



Downtown Eastside Sex Workers
United Against Violence Society



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ENDING VIOLENCE
Association of BC

Missing Women Commission of Inquiry
Attn: Commissioner Wally Oppal, QC
#1402 - 808 Nelson Street
Vancouver, BC
V6Z 2H2

April 10, 2012

Dear Commissioner Oppal,

Open Letter: Non-participation in the Policy Forums/Study Commission

We write to advise the Commission that we, the undersigned groups, will not be participating in the Policy Forums or Study Commission aspects of the Missing Women Commission of Inquiry (the "Inquiry"). We are not prepared to lend the credibility of our respective organizations' names and expertise to this Inquiry, which can only be described as a deeply flawed and illegitimate process. The Commission has lost all credibility among Aboriginal, sex work, human rights and women's organizations that work with and are comprised of the very women most affected by the issues this Inquiry is charged with investigating.

Many of the organizations listed below have for years been demanding an inquiry into the disappearances of so many marginalized women from Vancouver's Downtown Eastside and across the province. When this Inquiry was finally called, we fully expected it to be a meaningful and inclusive process that would respect and honour the expertise of women, Aboriginal people, sex workers and other community members with important insight and knowledge to share. However, it has become painfully clear over the course of the Inquiry's proceedings that this Inquiry is not a meaningful and inclusive process. Instead, it has served to repeat the same discrimination and exclusion that we had hoped it was going to uncover.

Women have been going missing from Vancouver's Downtown Eastside, and across the province, for decades. Women, especially Aboriginal women, sex workers, and women living in poverty, continue to face extreme violence in their lives, and experience profound barriers to reporting their victimization to police. Police and government failures to take women's safety seriously and to commit resources to improving the social and economic conditions in which women live are issues of long-standing concern to all of the undersigned groups. It is disturbing to note that this Inquiry into the disappearances and murders of sex workers from Vancouver's Downtown Eastside is taking place while government funding for sex worker support groups like PACE (Providing Alternatives Counselling and Education Society) and PEERS (Prostitutes Empowerment Education Resource Society) has been drastically reduced to the point that these two essential organizations may soon be forced to close their doors. Women's organizations across the province are feeling a similar squeeze.

We feel that it is important to state our profound disappointment in how this Inquiry has unfolded. Based on our experiences of exclusion from the Inquiry process, as well as our assessment of events occurring throughout the course of the proceedings, we have no confidence that our participation in the Policy Forums or Study Commission will contribute to the truth, reconciliation and accountability that we fully expected when this Inquiry was initiated. Instead, we will continue to seek alternative ways to support the families of the missing women and the vulnerable communities who continue to deal with ongoing violence, and we will advise you of this work.

When the provincial government denied funding to the community group participants who had been calling for this public inquiry for over a decade (the "Community Group Participants"), the Inquiry became the subject of intense and well-deserved criticism. We are extremely disappointed that multiple appeals to the Province to remedy this injustice were unsuccessful, and that Community Group Participants were unable to exercise the standing rights granted to them by the Commissioner.

The failure to ensure equal access to the Inquiry process for the Community Group Participants granted standing made it clear to us, as it was to the broader public, that there would be deep inequities in terms of what evidence would be tendered and what interests would be represented. The value of the Inquiry was called into question and, at that point, so much more could have been done by the Commission to fight for the integrity of the process. The lack of commitment to fighting for the appropriate, meaningful, and adequately funded involvement of Community Group Participants was extremely disappointing. Additionally, former Attorney General Barry Penner, current Attorney General Shirley Bond, and Premier Clark themselves bear responsibility for refusing to adequately fund Community Group Participants, marginalizing their essential contributions and undermining the legitimacy of the Inquiry process. The families, who have appropriately been provided counsel, are unable to offer the same contributions that would have been made by the many other groups who were shut out. These groups have decades of relevant policy expertise, have been supporting women who have experienced the most extreme levels of violence imaginable, have been tracking deaths of women for many years, and have been analyzing the serious problems with policing in British Columbia, as well as other systems such as child protection, income assistance, housing, healthcare, and transportation. These groups could have made a positive difference to the proceeding and outcomes for women and families in our Province.

We would like to take this opportunity to set out a number of other concerns we have had as this Inquiry has progressed.

Limitations of the terms of reference: In unilaterally setting the terms of reference for the Inquiry without consulting any of the affected parties, the provincial government unnecessarily restricted the Commission to examining the criminal justice system and its handling of the Pickton investigation, without providing for a fulsome examination of the various systemic issues leading to marginalized women's particular vulnerability to violence, the lack of protections available, or the epidemic of missing and murdered women in British Columbia.

No lawyers for organizations and community members who represent crucial perspectives: 25 publicly funded lawyers have represented police and government interests and yet no lawyers were funded to represent the Community Group Participants who originally demanded an inquiry in the first place. The Community Group Participants represent essential perspectives and experiences that have not been, and cannot be, adequately represented by Commission counsel, the amici or the two very dedicated but overburdened lawyers who represent the families of the missing women.

Lack of Witness Protection: The Inquiry has recreated many of the barriers that women face when requiring police protection. One key example of this was the failure to grant adequate protection for the identities of vulnerable witnesses who agreed to come forward to tell their stories. Instead, the Commissioner granted significant protections for people convicted of assaulting the exact women that the Commission was hoping to hear from.

Delayed, incomplete disclosure: The failure to order the disclosure of the book written by Lori Shenher, a lead VPD investigator on the Pickton file, for months, the order requiring the book to be redacted, and then the failure to mark it as an exhibit so that the public may have access to it, is just one example of the inadequate and delayed disclosure that has become commonplace throughout this Inquiry.

Impossible Timelines: The provincial government has set a deadline of June 30, 2012, for the production of the Commissioner's report. Hearings will end by April 30. This arbitrary timeline cannot and will not provide for an appropriately diligent examination of all relevant issues. The Commissioner's request for an extension was refused, and all indications are that similar demands made recently by the families of Pickton's victims will also be rejected.

Conflict of interest: The Commission hired a former Vancouver Police Department officer to conduct witness interviews and to "help" write an "independent" report on the Vancouver Police Department and RCMP investigations that was intended to be authored by the Peel Regional Police. The Peel Regional Police had numerous officers under investigation by the RCMP while they were writing their portion of the report about the RCMP investigations into Pickton. We also understand this former VPD officer is writing questions for Commission counsel and has no training to be doing this type of work.

Allegations of sexism and marginalization of witnesses: Former staff from the Commission have alleged sexist conduct, and conduct inconsistent with the intent for which the Inquiry was established, namely, to facilitate hearing the evidence of marginalized women. The Commission appears woefully out of touch with how it may be replicating the exact exclusion and discrimination that led to this Inquiry being called in the first place.

Limited Witnesses: The arbitrary and unworkable timeframe has meant that the Commission has not and will not hear evidence from many important witnesses. Key witnesses requested by counsel for the families have not been added to the witness list more than four months after the request was made. The Commission has refused to hear evidence about possible connections between the Pickton brothers and Hell's Angels, or to look into allegations of corruption and connections with organized crime. The purpose of the Inquiry is to get to the bottom of why police failed to stop the killings of vulnerable women. The question of whether women were prevented from coming forward to police with information about Pickton because they were intimidated by organized crime connections is highly relevant to this purpose and should be fully explored. Instead, this line of inquiry has been explicitly shut down by the Commissioner.

Further to these concerns, the recent resignation of Robyn Gervais, the lawyer hired to represent "Aboriginal interests" at the Inquiry, has further reinforced our concerns. Ms. Gervais resigned her position citing the Commission's unwillingness to give enough time and weight to evidence from Aboriginal witnesses. "Aboriginal interests have not, and will not, be adequately represented in these hearings," she said. "Given that these hearings were about missing Aboriginal women, I didn't think I would need to fight to have their voices heard." From the outset, we did not support the appointment of amici to represent community interests. Ms. Gervais' resignation confirms our belief that this was a tokenistic appointment that could never have been expected to effectively represent the broad and essential perspectives of First Nations people. We are extremely troubled by the recent announcement regarding the hasty appointment, one month before the end of the hearings, of two new Independent Counsel to present issues related to Aboriginal interests. We emphasize that this will still not allow for the inclusion of critical Aboriginal voices - those voices required their own legal counsel in order to participate.

On May 1, 2012, the Inquiry will shift into its Study Commission function and begin holding Policy Forums in which interested individuals and organizations can make submissions to the Commission on issues within the advisory and policy aspects of its mandate. Given the record of the Inquiry thus far, our organizations have no confidence that the insight or expertise we could now offer would make any difference to the Inquiry's outcome or the strength of its recommendations. The government's failure to commit the necessary resources to this Commission does not bode well for its commitment to implementing any of the Commission's recommendations, and the Commission's continued exclusion and marginalization of community voices undermines the credibility of the entire process. We see little value in spending our organizations' extremely limited time and resources contributing to a process that is fundamentally flawed and irredeemably defective.

Canada has been criticized by the United Nations Committee on the Elimination of Discrimination against Women and, just weeks ago, by the UN Committee on the Elimination of Racial Discrimination because of the inadequacies in its law and practice respecting the prevention, investigation, prosecution and punishment of violence against women, particularly Aboriginal women. The high levels of violence experienced by Aboriginal women, as well as the hundreds of missing and murdered Aboriginal women across the country, are evidence of Canada's failure to meet its international legal obligations to respect, protect and fulfill the fundamental human rights of women. To date, Canada has not made an effective response to these serious and significant findings by expert human rights bodies.

The UN Committee on the Elimination of Discrimination against Women has initiated its inquiry procedure under the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women in response to information it has received regarding disappearances and murders of Aboriginal women and girls. Given the failures of the British Columbia and Canadian governments to address effectively the human rights crisis of missing and murdered Aboriginal women and girls, including the social and economic conditions that make Aboriginal women and girls more vulnerable to violence in the first place, our organizations will dedicate what limited resources we can offer to working with the United Nations to facilitate their investigations and fact-finding processes, in order to ensure that Canada is held internationally accountable for these ongoing human rights violations. We have no confidence that the Commission of Inquiry can provide such accountability.

In closing, we reiterate our disappointment in the Missing Women Commission of Inquiry, which continues to lose relevance and credibility. Ensuring that the Commission proceeds with the maximum amount of evidence and input available is literally a matter of life and death for the marginalized women who continue to experience extremely dangerous situations on a daily basis in the Downtown Eastside and throughout the province, and we are extremely upset that the Commission has not chosen to implement measures to allow for this. We are angry that millions of dollars continue to be spent on the Inquiry, and yet the Province and Commissioner were not able to provide adequate funding for Community Group Participants to participate in an appropriate manner. Our organizations will continue to support the families of the missing women and will work together going forward to ensure that real change happens for the vulnerable women of the Downtown Eastside.

Yours truly,

Aboriginal Front Door Society

Amnesty International Canada

Atira Women's Resource Society

B.C. Civil Liberties Association

Battered Women's Support Services

Downtown Eastside Sex Workers United Against Violence Society

Ending Violence Association of British Columbia

Feb. 14th Women's Memorial March Committee

First Nations Summit

PACE: Providing Alternatives Counselling & Education Society

Pivot Legal Society

Union of B.C. Indian Chiefs

Union Gospel Mission

West Coast LEAF

WISH Drop-in Centre Society