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Per: Nancy Brackett
Verbatim Reporter

VOLUME II

IN THE MATTER OF THE DONALD MARSHALL, JR. COMPENSATION HEARING

BEFORE: The Honourable Gregory Evans, Commissioner

PRESENT: Mr. Wylie Spicer, Solicitor for the Commission

Ms. Anne Derrick, Solicitor for Donald Marshall, Jr. with Professor Mary Ellen Turpel

Mr. Jamie Saunders, Solicitor for the Government of Nova Scotia

WITNESSES: Ms. Patricia Monture, Professor at Dalhousie Uiversity Law School

Mr. Mike Grattan

Dr. Marie Battiste, Doctorate in Education

INDEX OF WITNESSES

THE REGISTRAR

All rise. Please be seated.

MS. DERRICK

I call Patricia Monture as my first witness.

MS. PATRICIA MONTURE, (Sworn)

DIRECT EXAMINATION BY MS. DERRICK

Q. Your name is Patricia Monture?

A. Yes, it is.

Q. And that's M-O-N-T-U-R-E?

A. That's correct.

Q. And you are presently a professor at Dalhousie University Law School?

A. That's correct.

Q. Teaching public law and constitutional law?

A. Yes.

Q. I want to go through your background, your academic and scholarly background in a moment. But first of all, you are an Aboriginal. Is that correct?

A. That's correct. I'm a member of the Mohawk nation.

Q. Were your parents Mohawk?

A. My father was Mohawk and my mother was White English, as a matter of fact.

Q. What connection did you have with the Mohawk culture when you were growing up?

A. I have probably a difficult childhood to explain. It had several phases. My mother died when I was 6 years old, almost 7. And my father died just after I had turned 9. At that point in time, most of the contact with the Mohawk or any First Nations community was separated for the time being, because I was raised by my stepmother for 7 years. And she was a White woman. And then I was raised after that, because it was a very abusive environment for my brother and I to be in, for 2 years by an aunt and uncle in Chatham. After finishing high school, I went back to London, spent some time on the streets and seriously starting looking for who I was as a Mohawk woman and what it meant to be a Mohawk woman. So I went back to pick things up after.

Q. But what had given you some consciousness of your Mohawk roots?

A. I think primarily the way my father was, although my father's generation didn't have the opportunity-- they were the children of residential schools. They were taught when they were growing up that being a First Nations person wasn't something that was going to necessarily help you in life. So I never remember conversations with my father saying -- like I talk to my son now, "You're a Mohawk. You should

be proud of that. You should know how to live that way." What I do remember from my father is he took me out fishing. He took me out hunting. We spent a lot of time in the woods. We didn't do time in our house in the way most people do. It was all framed around -- not, "It's 8 o'clock and it's time to go to bed," but, "It's dark now and it's time to go to bed." There were different things that we did in different seasons. In the summer we spent time at a cottage which was very close to Kettle Point Reserve, which is an Ojibway and Chippewa Potawatomi Reserve. And I spent a lot of time on the Reserve with other First Nations people during the summers. And they were always coming around to our house to visit my father.

Q. How old were you when you were having those experiences?

A. Right up until the age -- I was 9 or 10.

Q. When your father died.

A. That's right.

Q. Did you ever reconnect with your Aboriginal culture?

A. Very much of my life was about reconnecting with that culture. When you're 13 and 14 and you're kind of going through that "Who am I?" crisis that all teenagers go through, pretty much all First Nations

people go through the crisis once more over because they're asking, "All right..." -- you're realizing when you look in the mirror, "I don't look the same as other people look. I look different from what other people look." And you're questioning what it means to be, for me, a Mohawk person or whichever nation that you come from. So I started looking-- I started going to the library. And that wasn't a very satisfactory solution because much of what's written about First Nations people and cultures is not very correct. It's told from a certain perspective which isn't ours. When I was on the streets, I started meeting a fair number of other First Nations people. I was introduced to the N'Amerind Friendship Centre in London.

Q. Can you tell us what that is? I notice it's mentioned in your C.V.

A. I eventually, once I'd gone back to university, ended up working as a probation officer at the N'Amerind Friendship Centre with a caseload of 40 First Nations clients. And that would be the summer between the end of my B.A. and the beginning of my Master's in Sociology.

Q. 1983.

A. About then. I'm not good at that.

Q. You must have been at some point, though, because it's in your C.V.

A. Yeah.

Q. What is the N'Amerind Friendship Centre?

A. Basically, it's along the same concept of the Friendship Centre here in Halifax. They're places for First Nations people to go who are living in the city. Because many of our people do leave the reserve now. And even if you're not on the reserve, in a traditional community around other Indians, you do definitely seek out other First Nations people because that's who you're comfortable with. You know they understand you. So Friendship Centres offer a lot of social programs, a lot of cultural programs. Some of them offer language programs. There is Little Beavers programs for kids. There's a whole Friendship Centre movement across the country. I'd have no idea how many of them that there are. But it's more than 1 or 2.

Q. In what other ways did you reconnect with your culture?

A. When I started going back to university, it was probably a fairly significant piece. There was a Native Students' Association at the University of Western Ontario where I did my B.A. And there was

probably about 50 or 60 of us, so that we were considerable in number. We used to organize events to help teach people at the university about who we were. And I started meeting people who'd been raised solely within the culture who were still searching for who they were and how they fit into the world, but had a little bit more grounding than I did. And they first started taking me to pow-wows, to different ceremonies, to really introducing me to the culture. Eventually that led me back with reconnecting with my own reserve, which is Six Nations, which is just outside of Toronto, and finding traditional teachers and elders, which was a process that was very much continued through my involvement with the Federal prison system.

Q. And how would you describe your connection with your culture now?

A. It's integral to my life. It's central to my life. I wouldn't be able to understand who I was if I didn't understand the fact that I was a Mohawk woman. We have a teaching in our culture that says you can't know who you are unless you know your history, unless you know where it is that you've come from. And very much of that is understanding who you are as a cultural and a spiritual person. I

guess I was about 25 the first time that I had the opportunity to go to a Sweat Lodge ceremony. My son was 5 years old the first time he sweat. I carry 2 eagle feathers. My little 5-year old boy carries 1. It's the way we do things in our house. It's built -- I follow the pipe. And it's built around -- our lives are built around those teachings. Without them we would be nothing. We'd have nothing. I wouldn't have been successful in life without those.

Q. And did you grow up in an urban environment?

A. I've never actually lived on a reserve, other than we're, like, half a mile away in summers when I was a little kid. So, yes, I grew up in London, Ontario. I tend to, now in my adult life, that I have control, gravitate to non-city settings.

Q. But when you were a child, you obviously lived where your parents ---

A. I'm an urban Indian.

Q. What has your experience, Professor Monture, told you about the durability of culture within an individual?

A. Our culture is alive and it's very vibrant. And it's carried in the hearts and the minds of our people. A lot of people want to assert that First Nations culture is dead, and if it's not dead, it's

been so severely damaged. And that's just a ridiculous notion or concept. People seem to want to think, because of the fact that we're so connected to the history and where our people have come from, that tradition means, "I have to wear buckskin and live in a tepee," not that my people ever lived in tepees. And it's something, you know, that belongs way back in the pages of history book. That's as ridiculous as the -- as asserting the Catholic Church isn't a vibrant and central force in some people's lives nowadays. Just because our culture is different, it's manifest in different ways, it's not built around institutions that you can see or that's necessarily shown to all people, doesn't mean that it doesn't exist and doesn't mean that it's not real and vibrant.

Q. I want to ask you a little bit about your academic and work background. I think you just mentioned a few moments ago about work with prisoners. And I'm going to come to that. I notice in your C.V. which, for the purposes of counsel and Mr. Commissioner, is found in Exhibit #4, that you were a research consultant for the Task Force on Federally Sentenced Women?

A. That's correct. I was a member of the Working Group

during that Task Force and worked on several of their research projects that were initiated as part of that Task Force.

Q. And when was that?

A. The Task Force -- I think our first meeting was in April of last year. So we started about a year ago. And the final meeting of the Steering Committee and the Working Group was February 19th, 1990.

Q. And has there been a report published yet from that Task Force?

A. No -- yes and no. There is a final report that is finished. It has not had the approval of the Solicitor General yet, primarily because we've been having difficulties getting a French translated text. He is -- the Solicitor General is French and more comfortable in French than English. So we're waiting to provide him with that. But it should be released momentarily.

Q. And after it goes to him, it will then be released publicly?

A. Yes.

Q. And I notice as well that you've been a consultant with respect to Native People and the Police.

A. That's correct. I have worked with both the O.P.P. and the R.C.M.P. setting up workshops about racism

and policing.

Q. And were retained by them for that purpose?

A. The R.C.M.P. was a conference, and there was a number of us brought in. I think I did 2 or 3 workshops for the O.P.P. in Ontario, plus being involved in a major conference that they held.

Q. And Native Female Offender Rights, what does that refer to?

A. I worked on the Women in Conflict with the Law Initiative. That was a funding initiative of the Solicitor General. And after 5 years of that funding initiative, there was a review to see if there should be further money committed to the project or whether they should be going in a different direction. And I was the one that drafted the questionnaires, etc., that went out to all the projects that had been funded to try and determine how successful they had been.

Q. And was there a report written from that?

A. There was a report that went to the Solicitor General's office. I don't believe it's a public document. It may be.

Q. And was your special area of focus, Native Female Offender Rights, as part of that?

A. There was a large component of it. There were 3

target groups, if I remember correctly, 2 or 3. Aboriginal Offenders and World Women were particularly focused in the Women in Conflict, with -- Women in the North. There were three in that initiative. So my expertise in Aboriginal rights was certainly useful. But it was -- the project itself was geared at women serving Federal sentences, or, actually, women in conflict.

Q. And Native People and Education, what project was that?

A. I've done a number of conferences and spoken to the issue a number of times. The -- I've taught a number of courses in Native Studies and guest lectured in Native Studies, including a course at the Prison for Women last summer with the women in Native Studies.

Q. What did that course consist of?

A. It was for 4 weeks, 4 half-days a week. It was a half-credit course granted by the Ministry of Education. So it was a high school credit. And we focused on issues specifically of women, of children, of being in conflict with the law, what was the law. So we looked at a number of issues, language, that were important to the women inside. We did a series of readings and some multi-media.

We had films and guest speakers and those kinds of things. And it was primarily seminar-focused and discussion group-focused.

Q. And your students were the women inmates in the Kingston Prison for Women?

A. That's correct. I had about 10 First Nation women students.

Q. That was my next question. So that there was a large complement of Aboriginal women as part of that class.

A. That's correct.

Q. And this was a course that was taken voluntarily by the women.

A. That's correct.

Q. I see as well that you have many affiliations relating to Aboriginal people, being a member of the Indigenous Bar Association, Native Brotherhood and Native Sisterhood, Canadian Indian and Native Studies Association.

A. That's correct.

Q. And you've also published in various areas relating to Aboriginal issues.

A. That's correct.

Q. And I'm going to refer you to one of your articles a bit further along. Professor Monture, I understand

from an earlier comment you made that you have had experience, in addition to this course that you taught, working with Aboriginal prisoners. Can you outline for us how you came to do work with Aboriginal prisoners and what that work consisted of?

A. I came to it, I think, by a number of various paths. I had a little bit of a colourful childhood. So I was certainly sympathetic to the situation of people being in conflict with the law, and certainly First Nations people. I had, from a very young age, some first-hand experience, although I myself have never been arrested or sentenced. When I was in London and I went back to university, I definitely wanted to work with First Nations people who were in conflict with the law. My degree in Sociology is completely administration of justice and criminal justice focused. I went back to university with the hopes of some day going to law school. So I had an interest in that area and was working in probation and those kinds of things when I was in London. When I went to Kingston to start my M.A., one of the realities of living in Kingston are there are very few other First Nations people who don't live behind the walls of one of the various prisons in the

Kingston area. I very much in my life need connections with First Nations people. So when I got to Kingston, I was asked if I was willing to go into some of the socials, etc., that they have within the Federal prisons for First Nation prisoners and was very eager to do so, to be able to connect with my community as well as having an interest in the area. And I continued that affiliation. Actually, I still, whenever I'm in Kingston, go back and still have some fairly significant connections with the Federal Prison for Women.

Q. So over what period of time did you live in Kingston?

A. I think I moved there in 1982 or '83. It would be 1983, August of '83.

Q. And were there until you came to Halifax?

A. No. The last year that I was in Ontario I was in Toronto doing a graduate degree at Osgoode.

Q. I see. So you were in Kingston then from about 1983 to about 1988, approximately?

A. That's correct.

Q. And your contact with the prisoners in the penitentiaries, would that have been on a weekly basis? On a monthly basis?

A. Sometimes on a daily basis, given there are 9 Federal prisons and a definite shortage of volunteers in the Kingston community because there's not that many First Nations people in the community. You could spend just about every night of the week going in to prison. You could spend usually one weekend a month, sometimes every weekend in a month, going in to socials or family days at the prison to visit with inmates. I quite frequently went in to family days, specifically at P for W because so many of those women are so geographically uprooted that their families cannot afford to come and see them.

Q. "P for W" is the Prison for Women. Is that correct?

A. That's correct.

Q. And what sorts of socials? Would there have been traditional or ceremonial events that you would have attended at the prisons?

A. Within the last few years, the prison service has started to recognize the importance and value of traditions to First Nations inmates in an effort to "rehabilitate" them, quote, unquote, or connect them. Socials now -- or, like I was saying, over the last 2 years, many of the institutions now allow changing of the season ceremonies. Because our culture isn't rooted to, like, an every Sunday

service. We're more rooted to seasons. So they have those ceremonies in a number of institutions. They have ceremonies where elders and teachers will bring the pipe in. They now have Sweat Lodge ceremonies. And I have sweat with the women at the Prison for Women. And then socials are more of a celebration as opposed to a ceremony. It's like a pow-wow on the street, but smaller. And you have different drums come in from different nations, different dancers. And it's a celebration of being a First Nations citizen and having these to share. There's usually a give away, which is a quasi-ceremony, I guess, where -- you have 4 traditional responsibilities within our culture. And one of them is ---

Q. Are you going to describe a give away to us?

A. Yeah.

Q. Okay, good.

A. One of them is to share. So when you go, say, into Prison for Women or any of the prisons to go to a social, the women will always give you a gift to thank you for coming. And it may be blankets. It may be beadwork that they've done. Some of the male institutions give you, like, their woodwork and those kinds of things. So it's a celebration of the

sharing within the community and the time that you've been able to have together.

Q. In your involvement at the prison, did you make quite close personal contacts with the prisoners, such that you became quite involved in discussions with them about their prison experiences and their Aboriginal experiences?

A. I have a good number of friends behind the wall. And that's why I went to prison. I didn't go there to help anybody. I'm -- that's pretty patronizing. I don't have the power to help people. I went there to be their friend. And, actually, probably quite ironically, I wouldn't have made it through law school without the strength of the Indian women at the Prison for Women and, particularly, a couple of women, Fran Sugar and Lana Fox, being two of them who were also on the Task Force for Federally Sentenced Women. They held me together when I didn't think I could face it any more, when I didn't think that I could go back because law school was such an annihilating experience for me. So I do have some very fond and firm and lasting friendships. And, fortunately, some of those people now live on this side of the wall, so we're able to share a lot easier.

Q. Professor Monture, I'm going to ask you about an article which has been circulated to my friends and Mr. Commissioner, the article you wrote called, "A Vicious Circle: Child Welfare and the First Nations." And it's found in the Canadian Journal of Women and the Law, published in 1989. I notice that you refer on page 3 of this article to the indigenous factor. And you talk about it being disregarded within the Canadian child welfare system. I want to ask you, what is this indigenous factor that you're referring to here?

A. This retraces our steps to something that I was talking about earlier when I talked about the Catholic Church and the belief of the dominant society that First Nations cultures have disappeared. Specifically, when you start dealing with institutions such as courts, law school, child welfare systems, they want to treat us as if we're somehow part of a disappeared or vanished race and vanished culture, and that's just not true. So the indigenous factor which is central in our lives, which all our values and our identity are built around, gets disappeared because of other people's beliefs. And it is through the disappearing of the indigenous factor and who we are as a First Nation

citizen that I've been heard to say that the Canadian justice system and children welfare systems are inherently racist.

Q. And what is the indigenous factor? Can you give us a description of what that comprises?

A. Well, it a very slippery concept. But it's the ways in which our two cultures are different. I referred earlier to the four responsibilities that First Nation citizens have. And this is very common across the cultures. You have a responsibility to be kind, to share, to respect and to be truthful. And it's through those things that you get your strength. Those are central tenants of the culture. They're taught around a medicine wheel. They're taught around a circle. Our cultures are very holistic. We're not linear thinkers. The value of community -- the emphasis is on community in your life as opposed to the dominant society which is very individual focused. So in child welfare, we have the best interests of the child test, which puts the interest of the child above and beyond the community, which is not the way that First Nations culture focuses, where children and people in general fit into that community. So you have two different systems. I don't think any one is right.

But I think that they're both worthy of our respect, and that our judiciary and Canadian institutions need to start to respect the fact that we are different and we're never going to be the same. It doesn't matter what you do. I think over the last 3, 4, 500 years, we've seen every possible conceivable attempt to assimilate my people. And it hasn't happened. And you have to ask yourself the question why.

Q. And are you saying that these values that you're describing, these factors, are shared culturally amongst Aboriginal people in Canada?

A. There are -- the whole idea of holistic thinking, the value of the community are common among the Cree nation, the Mohawk nation, the Micmac nation, the Dene nation. There are similarities there. But we have to be careful not to treat those similarities to such an extent that all the nations become homogeneous. Because we're not all the same. So in that the Cree way, those teachings focus around the medicine wheel. In the Mohawk way, the teachings that I've been talking about don't focus so much around a medicine wheel as they do around various different wampum belts, such as the two row wampum, which will give you that same teaching. We have

sharing, kindness and respect, which involves notions of truthfulness and honesty as well. So the same basic pieces are there to one degree or another.

Q. In your article as well on page 3, at the bottom of the page you talk about how removing children from their homes weakens the entire community. Can you elaborate on what you mean in saying that?

A. First Nations people believe -- I guess in the dominant society the focus is on individuals and individual completeness. And we're kind of taught that there isn't anything that you can't do. Whereas in First Nations culture, we're taught that different people have different gifts. You're not supposed to be able to do everything well. But you are supposed to search out and find what your gifts are. One of the gifts I have is the ability to talk. I'm a helper to my nation. I'm a teacher. I'm a translator. I can go about explaining cultural things in ways some of the other members of communities don't necessarily have that gift. That's my responsibility. I have to live it. So when you start pulling people out of the community, be it because they have to go to urban centres to get a job or because you're incarcerating them or

because you're taking children away from parents, you are robbing that community because you're destroying that natural balance that the Creator put into that community and the gifts that all the people came with. And you're creating a community that can never be complete without all of that community in some way or another being connected and participating.

Q. What does the person lose by being removed from his or her community?

A. Because we don't believe that each individual is complete in a sense of gifts and total to themselves, you lose the teachings and the responsibilities of other people in the community. So if you're not a teacher, if you don't have that gift for talk, if you need that skill in your life somehow, you don't have access to the people who do that well. If -- maybe your gift is the ability to make things. If I want a dance outfit -- I mean, that's not one of my gifts -- that person is robbed in the community. It gets very serious because some of our leaders are taken away, the people that are meant to lead the nations, either in a political or a spiritual sense, or have primary responsibility for medicines and the spiritual teachings and the

way. So it makes life very difficult, not only for the community, but individuals in the community. And, again, you can't think of it in a linear sense and, you know, stack it up this way and say, "Okay. Here is the list of things that are lost." You have to be able to put it in a circle and understand what all First Nations communities are going to try to create, to balance around, is going to be harmony, is going to be that complete list. Just -- it's creation that's the focus. And if I can use male and female to do that -- I mean, I think we'd accept that it's absolutely -- well, maybe not absolutely impossible, given science and technology, to create a child without both male and female energy. That's the way the community is structured, recognizing the balance between those two types of energies. There are certain responsibilities that inherently belong to men and certain ones that inherently belong to women. And you need both of those responsibilities and energies to be able to balance the community. Again, when you start pulling people out, you start destroying that natural balance of creation that we're trying to live in respect with.

Q. So following up what you're saying from the perspective of gender, what does a boy or a young

man lose when he's removed to a sexually specific community like an all-male prison.

A. Like a prison. It's more difficult for me to teach about what man's responsibilities are, because I hope it's obvious I'm not a man. So I don't have a right to teach about those things. And we have a belief in our culture that you cannot teach about what you have not experienced. I kind of cringe when people want to call me a "prison expert," because I've never lived that. I've never spent a day of my life in a cell or a minute of my life in a cell. Therefore, it's not lived experience. Therefore, it's not true. It's not expert experience. So I can't speak to that, man's experience directly. But I can tell you what women -- I can tell you generally what male responsibility is. Women's responsibility is that we're the first teachers. We're the ones who were chosen by the Creator to carry the seed of life. We are the ones who bring the children, who bring the future of this nation into the world. We teach them, the women, as they're growing up, okay? Not only do we teach them as they're little children, when they're teenagers, when they're men, when they need -- when they're grown up, when they're old, when they're elders.

We're the ones who remind them that they have a primary responsibility to be gentle, to share, to be kind. So ---

Q. So that role and responsibility of women continues throughout a man's life, an Aboriginal man's life.

A. That's correct. You never get separated from the need to have those teachings. It's not like, "Okay. You're 16 now, therefore you're all grown up. So you can stop." Learning about how to be an adult, learning the First Nations way is a total commitment that you take with you till you go on to the spirit world. It's something that you do every day of your life. So when you take men out and put them in a specific -- sexually specific environment, or women and put them in a sexually specific environment, you're throwing them out of balance. They cannot maintain their balance. They cannot maintain their completeness. Effectively, you're destroying them. You're snatching their spirit, their hope, their vision and their dreams away from them.

Q. What are some of the other ways in which children learn in an Aboriginal community?

A. Our communities often get labelled as not caring about our children, which is some of our problems with child welfare systems. Because we don't have a

culture that's based on force, that's based on coercion, that's based on punishment. We have a culture that's based on cooperation, non-interference and responsibilities as opposed to rights. Children are not even just children. All people are taught -- First Nations people are horrible horrible teasers. We tease relentlessly. "Crees are crazy," those kinds of things, to kind of highlight -- let me give you one example. A friend of mine -- or, actually, it's her brother went out with a White woman when he was in high school. And the family didn't approve of cross-cultural marriages. And I'm not saying that I disapprove. I'm saying that this particular family disapproved. So they started teasing that young man and calling him "Shirley." That was the White woman's name that he was going out with. To this day, they still call him "Shirley." Now, he eventually settled down and married somebody from his reserve, from within his culture. But they still don't let him forget about Shirley. So not only is it a reminder to that individual, it's a reminder to the whole community that these are the standards that we have. And it's a very gentle way of teaching somebody, "Look, this is the way you're supposed to be." You tease a

little kid about being whiny, that -- you know, "You sound like that cat when the cat makes that horrible noise. You hurt my ears." And you tease them, you know. You call them little nicknames.

Q. You've mentioned the role of women in teaching people. Does everybody have a role in teaching? What about older people, for example?

A. Every -- and this goes back to the -- maybe we can get the idea of balance in the community. Probably one of the biggest teachers that I've had in my life is my son. He has just come from the spirit world. He is able to balance much easier than I am because he hasn't thrown away all those things through life and picked up a lot of not so good things. So he's taught me how to be patient. He's taught me how to care. He's taught me how to love. He's taught me so many things. So children are very important as teachers. That's another thing our people lose when they go to prison. The old people, as I was saying, because lived experience is so important to us-- that's how you credential yourself, is not by saying, "I can read X number of books and write so many articles," or whatever, in an academic type sense, but your lived experience. So elders are people with true experience. They are people with

true wisdom because of what they've lived through and survived and overcome and now understand. And the people in the middle also have teachings. You know, we get fed up with teenagers because they're always asking us questions. You'd think the questions are never going to stop. You think they're never going to stop challenging you. Well, they have a purpose for asking you that that the Creator gave them. It's to make sure you know as a parent, as an adult, somebody in the community, to make sure that you've got your thinking straight and that you've got your feelings straight so that you can answer their questions. So the whole culture is built on a system of cross-checks and balances.

Q. Can you describe an Aboriginal person's relationship with nature?

A. It's again -- I have to take you back to that circle and back to creation again. Nature is one of the central things that we're trying to balance. And the way that I'm going to express these things are coming through the fact that I'm translating that culture. When you hear people talking within the community, they may not choose to talk this way, if they don't have that responsibility of being a translator. The Earth is my Mother, okay? She's

where I come from. I have a connection to her. The Moon is my Grandmother. She governs my cycle. She governs when the babies are going to be born. She governs the tide. The Water is Mother Earth's blood, the same as the blood that we have, okay? It's her essence. That's women's responsibility, that Water. The men have the responsibility for the Fire. That's one of their central responsibilities. The Sun is my Elder Brother. And he teaches us an important lesson every day. Every day in the morning he gets up in the east. He hasn't ever tried to trick us and get up in the west. He knows what he's doing. He gets up in the morning. Every day he does the very same thing. He doesn't ever say, "Oh, too tired today. I'm not getting up to do my work." He's followed his original instructions since the Creator put him where he was. And that is the example to our people about how you are to live life. So many of the spiritual ways and the teachings that I've taught about are taught in lessons about the environment that we have to balance ourself and live in. Our intellects as First Nations people are not something that make us superior to other animal life or to other people. Our intellects are a responsibility. It means that

we have the primary responsibility to be caretakers, that all other living things, all those other spirit things, walked before us, and we have a responsibility to see that their lives and their spirits are not endangered.

Q. How is this relationship expressed, whether you're a translator or whether you're not? For an Aboriginal person, how is this relationship with nature and these elements expressed?

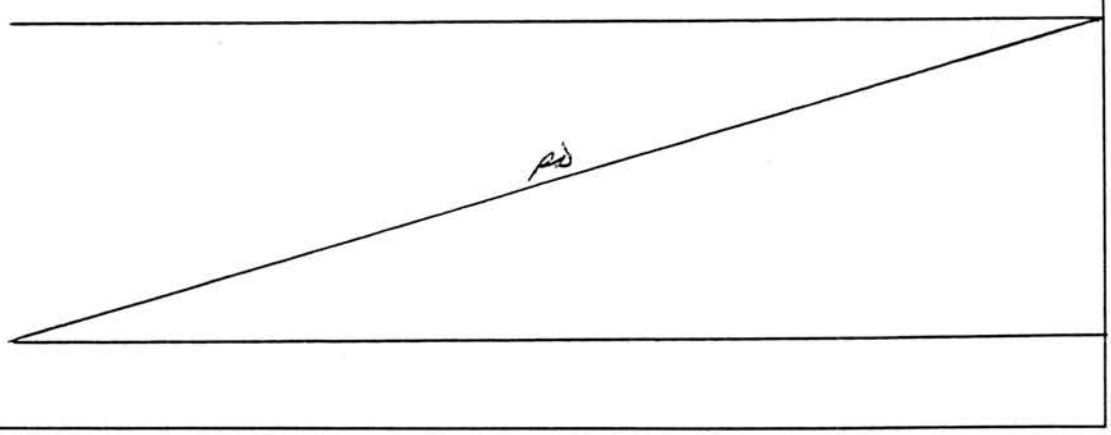
A. When things are hard, the first place I'm going to go is the Bush. It's one of the reasons why I don't live in the city. Because everything around you in the city is -- you look at it. It's all straight lines. You go out and look at nature. There's no straight lines anywhere. Nothing's straight. The bed of a creek, the trunk of a tree, you know, the colours in a sunset. There's never any straight lines. So that rigidity becomes very hard to look at all the time, that linearness. You may go out to ceremonies. You may want to go out to sweat, to recognize that this whole Sweat Lodge ceremony signifies a rebirth. The Sweat Lodge is round like this. It's the womb of Mother Earth that you're going back into to connect to the Earth again, to be born again, to be pure again, to live in a good way.

You may go hunting and fishing. You may decide that the occupations that you have are -- like, my job is translator. You may decide that your connection with nature is so great that what you're going to do is to be a hunter or to be someone who fishes or to be someone who's totally connected with that Bush and that environment. So whenever it is you get out of balance -- I mean, anybody -- you go sit in that Bush. And I don't mean a downtown park. I mean a Bush. And you go listen and you go watch. The trees are all doing their jobs. The animals all know what they're doing. If there's anybody out there who's out of balance, it's us. We're the ones who have messed up. So you go back and you connect with that Bush when you need to understand again, when you need to find your balance, when you need to find that natural rhythm that life has.

Q. And in your discussions with Aboriginal prisoners, what, if anything, have they told you about the experience of their relationship with nature as a result of going to prison?

A. You're almost totally robbed of your experience with nature. You're not able to spend any time with your mother or those other teachers that we have in nature because of the structure of institutions,

behind walls. There's no trees. That linear cityness I described is even intensified in prison. You can't get outside to go and put your tobacco down when you say a prayer. You can't go out and pick medicines or sweet grass or cedar, or get the things that you need to have in your life. So not only do prisons destroy the connection with people in the community, but that environment is very much part of the community and that's destroyed when people are taken to prison. So, virtually, you take everything away from somebody and you give them no hope, you give them no way that's traditional or makes sense to them to be able to go and balance. We don't take church away from people when we send them to prison. Yet we have no problem taking spirituality away from First Nations when we send them to prison.



Q. Did the Federal Task Force examine aboriginal women's experience of prison as a culturally specific experience?

A. Yes, we did. At the beginning of the Task Force Report, one of the principal things within the mandate that we were doing is the Correctional Service of Canada has never looked, until this Task Force, at what women's needs were, okay. They've always looked at it from the perspective of prisons and the 500 women have just been a tack-on to the 10,000 men that are serving Federal sentences. At our first Task Force meeting, the First Nations women had to be very careful and it took a lot of energy to explain to them, "Just as you as women do not want to be tacked on to a male system, we as First Nations do not want to be tacked on to a white system. We need you to look at specifically what our culture is and what our aboriginal specific needs are and what our aboriginal female specific needs are, because they're not the same, and the experience of prison for a First Nations and a non First Nations is not the same," and we were successful in getting them to do that.

Q. So, these cultural differences were identified?

A. They were identified and they were documented. We

actually sent Fran Sugar and Lana Fox out to the community to talk to 39 women who had served Federal sentences and they came back with a report on what they found, and effectively what they found was that the experience of First Nations women within prison is merely another fold or development on the experience of First Nations people of racism in this country.

Q. And were there findings that there were differences between the experiences of First Nations women and the experiences of white women prisoners?

A. Yes. The experience of First Nations prisoners, or First Nations women in prison, is a total experience, whereas somebody who comes from the dominant culture understands notions of punishment, understands the kind of basis of the prison system. It's totally overwhelming for a First Nations prisoner, whether they've been raised within the city and somewhat not as aboriginal people and that is not true or whether they've come from a remote Reserve community, it's just completely overwhelming and there's no place for them to get their feet down, so to speak, because the values are all centered and focused on things that those women don't experience.

Q. Professor Monture, we heard from an anthropologist, Dr. McGee, yesterday, who was asked a question along these lines, and I just want to put his answer to you and ask you about it. It was Mr. Spicer, to my left here, who asked:

"Q. Let's talk about prison for a moment."

MR. COMMISSIONER

What page are you on?

MS. DERRICK

I'm sorry, I'm at P.101 in this transcript volume.

BY MS. DERRICK

Q. "Are you saying that those feelings would be felt more by a Native person than they would be by a person of a dominant culture or merely that those are the sorts of things that would be felt by a Native person being subjected to that kind of situation?"

And Dr. McGee said this, and I just want to ask you to comment on it. About a third of the way down the next page, P.102, for my friends:

"A. Prison culture is the --

presents many of the dominant culture's values in extreme form, notions of power and notions of control. Notions of a sense of prison fairness may well reflect outside notions of fairness and integrity. So, I would argue that for a Native person to be placed in prison, you're being placed in a situation where the dominant society's values are present. So that if you derive from the dominant society, being placed in that circumstance -- or it may be -- and if unjustly placed there, it's going to be difficult for you. It's going to be -- it's going to threaten your sense of integrity, it's going to threaten your sense of well-being."

First of all, I'd like to ask you does that reflect accurately your understanding in your knowledge of the response by aboriginal prisoners to ---

A. I think that's a fairly adequate summary of what's going on. We have to remember that prisons are total institutions. In the dominant society, values and the way we experience life don't have that edge that you have within a prison system where there are absolute rules that you are going to follow or else. So, if you want to understand how racism works in this society, this is actually where I learned a lot about racism by looking at prisons, because it's on the very extreme end of the spectrum. It's like everything is intensified and magnified and the conflict with values is felt very wholly and completely. It's a very overwhelming, oppressive experience. Let me give you a couple of examples from the Task Force work. One of the things that the women on the street talked about was in the old days we had to have location tickets to be able to go from one First Nations community to another and you had to go ask the Indian agent to get one of these location tickets to be able to travel. Inside prisons to go from the kitchen to your cell or from the cell down to school or whatever, you need a location ticket, you need this little pass. So, for a non First Nations person in prison who doesn't know that history, I mean this is just prison rules,

right? Not for a First Nations person. It reeks of our whole experience of oppressive white authority, it's a constant reminder every day that white society has held our people down and pushed our people down, and the whole structure of prisons does nothing but feed that. Prisoners are supposed to rehabilitate themselves. You can't do that in an environment where you don't have access to any of the things that you need to heal, where you're sitting in segregation. You're allowed to have a Bible, but in order to have your sweet grass you have to go ask for it, you have to not only go ask for it, you have to have permission to burn it.

Q. And sweet grass is a traditional spiritual ---

A. This is sweet grass. It calms you down. You use it before you pray and you smudge with it and it purifies you, it makes you clean enough to talk to your Creator, and then, when you pray, you put tobacco down, because in our culture I talked about sharing before. A prayer is asking for something, even if you're not saying, "I want to have a baby, help me have a baby," or whatever it is you want, even if you're just saying, "Thank you for this day, thank you for the earth that I walk on, thank you for my brothers and sisters, the animal," you're

still asking the Creator, "Listen to me," and you don't have a right to do that, so you have to give that tobacco to respect that balance, to put that balance back. You can't in prison go put that tobacco down because you have to put it on the earth, you can't go put it out, so you can't live in a right way.

Q. Professor Monture, what are some of the responses by aboriginal prisoners to this experience of prison?

A. I want to go back and explain one more thing about what we found in the research before I go on to understand that. We found with the women that 90% of the women had been sexually or physically abused prior to their time coming to the prison for women, and effectively what happens are our women as well as our men live lives of victimization, be it 16 years or 18 years or 20 years or 30 years. All of a sudden, I think quite understandably, some of them explode, okay, they lose it, and they commit a crime. And then what happens to them is another form of racism, because all the years, the 16 years, that they were victims, that they were pushed down, gets colored away underneath this one incident where they took control over their lives. And I'm not saying that whatever they did was a right thing to

do and that we don't have to address what they do, but we need to address their lives in totality. How can you expect -- it's illogical to expect someone who's been abused for a number of years and who's lashed out in some way or another to be able to get better without dealing with that overwhelming sense of victimization that they have. They're not going to be remorseful until there's some kind of balance in their life, till they understand what it is that they've done. So, that whole criminal justice process before people get to prison has them labelled in a way that doesn't make any sense to them. That, in a situation of somebody like Junior, is only intensified because here you're going through all of this, "Nobody is not only paying attention to my whole life and looking at the whole thing," but he didn't do the act in the first place that the rest of it's all being labelled and colored through. I cannot imagine the harm that you'd do to that person. I can't even imagine having the strength or the courage to survive that kind of experience. Now, you're going to have to throw the question back at me because I've lost my train of thought.

Q. Yes. What I was asking, Professor Monture, was in

the prison experience what are some of the responses of aboriginal prisoners?

A. Now that we kind of understand the way that somebody is when they get there, one of the things that the aboriginal prisoners do quite naturally is they learn to rely on each other, okay. The people that they communicate with are other First Nations prisoners, because other First Nations prisoners understand the whole process of their lives that they've been going through, whereas classification officers and parole officers and prison administrators want you to chop up your life and make it separate little boxes for them so that they can adequately administer you. First Nations people aren't going to ask you to do that because that separationness is not part of the culture. So, the relationships that develop, first of all, develop between other First Nations prisoners and between Native liaison workers. If for some reason you're in a situation that you can't develop that -- I mean, first of all, you have to know the statistics. My people in prison stay as maximum security prisoners, quite often they're more frequently convicted for offenses against a person as opposed to property offenses, therefore they get labelled at

the top end of the system. They tend to stay -- the Indian women at P for W stay maximum security prisoners. They go to segregation more often.

Q. Why is that?

A. There's a number of reasons for what happens with segregation. First of all, I talked about the experience of going out to the bush and kind of isolating yourself when you have a responsibility to be able to get back into balance. Segregation almost replaces that experience in prison. It's at least a place where you can go to to be left alone and have to deal with yourself and deal with your spirituality and deal with who you are. But it happens for another reason, our over-representation in segregation. If by chance you're a First Nations prisoner and if by chance you happen to be one of the few who is successful at getting out of the maximum security label, is successful at having a viable shot at parole or is say successful in the sense that Junior was successful in having attention brought to the wrong that happened to him, you become a symbol for your people, you become a symbol of courage, of hope, of pride. So, that sisterhood/ brotherhood concept that I talked about of bringing the First Nations prisoners together is intensified,

and that's very threatening to the prison administration because the way you administer a prison is make sure everybody is separated, there is no cohesiveness about anybody. So, if you happen to get seen as that person, for whatever reason, as somehow unifying or becoming a symbol for your people, you're in trouble because the system is going to bear down on you. It creates fear within the administration and eventually you're going to end up going to segregation because that's the only way that they have of pulling you out of that cohesiveness that they can't deal with and locking you away even more. And the First Nations prisoner is fine with that, because the truth is so important to us. The worst thing you can do to me or the worst thing you can do to somebody in prison is put me in a cage. "So, do it, I can deal with it, at least be honest about it. And if that's what you want to do, go ahead and do it." And then when you end up in segregation, you almost -- you're not physically rooted, you become very spiritually rooted, and that's effectively how you survive a prison sentence. Our people who are not surviving prison sentences have lost that ability to be spiritual beings, that's been stolen away from them.

Q. And in what ways do aboriginal prisoners not survive the experience? When you say that, what are you referring to?

A. At Prison for Women in the last 11 months, there's been three First Nations women who have committed suicide. Two of those women I was particularly close to. They should not have died. One women, Sandy Sayer, was 7 weeks away from her release. She was 26 years old, had a child 6 years old and 4 years old. She just gave up hope. She couldn't do it anymore, she didn't have that faith anymore, and she strung up at her cell at 3 o'clock in the morning. There was another one at the end of February, her name was Marie Custer. She's also a mom, also has a 6-year-old, and she just couldn't face it anymore.

Q. From your work on the Federal Task Force, Professor Monture, was it determined whether suicide rates amongst aboriginal prisoners was different from suicide rates amongst white prisoners?

A. I believe in the last 10 years there has been 12 deaths within custody at Prison for Women. Two of them were natural, 10 of them were suicides, 11 of them were First Nations women. Yes, we definitely go home in a box more frequently than non-aboriginal prisoners.

Q. And with respect to the other work that you have done concerning prisons and the justice system, are those statistics reflected in the general prison population, not just confined to the Prison for Women?

A. I don't think that they're as intensified within the male population as they are within the female population, but there certainly have been a number of deaths inside of the male institutions of First Nations prisoners. And just not knowing the statistics, but my experience of it when I was in Kingston, if there was a suicide inside, 9 shots out of 10, it was First Nations.

Q. Thank you very much, Professor Monture.

MR. COMMISSIONER

Would you like a short recess, Professor? About 10 minutes.

(10-MINUTE BREAK)

MR. SAUNDERS

I have no questions of the witness.

MR. COMMISSIONER

Thank you.

MR. SPICER

I have no questions.