

Coalition on Missing and Murdered Indigenous Women and Girls
Submission regarding National Inquiry Design
February 13, 2016

In response to the invitation to participate in the pre-inquiry process, below we have set out some of the Coalition's key recommendations with respect to the discussion questions provided. This submission builds on the 9-point document that the Coalition tabled with Minister Bennett during our January 12, 2016 meeting in Vancouver titled "A Rights Based Approach to the National Inquiry on Murders and Disappearances of Indigenous Women and Girls."

What are the key issues that need to be addressed by the inquiry?

The primary objective of the inquiry must be to eliminate violence against Indigenous women and girls by recognizing that Canadian governments and other state institutions have both the ability and an obligation under human rights law to address the root causes of that violence and adequately respond and investigate when it occurs. We suggest that the inquiry build on the significant amount of existing research identifying the systemic and systematic discrimination that Indigenous women and girls experience as a result of the legacy of colonialism, racism and sexism. This discrimination creates social and economic conditions that marginalize Indigenous women and girls, increase their vulnerability to violence, and adversely influence the state's response to that violence when it occurs.

In fulfilling the above objective, the inquiry must address two key issues: (1) it must identify what steps Canadian governments and institutions can take to remedy the social conditions that marginalize Indigenous women and girls and place them at disproportionate risk of violence; and (2) it must explore how Canadian police and criminal justice systems can correct past and ongoing failures in order to adequately respond to violence when it occurs.

In addressing these issues, we suggest that the inquiry must:

- Focus on Indigenous women and girls. Indigenous women and girls and male violence against them must be the central focus of the inquiry. The violence experienced by Indigenous women and girls and the state's lack of response is rooted in systemic and structural sexism that intersects with other forms of systemic oppression. The inquiry must take care to explore the role that gender discrimination plays in Indigenous women and girls' experiences of violence. Male violence against Indigenous women and girls is a tool used to maintain

women's inequality and subordinates status in society, therefore, violence against Indigenous men and boys must be examined and addressed separately. Subsequent work may be necessary to address Indigenous men and boys' experiences of violence.

- Address social and economic marginalization. The mandate of the inquiry must examine Indigenous women's disproportionate experiences of:
 - poverty;
 - inadequate housing;
 - inadequate healthcare;
 - lack of access to safe transportation;
 - inadequate access to legal aid to enforce fundamental rights;
 - over-criminalization and over-incarceration;
 - and ongoing structural discrimination within child protection systems;

Resource allocation and the participation of those with expertise on these issues within the inquiry process must ensure that these issues can be adequately and rigorously explored.

- Address political marginalization of Indigenous women. Indigenous women's political and leadership capacity has been severely undermined. The inquiry must:
 - Acknowledge and address the systemic predominance of male leadership at the expense of women's leadership;
 - Address the systematic de-funding of women's and indigenous women's organizations that advocate on these issues or support Indigenous women's autonomous leadership;
 - Ensure that Indigenous women's leadership is supported, encouraged, and that Indigenous women's voices are heard fully in the inquiry process.
- Acknowledge and examine harm to families and communities. Violence against Indigenous women and girls has broad and detrimental impacts on the families of women and girls who experience violence and on their communities. The family members have a right to diligent investigation of disappearances and murders and to redress for their loss, and the inquiry should ensure the sensitive and meaningful participation of family, adopted families, and community members to explore these issues. Many family members have concerns about inadequate or failed investigations into the violence against women and girls in their family. Cases that were closed may need to be re-opened in order to meet the needs of

families and seek justice for the missing and murdered. The inquiry process should create an effective and transparent way to investigate these individual cases that will allow a continued focus on the systemic issues underlying the violence and that will not undermine potential recourse through the criminal justice system.

- Address gaps in data. Existing analyses of violence against Indigenous women and girls in Canada have highlighted the lack of systematic and transparent data on the actual occurrences of serious violence. The inquiry process must assess existing data collection practices and explore how these practices can be improved in consultation with experts on data collection on violence against women and girls.
- Be national in scope and take a coordinated, cross-jurisdictional national approach. Many of the systemic causes of violence against Indigenous women and girls and the systems in place to respond to that violence are totally or partially within provincial and municipal government jurisdiction. In order for the inquiry to result in meaningful change for Indigenous women and girls, the federal government *must* seek the cooperation and involvement of all provincial, territorial and municipal governments. Without commitment to meaningful cooperation and change from all levels of government, the success of the inquiry process will be severely hindered and the ongoing lack of coordination between levels of government will continue to put Indigenous women and girls at risk.
- Utilize a human rights framework. The inquiry must be grounded in a progressive, forward-looking understanding of the rights of Indigenous people, women and girls, as well as Canada's obligation to uphold these rights. In particular, constitutional and international human rights frameworks provide effective rulers against which to measure the evidence obtained in the inquiry process and the current laws, policies and practices that do not effectively eliminate violence and discrimination against Indigenous women and girls.

These legal tools provide an already agreed upon framework regarding what is required to ensure the fulfillment of the basic human rights of Indigenous women and girls. Further, the United Nations Committee on the Elimination of Discrimination against Women and the Inter-American Commission on Human Rights have both issued recommendations to Canada, after their investigations into the murders and disappearances of Indigenous women and girls in Canada as a whole, and in British Columbia, in particular. These recommendations must be implemented as a matter of priority and obligation.

We do not wish for this inquiry to re-create/re-visit the work of these Commissions- we call on Canada to make the implementation of these recommendations as a 'given,' the base line of the changes that will occur, and the inquiry must be structured to investigate what additionally must be done. The inquiry should be expressly tasked with examining any recommendations which require further detail regarding how to implement effectively.

Who do you think should provide views or have an opportunity to participate in the inquiry?

We strongly urge you to not repeat the mistakes of the Missing Women Commission of Inquiry, and note that some members of the Coalition wrote *Blueprint for an Inquiry: Learning from the Failures of the Missing Women Commission of Inquiry* (MWCi), which sets out a number of necessary considerations for future inquiries and states:

- If there were only one recommendation to come from this report, it would be that commissions of inquiry that ...are called in response to the concerns of marginalized communities, must consult thoroughly at every stage with those communities and the organizations that work with those communities.

While not an exhaustive list, the following groups must have an opportunity to meaningfully participate in the inquiry process:

- The families, adopted families and families of the heart, and community members of Indigenous women and girls who have experienced violence must be able to participate in the inquiry to share their experiences of the broad-reaching impacts of violence as well as how the police and justice system responded to their experiences.
- Indigenous women and girls who have experienced and/or are currently experiencing violence.
- Indigenous women must be central participants in the inquiry process, as well as organizations that represent the interests of Indigenous women, people and organizations that work directly with them and those that advocate on their behalf.
- Women's-led and women serving organizations, service providers, outreach and support workers, and advocates whose expertise and service mandates in the

issues facing murdered and missing Indigenous women and girls must be able to both provide support to and represent women and girls directly affected by the issues.

- Indigenous communities and Indigenous organizations must be fully included in the inquiry given that they are integrally connected to the murdered and missing Indigenous women and girls, and have critical and unique experiences that draw upon their intimate first-hand knowledge of the very same racism, sexism and colonialism that the inquiry will be examining.
- Experts in socio-economic marginalization and systemic discrimination based on race and gender must participate in the inquiry process so that the inquiry can take advantage of existing expertise on these issues.

In addition, there are particular suggestions for inquiry process design to ensure that these groups can meaningfully participate that are explored in the section below.

How can the process be set up so it results in providing concrete and practical recommendations for specific actions?

While we support the call for developing concrete and practical recommendations we caution that this call must not be taken to mean that intricate and systemic issues will be unaddressed. The highest priorities for action will obviously be those capable of bringing about the most meaningful change. While broad systemic issues might be complex and difficult to remedy, it is work that must be done to ensure that the inquiry process is effective in improving the safety of Indigenous women and girls so that they can live free from the ongoing threat of violence and fully participate in their communities. To limit the outcome of the inquiry to subjectively “practical” recommendations at the outset is a mistake.

With the above in mind, we make the following suggestions for the inquiry process to ensure that it gathers the information necessary to create meaningful recommendations for change:

- The Commissioner(s) must be independent from government and any bodies that are subject to investigation under the inquiry’s mandate must not influence the inquiry process or funding allocation. As recognized after BC’s Missing Women’ Commission of Inquiry, experts must be chosen for their expertise and not because they can provide low-cost services or because they are soliciting involvement. Basic conflict of interest assessments must apply to inquiry staff

and retained experts, and there must be complete transparency as to how and why the Commissioner(s) is/are chosen.

- Consultation and transparency with impacted groups must continue throughout (and beyond) the inquiry process, particularly with marginalized communities to ensure that any participation barriers that may arise can be addressed in a timely and effective manner.
- Culturally appropriate psychosocial, legal and other supports must be available to witnesses and participants before, during and after their participation to ensure that marginalized groups can meaningfully participate. The inquiry process should recognize that some individuals and organizations that have relevant expertise and experience do not have the resources to participate in a complex inquiry process without funding to do so, or without legal representation to navigate the process. Adequate funding and legal representation must be made available to all those individuals and groups who participate. Further, the inquiry must support the participation of Indigenous women, families and organizations who live in remote and northern communities and may wish to consider sending teams into those communities.
- Procedural protections, and flexible rules of evidence should be utilized to ensure that marginalized participants are comfortable participating, including appropriate disability accommodations as required. With input from service providers, community organizations and Indigenous organizations, creative, low-barrier, and accessible evidence gathering methods should be explored to ensure that all those with relevant expertise can meaningfully and fully participate. Inquiry staff should receive training to assist them in understanding culturally appropriate and effective ways to gather evidence and conduct legal processes.

A commitment to implement recommendations flowing from the inquiry, or a commitment to a transparent and structured post-inquiry implementation process, should be in place from the outset of the inquiry. This includes a specific budgetary commitment toward implementation of recommendations, additional to the budgetary commitment toward holding the inquiry.

Who should lead the inquiry?

The inquiry should be led by Indigenous women. Their expertise, knowledge and skills should be recognized and utilized at every level throughout the process. Indigenous

women and their organizations should be given the opportunity to assist other Indigenous women to participate in the inquiry's processes.

In order to ensure a broad range of knowledge and experience among those leading the process, it is suggested that there be four Commissioners chosen from different areas of the country.

Is there anything else you would like to add to help design the inquiry?

We urge you to remember and recognize the extreme stress that this inquiry will place on many families and communities, and ask you to ensure that the inquiry provides sufficient time to both listen to people share their stories as well as facilitate their input. This work cannot be rushed, and the process is going to be incredibly important- we need to reach a national inquiry process that the great majority of families and communities agree with, and that helps bring justice for the murdered and missing, as well as addresses the broader topic of violence against Indigenous women and girls.

Endorsed by:

Amnesty International Canada
Atira Women's Resource Society
Battered Women's Support Services
BC Assembly of First Nations
BC Civil Liberties Association
Butterflies in Spirit
Carrier Sekani Tribal Council
Downtown Eastside Women's Centre
Ending Violence Association of BC
February 14th Women's Memorial March
Committee
First Nations Summit
First United Church
Native Women's Association of Canada
PHS Community Services Society
Pivot Legal Society
Poverty and Human Rights Centre

RainCity Housing and Support Society
Union of BC Indian Chiefs
Vancouver Council of Women
Vancouver Aboriginal Community Policing
Centre
Vancouver Rape Relief and Women's
Shelter
West Coast LEAF
WISH Drop-In Centre Society
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Jenny Kwan, MP for Vancouver East
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Mona Woodward, family member