperson.

Chairperson (interpretation): Member Mr. Qirngnuq.

Mr. Qirngnuq (interpretation): Thank you, Madam Chairperson. I also thank you for helping me understand that. Sometimes when you are under stress, you end up asking a different question than you were intending to ask. This will be my final question.

The policies that we were looking at, we can see them, but I don't see anything about *Inuit Qaujimajatuqangit* or if there's a policy about *Inuit Qaujimajatuqangit*. Have you made any thoughts on this matter on how it can be put into our communities like references to *Inuit Qaujimajatuqangit*? I hope I was clear, Madam Chairperson. Thank you.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. You're absolutely right. That piece of legislation does not speak to Inuit values whatsoever. It's from 1988. We inherited it from the NWT. The only amendment that I'm aware of was made in 2001 with respect to how much private law lawyers can get paid for representing our

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We would love to see this legislation amended and incorporate our Inuit values. So far, as an organization, we have gone through the Inuit values exercise and incorporated it in our Inuit Employment Plan. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you, Ms. Redfern. Member for Aggu, Paul Quassa.

Mr. Quassa (interpretation): Thank you, Madam Chairperson. I'll be speaking in English. I may have two questions.

(interpretation ends) Again, we're talking a lot about the policies and I appreciate what you have given to the Members here. A number of the Legal Services Board's policies include a financial eligibility grid and this is used to help determine an applicant's eligibility for legal aid. How were the current income thresholds determined and when were they last updated? (interpretation) Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Prior to this policy, as I indicated earlier, there were none. There were ad-hoc, sort of unwritten down policies and I recollect one where one staff member said, "Anyone who makes \$75,000 or less would get a legal aid lawyer." One other lawyer said that it was \$100,000. The problem with that approach is that in our eyes, especially for households with lots of people, it would shut out people who should have a legal aid lawyer.

When we developed this grid, we looked at all the eligibility of legal aid across Canada.

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The highest rates were in Alberta. At that point in time it was probably around 2013, but we had done the research actually in 2012 and based on what we knew was the cost of living, we thought that four times the Alberta rate would probably be most appropriate.

We have not updated the amounts in that grid since 2014. We do know, as I indicated from a policy review because of a couple of appeals that came to us, some persons were denied legal aid because they would have deemed to have made too much. They had more income than what the grid provided, but in the appeal, they were able to provide us information that was clear that they had no spare money because of the cost of living to hire a lawyer. That's why that policy is under review.

There's also, if you look in our policy, an allowance where someone who makes too much falls outside of the grid, we may be able to negotiate with them that they help cost share for a lawyer. In some cases we have entered into those contribution agreements. The only problem with that, Madam Chairperson and to the Member who asked the question, is that the person then pays the money to the Government of Nunavut because we do not have our own separate account. It goes into the Government of Nunavut's general fund. If there's no guarantee, and it does not happen as far as I'm aware, that then that money flows to us.

There's really no net gain or benefit for us to enter into those contribution agreements other than to make the individual aware that the cost of a lawyer is very high, but we felt they're in a position were able to contribute. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern.

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(interpretation) Member Quassa.

Mr. Quassa (interpretation): Thank you, Madam Chairperson. That's all I wanted to ask.

Chairperson (interpretation): Thank you. Ms. Kamingoak.

Ms. Kamingoak: Thank you, Madam Chairperson. Good afternoon, Nunavummiut.

The current business plan of the Government of Nunavut's Department of Justice indicates that the Legal Services Board "formalized an inquest participation policy" and drafted a non-harassment policy during the 2017-18 fiscal year. When will these policies be made publicly available and what are the main elements? Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: I'm surprised that they stated that they were completed because we indicated to the Department of Justice that we were undertaking that work and that policy development. The inquest policy is ready for board ratification once we meet as a full board, which will likely happen this year, probably before Christmas.

With respect to the workplace harassment policy or the harassment policy, it is under development. We saw that most of the harassment policies in this territory are very old and outdated and inadequate and as a result, we would like to see the harassment policy be strengthened and potentially be the model that could be adopted by many of the employers or workplaces in this territory. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Lightstone.

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Mr. Lightstone: Thank you, Madam Chairperson. Mr. Quassa had asked about the financial eligibility criteria and you had indicated that it was set in 2014 based on four times Alberta's rates.

The current business plan of the Government of Nunavut's Department of Justice indicates that the Legal Services Board "amended the legal aid financial eligibility policy and guidelines to improve assessment capacity and updated financial guidelines" during the 2017-2018 fiscal year. When will this amended policy be made publicly available and what are its main elements? Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. As I indicated, we saw that there were shortcomings in the original policy, and the biggest challenge or hurdle was to amend the form regarding the people's sources of income and to ensure that the process for obtaining all of that information was something that our court workers could handle. The biggest delay in legal aid application approvals is because of people not providing all of the information and usually income.

We want to ensure that we have the internal processes that can verify all that information, and that it is a smooth as possible because we want to make that people legal aid where we believe they are entitled.

I'll give you one example where assets were not on the original form, yet one of the applicants that was denied was on the basis that they held over \$1 million in assets. That is an important piece of information as to whether or not someone can afford a lawyer, and in that case when it was appealed, the board upheld the appeal because they could

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afford a lawyer.

You have to think of all of these elements that have come through usually trial and error, and ensure that you have the systems in place at the community level, at the administrative clinic level, and at the Gjoa Haven level so that there are not problems in a new policy amendment. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. (interpretation) Member Adam Lightstone.

Mr. Lightstone: Thank you, Madam Chairperson. I'm glad to see that the current annual income thresholds are considerably higher than that in the other jurisdictions in Canada, but I'm still worried that they might not be quite high enough to really meet the requirements of those who actually need it.

When I look at Alberta's current financial eligibility guidelines, annual income for a family size of one person is \$20,000 now compared to our \$50,000. They have increased theirs considerably since you did your study back in 2012, so I think that it's about time that we probably do the same.

With that being said, during the financial criteria or screening of these applicants, you mentioned that you take into account assets. Can you tell us a little bit more about the actual financial eligibility screening process and are these annual gross incomes for the specific individual or for the household with the number of individuals in it? Thank you, Madam Chairperson.

Chairperson: Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. I just want to explain and caution why just automatically increasing the amount at the front end for eligibility can be Δċ Þኌ%/Րď%/L</br>
2012-Γ '6Þλ\'σ'6cÞ%በ'ጏ/ Ċ°a

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▷'b▷∩Րላቴቴ°σን°ዺቴላብJና CLቴd⊲ ቮሲ▷ንታቴኒጐՐ°σ 'ቴኴቴ 'ቴ▷ኦኒቴስՐለ▷ኄልለ ፈናናJ፫፫ጋ ቮሲ▷ንታቴኒጐՐና ΔኴጐJና ፈር▷ለናቯቴ<ና ▷ኖዊጏ°ቴና ΔካጋΓና Cኖዊቴናጋ፫ቪውና? 'dታ°ሲቮቴ, Δቴለዊ▷ርቴ.

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CALC CCC Adopy-AULYCC AIPLAIPCPALPHA ADALT PAPAGAITALIS LdA PAPAGAITALIS COLONG ALSTANDAGAITALIS COLONG ALSTANDAGAIT problematic. In applying even the current policy, there could be quite big distinctions or differences in the expenses of someone who makes.... Let's say you make \$50,000 and I make \$50,000. Some employers provide free housing, some employers provide subsidized housing, and some employers do not and therefore, as a result, the person who has free housing has significantly more disposable income than the person who has to pay in the free market.

Here in Iqaluit a two-bedroom can cost \$3,250, but if you are working for the Government of Nunavut, you might be paying \$1,200. If you are working for NorthMart, you might be actually receiving free housing. Actually that's why the policy is taking a little bit longer to amend, is that it makes more sense now to focus on the expense end than simply increasing the income side of the eligibility grid. I hope that answers your question. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Lightstone.

Mr. Lightstone: Thank you, Madam Chairperson. In the annual report you have identified 22 individuals who were denied eligibility due to income over guidelines. I'm curious if that 22 is about average. Have you seen years with considerably more denials due to income eligibility? Thank you, Madam Chairperson.

Chairperson: Thank you, Mr. Lightstone. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. It's something that I think we can and should probably be assessing. For the most part, anyone who feels that they should have gotten legal aid and didn't because on the basis of financial ineligibility,

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The actual numbers, I think, probably vary from year to year, but the vast majority of our clients are deemed eligible. If they are on social assistance, it's automatic and then for the assessment of those who have an income outside of social assistance is probably in the less than 25 percent range of the applications. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. Mr. Lightstone.

Mr. Lightstone: Thank you, Madam Chairperson. I would like to move on to tariff of rates or rates at which the Legal Services Board pays to practising lawyers both residing in the territory and outside of the territory. In your opening comments, you state that the rates for paying panel lawyers are set down in the legislation, in the regulations of the *Legal Services Act*, and that these rates have not been updated since 2001. The LSB recommends to the GN Justice and the Standing Committee that these should be reviewed and increased.

My first question is: why have these rates not been changed since 2001 and are they comparable to the rates that the GN Department of Justice currently pays their own lawyers? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. The Legal Services Board

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actually in approximately 2012 sought to have these rates re-reviewed with a recommendation that they be increased. It has affected our ability to have as many lawyers on our panels on criminal law, family law, and civil law.

With the rate of inflation, with the work that is available elsewhere, thankfully approximately 40 lawyers who are on our panels do so because this is an interesting place to do law. I can say that the rates are not competitive any longer either with what lawyers get paid in other legal aid plans and definitely not comparable with what is in the private market or the Government of Nunavut staff lawyers or the legal services staff lawyers. Thank you, Madam Chairperson.

Chairperson: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Madam Chairperson. Would it be possible that the Department of Justice is worried of losing their lawyers if you end up increasing your rates? Sorry, I'm just kidding there.

My next question is going to be regarding the honoraria rates to the Chair and the Board of Directors of the Legal Services Board. It's my understanding that they're not compliant with the current honoraria rates outlined in the *Financial Administration Manual*. Is that correct and why not? Thank you, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. There are a couple of conflicting documents that the Government of Nunavut has produced over the years. There is one policy and designation of the Legal Services Board being a highresponsibility board with a set rate that was **Δ•/ペレርና•**: ናժታ°ዺ广፞•. Γኣ ናናጵ°.

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not produced or developed by us with a rate of, if I recollect correctly, \$500 a day for the chair, \$250 for the regular members for a full day. The *Financial Administration Act*, there has also been differences of opinion of us falling under what authority. We are an arm's-length public agency.

I'm happy to provide the Members, if they so wish, the title of the document which I spoke to which set out our rates because it actually comes from the *Financial Administration Manual* Directive 810 and it sets out the honoraria rates for all the public agencies, whether it's Nunavut Arctic College, the Qulliq Energy Corporation. We follow that manual. Thank you, Madam Chairperson.

Chairperson: Thank you, Ms. Redfern. I'll allow you two more questions; I have other speakers. Mr. Lightstone.

Mr. Lightstone: Thank you, Madam Chairperson. The reason I was asking that question regarding honoraria is because, under the *Legal Services Regulations*, section 2 identifies the rates at which the board and the chair receive for their daily rates, which was considerably lower than that of FAM. I'm glad that you're following the actual FAM directive on that. Thank you.

Sorry, no further questions, Madam Chairperson.

Chairperson: Thank you. Ms. Redfern, do you want to respond?

Ms. Redfern: The only thing I would say is that it would be good to do some housekeeping and get all the documents properly aligned with each other with the one and correct stated rate so that there is no conflict between them. Thank you, Madam Chairperson.

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Chairperson: Thank you. (interpretation) Member for Baker Lake, Simeon Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you very much, Madam Chairperson. My colleagues were asking questions and there has been some denial of requests for assistance looking at the eligibility requirement when they want to get a defence lawyer. As we're aware, when the court circuit is going to come into our community, sometimes the lawyers go visit the communities prior to the court circuit going to the community. Usually the lawyers go to the communities. What kinds of problems have you encountered with the defence lawyers and also to the court and the offenders? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Thank you to the Member for the question. I can tell you that in the year that we are speaking to, there were only two criminal law applications that were denied because of financial ineligibility. The vast majority of financial ineligibility will be in the areas of either family law or civil law. 99 percent of all clients who will appear before the court in criminal law will be represented by legal aid. Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you very much, Madam Chairperson. I'm asking an additional question. For those two individuals who were denied, as you have indicated earlier, for the court circuit travel and also for the court judge, and also to the offender and the lawyer, was there a problem

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occurring with these two individuals? When they were denied, was there a problem with the court circuit visiting the communities? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. Usually in those circumstances the individual has quite significantly high income or assets. I'm aware of one of those individuals who live here in Iqaluit and both were able to retain private criminal defence lawyers. In those circumstances there's a list of lawyers that the Law Society of Nunavut has. In some cases people, even with significant income or assets, will apply for a legal aid lawyers on the basis that that's what you do in this territory, that the Government of Nunavut or the Legal Services Board will provide you a free lawyer even if you're capable of paying for one.

Because we have our policy and because we have the gridline, in those circumstances, as I said, even in the appeal, one of those individuals had a million dollars in assets, property here in Nunavut, property in Ontario, property in Florida, and the denial said, "You can leverage funding or financing to pay for your criminal law lawyer," but because someone else he knew got legal aid, he thought that legal aid was eligible for everyone. Thank you, Madam Chairperson. I do not believe it caused any court problems as a result of them having their own private defence lawyer. Thank you, Madam Chairperson.

Chairperson: Ms. Redfern, just a reminder, when you say "thank you" to me, to the Chair, it's a clue for the TV that your mic gets cut off. Thank you. I'm just reminding you. Mr. Mikkungwak.

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Mr. Mikkungwak (interpretation): Thank you very much, Madam Chairperson. This will be my final question. I just wanted to hear if there were any problems occurring with the court docket, but many offenders have been waiting for a very long time for a court date and sometimes they wait for many years or many days for the court circuit to come to their community.

On a different topic, the policies or the legislation that you are using was amended back in September 2015 after five years. Since then, what would your recommendation be to amend or improve that legislation? What kinds of suggestions or recommendations would you have as the LSB, and also, since it's been active for five years, are you going to be amending or reviewing the legislation in order to make sure that we follow the provisions of the legislation today? Thank you.

Chairperson: Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. We strongly recommend that the entire *Legal Services Act* be reviewed for the purposes of revision. There are many problematic provisions. A few years ago this board, through the Department of Justice, sought to amend and ratify a number of individual provisions.

Some we were successful, and others we were not. I forgot to mention earlier, and my apologies, is that the rate, if I recall correctly for the private law lawyers is \$900 for the lawyer to be compensated for a day if they live in Nunavut and are a resident lawyer, and \$700 for a day for a non-resident lawyer.

If they have been called to the bar for seven or eleven years, in many cases, most lawyers make approximately \$200 plus an hour, so we are not competitive. That is an area we

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Chairperson (interpretation): Thank you, Ms. Redfern. Mr. Mikkungwak.

Mr. Mikkungwak (interpretation): Thank you, Madam Chairperson. This is my last question then. With regard to this issue, if we don't follow the legislation and if they're not updated or amended, they should be held accountable.

With that, the question I have, if this is getting too late, and if you have lawyers that are working, with the help of your lawyers, what kinds of recommendations would you make for improvements or amendments? Has the LSB considered making any recommendations or are you waiting for the Minister of Justice to make the amendments? Thank you, Madam Chairperson.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. We absolutely know that the whole Act needs to be revised. Initially we had started to tackle just individual provisions, and then when we saw that the Government of the Northwest Territories had completely revised their Act, there are a lot of good revisions that they have done.

The Act is really old and outdated. It's 30 years old. It predates the creation of Nunavut. It doesn't incorporate Inuit values. We might have been able to function a lot more easily when our organization was smaller, but as we have grown, the structure only makes it more and more difficult given the sheer size that we are and the services that we are trying to provide Nunavummiut. We would love to see this Standing Committee make the recommendation to the Members that the

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revision of the *Legal Services Act* become a priority. Thank you, Madam Chair.

Chairperson: Thank you. Before I go to the next speaker, I'm looking at the clock, but he's our Chair and after our break, he's going to take over. I'm just the Co-Chair. Before I give the question to him, I have a quick question. (interpretation) To follow up on Mila Kamingoak's question, Member for Kugluktuk, in regard to harassment, what about internally? As the LSB, do you have a policy for your staff in regard to harassment? Thank you.

Ms. Redfern: Thank you, Madam Chairperson. The working draft that we have is what we would look to in the case of harassment. Thankfully, for the most part, there have not been too many instances of actual harassment within our organization, I think in part because we work in the legal realm and there are quite a lot of laws regarding the fact that harassment is not acceptable and not tolerated. We would take any instance of harassment very seriously.

I just wanted to confirm because, in the ten years that I have been with the organization, I am not aware of any harassment complaint that required investigation and that's a good thing. Thank you, Madam Chairperson.

Chairperson: Thank you. (interpretation) The Member for Arviat North-Whale Cove, John Main, you will have the last question before you become Chairman again.

Mr. Main (interpretation): Thank you, Madam Chairperson. I have a very short question that one of my colleagues was asking about salaries of lawyers. (interpretation ends) You mentioned that the tariff of rates isn't competitive across the country. There are different categories; student lawyer and based on experience Ċºdd ▷፴º∿ՐºϽʔϿ'ኔ'ቴ'ር'ºᆉL∿LC <∿ልኣΔ'ᢏሲ゚ን' በΓነժበ'ር Δጋdσ. የታdσc LcሁርሲσነͿ' Δ'ၿቴαΔϧና፡ር Lcሁ'ቴ▷%ৢበ'ጋ ▷፴ኈጋላጋጐσቴ. Ċቴል <ጐልኣΔσነͿ' <∿ልኣΔϧሲላነቴ°∿ቦ'LC Δ'ၿቴαΔϧናል፡ር Δጋdσ.

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increasing rates. In terms of the lawyers that you have right now, where are they grouped? Where do they get paid on the scale? I just want to understand: are you attracting experienced lawyers or is it because you are not competitive, are you getting younger lawyers? I would just like it in general terms, where are your lawyers grouped in that scale? (interpretation) Thank you, Madam Chairperson. I am done.

Chairperson (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Madam Chairperson. I would like to distinguish the difference between what we pay our staff lawyers, which we recently did a remuneration review and to ensure that the staff lawyers, which are within our control, their salaries and benefits are competitive. Because the legislation doesn't extend or dictate what we pay our staff lawyers, the tariffs dictate what we pay the private panel lawyers and that's where we see a big difference.

For staff, I would say that we are fortunate. We've got a good complement of lawyers, both that are relatively recently called to the bar, very young, very eager, we have a good number of lawyers that are called to the bar with a five- to ten-year sort of experience, and we have a few lawyers that are even at the 20-year plus call.

The more experienced lawyers are able to provide much-needed support and guidance to the younger lawyers. I don't think, for the most part, how much we pay the staff lawyers has been a deterrent to hiring lawyers. It's a question of: do they want to work in Nunavut? Do they want the type of work? It's criminal law, family law, and civil law. There's a lot of travel involved.

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If I looked at the overall model between the staff lawyers and private law lawyers, absolutely we have young ones or not even young, recently called to the bar to seasoned lawyers in the 25 plus year experience. That blended model works well. We're very fortunate. Thank you, Madam Chairperson.

Chairperson: We now have a 10-minute break and we also have speakers. I'll return it back to the Chair. I would like to thank our Chair for giving me this opportunity. It's a learning experience. Ten-minute break; the snacks are here. (interpretation) Thank you.

>>Committee recessed at 15:07 and resumed at 15:29

Chairman (Mr. Main)(interpretation): The Committee has returned and our witnesses haven't given up yet, which is great. We still have a bunch of questions that we would like to pose. Before the break, we were looking at policies and legislation. Ms. Nakashuk.

Ms. Nakashuk (interpretation): Thank you. We will be finishing up this afternoon and I would like to thank them for being able to come here and explain things and talk about what they do.

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(interpretation ends) I want to revisit the issue of resources. The Legal Services Board has indicated that it has been unsuccessful in obtaining more resources from the GN to take on new initiatives and responsibilities. Can Ms. Redfern highlight the three important new areas of responsibility that it would like to take on? (interpretation) Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I would like to break this down that we have to send lawyers to help the clients in all those new court weeks. We have no choice, so that is absolutely a priority. We would like to implement the Inuit Employment Plan to the fullest extent for the four management and administrative positions plus our court workers. We would love to hire the access to justice director because we know that that position is not only valuable for our own operational efficiency but would make a huge difference in the support to the court workers and the services that they provide to the communities. Those are succinctly the top priorities of our business case. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Nakashuk.

Ms. Nakashuk (interpretation): Thank you. The lawyers that you mentioned, are you saying that the Legal Services Board is responsible for criminal law coverage and do you have any other matters that you may be able to help with by lawyers or do I totally misunderstand your response? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

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Chairman (interpretation): Thank you. Ms. Nakashuk.

Ms. Nakashuk (interpretation): Thank you. I have another question about that, but I would like to ask this first. (interpretation ends) The Legal Services Act was most recently amended in September 2013, just five years ago. What specific recommendations for amendments to the Legal Services Act and/or the Legal Services Regulations has the board submitted to the Minister of Justice for consideration within the past five years? (interpretation) Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Ms. Redfern, I know earlier you mentioned that a complete overhaul of the Act is what you would like to see at this point, but in terms of specific areas that maybe are the priorities within that Act, if you may. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. To answer the Member's specific question, I can tell you that when we had sought some individual provisions to be amended, one of them is called section 40. It provides for a

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When anyone applies for legal and they committed a different crime, what happens is they have been deemed eligible, we assign them a lawyer. The problem in section 40 is that we have tried to the best of our ability to provide a list of lawyers who are skilled at handling that level of criminal defence, who are prepared to act in these types of cases, and they take a lot of time and expertise. They cost a lot of money. We tend to provide them to the private law lawyers and staff lawyers to ensure consistency and quality of service.

The problem is that when the list of names is provided to an individual. Now just imagine yourself, for whatever reason, you have been alleged to commit this serious crime and you are in the holding cells of the RCMP or at the Baffin Correctional Centre and you're told, "You have the right to choose your lawyer. Choose from this list." The problem is what the client usually says is, "I don't know any of those lawyers. You pick for me." We say, "Well, the legislation doesn't allow us to assign a lawyer unless you give us that right." Well, who's the best lawyer? Again, we're not allowed to say who the best lawyer is. We can say that this lawyer has been called to the bar for 15 years. He has handled these types of cases before. We find in many instances the client waives the right and says, "Assign a lawyer for me." It's too stressful because they really don't know. If that happened to me and I found myself in that situation, even as chair of the Legal Services

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Board, I wouldn't know from that list of lawyers that is provided to clients who to pick and choose from.

We sought to have that provision taken away and we were denied, but it does pose a real problem and a challenge. Since then we have looked at the Act and there are just so many areas that if we put together a proposal, we would almost be putting through a recommendation to amend almost all the provisions like what they did in the GNWT. We would love to and we were prepared to take the lead in amending that Act and doing all the heavy lifting for the Department of Justice and working with them. We know that their workload is so great, but we would take that commitment. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Nakashuk.

Ms. Nakashuk (interpretation): Thank you. The other question that I had about people who were mistreated after asking for help, can the LSB handle clients who have grounds for medical malpractice? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I believe we are absolutely legislatively prohibited from providing support in that instance. I'm just pulling up the Act provision because I did read it out earlier, but I understand and appreciate that it's quite lengthy.

Thank you. Having reviewed the legislation quite a number of times with respect to this, the staff and the board, including with the assistance of legislative council, has determined that we do not have the

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We also recognize that this whole area of law requires extensive expertise and is extremely expensive. It would potentially be useful to ensure that the legislation would allow, as in some other southern jurisdictions, where individuals could get a lawyer where they are on contingency.

They would receive a portion of the damages in the event that they were successful. I understand that for the most part that is prohibited in this jurisdiction and there is no one I believe on the Law Society of Nunavut list that specializes in medical malpractice themselves, but they probably have firms or know individuals who could. Thank you, Mr. Chairman.

Chairman: Thank you. I guess what my colleague was asking about, or trying to figure out is: is this an area, this medical malpractice, where Nunavummiut are inquiring? Is the Legal Services Board at the board level, have there been discussions regarding this area, or is this not getting that much attention? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We are aware that there are instances which have alleged to have been medical malpractice. I can say that occasionally I have brought this to the attention to the land claim organizations to see whether or not they might be able to assist individuals. There hasn't been any interest or uptake.

It's an area where clearly individuals may have suffered harm, and that they would have a right or an interest to pursue, but it is an area where there is virtually no access to justice, which means that if you have been **Δ৽/«ኦር።** (Ͻʹ៶λΛΟι): 'dϧ·αϳ⁻.

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medically injured, or even a family may have died as a result, where no one is being held accountable, the best that we usually can get, and only in circumstances of death, is an inquest. Thank you, Mr. Chairman.

Chairman: Thank you. That is interesting and thank you for providing that information. We're just about to move on to our final thematic area, but before we do, Ms. Towtongie.

Ms. Towtongie (interpretation): Thank you, Mr. Chairman for giving me an opportunity to ask a question. Many Inuit in Nunavut say that "I will get a lawyer and I will take somebody to court" if they think they've been done a wrong.

What I would like to know is if you're going to be using a lawyer a person has to pay a retainer fee of around \$6,000. That is a lot of money, and a lot of Inuit don't have very much money. In this legislation, on page 24, the number of hours for a lawyer if he has 11 years' experience, it is \$153 an hour, and the daily rate if he is travelling is \$913.50.

For the benefit of the TV audience, if I was ill and I was mistreated in the hospital, what I want to understand is if I want to hire my own lawyer because I was mistreated within the hospital, how much of my own money do I have to use? If I keep using that lawyer, how much would I pay the lawyer on an hourly basis in Nunavut? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Even though we do not provide any legal support in this area, we have done research and I can tell you that it's one of the most expensive practices of law where lawyers can

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charge easily \$500 an hour. Your \$6,000 retainer would probably be used up within only 10 hours of legal work, which is very little.

In most medical malpractices, the doctor, the nurse, or the medical professional is represented by their lawyer. They have to pay insurance fees and the insurance company steps up. These cases can often cost hundreds of thousands of dollars and sometimes even more than that, into the millions, because of the evidentiary required, the experts. As a result, most persons who have been harmed allegedly with medical malpractice in Nunavut under no circumstance can afford to pursue such a claim. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Moving on to our final area for discussion, contracting and procurement, I don't anticipate we will have a ton of discussion around this, but just to let the Committee Members know, you will have an opportunity to ask questions on any other issues that might not have fallen under these areas following this. Questions on contracting and procurement.

I guess I'll put this question to you as Chair. Most of the Government of Nunavut's agencies and territorial corporations prepare a contracting report, a separate stand-alone report that includes information regarding procurement and leasing. These reports are tabled in the Legislative Assembly. Will the Legal Services Board be beginning a similar practice with regard to its contracting and leasing, either tabling a separate report or including the information in your annual report? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We haven't to date. It hasn't been required of us. It's not in our contribution agreement. I don't

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think it would take an awful lot of work to do because we do so little procurement. We have procurement or a contract in place for travel. We do for our audits and currently for our CEO, chief executive officer recruitment. I would say, for the most part, it would be rare for us to do ever more than one procurement a year, probably five procurements over five years for some of those contracts like travel for a period of time, but as I said, we could. It wouldn't take too much time or effort. Thank you, Mr. Chairman.

Chairman: Thank you. I didn't anticipate that it would be that much information, which is why I suggested that it could be included in your annual report. Do you plan to start including this in your annual report or can you commit to taking it to your board for consideration? Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. Absolutely I can commit to taking it to the board. I see little or no obstacles of the board finding that to be problematic and it would just directing the staff to produce probably one paragraph within our annual report. Thank you, Mr. Chairman.

Chairman: Thank you. Moving on, we're just at the point of wrapping up our hearing, but there are some questions around issues that didn't fall under the other headings. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. I have a number of general questions. One is federal legislation concerning the legalization of cannabis will come into force later this month. Does the board have any concerns or recommendations on this issue as it relates to Nunavut? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms.

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Redfern.

Ms. Redfern: Thank you, Mr. Chairman. It will probably reduce a small number of persons who have been charged criminally under the current law. October 17 the law changes. Previously with minimum mandatory sentences we were concerned about that increasing our workload. We see no perceptible big change in costs or operations because of the changes. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. Thank you for that response. Civil Forfeiture was passed during the previous Legislative Assembly. However, it is not yet in force. Does the board have any concerns or recommendations on this issue? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. There is an opportunity potentially for an individual to apply for legal aid to assist them in representing them when such an application is being made by the government to seize property and goods that the government suspects have been acquired through the proceeds of criminal activity. We have yet to receive that type of application but we think it would fall within our mandate. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you. The next one I have is: I understand and recognize that the pardon process falls under federal jurisdiction. Does the board have any

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concerns about the pardon process and can the board clarify if legal aid is available to residents who need assistance in the planning for pardons? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. It is absolutely an issue in this territory for persons who would be eligible for a pardon. The cost, the process, the length required has been made that much more difficult. I understand the Kitikmeot Inuit Association provides such assistance for their residents. It would be good to see something available territorially because it does cause a barrier for employment, or even ability to volunteer. The fee of \$600 is now beyond the reach of some individuals, but the big issue is the length of time now required before one can even apply, or meeting the criteria to eligible for a pardon. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. I recognize that the Legal Services Board does not control what people choose to post to social media. However, many of my constituents have raised concerns about potentially libelous and slanderous comments. Does the board have any general observations or recommendations in this area? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. I believe we are legislatively prohibited from dealing with matter related to slander or libel. We would not be able to represent anyone on such a charge.

We, ourselves, I think need to be mindful of

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not making statements that are potentially libelous or slanderous, and as individuals can be held to account when such statements are made. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Mr. Mikkungwak.

Mr. Mikkungwak: Thank you, Mr. Chairman. I am aware that my colleagues will have questions also, so this one will be my last one under general.

I have heard concerns from constituents regarding the practice of asking individuals to leave the community while they are awaiting trial. The word that comes to mind is "exile." Does the Legal Services Board have any observations or concerns regarding this practice? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. It is a problem. It also poses, actually, an issue not only for the Legal Services Board when our client may have committed a crime in their home community and no longer resides in the community when the matter is being heard before the court in their community. It is something that we have identified that approximately \$100,000 might be needed to assist individuals to appear before the court in those circumstances.

Right now, if they did not appear because the costs are so high to travel to their home community and not even knowing if the matter is going to be fully heard and resolved, it would result in a bench warrant, the court ordering that the RCMP find and bring the person to court. It would result in new charges. It results in additional costs to the court, to the RCMP, to the Crown, and to legal services.

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The other issue that relates to exile is when persons have finished their sentences at either the Baffin Correctional Centre or a southern correctional institution and are not allowed to return to their home community and usually end up in Iqaluit or sometimes one of the other regional centres like Rankin Inlet or Cambridge Bay or they are stuck outside of the territory like in Yellowknife or Ottawa wishing that they could go home but can't. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Mikkungwak, you're finished? Anyone else with further questions? Seeing one, Mr. Netser.

Mr. Netser (interpretation): Thank you. (interpretation ends) It's more or less of a comment. The last day and a half has been very informational for all of us, I think, and I would like to thank the witnesses for being here with us. Maybe one request, Mr. Chairman, is if the Legal Services Board could make maybe a little handbook on what they can and cannot do and give it to us Members, if they have one, so that we can share with our constituents. Many times we have been asked by our constituents on legal matters and just like them, we are in the dark most of the time. (interpretation) Thank you. (interpretation ends) More work for you.

>>Laughter

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. The position of the access to justice director is so valuable in being able to coordinate the public legal education material, to train our court workers, to have it in Inuktitut, to delivery it on the radio, to have it in the communities. We know that our people's rights are being violated because they don't

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The more successful you are, the more that you make people aware, the more people apply to legal aid, and the more resources we require to assist them, but ultimately at the end of the day providing assistance to Nunavummiut to ensure their rights are not violated or that they get the appropriate remedy is something that we know is beneficial as a society. We think that's a good thing, even if it comes at some cost. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) With regard to my colleague's suggestion, you do have this PowerPoint presentation on your website. It could be a good starting point for a booklet or some informational matters. As you have mentioned repeatedly over the past day and a half, your resources are stretched thin and we understand that.

I just have one last thing that I would like to understand better. It mentions in your annual report, it says on page 16, "Despite the decline in actual number of criminal charges, there is an increase in the number of severe crimes including in some cases, multiple offenders of the same offence."

When it comes to the severe crimes, we see it happening all across Nunavut. You're in the courts and you're dealing directly with the persons involved, what is your sense for what is driving this increase in severe crimes? Is it because we are not providing enough support for the repeat offenders and they graduate to severe crimes? Is it socio-economic? What are your thoughts regarding those severe crimes, please. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman.

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There are a number of contributing factors. Poverty, not having even enough food, overcrowded housing, lack of employment opportunities in the community, addictions, past traumas, and the lack of support services to help people who have found themselves in not only just one of those situations, often in all of those situations at the exact same time is not surprising, which leads to not only the high rates of suicide and self-harm or the high rates of individuals harming their families and harming other community members. We see it at the frontline with our lawyers and with our court workers who have to deal with such individuals and their families. Often the victims are family members.

We would love to see more resources put in to support services because we truly believe that while we have sat here for a day and a half saying that we need more resources and while it is true, we would love to be in a situation where our communities got healthier, our people got better and more support, and we saw the reduction in crime. We would welcome the day when we actually said that we needed to reduce our budget because less people are getting into trouble with the law. That's the type of investment that's absolutely required.

I'm happy to say that I think that the federal government has come through with some funding in some of those areas and some of the funding is being flowed to the territorial government. Some of that funding is available from the communities or even Inuit organizations to apply. It's incumbent on us to ensure that we access every dollar available to make our communities safer and safer means support services for people. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. (interpretation ends) Thank you for

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elaborating on that topic. Mr. Keyootak.

Mr. Keyootak (interpretation): Thank you, Mr. Chairman. Just as a brief comment, I would like to thank the witnesses. They have given us a lot of information over the day and a half.

One thing that I would like to comment on, as we're all aware in Nunavut, we have three official languages in Nunavut: English, Inuktitut, and French. These languages are very important. As we're all aware, the public is watching the proceedings. Many unilingual Inuktitut-speaking people are the ones who usually follow the proceedings and they want to hear what the Legislative Assembly of Nunavut is doing during the proceedings. We believe that the majority of our Inuit constituents watch the proceedings of the Legislative Assembly, the unilingual Inuktitut-speaking people.

None of the documents that you have supplied to us are translated into Inuktitut. If I can make a suggestion that these documents be translated, perhaps, does the LSB recognize Inuktitut as an official of Nunavut? Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. All our public information is available in three languages, if anything, sometimes of course also in Inuinnaqtun. We made the commitment a long time ago that all the public information must be translated. Some internal documents or documents that were requested and produced as of yesterday were not translated. There's sometimes not value in having internal documents translated if they're not going to be for public consumption, saving quite significant cost. Thank you, Mr. Chairman.

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Chairman (interpretation): Thank you. Mr. Keyootak.

Mr. Keyootak (interpretation): Thank you, Mr. Chairman. Yes, since Inuktitut is an official of the territory, the Inuktitut language should not be lower; it should be treated equally because many Inuit don't read English. Although I do read English, I prefer to read syllabics. That's what I have been doing all the time. The majority of Inuit would like to read and understand exactly. It should be treated as a first priority as English and it should be on an equal footing as English. When Inuktitut unilingual-speaking people don't get their documents in Inuktitut, they will not understand fully, so therefore I suggest that you should recognize that and use that. Thank you, Mr. Chairman.

Chairman (interpretation): Thank you. I believe that's just a comment as I didn't hear a question. I believe there are no further comments in this Committee. If you have any closing remarks, I'll give you the opportunity to make them, Ms. Redfern.

Ms. Redfern: Thank you, Mr. Chairman. We absolutely thank the Standing Committee for inviting us to come and appear before you the last day and a half. We saw it as a chance to let you know what we do, why we do what we do, areas of law that we cannot and do not cover or provide services for, and the challenges we still sometimes face in trying to improve our services to the communities and Nunavummiut that we serve.

There are just a few recommendations that I would like to highlight to this Committee, which I think have well been said, but I will be brief. We need to review and revise the *Legal Services Act*, the entire legislation, including and especially with respect to our structure. We've got very solid financial and

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management systems in place that we believe could facilitate us to be able to act with more autonomy but still be very accountable to the public.

We would like to see our business case be allowed to be submitted to the Financial Management Board. We would like to have, as we had once in the past, Legal Services Board representation with our partner, the Department of Justice, to present our business case and to answer those questions. We believe that the majority of our business cases are based on forced growth, the demand for extra services to meet the number of court weeks and additional applications, and that it is not a bad thing or even wrong when we identify new areas of service or programs that are needed or to enhance existing programs like the court worker program rather than that being a justification to not increase funding. We're all about operational efficiency and effectiveness.

This Committee clearly understands how the lack of support services in our community affect the number of crimes, the type of crimes. We would like to see more support services in our communities as well as for our actual clients who need it. When the court orders it and there are actually no support services available to them, it doesn't help because then they're in violation of an order and of no fault of their own.

We would very much welcome an independent assessment of what type of RCMP complaint process and review of potential harms or wrongs that the RCMP done. Our participation, though, would be to provide input rather than to lead it. We recommend that the Standing Committee consider stating to the Department of Justice to take that on or to contract it out.

We would recommend that the private

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lawyer rate review under the regulations be assessed and ideally increased. We would recommend assisting us to know where we could secure the necessary Inuit Employment Plan funding to implement our plan, whether it's through additional funding in the business case or a commitment to allow us to access some of the money that the GN has to implement the Inuit employment plans or that the criteria for the training trust be amended so that individual plans or individuals who need training be supported. It cannot always be just program based or large numbers of people in one cohort.

If the Committee Members are interested in having court workers in all the communities, we would support that, but that would cost approximately \$50,000 per community. Since that's five communities, it would be an additional \$250,000. We could envision that while court is not in those communities often, by training them and providing them those skills, they could do the public legal education and work with the community partners regarding community justice and restorative more.

We absolutely hope that you have heard us regarding this new issue that has come to our attention regarding public guardianship. If we're going to take that on, our fear of course is that we won't have the resources to do it and that any business case that would put forward a financial requirement would be shut down because it would be deemed a new program. It's a needed program irrespective of if it's new.

We would love also the Standing Committee to consider that there be a formal process to review the coroner's inquest recommendations and ensure that those recommendations are implemented so that it can ensure and prevent future similar deaths in our communities.

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Lastly we would recommend that the GN Justice, in discussion with its partner or its agent, the RCMP, do more police training around cultural orientation and ensure that our police forces serve our communities well and not put our community members at risk but that they too have the resources that they need to reduce the level of stress that their members often face.

Those are my closing remarks. Again, we greatly appreciate this opportunity and we hope to actually have more of them in the future. Thank you, Mr. Chairman.

>>Applause

Chairman (interpretation): Thank you, Ms. Redfern. We also thank you for being able to come here and answer the questions very clearly. We know all the things that we have talked about here are very important to the people of Nunavut. The court system is very important and we know that you work to help the people of Nunavut. I encourage you to continue to do that and please don't give up because your work is very important.

Our interpreters kept up while we were talking in English.

>>Applause

We cannot forget our legislative staff here who work for the Standing Committee.

>>Applause

Our hearing is at an end here and the next sitting of the House will be on October 23 for the fall sitting. Have a good evening. Thank you.

>>Committee adjourned at 16:16

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